

**LEWISTON CITY COUNCIL AGENDA  
CITY COUNCIL CHAMBERS  
JANUARY 20, 2015**

**6:00 p.m. Workshop**

- A. Update from Friends of Pettingill - 30 minutes

**6:30 p.m. 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.

**7:00 p.m. Regular Meeting**

Pledge of Allegiance to the Flag.  
Moment of Silence.

Update from the Lewiston Youth Advisory Council  
Acceptance of minutes of the meeting of January 6, 2015.

Public Comment period - Any member of the public may make comments regarding issues pertaining to Lewiston City Government (maximum time limit is 15 minutes for all comments)

ALL ROLL CALL VOTES FOR THIS MEETING WILL BEGIN WITH THE COUNCILOR OF WARD 3.

**REGULAR BUSINESS:**

1. Public Hearing and Final Passage for amendments to the Solid Waste Ordinance.
2. Resolve Accepting the City of Lewiston's Comprehensive Annual Financial Report for the Year Ended June 30, 2014.
3. Potential concert at Franklin Pasture.
4. Appointments to the Board of Assessment Review.
5. Reports and Updates.
6. Any other City Business Councilors or others may have relating to Lewiston City Government.
7. Executive session to discuss Real Estate Negotiations of which the premature disclosure of the information would prejudice the competitive bargaining position of the City.
8. Executive session pursuant to MRSA Title 1, section 405 (6) (A) to discuss a personnel matter regarding the position of Chief Assessor.
9. Executive session pursuant to MRSA Title 1, section 405 (6) (A) to discuss a personnel matter regarding the annual evaluation of the City Administrator.

December 10, 2014

Edward Barrett, City Manager  
Lewiston City Hall  
27 Pine Street  
Lewiston, Maine 04240

RE: Letter of Understanding between the City of Lewiston and Friends of Pettingill

Dear Mr. Barrett,

It is my understanding that the City of Lewiston and Friends of Pettingill have agreed as follows concerning Pettingill School Park:

1. The City of Lewiston shall be responsible for the safety and maintenance of the existing playground. The parties will meet from time to time regarding maintenance and improvements and will communicate and work cooperatively regarding resolution of these issues as they arise. The City will notify the Friends of Pettingill in a timely manner should any piece of playground equipment be scheduled for removal.

2. The City of Lewiston shall be responsible for the safety and maintenance of the new park to the same extent as for other parks in the city. City services shall include, but not be limited to, mowing and trash pick-up, subject to annual City Council appropriation of the funds required for such maintenance. City shall assume ownership of any fixtures or other objects installed in Park by Friends after approval and acceptance of such installation by City. City shall inform and consult with Friends in regard to any City construction activity within the Park.

3. Friends of Pettingill shall be responsible for the acquisition of amenities for the park such as benches, paths, trees and shrubs, signage and the like. The choice and placement of all such amenities shall be subject to the approval of the City Administrator or designee.

4. Installation of said amenities may be done either by the City or by Friends of Pettingill. If installation is by the City, then Friends of Pettingill shall pay the cost incurred by the City unless otherwise agreed. If installation is by Friends of Pettingill, it is subject to approval by the City. Should the Friends enter into an agreement with a company or entity to perform such work, the agreement must include insurance and indemnification language approved by the City's Director of Budget and Purchasing.

5. The City shall maintain liability insurance with respect to use of the park and shall indemnify and hold Friends of Pettingill harmless from any and all liability arising out of the City's use or occupancy of the park.

6. City approval will be required for events held at the park if the event will require sole use of the park, or sole use of part of the park.

Yours,

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Friends of Pettingill  
December 10, 2014

Edward Barrett, City Manager  
Lewiston City Hall  
27 Pine Street  
Lewiston, Maine 04240

Re: Wood Chips for Pettingill School Park

Dear Ed,

This letter memorializes an agreement made between Friends of Pettingill and Megan Bates and David Jones regarding the replacement of the wood chips on the Pettingill School Park playground.

1. It is understood that currently, the wood chips must be replaced.
2. It is further understood that replacement of the wood chips involves not only the purchase of the materials, but considerable labor costs in removing and replacing the wood chips.
3. Ms. Bates agrees to determine the cost of the replacement wood chips.
4. Assuming that the removal of the current wood chips can take place in April or May of 2015, Friends of Pettingill agrees to find Bates college students or other volunteers to remove the wood chips, so as to defray the costs of labor.
5. The new wood chips will be included in the budget and, if approved, purchased in time to replace them in July of 2015. Likewise, volunteers will be located to replace the wood chips at the playground..
6. During the period when wood chips are not in place, the playground will be fenced off as unsafe.

