

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

6:00 p.m. Workshop

- A. Briefing on School Enrollment and Immediate Space Needs - 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.

Acceptance of minutes of the meetings of March 17, April 21, May 5 and May 19, 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 5.

CONSENT AGENDA: All items with an asterisk (*) are considered to be routine and will be enacted by one motion. There will be no separate discussion of these items unless a Council member or a citizen so requests, in which event, the item will be removed from the Consent Agenda and considered in its normal sequence on the Agenda.

- * 1. Authorization to accept transfer of forfeiture funds.
- * 2. Order authorizing execution of a Municipal Quitclaim Deed for Real Estate located at 90 Horton Street.
- * 3. Adoption of City Policy regarding Service Animals and Pets in city buildings.
- * 4. Resolve Accepting and appropriating the FY2015 Homeland Security Grant award of \$152,670.28.

REGULAR BUSINESS:

- 5. Public Hearing on the renewal application for a Special Amusement Permit for Live Entertainment for the Midtown Athletic Club, 45 Walnut Street.
- 6. Public Hearing on the renewal application for a Special Amusement Permit for Live Entertainment for Rails, 103 Lincoln Street.
- 7. Public Hearing on the renewal application for a Special Amusement Permit for Live Entertainment for Schemengees, 551 Lincoln Street.
- 8. Public Hearing on the renewal application for a Special Amusement Permit for Live Entertainment for the Ramada, 490 Pleasant Street.
- 9. Public Hearing for approval of an Outdoor Entertainment Permit for a musical concert in Kennedy Park.
- 10. Public Hearing and Final Passage regarding an amendment to the Business Licensing ordinance regarding Outpatient Addiction Treatment Clinics.

11. First Reading and Referral to the Planning Board for Land Use Code Amendments regarding two-family dwellings in the Neighborhood Conservation "A" District.
12. Amendments to the Personnel Policies regarding the employee health insurance program.
13. Resolve stating the Opposition of the City Council to the County Charter Amendment appearing on the November election ballot relating to Salaries and Benefits of Elected Officials.
14. Resolve expressing the concern of the City Council regarding the process instituted by the County Commissioners for the County Budget Committee's review of the proposed county budget.
15. Order authorizing the City Administrator to execute a Collective Bargaining Agreement with the Maine State Employees Association (MSEA).
16. Resolve adjusting the Salary Schedule for the Non-Union Employees effective July 1, 2015.
17. Order approving the extension of the Purchase and Sale Agreement for 139 and 155 Bartlett Street and 116 and 122 Pierce Street.
18. Reports and Updates
19. Any other City Business Councilors or others may have relating to Lewiston City Government.
20. Executive Session regarding a Legal Matter.
21. 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.
22. 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.
23. Executive Session to discuss labor union negotiations regarding the city's six employee unions.

LEWISTON CITY COUNCIL
WORKSHOP AGENDA
TUESDAY, October 20, 2015
6:00 P.M
CITY COUNCIL CHAMBERS, LEWISTON CITY HALL

1. School Enrollment and Immediate Space needs – 30 minutes

School Superintendent Bill Webster will brief the Council on the spike in school enrollment experienced this year and on potential plans for addressing educational space needs for the school year beginning in August 2016.

2. Executive Session – Economic Development

This session will begin immediately following item 1 above.

Workshop Material - A
School Enrollment and
Space Needs

10/15/15

To: Lewiston School Committee, Lewiston City Council and Lewiston Planning Board

From: Bill Webster, Superintendent

Re: Facilities Plan, Enrollment and Recommendation to Add Six Elementary Classrooms at Farwell

I will have an updated presentation for the special School Committee meeting on Monday, October 19th, and for the City Council workshop on Tuesday, October 20th. I am also planning a Planning Board presentation on October 26th. This information and related recommendations herein were reviewed by and unanimously supported on October 8th by our Facilities Committee, a subcommittee of the Lewiston School Committee.

2011 Facilities Plan

In September 2011 the School Committee unanimously approved the Facilities Plan drawn up by the Facilities Committee. This plan is included here as Attachment I and has been updated for the status of all the proposed projects. Of the major projects listed, most have been completed and include the takeover of the Multi-Purpose Building, the renovation and expansion of Lewiston Middle School and the expansion of McMahon Elementary School. Open projects include the new state-funded elementary school project and the replacement of the Montello roof. The major project not done was the addition of two portables at Martel because of the new school project.

There were several smaller projects not in the original plan that were subsequently authorized by the School Committee and completed. These include the expansion of the Farwell parking lot, the new Montello entrance and corridor and restroom upgrades, gym bulb replacements, and waterproofing the exterior walls of LHS, Dingley and LMS.

Enrollment Update

While our enrollment numbers fluctuate daily, the attached schedule clearly shows the magnitude of the recent enrollment increase. Attachment II compares our enrollment by grade for September 30, 2015, last December's projection and for October 1, 2014. In total, we projected an increase of 125 and experienced an increase of 263, which is 130 students above the projection. Interestingly, our K enrollment is down 16 from last year and virtually identical to what was projected.

I will present further information Monday night to suggest that our unexpected enrollment increase is the result of a rapid increase in newcomers moving to Lewiston and that the continuation of this growth is directly related to available rental housing.

Updated Enrollment Projections and Additional Classrooms Needed

For the third time, professional demographers have demonstrated an inability to accurately project Lewiston's school enrollment. This most recently occurred in the December 2014 projection referred to above. Attachment III is our in-house projection going through 2026. These numbers include this September's unexpected jump in enrollment, but assume there will not be a continuation of growth from outside of Lewiston.

Below are some of the takeaways from this latest projection:

- Our present enrollment of 5,515 will continue to grow over the next several years to a peak of roughly 5,900. Much of the growth will be at Lewiston High School as our larger elementary classes make their way up through the grades.
- We presently need 10 classrooms at the elementary level to meet the desired average classroom size, and our elementary needs will peak in 2020, one year after the expected opening of the new elementary school.
- Lewiston High School could use as much as 12 additional classrooms this year, but that number will drop over the next two years as the existing senior and junior classes are larger than the 7th and 8th grade classes in LMS. The need for additional high school classrooms will grow again beginning in 2019, and enrollment will peak at over 1,500 students in 2024.
- Our recent middle school renovation and expansion will presently accommodate the expected increase in students.

Draft of 2015 Facilities Plan

Using the classrooms needed projection above, the Facilities Committee has unanimously endorsed the Facilities Plan in Attachment IV. These recommendations include:

- Adding 6 permanent classrooms at Farwell to be available for August 2015.
- Working with the City about possibly expanding our presence in the Lewiston Armory to house an alternative education program for 80 freshmen who are not proficient.
- Assuming voter approval in June 2016, completing the new state-funded elementary school project for opening in September 2019. The new school will house students from the present Martel and Longley schools.
- Using Longley as the site for an experiential high school program serving as many as 150 students beginning in 2019 or 2020.

Desired Action

The key issue right now is your consideration of supporting the addition of 6 permanent classrooms at Farwell to be available for August 2015. Attachment V includes a possible rendition of the classroom, which would be a separate structure adjacent to Farwell Elementary School. While the building could be modular construction, we are looking at a permanent facility that would match the life of the existing school. Funding options will be presented at the meetings.

I request your support for the following reasons:

- This year we added a 3rd classroom for Farwell's kindergarten and 1st grade. The additional classroom space will allow the addition of Farwell's first prekindergarten room (presently done at Montello, where there is a waiting list) and expansion of grades 2 through 6 from two classrooms at each grade level to three classrooms at each grade level.
- These additional rooms will expand the capacity of Farwell to roughly 480 students, still the smallest LPS elementary school after Longley and Martel are combined in the new school.
- The additional space will help LPS reduce elementary class size throughout the City using school choice decisions to be more in line with the goal of a maximum of 22 students per elementary class, provided that we do not experience another unexpected increase of newcomers.
- These six additional classrooms will also serve as insurance in the event that Lewiston continues to experience further increases in elementary school enrollment.

A possible School Committee motion might be as follows, realizing that moving forward will also require Planning Board and City Council Action:

Move to authorize the Superintendent to seek Planning Board and City Council approval to provide with the construction and financing of a six classroom building adjacent to Farwell Elementary School at an estimated cost of \$1.7 million for occupancy no later than August 2016 and with funding through emergency LCIP or other mechanism as determined by the City Treasurer.

**Lewiston Public Schools
10-Year Facilities Plan
September 7, 2011
With Updated Status as of 10/2015**

INTRODUCTION

Unlike most school districts in Maine, Lewiston school-age enrollment is expected to increase approximately 2% per year over the next decade. This will necessitate the construction of additional classroom space as our schools are essentially at full capacity today. This facilities plan represents a roadmap to meet our classroom needs. Facilities Committee members include Shawn Chabot, Bruce Damon, Dean Flannigan, Tom Hood, Ronnie Paradis, Joe Perryman, Paul St. Pierre, Bill Webster and Steve Whitfield.

ENROLLMENT PROJECTIONS

Twice in the last decade Lewiston Public Schools has contracted with Planning Decisions Consultants Group of South Portland to perform 10-year enrollment projections in conjunction with our two most recent construction projects. The usefulness of their work is in question, however, as our student counts have been materially above their forecasts each year. The firm was challenged, no doubt, by the unpredictability of immigration patterns and larger family sizes typical in our New Mainer population.

We are left with how best to forecast our student trends. Rather than working with Planning Decisions (the only such firm in Maine), one reasonable approach is to assume a long-term continuation of our present elevated kindergarten enrollments. Approximately 465 children are entering kindergarten this year, and this also is similar to last year's figure. If this trend continues indefinitely, Lewiston student enrollment will increase by 1,000 over the next decade.

CLASSROOM NEEDS

Average classroom size in Lewiston is already a little over 20 students. This figure will likely continue to increase as our schools deal with expected enrollment growth, long construction timelines, budget constraints and future uncertainties. A key question is when should we construct a new classroom as building rooms to accommodate a peak, rather than sustained enrollment, is an undesirable use of public funds. Here we are using the conservative assumption that a new classroom should be added to accommodate every additional 25 students. This then suggests that Lewiston will need another 40 classrooms over the next 10 years.

FACILITIES PLAN

The table on the last page of this report presents enrollment projections and classrooms needs through 2024, when enrollment projections stabilize under the assumption listed. Below is a tentative plan to provide the necessary space.

