

CITY OF LEWISTON

CITY COUNCIL

DECEMBER 2, 2014

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

THE HONORABLE ROBERT E. MACDONALD, MAYOR, PRESIDING.

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

Pledge of Allegiance to the Flag.
Moment of Silence.

VOTE (334-2014)

Motion by Councilor Cayer, seconded by Councilor Lachance:

To dispense with the reading of the minutes of the meetings of October 7 and November 18, 2014 and to accept and place them on file as prepared by the City Clerk. Passed - Vote 7-0

PUBLIC COMMENT PERIOD

No members of the public offered comment at this time.

**PUBLIC HEARING ON THE RENEWAL APPLICATION FOR A SPECIAL
AMUSEMENT PERMIT FOR LIVE ENTERTAINMENT FOR THE RAMADA,
490 PLEASANT STREET**

Mayor Macdonald 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 (335-2014)

Motion by Councilor Libby, seconded by Councilor Cayer:

To grant a Special Amusement permit for live entertainment to the Ramada, 490 Pleasant Street. Passed - Vote 7-0

**PUBLIC HEARING FOR APPROVAL OF AN OUTDOOR ENTERTAINMENT EVENT
AT KENNEDY PARK IN CONJUNCTION WITH THE TWIN CITIES
HOLIDAY CELEBRATION**

Mayor Macdonald 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 (336-2014)

Motion by Councilor Cloutier, seconded by Councilor Libby:

To conduct a public hearing on an application for an outdoor entertainment event to be held at

Kennedy Park on December 3, 2014 at 6:00pm, and to authorize a permit for an Outdoor Entertainment Event, as required by the City Code of Ordinances, Chapter 10, Article 1, Section 1-3, to the Downtown Holiday Celebration Committee for an outdoor music event, contingent upon positive recommendations from the 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

PUBLIC HEARING AND FINAL PASSAGE REGARDING AMENDMENTS TO THE ELECTION ORDINANCE REGARDING THE CITIZEN INITIATIVE AND REFERENDUM PROCESS

Mayor Macdonald 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 (337-2014)

Motion by Councilor Cayer, seconded by Councilor Libby:

That the proposed amendment to the City Code of Ordinances, Chapter 32 “Elections”, Article II “Initiative and Referendum”, Section 32-27 “How to invoke”, receive final passage by a roll call vote. Passed - Vote 7-0

PUBLIC HEARING AND FINAL PASSAGE FOR THE CONDITIONAL REZONING OF THE PROPERTY AT 239 BARTLETT STREET FROM THE HIGHWAY BUSINESS (HB) DISTRICT TO THE DOWNTOWN RESIDENTIAL (DR) DISTRICT

Mayor Macdonald 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 (338-2014)

Motion by Councilor Cloutier, seconded by Councilor Libby:

To approve final passage of the amendment to the Zoning and Land Use Code and Map to conditionally rezone the property at 239 Bartlett Street from the Highway Business (HB) District to the Downtown Residential (DR) District, subject to a conditional agreement. Passed - Vote 7-0

CONDEMNATION HEARING FOR THE BUILDING LOCATED 227 LINCOLN 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 (339-2014)

Motion by Councilor Cayer, seconded by Councilor Libby:

With regard to the property at 227 Lincoln 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 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 USE OF THE UNEXPECTE BALANCE OF THE FY2013 WATER TREATMENT BOND FOR THE PURPOSE OF REIMBURSING THE AUBURN WATER DISTRICT FOR LEWISTON'S SHARE OF THE COST OF CLEANING THE DRINKING WATER INTAKE LINE FOR THE LAKE AUBURN WATER TREATMENT FACILITY

VOTE (340-2014)

Motion by Councilor Libby, seconded by Councilor Lachance:

To approve the Order authorizing the use of the unexpended balance of the FY2013 Water Treatment bond for the purpose of reimbursing the Auburn Water District for Lewiston's share of the cost of cleaning the Drinking Water Intake Line for the Lake Auburn Water Treatment Facility:

Whereas, the Lake Auburn joint drinking water intake was installed in 1996; and

Whereas, the City jointly owns and operates the intake and drinking water treatment facility with the Auburn Water District (AWD); and

Whereas, the drinking water intake has never been internally cleaned since its initial installation; and

Whereas, inspections show that this line is now in need of cleaning as several inches of biogrowth has built up and has been causing additional operating costs to clean the intake screens more frequently; and

Whereas, the City and AWD evaluated proposals using divers, chemical cleaning and mechanical brushes to clean the intake; and