Yours,

Judith Andrucki,  
Friends of Pettingill

# LEWISTON CITY COUNCIL

## MEETING OF JANUARY 20, 2015

**AGENDA INFORMATION SHEET:**

**AGENDA ITEM NO. 6:30pm**

**SUBJECT:**

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.

**INFORMATION:**

The Maine State Statutes, Title 1, section 405, define the permissible grounds and subject matters of executive sessions for public meetings.

**APPROVAL AND/OR COMMENTS OF CITY ADMINISTRATOR:**

State statutes define the purposes for entering into an executive session.

*EAB/kmm*

**REQUESTED ACTION:**

1	2	3	4	5	6	7	M
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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.

# LEWISTON CITY COUNCIL

## MEETING OF JANUARY 20, 2015

**AGENDA INFORMATION SHEET:**

**AGENDA ITEM NO. 1**

**SUBJECT:**

Public Hearing and Final Passage for amendments to the Solid Waste Ordinance.

**INFORMATION:**

Staff is recommending amendments to the Solid Waste ordinance based upon input receiving during the November 15, 2014 City Council workshop on this topic. The changes include a definition of "waste material" as well as adjustments to the penalty fines for curb side waste material violations. The vast majority of curb side solid waste violations are housing related and occur in downtown neighborhoods. The primary reason for these amendments is to lessen the burden on the owners of rental housing as many of the violations are not within their immediate control.

The ordinance changes are suggested by the Director of Planning & Code Enforcement. Passage is recommended.

**APPROVAL AND/OR COMMENTS OF CITY ADMINISTRATOR:**

The City Administrator recommends approval of the requested action.

*EARB/kmm*

**REQUESTED ACTION:**

1	2	3	4	5	6	7	M
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That the proposed amendments to the City Code of Ordinances, Chapter 62 "Solid Waste", Section 62-11 "Definitions" and Section 62-16 "Penalties and enforcement", receive final passage by a roll call vote.

## AN ORDINANCE PERTAINING TO SOLID WASTE PENALTIES

### THE CITY OF LEWISTON HEREBY ORDAINS:

Chapter 62 of the Code of Ordinances of the City of Lewiston, Maine is hereby amended as follows:

#### CHAPTER 62

#### SOLID WASTE

#### ARTICLE I. IN GENERAL

##### **Sec. 62-11. Definitions.**

*Waste material:* Any waste materials, including, but not limited to, solid waste, recyclable material, bulky waste, commercial waste, construction and demolition debris, inert fill, scrap metal, special waste, and universal waste, refrigerant containing appliances, waste oil, asphalt shingles, batteries, tires, special waste, wood and sheetrock.

##### **Sec. 62-16. Penalties and enforcement.**

(a) *Waste material generated outside city limits.* No vehicle, whether commercial or private, shall dispose of any solid waste material at the facility unless it is generated from within the geographical limits of the city (as determined by reviewing the generator's driver's license, property tax receipt, and/or building permit) or is authorized under the terms of a contract with the city. The city reserves the right to make spot inspection of solid waste material entering the facility. Vehicles bringing in waste material that is from outside the city shall be subject to the penalties described later in this section.

(b) *Enforcement.* It shall be the duty of the chief of police, the director of code enforcement or their duly authorized representatives to enforce the provisions of chapter 62 of this Code and to prosecute any and all persons violating any such provisions.

Enforcement procedures as set out in chapter 50, article II of the Lewiston Code of Ordinances shall apply to enforcement of this chapter, except that the specific penalties listed in subsection (c) herein will apply instead of those listed in section 50-45.

Notwithstanding any provisions in this chapter 62 to the contrary, due to the public nuisance and threat to public health created by the presence of waste material on or near city streets (i.e. on or near public ways) in violation of subsections 62-13(a), (b), (d), (h) (i) and (j), the chief of police, the director of code enforcement or their designees are authorized to fine violators, without any prior notification, in accordance with subsection 62-16(c).