School Committee Decision by	Completion Date	Project Description	# of Rooms	Rough Cost Estimate	10/2015 Status
September 2011	December 2011	Replacement of Longley boilers and conversion to natural gas	-	485,000	<i>Completed</i>
September 2011	January 2012	Energy audit of Lewiston High School	-	40,000	<i>Finished Conversion</i>
November 2011	March 2012	Phase 1 architectural and engineering review of Lewiston Middle School	-	75,000	<i>Completed</i>
April 2012	August 2012	Annual capital maintenance and improvement plan (We are researching this further by asking the question what level of annual funding is needed to maintain our existing facilities, fields and playgrounds.)	-	200,000/yr	<i>In budget.</i>
May 2012	August 2012	Replacement of Montello lockers and hallway improvements	-	100,000	<i>Completed</i>
May 2012	August 2012	Add two portable classrooms at Martel. A lease on an additional parking area has already been secured.	2	50,000	<i>Not done</i>
January 2012	August 2012	With City approval, take over City space in the multi-purpose building for prekindergarten space, freeing up classroom space at Geiger McMahon, and Montello.	4	200,000	<i>Completed</i>
January 2012	August 2013	Construction of new McMahon gymnasium and additional classrooms	8	3,500,000	<i>Completed</i>
May 2012	Multi-year project?	LMS Improvements.	8	4,000,000	<i>Completed</i>
May 2013	August 2013	Add two portable classrooms	2	50,000	<i>Not done</i>
May 2014	August 2014	Replacement of Montello Roof	-	600,000	<i>Being done</i>
May 2015	August 2015	Addition portables needed prior to completion of new school project.	4		<i>Converted other rooms</i>
January 2014?	August 2016	New school project State funded. The project planning process over the next two years will determine whether or not this project replaces one or two schools.	19 net addition	30,000,000	<i>In-progress</i>
January 2017?	August 2019	New classrooms and performing arts space at Lewiston High School	8	???	<i>Future</i>

The major additional completed projects that were not in original Facilities Plan include:

1. New Montello entrance and corridor and restroom upgrades
2. Expansion of Farwell parking lot
3. Expansion of Lewiston Adult Education into former Multi-Purpose Building space
4. Various room projects throughout the district to add classroom space
5. Gym bulb replacements
6. Waterproofing the exterior walls of LHS, Dingley and LMS.
7. Upgrade of door locks in all classrooms.

10/15/2015 19:37

Enrollment	9/30/2015	Projected	10/1/2014	Projected over '14	'15 over '14	'15 over projected
PreK	267	273	247	26	20	-6
K	452	455	468	-13	-16	-3
1	475	446	415	31	60	29
2	430	403	444	-41	-14	27
3	433	438	433	5	0	-5
4	429	425	424	1	5	4
5	406	422	388	34	18	-16
6	382	383	358	25	24	-1
Elementary	3274	3245	3177	68	97	29
7	363	346	347	-1	16	17
8	345	327	327	0	18	18
LMS	708	673	674	-1	34	35
9	356	330	338	-8	18	26
10	346	338	385	-47	-39	8
11	372	377	307	70	65	-5
12	360	293	281	12	79	67
LHS	1434	1338	1311	27	123	96
Other	99	120	90	30	9	-21
Total	5515	5376	5252	124	263	139

Lewiston Public Schools

by Bill Webster

Enrollment Projection and Additional Classrooms Needed

10/15/2015 19:37	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025	2026
PreK	247	267	300	300	300	320	320	320	320	320	320	320	320
K	468	452	450	450	450	450	450	450	450	450	450	450	450
1st	415	475	449	447	447	447	447	447	447	447	447	447	447
2nd	444	430	472	446	444	444	444	444	444	444	444	444	444
3rd	433	433	427	469	443	441	441	441	441	441	441	441	441
4th	424	429	430	424	466	440	438	438	438	438	438	438	438
5th	388	406	426	427	421	463	437	435	435	435	435	435	435
6th	358	382	403	423	424	418	460	434	432	432	432	432	432
Elementary Total	3177	3274	3357	3386	3395	3423	3437	3409	3407	3407	3407	3407	3407
7th	347	363	380	400	420	421	415	457	431	429	429	429	429
8th	327	345	361	378	398	417	418	412	454	428	426	426	426
LMS Total	674	708	741	778	818	838	833	869	885	857	855	855	855
9th	338	356	327	342	359	378	396	397	391	431	406	404	404
10th	385	346	338	310	324	341	359	376	377	371	409	385	383
11th	307	372	328	321	294	307	323	341	357	358	352	388	365
12th	281	360	353	311	304	279	291	306	323	339	340	334	368
LHS Total	1311	1434	1346	1284	1281	1305	1369	1420	1448	1499	1507	1511	1520
Outplaced & Alt	90	99	99	99	99	99	99	99	99	99	99	99	99
TOTAL	5252	5515	5543	5547	5593	5665	5738	5797	5839	5862	5868	5872	5881
Elementary Increase		97	83	29	9	28	14	-28	-2	0	0	0	0
LMS Increase		34	33	37	40	20	-5	36	16	-28	-2	0	0
LHS Increase		123	-88	-62	-3	24	64	51	28	51	8	4	9
Annual Increase		263	28	4	46	72	73	59	42	23	6	4	9

Needed Elem Rooms	10	14	15	15	16	17	16	16	16	16	16	16	16
Farwell Expansion		6	6	6	6	6	6	6	6	6	6	6	6
New School (Net Increase)						15	15	15	15	15	15	15	15
Shortfall (Surplus)	10	8	9	9	-5	-4	-5	-5	-5	-5	-5	-5	-5
Needed LHS Rooms	12	8	5	5	6	9	12	13	16	16	16	16	16
Armory Rooms		4	4	4	4	4	4	4	4	4	4	4	4
Longley Conversion						16	16	16	16	16	16	16	16
Shortfall (Surplus)	12	4	1	1	2	-11	-8	-7	-4	-4	-4	-4	-4

(1) Assumes 1 new preK class in '16 & '19, K class of 450 each yr, 0.5% move-out rate 1st-8th, & 5% LHS dropout rate each yr.

DRAFT
FACILITIES PLAN

October 5, 2015

School Committee Decision by	Completion Date	Project Description	# of Class-rooms	Rough Cost Estimate
October 2015	August 2016	Addition of 6 permanent classrooms at Farwell. This will expand Farwell capacity to house three classrooms per grade level and expand enrollment from roughly 360 to 475.	6	1,700,000
April 2016	August 2016	Take over Armory 2 nd floor allowing for at least 4 additional classrooms to house alternative education program for freshmen who are not proficient. This work may be fully funded by grant.	4	100,000
April 2016	September 2016	Add sidewalk for pedestrians to walk safely from Geiger parking lot to school		10,000
April 2016	September 2016	Air condition the LHS library and Martel space. These are the only school libraries not presently with air conditioning.		180,000
April 2017	Summer 2017	Repave Montello parking lot.		80,000
April 2017	Summer 2018	Replace/repair Dingley roof	-	150,000
April 2017	Summer 2018	Replace Longley windows, add insulation and paint building exterior.		450,000
Completed	August 2019	New elementary school project that will be State funded if approved by voters in June 2016. School will be located in Franklin Pasture and pick up the students presently at Martel and at Longley. Capacity of school is planned for 888 students. Tentative plan is for Longley to be used for high school programming and Martel to be closed and turned over to the City.	15 net addition	30,000,000

10/15/15

To: Lewiston School Committee and Lewiston Planning Board

From: Bill Webster, Superintendent

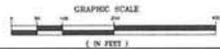
Re: Recommendation to Purchase Drouin Field

The Planning Board is receiving this memo, as per City Charter the Planning Board is to make a recommendation on all land purchases.

I have reached a tentative agreement with the Archdiocese of Portland for the purchase of Drouin Field at its appraised price of \$270,000. As you know, the acquisition of this field will allow for the relocation of the softball field and practice field from Franklin Pasture so that we can proceed with the full implementation of the plan as presently proposed (see Attachment I). Under the tentative agreement, which has been reviewed by our legal counsel, Lewiston Public Schools will make a \$25,000 nonrefundable deposit with closing to occur no later than July 1, 2016. This will allow us to decide whether or not the remaining \$245,000 purchase would occur in fiscal 2016 or fiscal 2017.

A possible School Committee motion might be as follows:

Move to authorize the Superintendent to seek Planning Board support and proceed with the purchase of Drouin Field at the appraised cost of \$270,000.



LEWISTON CITY COUNCIL
MEETING OF OCTOBER 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.

EA/B/kmm

REQUESTED ACTION:

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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 OCTOBER 20, 2015

AGENDA INFORMATION SHEET:

AGENDA ITEM NO. 1

SUBJECT:

Authorization to accept transfer of forfeiture funds.

INFORMATION:

The Lewiston Police Department is requesting that the City Council authorize the acceptance of funds, in the amounts outlined below, as reimbursement for costs associated with assisting in a criminal investigation.

The funds are available to the Lewiston Police Department due to its substantial contribution to the investigation of this or a related criminal case.

APPROVAL AND/OR COMMENTS OF CITY ADMINISTRATOR:

The City Administrator recommends approval of the requested action.

EAB/Kmm

REQUESTED ACTION:

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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 items as outlined on the attached listing, less administrative fees or any portion thereof, in the cases of US Department of Justice Drug Enforcement Administration vs the cases outlined on the attached listing. 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.



MEMO



Date: October 5, 2015
To: Kathy Montejo, City Clerk
From: Michael Bussiere, Chief of Police
Re: Forfeiture funds

The following investigations are pending in federal court and upon a favorable final disposition, the funds in the cases listed below will be released to the Lewiston Police Department. Please make the necessary notifications to the City Council that would allow them to address the issue and consent to the acceptance of these funds.

Please credit these funds to the Federal Drug Forfeiture Account, number 5902-351450.

Case #	Asset #	Asset
CE-14-0015	15-DEA-612335	portion of \$5,100 (yet to be determined) less administrative fee
CE-15-0037	15-DEA-615853	Portion of proceeds from sale of 2003 BMW less adm fee
CE-15-0037	15-DEA-615001	portion of \$3,920 (yet to be determined) less administrative fee
CE-15-0025	15-DEA-615622	portion of \$4,250 (yet to be determined) less administrative fee

LEWISTON CITY COUNCIL
MEETING OF OCTOBER 20, 2015

AGENDA INFORMATION SHEET:

AGENDA ITEM NO. 2

SUBJECT:

Order Authorizing execution of a Municipal Quitclaim Deed for Real Estate located at 90 Horton Street.

INFORMATION:

One of the most powerful collection tools in a municipality's arsenal is the ability to lien properties for delinquent taxes (real and special only), water and sewer balances, and most recently stormwater balances. Once a lien is recorded, eighteen months must lapse without payment before the lien matures. Prior to maturity, the City Council may waive the right to foreclose on a maturing lien as you have done in the past. If the lien is permitted to mature, the municipality may elect to foreclose on the property or, if subsequent payment is received, return the property to its owner via a quitclaim deed.

At this time, the Finance Director is asking the Council to approve a municipal quitclaim deed for the property located at 90 Horton Street. The quitclaim deed will release any interest the City may have by virtue of undischarged real estate tax liens or utility liens on this property. Payment of the outstanding liens has been received in full. Should the Council approve this order, the quitclaim will be issued to the owners.

APPROVAL AND/OR COMMENTS OF CITY ADMINISTRATOR:

The City Administrator recommends approval of the requested action.

EATB/KMM

REQUESTED ACTION:

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To approve the Order authorizing execution of a municipal quitclaim deed for real estate located at 90 Horton Street.