Whereas, the City and AWD researched and discussed intake cleaning options with three local companies that have proven experience working with the City and AWD for similar work; and

Whereas, the critical nature of this intake requires the installation of primary and backup pumping capability during the cleaning process to ensure a continuous flow of water to our UV treatment facility on a 24 hour a day 7 day basis until the permanent intake is back in service; and

Whereas, the only local vendor that has adequate pumping experience with a well-researched, documented plan and the staff and experience to clean the intake with mechanical brushes is Ted Berry Company; and

Whereas, the Auburn Water District Board of Trustees approved funding and award of the intake cleaning work to Ted Berry Company on September 17, 2014 in a not to exceed amount of \$200,000; and

Whereas, the Auburn Water District has a contract with Ted Berry Company for the intake cleaning work to begin on or soon after the week of December 8, 2014 and to be completed before Christmas; and

Whereas, because of savings resulting from good bids on prior projects (Dechlorination, Ammonia & Main Street pump station), there are sufficient funds available in the FY13 Lewiston Water Treatment Program Bond to pay for the City's share of these costs;

Now, therefore, be it Ordered by the City Council of the City of Lewiston that there is hereby authorized the use of up to \$100,000 from the FY 2013 Water Treatment Program Bond for the Purpose of reimbursing the Auburn Water District for Lewiston's 50% share of the cost of cleaning the intake pipe at the Lake Auburn Water Treatment Facility.

Passed – Vote 7-0

ORDER AUTHORIZING EXECUTION OF A MUNICIPAL QUITCLAIM DEED FOR REAL ESTATE LOCATED AT 78 BAILEY AVENUE

VOTE (341-2014)

Motion by Councilor Libby, seconded by Councilor Cayer:

To approve the Order authorizing execution of a municipal quitclaim deed for real estate located at 78 Bailey Avenue:

Whereas, the owners, Donald R. and Debra A. Castonguay, failed to pay their tax bill on a timely basis for the property located at 78 Bailey Avenue (Tax Map 90, Lot 123, Parcel 00-001869); and

Whereas, a tax lien lien was filed on June 13, 2012 (Book 8417 Page 16) and matured on December 19, 2013, in the amount of \$1,760.70; and

Whereas, payment was received in full on November 12, 2014;

Now, Therefore, Be It Ordered by the City Council of the City of Lewiston, that a quitclaim for 78 Bailey Avenue is hereby authorized to release the City's interest in the property to the former owner.

Passed - Vote 7-0

RESOLVE APPROVING THE THIRD NEGOTIATED ALLONGE BETWEEN THE CITY AND FIRLAND MANAGEMENT COLISEE LLC

The Finance Director provided background information on this item and also noted the representatives of the Colisee were not able to attend the meeting due to unexpected travel delays out of state due to the snow storm.

VOTE (342-2014)

Motion by Councilor Libby, seconded by Councilor Bouchard:

To approve the Resolve approving the third negotiated Allonge between the City and Firland Management Colisee LLC:

Whereas, the Colisee failed to make their July 1, 2014 annual payment in the amount of \$60,000; and

Whereas, Given the lack of attendance at the locally hosted Portland Pirates games last winter, coupled with the withdrawal of the Timber Wolves team this year, significant financial strain was placed on the organization; and

Whereas, the Colisee is now in default of their loan and would like to renegotiate the terms of the agreement by executing a third allonge known as the Forbearance Agreement; and

Whereas, the new payment schedule would provide a forbearance fee paid monthly to June 1, 2015, for a total of \$5,000, then monthly loan payments would begin July 1, 2015 through July 1, 2032 in accordance with the amended repayment schedule; and

Whereas, the Forbearance Agreement strengthens the City's position by requiring regular financial reporting, automatic default language, favorable late fee assessments, preapproval by the City prior to debt assumption or distributions may be made to owners, and assigns accounts receivable collateral to the City;

Now, Therefore, Be It Ordered by the City Council of the City of Lewiston, to execute the third allonge between the City and Firland Management Colisee LLC and have the City Administrator sign on the City's behalf.