(c) *Penalties.* Violators of any provisions of this chapter shall for the first offense receive a fine equal to twice the current disposal charge for the disposal of the waste material (including all costs of collection and transportation). The minimum fine is in accordance

with the city's policy manual as approved by the city council, plus accrued interest, attorney's fees and court costs. A second violation or any subsequent violations occurring within six months ~~two years~~ of a previous violation shall result in a fine(s) equal to three times the disposal fee for disposal of the waste material (including all costs of collection and transportation). ~~The minimum fine is in accordance with the city's policy manual as approved by the city council, plus accrued interest, attorney's fees and court costs. Such fees shall be charged each time the city removes waste material deposited in violation of this chapter, whether or not additional notice has been given.~~

(d) *Responsibilities not transferable.* No contract or agreement between the owner or operator and the occupant relating to the compliance with the terms of this article shall be effective in relieving any person of the responsibility for compliance with the provisions of this chapter as described.

### REASON FOR PROPOSED AMENDMENT

Section 62-16 (b) provides the authority to levy fines without notice for “waste” located on or near city streets in violation of the Code; however, there is no definition for “waste”. There is a definition for “solid waste” but the definition references garbage, trash, rubbish, etc. The expanded definition of “waste material” and the change in 62-16 (b) to reference waste material versus waste will ensure that fines can be levied without notice for refrigerators, tires, wood, bulky waste, etc. that are placed on or near streets. The changes also makes it clear that “city streets” as referenced in 62-16 (b) includes all public ways (i.e. public easements, alleys, etc.).

The changes in Section 62-16 (c) in combination with the Solid Waste Fee Schedule, Policy No. 52 reduces the initial penalties for curb side waste material violations and shortens the time period whereby repeat violations incur penalties at higher amounts. The vast majority of curb side solid waste violations are housing related and occur in downtown neighborhoods. The primary reason for these changes is to lessen the burden on the owners of rental housing as many of the violations are not within their immediate control.

Note: Additions are underlined; deletions are ~~struck-out~~.

# MEMORANDUM

TO: Mayor Robert E. Macdonald  
Members of the City Council

FR: Gildace J. Arsenault, Director of Planning and Code Enforcement

RE: Curbside Solid Waste Material Penalties

DT: December 29, 2014

Attached please find the following proposed amendments:

Chapter 62, Solid Waste, Sections 62-11 and 62-16 of the Code of Ordinances of the City of Lewiston.

Solid Waste Fee Schedule, Policy # 52 Penalties – Chapter 62 Solid Waste.

At the November 25, 2014 council workshop you entertained the reduction of penalty provisions for waste materials illegally placed within the right-of-ways of streets. As a result of that workshop, I have prepared proposed changes to the above referenced Code and Policy that, if enacted, would reduce the initial penalty for a violation from \$210 to \$100. The second violation within six months would be reduced from \$420 to \$210; however, third and subsequent violations would remain at \$420. The time period for imposition of higher penalty amounts for repeat violations is proposed to be reduced from two years to six months.

You will also find in the proposed changes that the definition of waste materials has been expanded to include all types of waste. A proposed change is also in place to make clear that “city Streets” includes all public ways.

I will be in attendance at the January 6, 2015 public hearing on this matter to answer any questions that you may have.

Thank you.

**LEWISTON CITY COUNCIL**  
**MEETING OF JANUARY 20, 2015**

**AGENDA INFORMATION SHEET:**

**AGENDA ITEM NO. 2**

**SUBJECT:**

Resolve Accepting the City of Lewiston's Comprehensive Annual Financial Report for the Year Ended June 30, 2014.

**INFORMATION:**

During the January 6 City Council workshop, the Council received a presentation and written financial audit report from Runyon, Kersteen and Ouellette, the City's outside auditing firm. This action is to simply vote to accept the report as presented.

**APPROVAL AND/OR COMMENTS OF CITY ADMINISTRATOR:**

The City Administrator recommends approval of the requested action.

*EAB/kmm*

**REQUESTED ACTION:**

1	2	3	4	5	6	7	M
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To approve the Resolve accepting the City of Lewiston's Comprehensive Annual Financial Report for the Year Ended June 30, 2014.



**City of Lewiston Maine  
City Council Resolve  
January 20, 2015**



**Resolve, Accepting the City of Lewiston's Comprehensive Annual Financial Report for the Year Ended June 30, 2014**

**Be It Resolved by the City Council of the City of Lewiston**

that the City of Lewiston's Comprehensive Annual Financial Report, including its General Purpose Financial Statements for the year ended June 30, 2014 as prepared by City Finance staff and the Independent Auditor's Report thereon prepared by Runyon, Kersteen Ouellette, is hereby accepted in its entirety.