**City of Lewiston Maine
City Council Order
October 20, 2015**

Order, Authorizing Execution of a Municipal Quitclaim Deed – Real Estate Located at 90 Horton Street.

WHEREAS, the owner, Luis A. Reynoso, failed to pay his utility bills on a timely basis at 90 Horton Street (Tax Map 195, Lot 392, Parcel 00-006095); and

WHEREAS, a water lien was filed on August 29, 2013 (Book 8760 Page 83) and matured on February 28, 2015, in the amount of \$298.66; and

WHEREAS, a water lien was filed on December 6, 2013 (Book 8830 Page 268) and matured on June 7, 2015, in the amount of \$115.00; and

WHEREAS, a sewer lien was filed on August 29, 2013 (Book 8760 Page 185) and matured on February 28, 2015, in the amount of \$422.74; and

WHEREAS, payment was received in full on October 9, 2015;

NOW, THEREFORE, BE IT ORDERED by the CITY COUNCIL of the CITY of LEWISTON that

a quitclaim deed for 90 Horton Street is hereby authorized to release the City's interest in the property back to the owner.

LEWISTON CITY COUNCIL

MEETING OF OCTOBER 20, 2015

AGENDA INFORMATION SHEET:

AGENDA ITEM NO. 3

SUBJECT:

Adoption of City Policy regarding Service Animals and Pets in city buildings.

INFORMATION:

The Deputy City Administrator is recommending the adoption of a new city policy regarding Service Animals and Pets in city buildings. This Policy was drafted based upon state and federal regulations regarding service animals which assist residents with physical or emotional issues. The Policy provides guidelines to the public and city staff regarding what is and is not permitted within city buildings in order to make the space comfortable and available for all residents.

APPROVAL AND/OR COMMENTS OF CITY ADMINISTRATOR:

The City Administrator recommendations approval of the requested action.



REQUESTED ACTION:

1	2	3	4	5	6	7	M
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To establish and adopt a Service Animals and Pets Policy, Policy Manual Number 96, as recommended by the Deputy City Administrator.

(Note - Full copy of the Policy is attached.)



COUNCIL RESOLVE

Resolve, Adopting Service Animal and Pets Policy

Whereas, the Americans with Disabilities Act and various State and federal regulations authorize service animals to accompany their partner into most buildings and facilities; and

Whereas, with the increasing use of service animals, staff members have suggested that the City adopt a Service Animal policy to provide guidance to staff in monitoring the admission and presence of service animals in City facilities; and

Whereas, at the present time, the City has no policy regulating the presence of pets in City Buildings; and

Whereas, a policy providing staff guidance and direction on these issues will ensure City compliance with legal requirements while protecting service animals and their partners and the general public;

Now, therefore, be it resolved by the City Council of the City of Lewiston that

The attached Resolve, Adopting a service animal and pets policy, is hereby approved.

**City of Lewiston
Service Animal and Pets Policy**

1. PURPOSE

- A. To ensure compliance with the Americans with Disabilities Act (ADA) and Maine State law regarding the presence of service or assistance animals in City of Lewiston buildings and facilities.
- B. To clearly define various types of service/assistance animals and provide guidelines for City employees regarding the rights of citizens and fellow employees who employ service animals.
- C. To set behavioral guidelines for service animals and those they serve while present in City buildings and facilities in order to protect residents, visitors, and City staff from injury and to prevent damage to public.
- D. To prohibit pets from being present in most City facilities unless otherwise allowed by policy, departmental rules, or City ordinance.¹

2. SCOPE – AREAS OF PUBLIC ACCESS

This policy applies to all elected officials, employees, and volunteers of and visitors to City of Lewiston owned indoor and outdoor facilities.

In accordance with Federal regulations [(28 CFR, Section 35.136.(g)], "Individuals with disabilities shall be permitted to be accompanied by their service animals in all areas of (City) facilities where members of the public, participants in services, programs or activities, or invitees, as relevant, are allowed to go."

3. DEFINITIONS

A. Under Control

The ADA requires that service animals be under the control of the handler at all times. The service animal must be harnessed, leashed, or tethered while in public places unless these devices interfere with the service animal's work or the person's disability prevents use of these devices. In that case, the person must use voice, signal, or other effective means to maintain control of the animal. As an example, under control also means that a service dog should not be allowed to bark repeatedly in a lecture hall, theater, library, or other quiet place. However, if a dog barks just once, or barks because someone has provoked it, this would not mean that the dog is out of control.

B. Partner/Handler

A person with a service animal where a partner /handler is a person with a disability and a person without a disability is a handler.

¹ See Lewiston Code, Chapter 14, Article IX which addresses Domestic Animals on Public Lands, Parks, and Playgrounds and sets out requirements and limitations on domestic animal presence at such locations.

C. Pet

A domestic animal kept for pleasure or companionship.

D. ADA

Under Title III of the American with Disabilities Act (ADA), public accommodations are allowed to ask the person who has the animal if the service animal is required because of the person's disability, but are not permitted to require proof of training or certification of status to be shown before allowing access. The ADA provides greater protection for people with disabilities than state law and takes priority over state laws and regulations.

E. Service Animals (28 CFR, Section 35.104)

"Service animal means any dog that is individually trained to do work or perform tasks for the benefit of an individual with a disability, including a physical, sensory, psychiatric, intellectual, or other mental disability. Other species of animals, whether wild or domestic, trained or untrained, are not service animals for the purposes of this definition. The work or tasks performed by a service animal must be directly related to the handler's disability."

[(28 CFR. Section 35.136.(C)] "Other requirements. Paragraphs 35.136(c) through (h) of this section, which apply to service animals, shall also apply to miniature horses."

On the condition that the service animal meets all local and state licensing (not including any legal requirement for registration/licensing as a "service animal") and vaccination requirements, any animal meeting the above definitions are considered service animals regardless of whether it has been licensed or certified as a "service animal" by a state or local government or a training program. If there are questions about whether an animal is a service animal or questions regarding disabilities contact the City Human Resources Office. The ADA does not require service animals to wear a vest, service dog ID tag, or specific harness.

F. Miniature Horses

In the event that a miniature horse is identified as a service animal, staff may use the following size guidelines to determine if the horse is a "miniature horse": The size of a miniature horse is defined by the U.S. Department of Justice as horses that "...generally range in height from 24 inches to 34 inches measured to the shoulders and generally weigh between 70 and 100 pounds." (U.S. Dept. of Justice, Civil Rights Division, Disability Rights Section document – "Service Animals" – July 2011)

G. Service Dog Tags & Vaccinations

Service animals are subject to local licensing and registration requirements (in the case of dogs, see U.S. Dept. of Justice, Civil Rights Division, Disability Rights Section – "Frequently Asked Questions about Service Animals and the ADA" – 7/20/15). For service dogs, 7 MRSA, Section 3923-B shall apply: "The municipal clerk or dog licensing agent shall provide with each new license issued under section 3923-A a tag indicating the year the license is issued and bearing other information prescribed by the department. The owner or keeper shall make sure that the tag is securely attached to a collar of leather, metal or material of comparable strength and that the collar is worn at all times by the dog for which the license was issued.... An owner shall ensure that a rabies tag

obtained from a veterinarian for immunization against rabies is securely attached to a collar of leather, metal or material of comparable strength and that the collar is worn at all times by the dog for which the rabies tag was issued.”

H. Team

A person with a disability, or a handler, and his or her service animal is a team. The twosome works as a cohesive team in accomplishing the tasks of everyday living.

I. Trainee/Trainer

An animal undergoing training to become a service animal is a trainee. A trainer is the individual(s) providing training to the trainee. The ADA does not give public access rights to trainers or trainees. That means that unless the partner/handler can provide documentation that they are certified as a trainer for a recognized program, the trainer must ask permission to enter any City facility with a service-dog-in-training for training.

J. Service Animals in Training

Under the ADA, the animal must already be trained before it can be taken into public places.

4. GENERAL SERVICE ANIMAL AND PETS POLICY

A. The City allows service animals to accompany persons with disabilities in its facilities and areas accessible to the public. Disabled employees may also have service animals in these facilities in places where the employee would have normal access in the performance of his/her duties, provided the safety of the team or other employees is not jeopardized. Employees who require a service animal must notify their supervisor and register the animal with the Human Resources Department. Human Resources may require that the employee submit a prescription/statement from a physician if the need for the service animal is not obvious. Employee service animals are subject to the behavior standards required of a service animal belonging to a facility visitor.

B. Pets are prohibited in City facilities except as may be allowed by other City policy approved by the City Council or rules established by the Public Works Director or his/her designee. The City Administrator or his/her designee may grant permission for a pet to be in a City facility for a specific reason at a specific time (e.g., a pet dog used for a demonstration in an aggressive dog training class).

5. SOME TYPES OF SERVICE ANIMALS

A. Guide Dog

A carefully trained dog that serves as a travel tool to persons with severe visual impairment or who are blind.

B. Hearing Dog

A dog who has been trained to alert a person with significant hearing loss or who is deaf when a sound, e.g., knock on the door, occurs.

C. Service Dog

A dog that has been trained to assist a disabled person who has a mobility or health impairment. Types of duties the dog may perform include carrying, fetching, opening doors, ringing doorbells, activating elevator buttons, steadying a person while walking, helping a person up after a fall, etc.

D. SSigDog

A dog trained to assist a person with autism. The dog alerts the partner/handler to distracting repetitive movements common among those with autism, allowing the person to stop the movement (e.g. hand flapping).

E. A Seizure Response Dog

A dog trained to assist a person with a seizure disorder; how the dog serves depends on the person's needs.

F. Miniature Horses

Miniature horses are said to have a calm nature and great memory, which allows them to remember dangerous situations and remain calm. Miniature horses are well-suited to be guide animals for the blind because they have a 350 degree range of vision. Miniature horses are sometimes used as a more long-term service option given that some of these service animals can provide such services for up to thirty years compared to an average of about twelve years for service dogs. Some individuals that desire a service animal may choose these animals given certain religious restrictions or prohibitions.

6. GUIDELINES FOR CITY EMPLOYEE

A. Allow a service animal to accompany the partner/handler at all times and everywhere within City facilities except where service animals are specifically prohibited, such as non-public areas when the partner/handler is not a City employee.

B. When it is not obvious what service an animal provides, only limited inquiries are allowed. Staff may ask two questions: (1) is the service animal required because of a disability, and (2) what work or task has the service animal been trained to perform. Staff cannot ask about the person's disability, require medical documentation, require the presentation of a special identification card or training documentation for the service animal, or ask that the service animal demonstrate its ability to perform the work or task. Generally, staff may not make even these limited inquiries about a service animal when it is readily apparent that an animal is trained to do work or perform tasks for an individual with a disability (e.g., the dog is observed guiding an individual who is blind or has low vision, pulling a person's wheelchair, or providing assistance with stability or balance to an individual with an observable mobility disability).

C. Allergies and fear of service animals are not valid reasons for denying access or refusing service to people using service animals. When a person who is allergic to dog dander and a person who uses a service animal must spend time in the same room or facility, for example, in a library

area or at a public meeting, they both should be accommodated by assigning them, if possible, to different locations within the room or different rooms in the facility.