Passed - Vote 7-0

ORDER AUTHORIZING THE CITY ADMINISTRATOR TO DISPOSE OF THE CITY OWNED PROPERTIES AT 116 & 122 PIERCE STREET AND 139 & 155 BARTLETT STREET

VOTE (343-2014)

Motion by Councilor Cayer, seconded by Councilor Libby:

To approve the Order authorizing the City Administrator to dispose of the city owned properties at 116 & 122 Pierce Street and 139 & 155 Bartlett Street:

Whereas, the City currently owns the properties at 116 and 122 Pierce and 139 and 155 Bartlett; and

Whereas, these properties were to be conveyed to a developer under a joint development agreement between the City and St. Laurent Housing Associates Limited Partnership; and

Whereas, as a result of a citizen initiated referendum, this Council order approving this joint development agreement was overturned; and

Whereas, the City has no need to retain ownership of these properties, which will require on-going maintenance and expense; and

Whereas, in conjunction with the subsequently abandoned Volunteers of America Project proposed for this area, the Planning Board provided an affirmative recommendation to the Council as to the disposition of these properties in August 2013; and

Whereas, the City has a number of available options for disposing of these properties as outlined in our Property Disposition policy; and

Whereas, consistent with that Policy, the City Administrator recommends that these properties be disposed of through the formal bid process; and

Whereas, the Administrator further recommends that the single bid document be structured to provide for one bid on the three contiguous properties at 116 Pierce, 122 Pierce, and 155 Bartlett with a minimum acceptable bid set at \$2 per square foot (\$30,000) and one separate bid for 139 Bartlett with a minimum acceptable bid set at \$1.50 per square foot or \$7,500;

Now, Therefore, Be It Ordered by the City Council of the City of Lewiston that the City Administrator is hereby authorized to offer the properties at 116 and 122 Pierce and 155 Bartlett for disposition through the formal bid process subject to a minimum bid of \$2 per square foot or \$30,000 and 139 Bartlett for \$1.50 per square foot of \$7,500.

Passed - Vote 7-0

ORDER AUTHORIZING THE CITY ADMINISTRATOR TO DISPOSE OF THE CITY OWNED PROPERTY AT 154 BLAKE STREET

Councilor Lachance expressed his opposition to the amendment to remove the reference to the Planning Board.

VOTE (344-2014)

Motion by Councilor Libby, seconded by Councilor Bouchard:

To amend the Resolve and remove the phrase “and to sell the property to the successful bidder subject to a positive recommendation of the Planning Board.” Passed - Vote 6-1

VOTE (345-2014)

Motion by Councilor Libby, seconded by Councilor Bouchard:

To approve the Order authorizing the City Administrator to dispose of the city owned property at 154 Blake Street:

Whereas, the City currently owns the vacant land at 154 Blake Street; and

Whereas, the owner of an abutting apartment building has approached the City with an offer to purchase the property; and

Whereas, after consultation with the City's various Department Directors, the City Administrator has determined that the City has no use for this land; and

Whereas, the Planning Board has reviewed the recommendation that the City dispose of this property and has recommended that the City begin the disposition process subject to its review of any proposed reuse; and

Whereas, in accordance with the City's property disposition policy, the City Administrator recommends that this property be disposed of through the formal bid process; and

Now, Therefore, Be It Ordered by the City Council of the City of Lewiston that the City Administrator is hereby authorized to offer the property at 154 Blake Street for disposition through the formal bid process.

Passed - Vote 6-1 (Councilor Lachance opposed)

**REQUEST FROM THE KORA NORTHEAST SHRINE ORGANIZATION FOR A
WAIVER OF CITY FEES FOR THE ORGANIZATION'S SEPTEMBER 2015
FIELD DAYS EVENT**

Two representatives from the Kora presented their request and outlined the logistics of their event. The Council expressed concerns with the request being made outside of the budget cycle, that several of the events are for members only, and that the overall event requires a registration fee. Two members of the public suggested the city funds should be used fairly to help everyone in the city who deserves support and also to seek donations from area businesses which will benefit from this event.

VOTE (346-2014)

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

To approve the full requested waiver of \$2,720 in city fees for the Kora Northeast Shrine Field Days 2015 event. Did Not Pass - Vote 3-4 (Councilors D'Auteuil, Cloutier and Cayer in favor)

**APPOINTMENT OF A CITY COUNCILOR TO THE TAXI & TATTOO
APPEALS BOARD**

VOTE (347-2014)

Motion by Councilor Cayer, seconded by Councilor Cloutier:

To appoint Councilor Bouchard to serve as the Council's representative to the Taxi & Tattoo Licensing Appeals Board. Passed – Vote 6-0-1 (Councilor Bouchard abstained)

REPORTS AND UPDATES

No reports or updates were presented at this time.

OTHER BUSINESS

No other business was presented at this time.

VOTE (348-2014)

Motion by Councilor Libby, seconded by Councilor Cloutier:

To adjourn at 8:22P.M. Passed - Vote 7-0

A true record, Attest:

Kathleen M. Montejo, MMC
City Clerk
Lewiston, Maine