**LEWISTON CITY COUNCIL**  
**MEETING OF JANUARY 20, 2015**

**AGENDA INFORMATION SHEET:**

**AGENDA ITEM NO. 3**

**SUBJECT:**

Potential concert at Franklin Pasture.

**INFORMATION:**

Deputy City Administrator Phil Nadeau is now serving as the City's logistics coordinator and contact point for all events and functions. As such, he has been in touch with an organization that is interested in holding a music concert in July at Franklin Pasture. Information is still forthcoming and additional information may be available for Tuesday night. If information is not ready by the meeting, this item will be removed from the agenda and added to a future meeting agenda when additional information is known.

**APPROVAL AND/OR COMMENTS OF CITY ADMINISTRATOR:**

This is a policy decision of the City Council.

*EAB/kmm*

**REQUESTED ACTION:**

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TO BE DETERMINED

# LEWISTON CITY COUNCIL

## MEETING OF JANUARY 20, 2015

**AGENDA INFORMATION SHEET:**

**AGENDA ITEM NO. 4**

**SUBJECT:**

Appointments to the Board of Assessment Review.

**INFORMATION:**

The City Administrator is nominating William Healey, Jr. and Gary Savard to serve as members of the Board of Assessment Review. This will be a re-appointment for both gentlemen to these positions. The positions are both a three year term and will expire December 2017. The City Council makes the formal appointment, after receiving a nomination from the Administrator. The City Administrator is recommending Mr. Healey and Mr. Savard for these appointments and the City Assessor concurs.

**APPROVAL AND/OR COMMENTS OF CITY ADMINISTRATOR:**

The City Administrator recommends approval of the requested action.

*EAR/kmm*

**REQUESTED ACTION:**

1	2	3	4	5	6	7	M
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To accept the City Administrator's nomination of William Healey, Jr of 1 Ridge Road and Gary Savard of 1241 Sabattus Street, and to appoint Mr. Healey and Mr. Savard as members of the Board of Assessment Review, each for a three year term, said terms to expire December 17, 2017.

**LEWISTON CITY COUNCIL**  
**MEETING OF JANUARY 20, 2015**

**AGENDA INFORMATION SHEET:**

**AGENDA ITEM NO. 7**

**SUBJECT:**

Executive Session to discuss Real Estate Negotiations of which the premature disclosure of the information would prejudice the competitive bargaining position of the City.

**INFORMATION:**

The Maine State Statutes, Title 1, section 405, define the permissible grounds and subject matters of executive sessions for public meetings.

**APPROVAL AND/OR COMMENTS OF CITY ADMINISTRATOR:**

The City Administrator recommends approval of the requested action.

*EATB/kmn*

**REQUESTED ACTION:**

1	2	3	4	5	6	7	M
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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.

**LEWISTON CITY COUNCIL**  
**MEETING OF JANUARY 20, 2015**

**AGENDA INFORMATION SHEET:**

**AGENDA ITEM NO. 8**

**SUBJECT:**

Executive session pursuant to MRSA Title 1, section 405(6)(A) to discuss a personnel matter regarding the position of Chief Assessor.

**INFORMATION:**

The Maine State Statutes, Title 1, section 405, define the permissible grounds and subject matters of executive sessions for public meetings.

**APPROVAL AND/OR COMMENTS OF CITY ADMINISTRATOR:**

Entering into executive session is permitted and defined under Maine State Statutes.

*EAB/kmm*

**REQUESTED ACTION:**

1	2	3	4	5	6	7	M
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To enter into an executive session pursuant to MRSA Title 1, section 405(6)(A) to discuss a personnel matter regarding the position of Chief Assessor.

# LEWISTON CITY COUNCIL

## MEETING OF JANUARY 20, 2015

**AGENDA INFORMATION SHEET:**

**AGENDA ITEM NO. 9**

**SUBJECT:**

Executive session pursuant to MRSA Title 1, section 405(6)(A) to discuss a personnel matter regarding the annual evaluation of the City Administrator.

**INFORMATION:**

The Maine State Statutes, Title 1, section 405, define the permissible grounds and subject matters of executive sessions for public meetings.

**APPROVAL AND/OR COMMENTS OF CITY ADMINISTRATOR:**

Entering into executive session is permitted and defined under Maine State Statutes.

*GAB/kmm*

**REQUESTED ACTION:**

1	2	3	4	5	6	7	M
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To enter into an executive session pursuant to MRSA Title 1, section 405(6)(A) to discuss a personnel matter regarding the annual evaluation of the City Administrator.