D. Miniature Horses (2828 CFR 35.136)

“(1) (City) shall make reasonable modifications in policies, practices, or procedures to permit the use of a miniature horse by an individual with a disability if the miniature horse has been individually trained to do work or perform tasks for the benefit of the individual with a disability.

(2) Assessment factors. In determining whether reasonable modifications in policies, practices, or procedures can be made to allow a miniature horse into a specific facility, a public entity shall consider

- (i) The type, size, and weight of the miniature horse and whether the facility can accommodate these features;
- (ii) Whether the handler has sufficient control of the miniature horse;
- (iii) Whether the miniature horse is housebroken; and
- (iv) Whether the miniature horse's presence in a specific facility compromises legitimate safety requirements that are necessary for safe operation.”

E. Do not pet a service animal without permission of the partner/handler; petting a service animal when the animal is working distracts the animal from the animal's duties.

F. Do not feed a service animal. The service animal may have specific dietary requirements. Unusual food or food at an unexpected time may cause the animal to become ill.

G. Do not deliberately startle a service animal, or attempt to separate a partner/handler from his or her service animal.

7. REQUIREMENTS OF SERVICE ANIMALS, TRAINEES AND THEIR PARTNERS/HANDLERS

A. Vaccination

The animal must have current immunizations against diseases common to that type of animal. Service dogs must wear a rabies vaccination tag along with a licensing tag as required by applicable City codes and state law.

B. Health

The animal must be in good health with good hygiene. Partners/handlers are responsible to maintain a clean service animal at all times.

C. Leash

While applicable City codes require dogs to be on a leash at all times while in public places, federal regulations supersede this requirement in the case of service animals. However, the service animal must be harnessed, leashed, or tethered while in public places unless these devices interfere with the service animal's work or the person's disability prevents use of these devices. In that case, the person must use voice, signal, or other effective means to maintain control of the animal.

D. Under Control of Partner/Handler

The partner/handler must be in full control of the animal at all times. The care and supervision of a service animal is solely the responsibility of its partner/handler.

8. WHEN A SERVICE ANIMAL CAN BE ASKED TO LEAVE

A. Disruption

The partner/handler of an animal that is not under control may be asked to remove the animal from city facilities. If the improper behavior happens repeatedly, the partner/handler may be prohibited from bringing the animal into any facility until the partner/handler takes significant steps to mitigate the behavior. Mitigation can include muzzling a barking animal or refresher training for both the animal and the partner/handler.

B. Health

Ill or unhealthy service animals are not allowed in public areas. A partner/handler with an ill or unhealthy animal may be asked to leave city facilities.

C. Poor Hygiene/Unclean Animals

Partners/handlers with animals that are unclean may be asked to leave city facilities. Partners/handlers shall be responsible to keep the service animals clean and well-groomed even during inclement weather.

Service animals that become wet from walking in the rain or muddy from being splashed by a passing automobile, but are otherwise clean, should be considered a clean animal. Animals that shed in the spring shall be groomed to maintain a public/work environment that, to the greatest extent possible, is hair free.

9. PROHIBITED ACCESS FOR SERVICE ANIMALS

A. Mechanical Rooms/Custodial Closets

Mechanical rooms, such as boiler rooms, facility equipment rooms, electric closets, elevator control rooms and custodial closets, are off-limits to service animals. The machinery and/or chemicals in these rooms may be harmful to animals.

B. Areas where Protective Clothing is Necessary

Any room where protective clothing is necessary is off-limits to service animals. Examples include, chemical laboratories, wood shops, and metal/machine shops.

C. Areas where there is Danger to the Service Animal

Any room where there are sharp metal cuttings or other sharp objects on the floor or protruding from a surface; where there are hot materials on the floor; where there is a high level of dust; or where there is moving machinery is off-limits to service animals.

D. Restricted Public Area

Excepting employees with service animals, any area where public access is restricted or not permitted, such as all Auditing, Treasurer's Office, Management Information Systems data center, and the fleet maintenance garage, is off limits to service animals. In any instance where restricted access allows for closely monitored public entry, all provisions of this Service Animal Policy shall apply.

D. Access Exceptions

1) Machinery or other Mobile Equipment Areas

A manager of an operation/facility with machinery or mobile equipment may grant permission to a team to enter the area. Admission for each team will be granted or denied on a case-by-case basis. The final decision shall be made based on the nature of the machinery or equipment and in the best interests of safety for the team. Example: The machinery in a shop may have moving parts at a height such that the tail of a large dog could easily be caught in it; this is a valid reason for keeping large dogs out. However, a very small hearing dog may be shorter than any moving part and, therefore, considered for admission to the area.

2) Case-By-Case

The Department Head/Supervisor may grant access to other designated off-limits areas on a case-by-cases basis, notwithstanding conflicts to this policy.

3) Approval for Exceptions

To be granted an exception, a visitor seeking admission for his or her animal to an off-limits area should contact the Department Head or Supervisor of the office or facility or the City Administrator's Office. An employee should submit a written request.

10. LIABILITY

Any property damage or destruction or personal injuries caused by or as a result of the service animal will be the sole responsibility of the service animal's owner/partner/handler. Service animal owners/partners/handlers will hold harmless the City, its elected officials, officers and employees from any and all claims, causes of actions, damages, costs, loss of service, expenses and compensation whatsoever, growing out of consequences from the presence of their service animal in or around City buildings or facilities.

11. EMERGENCY SITUATIONS

In the event of an emergency, City staff should understand that a service animal may become disoriented by the smell of smoke from a fire emergency, from sirens or wind noise, or from shaking and moving ground. The partner/handler and/or animal may be confused by such stressful situation. Staff should be aware that the animal is trying to be protective and, in its confusion, is not to be considered harmful. Staff should make every effort to keep the animal with its partner/handler.

However, staff's first effort should be toward the safety of the partner/handler; this may necessitate leaving an animal behind in certain emergency evacuation situations.

12. GRIEVANCE

Any partner/handler dissatisfied with the decision made concerning a service animal should follow the applicable City Internal ADA Accommodation Request and/or Appeal/Grievance Procedures outlined in the City ADA-LEP Policy or within the applicable collective bargaining agreement.

DRAFT 9.25.15

LEWISTON CITY COUNCIL
MEETING OF OCTOBER 20, 2015

AGENDA INFORMATION SHEET:

AGENDA ITEM NO. 4

SUBJECT:

Resolve Accepting and appropriating the FY2015 Homeland Security Grant award of \$153,670.28.

INFORMATION:

The City has been awarded a 2015 Homeland Security Grant funding through the Maine Emergency Management Agency. The Council is asked to vote to accept the grant funds. The memo from the Fire Chief outlines the intended city projects for the funds.

APPROVAL AND/OR COMMENTS OF CITY ADMINISTRATOR:

The City Administrator recommends approval of the requested action.

EABIK/mm

REQUESTED ACTION:

1	2	3	4	5	6	7	M
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To approve the Resolve accepting and appropriating the FY2015 Homeland Security Grant award of \$153,670.28.



CITY OF LEWISTON, MAINE

October 20, 2015

COUNCIL RESOLVE

RESOLVE, Accepting and appropriating the FY2015 Homeland Security Grant Award in the amount of \$153,670.28.

Whereas, the Fire Chief has prepared and presented the FY2015 Lewiston Homeland Security Grant Program to the City Council and the City Administrator; and

Whereas, the Maine Emergency Management Agency has approved the City of Lewiston's grant applications in line with the FY2015 Homeland Security Program;

Now, therefore, be it Resolved by the City Council of the City of Lewiston that

The FY2015 Homeland Security Grant Award is hereby accepted and appropriated for the purposes outlined on the attached memorandum from Fire Chief Paul LeClair.

Lewiston Fire Department



Paul M. LeClair
Fire Chief

Bruce H. McKay
Assistant Chief



September 8, 2015

To: Administrator Barrett
From: Chief LeClair

Re: 2015 Homeland Security Grant Award Submission

The City of Lewiston has been awarded 2015 Homeland Security Grant Program funding through the Maine Emergency Management Agency. Lewiston is one of six Metro Cities in the State of Maine to receive Homeland Security Grant funding to improve preparedness and response capabilities for Homeland security related events. Grant funds were awarded from the following programs.

- \$111,460.05 from the State Homeland Security Program (SHSP)
- \$42,210.23 from the Law Enforcement Terrorism Prevention Program (LETPP)
- **Total Grant award: \$153,670.28**

The following equipment and training projects meet the Homeland Security Grant criteria:

- **Fire Department Self Contained Breathing Apparatus** **\$24,670.28**
The grant funding will provide for calibration of air pack testing equipment and accessories for the air pack masks.
- **Fire Department Hazardous Materials Operations Training** **\$5,500.00**
Hazardous Materials Operations Training is an annual requirement for Firefighters. The training is provided by a certified trainer recognized by the Maine Emergency Management Agency.
- **Cobra Team Equipment & Training & Vehicle** **\$72,000.00**
Lewiston and Auburn provide matching funding to support training and equipment needs of the Cobra Team.
- **Fire Department Laptops for Emergency Vehicles** **\$15,500.00**
The grant funding will provide for the replacement of the Mobile Data Terminals in Fire Department vehicles. The current inventory of MDTs are aged and require upgrade.
- **Surveillance Network Maintenance and Upgrades** **\$16,000.00**
The grant funding will provide for the upgrade, maintenance and replacement of various surveillance network components; service, access controls, servers and cameras.
- **Lewiston School Department Security Project** **\$20,000.00**
The grant funding will provide for the upgrade, maintenance and replacement of various surveillance network components.

Applications specifying the use of these grant funds are due September 18th. Once these uses are approved, Maine Emergency Management will provide a memorandum of understanding that will require Council Action. We anticipate that this will be in place for the Council's October 6th meeting. Prior to submitting the application, we wished to review the proposed projects with you.

Background: Since 2004, the City of Lewiston has been awarded Homeland Security Grant Funding for equipment, training and practical skill exercises. Grant applications are submitted to the Maine Emergency Management Agency for review and approval. Applications are drafted based on the strict guidelines published by the US Department of Homeland Security.

Prior projects that have been funded by Homeland Security Grants include:

- Lewiston Public Safety Agency radios, repeaters and towers
- IMC Records Management Software and computer hardware
- Surveillance and Access equipment for City and School facilities
- Lewiston High School Generator (Shelter)
- Haz-Mat Team equipment and training
- Public Safety exercises
- Lewiston City Hall Generator and UPS Backup
- Air Packs for Fire and Cobra Team
- 911 Communications Center Equipment and Software
- Public Works Training Center

http://www.maine.gov/mema/homeland/home_grants_current.shtml

LEWISTON CITY COUNCIL
MEETING OF OCTOBER 20, 2015

AGENDA INFORMATION SHEET:

AGENDA ITEM NO. 5

SUBJECT:

Public Hearing on a renewal application for a Special Amusement Permit for Live Entertainment for the Midtown Athletic Club, 45 Walnut Street.

INFORMATION:

We have received a renewal application for a Special Amusement Permit for Live Entertainment from the Midtown Athletic Club, 45 Walnut Street.

The Police Department has reviewed and approved the application.

There was no reference to this business or property address in the Council Constituent Concern log, as maintained by the Administrator's Office.

The business owner has been notified of the public hearing and requested to attend.

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 grant a Special Amusement Permit for Live Entertainment to the Midtown Athletic Club, 45 Walnut Street.

CITY OF LEWISTON
APPLICATION FOR SPECIAL AMUSEMENT PERMIT

Date of Application: 10/8/15

Expiration Date: 11/3/2016

- Class A - \$125.00 - restaurants with entertainment, which **does not have dancing**
 Class B - \$125.00 - lounges/bars with entertainment, which **does not have dancing**
 Class C - \$150.00 - either restaurants or lounges/bars with entertainment, including dancing
 Class D - \$150.00 - function halls with entertainment, including dancing
 Class E - \$150.00 - dance hall or nightclub that admits persons under the age of 21
 Class F - \$150.00 - "chem-free" dance hall or nightclub for patrons aged 18 yrs and older, with no liquor

Renewal Applicants: Has any or all ownership changed in the 12 months? Yes No

****PLEASE PRINT****

Business Name: Midtown Athletic club Business Phone: 207 784-2915

Location Address: 45 walnut st Lewiston MAINE 04240

(If new business, what was formerly in this location: _____)

Mailing Address: 45 Walnut st Lewiston ME 04240

Email address: _____

Contact Person: Carol LeBlanc Phone: 207 252-2495

Owner of Business: Carol LeBlanc Date of Birth: 11-13-65

Address of Owner: 17 Sand Hill rd Lewiston

Manager of Establishment: Carol LeBlanc Date of Birth: 11-13-65

Owner of Premises (landlord): Joseph Punn

Address of Premises Owner: 263 Pine street Lew ME 04240

Does the issuance of this license directly or indirectly benefit any City employee(s)? Yes No

If yes, list the name(s) of employee(s) and department(s): _____

Have any of the applicants, including the corporation if applicable, ever held a business license with the City of Lewiston? Yes No If yes, please list business name(s) and location(s): _____

Have applicant, partners, associates, or corporate officers ever been arrested, indicted, or convicted for any violation of the law? ____ Yes X No If yes, please explain: _____

CORPORATION APPLICANTS: Please attach a list of all principal officers, date of birth & town of residence

Corporation Name: Midtown Athletic Club

Corporation Mailing Address: 43 Walnut Street Lewiston Maine

Contact Person: Carol LeBlanc Phone: 252-2495

Do you permit dancing on premises? ____ Yes X No (If yes, you must first obtain a dance hall permit from the State Fire Marshall's Office) If yes, do you permit dancing or entertainment after 1:00 AM? ____ Yes X No

What is the distance to the nearest residential dwelling unit both inside and outside the building from where the entertainment will take place? 1 Floor up 15 feet next building 30 feet

Please describe the type of proposed entertainment:

- dancing
- music by DJ
- live band/singers
- stand up comedian
- karaoke
- magician
- piano player
- other, please list _____
- other, please list _____

If new applicant, what is your opening date?: _____

Applicant, by signature below, agrees to abide by all laws, orders, ordinances, rules and regulations governing the above licensee and further agrees that any misstatement of material fact may result in refusal of license or revocation if one has been granted. Applicant agrees that all taxes and accounts pertaining to the premises will be paid prior to issuance of the license.

It is understood that this and any application(s) shall become public record and the applicant(s) hereby waive(s) any rights to privacy with respect thereto.

I/We hereby authorize the release of any criminal history record information to the City Clerk's Office or licensing authority. I/We hereby waive any rights to privacy with respect thereto.

Signature: Carol LeBlanc Title: President Date: 10-9-15

Printed Name: Carol LeBlanc

Hearing Date: 10/20/15



POLICE DEPARTMENT

Michael J. Bussiere
Chief of Police



TO: Kelly Brooks, Deputy City Clerk

FR: Lt. Adam D. Higgins, Support Services

DT: October 12, 2015

RE: Liquor License/Special Amusement Permit – **Midtown Athletic Club**

We have reviewed Liquor License/Special Amusement Permit Application and have no objections to the following establishment;

**Midtown
43 Walnut St.**



171 Park St • Lewiston, Maine • 04240 • Phone 207-513-3137 • Fax 207-795-9007
www.lewistonpd.org



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Dedication

Pride

Dependability

LEWISTON CITY COUNCIL

MEETING OF OCTOBER 20, 2015

AGENDA INFORMATION SHEET:

AGENDA ITEM NO. 6

SUBJECT:

Public Hearing on the renewal application for a Special Amusement Permit for Live Entertainment for Rails, 103 Lincoln Street.

INFORMATION:

We have received a renewal application for a Special Amusement Permit for Live Entertainment from Rails, 103 Lincoln Street.

The Police Department has reviewed and approved the application.

There was no reference to this business or property address in the Council Constituent Concern log, as maintained by the Administrator's Office.

The business owner has been notified of the public hearing and requested to attend.

APPROVAL AND/OR COMMENTS OF CITY ADMINISTRATOR:

The City Administrator recommends approval of the requested action.

EPB/KMM

REQUESTED ACTION:

1	2	3	4	5	6	7	M
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To grant a Special Amusement Permit for Live Entertainment to Rails, 103 Lincoln Street.

CITY OF LEWISTON
APPLICATION FOR SPECIAL AMUSEMENT PERMIT

Date of Application: 10-6-15

Expiration Date: 10/30/16

- Class A - \$125.00 - restaurants with entertainment, which **does not have dancing**
 Class B - \$125.00 - lounges/bars with entertainment, which **does not have dancing**
 Class C - \$150.00 - either restaurants or lounges/bars with entertainment, including dancing
 Class D - \$150.00 - function halls with entertainment, including dancing
 Class E - \$150.00 - dance hall or nightclub that admits persons under the age of 21
 Class F - \$150.00 - "chem-free" dance hall or nightclub for patrons aged 18 yrs and older, with no liquor

Renewal Applicants: Has any or all ownership changed in the 12 months? Yes No

****PLEASE PRINT****

Business Name: RAILS Business Phone: 207 333 3070

Location Address: 103 LINCOLN ST LEWISTON, ME 04240

(If new business, what was formerly in this location: _____)

Mailing Address: (NEW) 103 LINCOLN STREET

Email address: ILESHEA1@GMAIL.COM

Contact Person: ILESHEA STOLWE Phone: 207 330 0518

Owner of Business: STEPHEN DICK Date of Birth: 6/20/49

Address of Owner: 488 EMPIRE ROAD POLAND, ME 04274

Manager of Establishment: SHARON WHITE Date of Birth: 3/14/73

Owner of Premises (landlord): LA RAILROAD

Address of Premises Owner: 415 LISBON ST, LEWISTON, ME 04240

Does the issuance of this license directly or indirectly benefit any City employee(s)? Yes No
If yes, list the name(s) of employee(s) and department(s): _____

Have any of the applicants, including the corporation if applicable, ever held a business license with the City of Lewiston? Yes No If yes, please list business name(s) and location(s): RAILS, LEWISTON, ME

Have applicant, partners, associates, or corporate officers ever been arrested, indicted, or convicted for any violation of the law? ___ Yes X No If yes, please explain: _____

CORPORATION APPLICANTS: Please attach a list of all principal officers, date of birth & town of residence

Corporation Name: RAILS, LLC

Corporation Mailing Address: (NEW) 103 LINCOLN ST LEWISTON, ME 04240

Contact Person: ILESHEA STOWE Phone: 207 330 3070

Do you permit dancing on premises? ___ Yes X No (If yes, you must first obtain a dance hall permit from the State Fire Marshall's Office) If yes, do you permit dancing or entertainment after 1:00 AM? ___ Yes ___ No

What is the distance to the nearest residential dwelling unit both inside and outside the building from where the entertainment will take place? 1000 FEET

Please describe the type of proposed entertainment:

- dancing
- stand up comedian
- piano player
- music by DJ
- karaoke
- other, please list _____
- live band/singers
- magician
- other, please list _____

If new applicant, what is your opening date?: ALREADY OPEN

Applicant, by signature below, agrees to abide by all laws, orders, ordinances, rules and regulations governing the above licensee and further agrees that any misstatement of material fact may result in refusal of license or revocation if one has been granted. Applicant agrees that all taxes and accounts pertaining to the premises will be paid prior to issuance of the license.

It is understood that this and any application(s) shall become public record and the applicant(s) hereby waive(s) any rights to privacy with respect thereto.

I/We hereby authorize the release of any criminal history record information to the City Clerk's Office or licensing authority. I/We hereby waive any rights to privacy with respect thereto.

Signature: [Signature] Title: SENIOR MEMBER Date: 10/6/15

Printed Name: STEPHEN W DICK

Hearing Date: 10/20/15



POLICE DEPARTMENT

Michael J. Bussiere
Chief of Police



TO: Kelly Brooks, Deputy City Clerk

FR: Lt. Adam D. Higgins, Support Services

DT: October 12, 2015

RE: Liquor License/Special Amusement Permit – **Rails**

We have reviewed Liquor License/Special Amusement Permit Application and have no objections to the following establishment;

Rails
103 Lincoln St.



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www.lewistonpd.org



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LEWISTON CITY COUNCIL

MEETING OF OCTOBER 20, 2015

AGENDA INFORMATION SHEET:

AGENDA ITEM NO. 7

SUBJECT:

Public Hearing on the renewal application for a Special Amusement Permit for Live Entertainment for Schemengees, 551 Lincoln Street.

INFORMATION:

We have received a renewal application for a Special Amusement Permit for Live Entertainment from Schemengees, 551 Lincoln Street.

The Police Department has reviewed and approved the application.

There was no reference to this business or property address in the Council Constituent Concern log, as maintained by the Administrator's Office.

The business owner has been notified of the public hearing and requested to attend.

APPROVAL AND/OR COMMENTS OF CITY ADMINISTRATOR:

The City Administrator recommends approval of the requested action.

EPB/KMM

REQUESTED ACTION:

1	2	3	4	5	6	7	M
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To grant a Special Amusement Permit for Live Entertainment to Schemengees, 551 Lincoln Street.

CITY OF LEWISTON
APPLICATION FOR SPECIAL AMUSEMENT PERMIT

Date of Application: 10-6-15

Expiration Date: 10-17-16

- Class A - \$125.00 - restaurants with entertainment, which **does not have dancing**
 Class B - \$125.00 - lounges/bars with entertainment, which **does not have dancing**
 Class C - \$150.00 - either restaurants or lounges/bars with entertainment, including dancing
 Class D - \$150.00 - function halls with entertainment, including dancing
 Class E - \$150.00 - dance hall or nightclub that admits persons under the age of 21
 Class F - \$150.00 - "chem-free" dance hall or nightclub for patrons aged 18 yrs and older, with no liquor

Renewal Applicants: Has any or all ownership changed in the 12 months? Yes No

****PLEASE PRINT****

Business Name: Schemengers Business Phone: 777-1155

Location Address: 551 Lincoln St Lewiston Me 04240

(If new business, what was formerly in this location: _____)

Mailing Address: 272 Pond Rd Lewiston Me 04240

Email address: mypoolhall@yahoo.com

Contact Person: Kathy Lebel Phone: 402-9314

Owner of Business: Kathy Lebel Date of Birth: 12-22-71

Address of Owner: 272 Pond Rd Lewiston

Manager of Establishment: Kathy Lebel Date of Birth: 12-22-71

Owner of Premises (landlord): Dan ^{Cunliffe} ~~212 Center St Auburn Me 04210~~

Address of Premises Owner: 212 Center St Auburn Me 04240

Does the issuance of this license directly or indirectly benefit any City employee(s)? Yes No
If yes, list the name(s) of employee(s) and department(s): _____

Have any of the applicants, including the corporation if applicable, ever held a business license with the City of Lewiston? Yes No If yes, please list business name(s) and location(s): _____

Schemengers Bar and Grill 551 Lincoln St Lewiston

Have applicant, partners, associates, or corporate officers ever been arrested, indicted, or convicted for any violation of the law? ___ Yes X No If yes, please explain: _____

CORPORATION APPLICANTS: Please attach a list of all principal officers, date of birth & town of residence

Corporation Name: Schemengees Inc.

Corporation Mailing Address: 272 Pond Rd

Contact Person: Kathy Lebel Phone: 777-1155

Do you permit dancing on premises? ___ Yes X No (If yes, you must first obtain a dance hall permit from the State Fire Marshall's Office) If yes, do you permit dancing or entertainment after 1:00 AM? ___ Yes ___ No

What is the distance to the nearest residential dwelling unit both inside and outside the building from where the entertainment will take place? 1000 ft

Please describe the type of proposed entertainment:

- dancing
- stand up comedian
- piano player
- music by DJ
- karaoke
- other, please list _____
- live band/singers
- magician
- other, please list _____

If new applicant, what is your opening date?: _____

Applicant, by signature below, agrees to abide by all laws, orders, ordinances, rules and regulations governing the above licensee and further agrees that any misstatement of material fact may result in refusal of license or revocation if one has been granted. Applicant agrees that all taxes and accounts pertaining to the premises will be paid prior to issuance of the license.

It is understood that this and any application(s) shall become public record and the applicant(s) hereby waive(s) any rights to privacy with respect thereto.

I/We hereby authorize the release of any criminal history record information to the City Clerk's Office or licensing authority. I/We hereby waive any rights to privacy with respect thereto.

Signature: S/Kathy Lebel Title: Owner Date 10-6-15

Printed Name: Kathy Lebel

Hearing Date: 10/20/15



POLICE DEPARTMENT

Michael J. Bussiere
Chief of Police



TO: Kelly Brooks, Deputy City Clerk

FR: Lt. Adam D. Higgins, Support Services

DT: August 26, 2015

RE: Liquor License/Special Amusement Permit – **Schemengee's**

We have reviewed Liquor License/Special Amusement Permit Application and have no objections to the following establishment;

Schemengee's
551 Lincoln St



171 Park St • Lewiston, Maine • 04240 • Phone 207-513-3137 • Fax 207-795-9007
www.lewistonpd.org



Professionalism

Integrity

Compassion

Dedication

Pride

Dependability

LEWISTON CITY COUNCIL

MEETING OF OCTOBER 20, 2015

AGENDA INFORMATION SHEET:

AGENDA ITEM NO. 8

SUBJECT:

Public Hearing on the renewal application for a Special Amusement Permit for Live Entertainment for the Ramada, 490 Pleasant Street.

INFORMATION:

We have received a renewal application for a Special Amusement Permit for Live Entertainment from the Ramada, 490 Pleasant Street.

The Police Department has reviewed and approved the application.

There was no reference to this business or property address in the Council Constituent Concern log, as maintained by the Administrator's Office.

The business owners have been notified of the public hearing and requested to attend.

APPROVAL AND/OR COMMENTS OF CITY ADMINISTRATOR:

The City Administrator recommends approval of the requested action.

EAS/KMM

REQUESTED ACTION:

1	2	3	4	5	6	7	M
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To grant a Special Amusement Permit for Live Entertainment to the Ramada, 490 Pleasant Street.

CITY OF LEWISTON
APPLICATION FOR SPECIAL AMUSEMENT PERMIT

Date of Application: 10-7-15

Expiration Date: 11/23/2016

- Class A - \$125.00 - restaurants with entertainment, which **does not have dancing**
 Class B - \$125.00 - lounges/bars with entertainment, which **does not have dancing**
 Class C - \$150.00 - either restaurants or lounges/bars with entertainment, including dancing
 Class D - \$150.00 - function halls with entertainment, including dancing
 Class E - \$150.00 - dance hall or nightclub that admits persons under the age of 21
 Class F - \$150.00 - "chem-free" dance hall or nightclub for patrons aged 18 yrs and older, with no liquor

Renewal Applicants: Has any or all ownership changed in the 12 months? Yes No

****PLEASE PRINT****

Business Name: ADAMAR ASSOC, dba RAMADA Business Phone: 207-784-2331

Location Address: 490 PLEASANT ST., LEWISTON, ME 04240

(If new business, what was formerly in this location: _____)

Mailing Address: SAME

Email address: OFFICESRAMADA@AOL.COM

Contact Person: GEORGE J GENDRON Phone: 784-2331

Owner of Business: GEORGE J GENDRON Date of Birth: 5-26-1949

Address of Owner: 490 PLEASANT ST.

Manager of Establishment: SAME Date of Birth: _____

Owner of Premises (landlord): SAME

Address of Premises Owner: SAME

Does the issuance of this license directly or indirectly benefit any City employee(s)? Yes No
If yes, list the name(s) of employee(s) and department(s): _____

Have any of the applicants, including the corporation if applicable, ever held a business license with the City of Lewiston? Yes No If yes, please list business name(s) and location(s): GENDRON'S U-SAVE
1290 LISBON ST., LEWISTON, ME

Have applicant, partners, associates, or corporate officers ever been arrested, indicted, or convicted for any violation of the law? ____ Yes No If yes, please explain: _____

CORPORATION APPLICANTS: Please attach a list of all principal officers, date of birth & town of residence

Corporation Name: _____

Corporation Mailing Address: _____

Contact Person: _____ Phone: _____

Do you permit dancing on premises? Yes ____ No (If yes, you must first obtain a dance hall permit from the State Fire Marshall's Office) If yes, do you permit dancing or entertainment after 1:00 AM? ____ Yes ____ No

What is the distance to the nearest residential dwelling unit both inside and outside the building from where the entertainment will take place? 150-200 yds

Please describe the type of proposed entertainment:

- dancing
- music by DJ
- live band/singers
- stand up comedian
- karaoke
- magician
- piano player
- other, please list _____
- other, please list _____

If new applicant, what is your opening date?: _____

Applicant, by signature below, agrees to abide by all laws, orders, ordinances, rules and regulations governing the above licensee and further agrees that any misstatement of material fact may result in refusal of license or revocation if one has been granted. Applicant agrees that all taxes and accounts pertaining to the premises will be paid prior to issuance of the license.

It is understood that this and any application(s) shall become public record and the applicant(s) hereby waive(s) any rights to privacy with respect thereto.

I/We hereby authorize the release of any criminal history record information to the City Clerk's Office or licensing authority. I/We hereby waive any rights to privacy with respect thereto.

Signature: George J Gendron Title: OWNER Date: 10-7-15

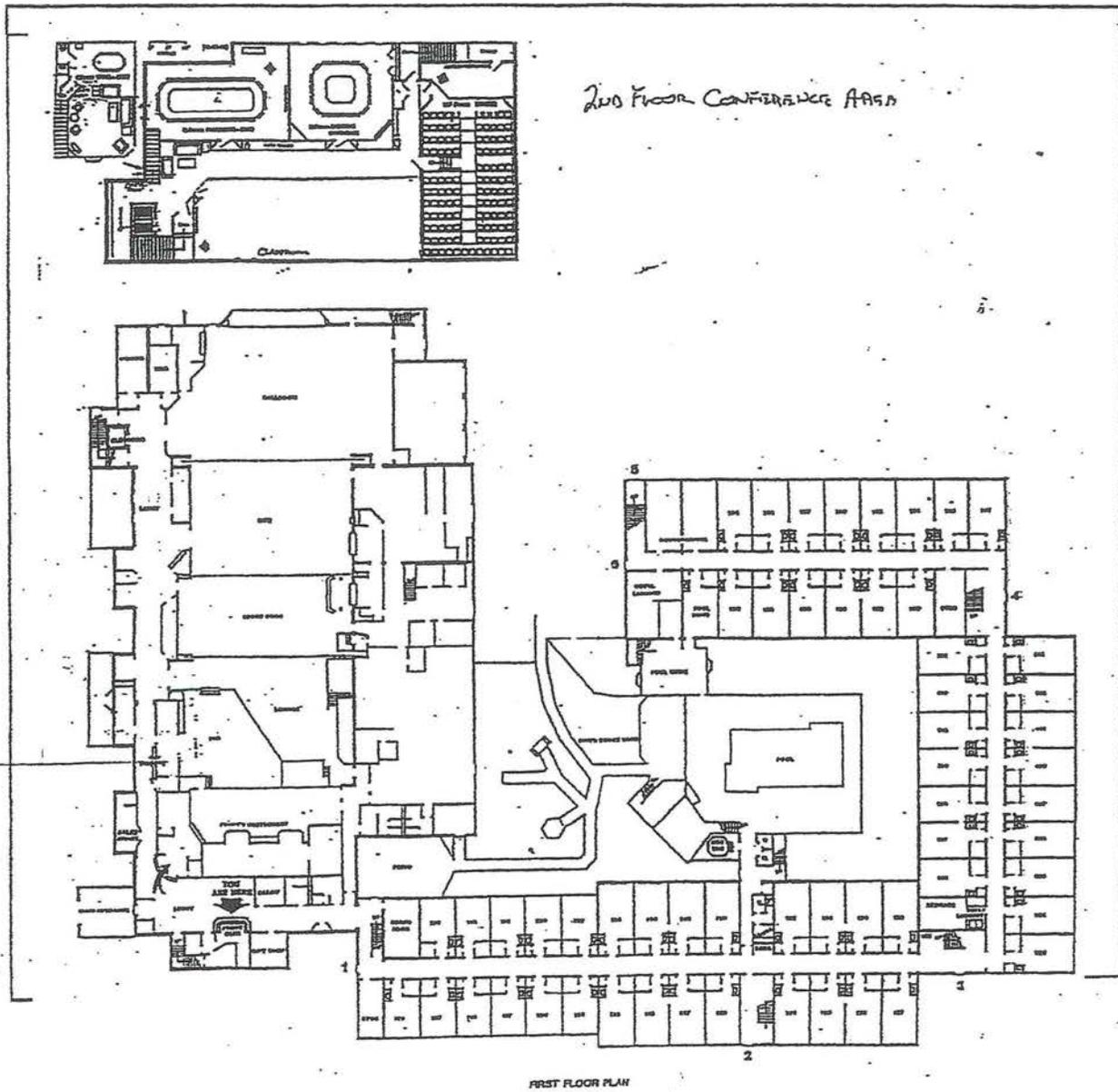
Printed Name: GEORGE J GENDRON

Hearing Date: 10/20/15

APPLICATION FORM
ON-PREMISE DIAGRAM

In an effort to clearly define your licensed premise and areas that the entertainment is allowed, the City of Lewiston is requiring all applicants to submit a diagram of the premise to be licensed in addition to a completed license application.

Diagrams should be submitted on this form and should be as accurate as possible. Be sure to label the areas of your diagram showing where in the facility the entertainment will be, the direction of any speakers and where the dance floor, if any will be located.





POLICE DEPARTMENT

Michael J. Bussiere
Chief of Police



TO: Kelly Brooks, Deputy City Clerk

FR: Lt. Adam D. Higgins, Support Services

DT: October 14, 2015

RE: Liquor License/Special Amusement Permit – **Ramada Inn**

We have reviewed Liquor License/Special Amusement Permit Application and have no objections to the following establishment;

Ramada Inn
490 Pleasant St.



171 Park St • Lewiston, Maine • 04240 • Phone 207-513-3137 • Fax 207-795-9007
www.lewistonpd.org



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LEWISTON CITY COUNCIL
MEETING OF OCTOBER 20, 2015

AGENDA INFORMATION SHEET:

AGENDA ITEM NO. 9

SUBJECT:

Public Hearing for approval of an Outdoor Entertainment Permit for a musical concert in Kennedy Park.

INFORMATION:

The Green & Healthy Homes Initiative is sponsoring a free music concert on Friday, October 30 in Kennedy Park. Since they will be having live music, they are required by the Code of Ordinances to obtain an Outdoor Entertainment permit from the City Council. Staff has reviewed their application and has no concerns with this event. Approval is recommended.

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 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 Friday, October 30, 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.

NON-EVENT PARK USE APPLICATION
SECTION 1 GENERAL EVENT INFORMATION FY160035

1. Name of host organization/individual legally responsible for event:
Green & Healthy Homes Initiative Katherine Boss
Host Organization Name of Person Responsible for Event

2. Is the applicant a legal non-profit? Yes No

If "Yes," please enclose a copy of the IRS Form 990 filed in the year preceding the date of this application. If the applicant has not yet filed a 990, please attach a copy of the IRS letter awarding your non-profit status. **If "No," 100% of all applicable fees must be paid.**

3. Will you or your organization be paid by another non-profit agency to raise money for their organization? Yes No

If "Yes," provide a *signed statement* and with *financial information* from the non-profit indicating how much money they may receive for this event and/or received if the event was held last year.

4. Name of Contact Person for Event: Katherine Boss (Katie)

5. Title of Contact Person: Outcome Broker

6. Mailing Address: 300 Main Street, Lewiston ME 04240

7. Daytime Telephone: 207-330-7895 Cell: 413-313-4391

8. Email Address: kboss@ghhi.org

9. Contact Name and Cell Phone Number DURING the Event:
Name: Katherine Boss Cell: 413-313-4391

10. Name of Event: Get the Lead Out: National Lead Poisoning Prevention Week

11. Type of Event (walk, festival, concert, etc.): Festival/tabling event

12. Location of Event: Kennedy Park

13. Day of Event: Friday Date of Event: (10/30/2015) Rain Date (if applicable): N/A

14. Times of Event: Actual Start-time: 2:30 pm Actual End-time: 5:30 pm
Start-time including *set-up*: 1 pm End-time including *clean up*: 7 pm

15. Estimated Attendance: 100-150 Open to the Public: Yes No

16. By Invitation Only: Yes No If "Yes," Required Age for Admission: _____

DESCRIPTION OF EVENT

Please describe what will occur during your event

This will be a lead poisoning education and awareness event, and will include tables by Maine State Housing Authority, Maine CDC, Maine EPA, Healthy Androscoggin, B Street Clinic, Pine Tree Legal and GHHI. There will be live music, face painting, and food to encourage families to attend and learn about the important issue of lead poisoning in Lewiston-Auburn.

SECTION 2 EVENT DETAILS & POSSIBLE PERMITTING

- 34% discount on all city permits/licenses for fundraisers hosted by non-profit (NP) organization
- 50% discount on all city permits/licenses for *non-fundraising* events hosted by non-profits
- ALL PAYMENTS ON CITY PERMITS/LICENSES DUE NO LATER THAN 30 DAYS PRIOR TO EVENT

All items highlighted below with an asterisk (*) in Section 2 of this application must be filed and completed to the city's satisfaction no later than 45 days prior to the event to comply with public hearing requirement.

	Permit Fee	Permits and/or Event Requirements	YES	NO
A	NP & FOR PROFIT	If you answered "Yes" in Section 1, Item 2 of this form and you are seeking City Council approval to waive any applicable fees, YOU MUST COMPLETE THIS SECTION AND SCHEDULE B of this form. All other events must complete this section only.		
B	CITY PROCESSING FEE	If the event requires city staff inspection and/or the use of city-owned public space, or assets, please complete SCHEDULE A of this application.		
C	Separate fee and permit may be required \$50 (3) days	FOOD: Will food or beverages be <u>given away</u> ? (Indicate yes or no to the right) Type of Food: <u>Apple cider, donuts, apples, candy</u> Type of Beverage: <u>Apple cider, water</u> Will food or beverages be <u>sold</u> ? (Indicate yes or no to the right) Type of Food: _____ Type of Beverage: _____ <i>Note - A food service license may be required.</i>	X Food and drink will be available for free to attendees	X (no food or drink will be sold)
D	Separate fee and permit may be required \$39 (7)days plus \$21 background check	NON-FOOD ITEMS: Will products be <u>given away</u> ? (i.e. t-shirts, crafts, CDs, etc.) (Indicate yes or no to the right) Type of Items: <u>Crayons</u> Will products be <u>sold</u> ? (i.e. t-shirts, crafts, CDs, etc.) (Indicate yes or no to the right) Type of Items: <u>N/A</u> <i>Note- A peddling permit may be required.</i>	Yes (crayons and other promotional items may be given away)	No items being sold
E	*\$50/event	*LIVE MUSIC PERFORMED BY ONE OR MORE PEOPLE: (yes or no) If "Yes," Please Describe: <div style="border: 1px solid black; height: 20px; width: 100%;"></div>	X Yes (we will need sound amplification (we intend to have live music - likely student a capella groups from Bates)	
F	\$17/day	Will SOUND AMPLIFICATION be needed? (yes or no) <input checked="" type="radio"/> Please check one: Microphone <input checked="" type="checkbox"/> Speaker System: <input checked="" type="checkbox"/> Other: _____		

LEWISTON CITY COUNCIL
MEETING OF OCTOBER 20, 2015

AGENDA INFORMATION SHEET:

AGENDA ITEM NO. 10

SUBJECT:

Public Hearing and Final Passage regarding an amendment to the Business Licensing ordinance regarding Outpatient Addiction Treatment Clinics.

INFORMATION:

In 2006, the Council approved an ordinance regulating Outpatient Addiction Treatment Clinics. At present, the City has one clinic that has been operating for several years. The Police Department is in contact with the managers as needed and the operation is going very well. When the ordinance was established, it was believed that meetings at least twice a year should be mandatory between the Police Chief and the operators of the Clinic. However, the mandatory meetings are not always needed every six months and the recommendation is to change the language in the ordinance from mandatory meetings to meetings to be held at the discretion of the Chief of Police.

Passage is recommended.

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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That the proposed amendment to the City Code of Ordinances, Chapter 22 "Businesses", Article XIV "Outpatient Addiction Treatment Clinics", Sections 22-417 "Meetings with the chief of police", receive final passage by a roll call vote.

**AN ORDINANCE PERTAINING TO OUTPATIENT ADDICTION
TREATMENT CLINICS**

THE CITY OF LEWISTON HEREBY ORDAINS:

Chapter 22 of the Code of Ordinances of the City of Lewiston, Maine is hereby amended as follows:

CHAPTER 22

BUSINESSES

ARTICLE XIV. OUTPATIENT ADDICTION TREATMENT CLINICS

Sec. 22-417. ~~Semi-annual~~ Mmeetings with the chief of police.

~~A minimum of two~~ Mmeetings ~~per calendar year~~ will be conducted at the clinic, held at the discretion of the chief of police, to allow the applicant and city staff the opportunity to discuss issues with the chief of police and or his designee. The purpose of said meetings is to establish a good working relationship between the police department and the owner and operators of clinics.

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

LEWISTON CITY COUNCIL

MEETING OF OCTOBER 20, 2015

AGENDA INFORMATION SHEET:

AGENDA ITEM NO. 11

SUBJECT:

First Reading and Referral to the Planning Board for Land Use Code Amendments regarding two-family dwellings in the Neighborhood Conservation "A" District.

INFORMATION:

Constituents of a City Councilor have expressed concern that the NCA district, which currently allows the development of new or conversion of existing properties to two-family, should work to maintain a predominantly single-family zoning district and should not allow for conversions regardless of existing patterns of use in the immediate neighborhood. The NCA is predominately a single family district. The proposed amendment will ensure that the NCA remains a single family district by disallowing new two-family buildings and conversions of existing single-family buildings.

The proposed amendment will also simplify the code given the current complexities of determining whether an individual property does or does not meet the required conditions for development or conversion of a property to a two-family dwelling. The proposed amendment will streamline the process, making it easier to advise property owners of their options for development and provide more certainty regarding the future development pattern of neighborhoods in the NCA.

Please see the attached memo from City Planner David Hediger for greater detail.

APPROVAL AND/OR COMMENTS OF CITY ADMINISTRATOR:

The City Administrator recommends approval of the requested action.

EVAB/4mm

REQUESTED ACTION:

1	2	3	4	5	6	7	M
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To approve the First Reading and Refer to the Planning Board an Ordinance Amendment pertaining to two-family dwellings in the Neighborhood Conservation "A" District.



CITY OF LEWISTON



Department of Planning & Code Enforcement

TO: Mayor and Members of the City Council
FROM: David Hediger, City Planner
DATE: October 14, 2015
RE: Zoning and Land Use Code Amendment: Two-family dwelling in the Neighborhood Conservation "A" district

Staff has been asked to prepare an amendment to the Zoning and Land Use Code that eliminates the development of two-family dwellings and the potential conversion of single family homes to two-family dwellings in the Neighborhood Conservation "A" (NCA) District. Such conversions are currently permitted if specific locational criteria are met.

Constituents of a City Councilor have expressed concern that the NCA district should work to maintain a predominantly single-family zoning district and should not allow for conversions regardless if existing patterns of use in the immediate neighborhood consist of two-family dwellings. The NCA is predominately a single family dwelling district with approximately 77% of developed lots consisting of single family homes, 14% consisting of two or more units, and 8% that are presumably undeveloped. The proposed amendment will encourage and ensure that the NCA remains a single family district by not allowing for new development or conversions of structures into two-family dwellings. Two-family dwellings will still be allowed as a permitted use in the Medium Density Residential (MDR), Neighborhood Conservation "B" (NCB), Office Residential (OR), Downtown Residential (DR) districts and in the Highway Business (HB) district where they would be limited to conversions of existing single family dwellings.

The proposed amendment will also simplify the code given the current complexities of determining whether an individual property does or does not meet the required conditions for development or conversion of a property to a two-family dwelling. Article XI, Section 22 states that a parcel in the NCA may be developed with a two-family dwelling or an existing single-family dwelling may be converted to a two-family dwelling only if specific criteria are met when reviewing other properties which have frontage on the same street(s) as the lot in question and lie, in whole or in part, within five hundred (500) feet of any property line of the subject lot. Historically, these criteria have been difficult to meet and have resulted in very few conversions or new development of two-family dwellings in the NCA. The proposed amendment will streamline the process, making it easier to advise property owners of their options for development and provide more certainty regarding the future development pattern of neighborhoods in the NCA.

This amendment would not affect the ability to create in-law apartments in this zone as governed by separate Code provisions.

Planning and Code Enforcement staff will be available at the meeting for any questions.

**AN ORDINANCE PERTAINING TO TWO-FAMILY DWELLINGS IN THE
NEIGHBORHOOD CONSERVATION "A" DISTRICT**

THE CITY OF LEWISTON HEREBY ORDAINS:

Appendix A of the Code of Ordinances of the City of Lewiston, Maine, is hereby amended as follows:

**APPENDIX A
ZONING AND LAND USE CODE
ARTICLE XI. DISTRICT REGULATIONS**

Sec. 6. Neighborhood conservation "A" district (NCA).

- (a) *Statement of purpose.* The purpose of the neighborhood conservation "A" district is to promote neighborhood stability by requiring the development of new buildings or the reuse or conversion of existing buildings to conform to the type and density of housing existing within the immediate neighborhood. The standards of the district restrict housing to single-family detached dwellings, ~~unless the existing pattern of use in the immediate neighborhood is two family or predominantly multifamily dwellings.~~

Sec. 22. Land Use Requirements.

- (a) *Land Use Requirements* - All buildings or structures hereafter erected, reconstructed, altered, enlarged, or relocated, and uses of premises shall be in conformity with the provisions of this Code. No building, structures, land or water area shall be used for any purpose or in any manner except as permitted within the District in which such building, structure, land and water area is located. The District designation for a particular site shall be determined and apply to all land shown on the "Official Zoning Map, City of Lewiston".

(b) *Key to Table*

KEYWORD	DEFINITION
(P)	Allowed/Permitted(the use must be in conformance with all applicable
(C)	Allowed/Permitted only after the issuance of a conditional use permit in accordance with Article X of this Code (the use must be in
Blank/Empty Column	Use not allowed/permitted; space and bulk requirement not applicable

- (c) *Land Use Table* – uses appearing in the table are part of this Code and set forth the uses allowed in all district.

Land Use Table: All Zoning Districts 10.13.2015	Neighborhood Conservation "A" (NCA)
USES(15)(33)	
Accessory use or structure	P
Commercial-Service	
Veterinary facilities excluding kennels and humane societies	
Veterinary facilities including kennels and humane societies	
Small day care facilities	P(22)
Day care centers	-
Day care centers accessory to public schools, religious facilities, multifamily or mixed res. developments, and mobile home parks	C(22)
Business and professional offices including research, experimental, testing laboratories, engineering, research, management and related services	
Restaurants	
Drinking places	
Adult business establishments	
Hotels, motels, inns	
Movie theaters except drive-in theaters	
Places of indoor assembly, amusement or culture	
Art and crafts studios	
Personal Services	
Retail stores	
Neighborhood retail stores	
Lumber and building materials dealer	
Gasoline service stations	
Gasoline service stations which are a part of and subordinate to a retail use	
New and used car dealers	
Recreational vehicle, mobile home dealers	
Equipment dealers and equipment repair	
Automotive services including repair	
Registered dispensary(27)	

Registered primary caregivers engaged in the cultivations of medical marijuana for two to five registered patients.	
Tattoo Establishments	
Industrial	
Light industrial uses	
Industrial uses	
Building and construction contractors	
Fuel oil dealers and related facilities	
Wholesale sales, warehousing and distribution facilities and self-storage facilities	
Self storage facilities	
Commercial solid waste disposal facilities	
Junkyards and auto graveyards	
Recycling and reprocessing facilities	
Private industrial/commercial developments(23)	
Transportation	
Airports or heliports	
Commercial parking facilities	
Transit and ground transportation facilities	
Transportation facilities	
Public and Utility	
Pumping stations, standpipes or other water supply uses involving facilities located on or above the ground surface and towers for municipal use	P
Power transmission lines, substations, telephone exchanges, microwave towers or other public utility or communications use	C
Municipal buildings and facilities	C
Preservation of historic areas; emergency and fire protection activities; bridges and public roadways	
Dams	
Institutional	
Religious facilities	P
Cemeteries	P
Congregate care/assisted living facilities, institutions for the handicapped, nursing or convalescent homes, group care facilities	
Hospitals, medical clinics,	

Museums, libraries, and non-profit art galleries and theaters	
Academic institutions, including buildings or structures for classroom, administrative, laboratory, dormitories, art, theater, dining services, library, bookstores, athletic facilities and student recreational uses, together with buildings accessory to the foregoing permitted principal buildings or structures,	
Civic and social organizations	
Public community meeting and civic function buildings including auditoriums	
Residential	
Single-family detached dwellings on individual residential lots	P
Mobile homes on individual residential lots	
Two-family dwellings	P(37)
Multifamily dwellings in accordance with the standards of Article XIII	
Single-Family attached dwelling in accordance with the standards of Article XIII	
Mixed single-family residential developments in accordance with the standards of Article XIII	
Mixed residential developments in accordance with the standards of Article XIII	
Mixed use structures	
Lodging houses	
Home occupations	P
Bed and breakfast establishments as a home occupation	P
In-law apartments in accordance with the standards of Article XII	P
Single family cluster development	
Family day care home	P
Shelters	
Natural Resource	
Agriculture	
Farm Stands	
Forest management and timber harvesting activities in accordance with the standards of Article XIII	P
Earth material removal	
Community gardens(20)	P

Water dependent uses, e.g. docks and marinas	
Non-residential structures for educational, scientific or nature interpretation purposes, containing a maximum floor area of not more than ten thousand (10,000) square feet	
Recreation	
Campgrounds	
Public or private facilities for nonintensive outdoor recreation	C
Commercial outdoor recreation and drive-in theaters	
Fitness and recreational sports centers as listed under NAICS Code 713940	

Land Use Table Notes

(37) ~~A parcel may be developed with a two-family dwelling, only if both of the following criteria are met:~~

- ~~a. More than 50 percent of the impacted properties that are developed contain residential structures with two or more dwelling units; and~~
- ~~b. More than 50 percent of the adjoining properties that are developed contain residential structures with two or more dwelling units.~~

~~An existing single-family dwelling may be converted to a two-family dwelling only if both of the following criteria are met:~~

- ~~a. Forty percent or more of the impacted properties that are developed contain residential structures with two or more dwelling units; and~~
- ~~b. Forty percent or more of the adjoining properties that are developed contain residential structures with two or more dwelling units.~~

(Reserved).

REASONS FOR THE PROPOSED AMENDMENT

The proposed amendment eliminates the development of two-family dwellings and the potential conversion of single family homes to two-family dwellings in the Neighborhood Conservation “A” (NCA) District. Such conversions are currently permitted if specific locational criteria are met.

Constituents of a City Councilor have expressed concern that the NCA district should work to maintain a predominantly single-family zoning district and should not allow for conversions regardless if existing patterns of use in the immediate neighborhood consist of two-family dwellings. Two-family dwellings will still be allowed as a permitted use in the Medium Density Residential (MDR), Neighborhood Conservation “B” (NCB), Office Residential (OR), Downtown Residential (DR) districts and in the Highway Business (HB) district limited to conversions of existing single family dwellings.

The proposed amendment would also simplify the code given the current complexities

of determining whether an individual property does or does not meet the required conditions for development or conversion of a property to a two-family property. This amendment would not affect the ability to create in-law apartments in this zone as governed by separate Code provisions.

CONFORMANCE WITH COMPREHENSIVE PLAN

1. Review permitting and licensing policies and practices to see where they can be streamlined in order to better service the development community (Economy, Policy #1, Strategy C, p. 38).
2. Encourage orderly growth and development in appropriate areas of the City, while protecting the City's rural character, making the efficient use of public services and preventing development sprawl (Land Use, Goal, p. 122).
3. Encourage and promote affordable, decent housing opportunities for all Lewiston citizens and continue to allow a diverse range of housing types in the community (Long Range Planning, Policy 5, p. 134).
4. Explore areas of the City where non-traditional housing, including in-law apartments, two-families and mobile homes, may be appropriate and make appropriate changes to Zoning and Zoning and Land Use Codes (Long Range Planning, Strategy C, p. 135).

LEWISTON CITY COUNCIL
MEETING OF OCTOBER 20, 2015

AGENDA INFORMATION SHEET:

AGENDA ITEM NO. 12

SUBJECT:

Amendments to the Personnel Policies regarding the employee health insurance program.

INFORMATION:

The Deputy City Administrator is recommending an amendment to the Personnel Policies regarding the employee health insurance coverage. Under the proposed amendments, employees will be offered coverage options that will become effective January 1, 2016. The amendments contain language regarding the voluntarily employee Wellness and Health Care Management System program as well.

Additions are underlined and deletions have strike-out lines.

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 amendments to the Personnel Policies for the employee health insurance system program, as recommended by the Deputy City Administrator.

(Note - Full copy of the amendment is attached. Additions are underlined and ~~deletions~~ have strike-out lines.)

**FLEXIBLE SPENDING ACCOUNT AND HEALTH REIMBURSEMENT
ARRANGEMENT BENEFITS PLAN**

For all eligible employees, the City of Lewiston shall provide a Flexible Spending Account and Health Reimbursement Arrangement Benefits Plan (through a third party administrator) as allowed under Section 125 of the Internal Revenue Code. Eligible employees shall bear the cost of either the Flexible Spending Account and/or Dependent Care Options, except for a yearly contribution from the City of Lewiston of \$200 in the Flexible Spending Account of those employees who are not covered by a labor agreement and are participating in the Health Care Management System.

For those employees ~~electing to participate~~participating in the MMEHT PPO 500 or 1500 health insurance plans, the City of Lewiston shall contribute funds to the employee's Health Reimbursement Arrangement in accordance with the following schedule:

- A. PPO 500: ~~\$600~~1000 Single Plan; ~~\$1,200~~2,000 Family Plan; ~~\$1,200~~2,000 Employee/Spouse Plan
- B. PPO 1500: ~~\$1,200~~500 Single Plan; \$3,000 Family Plan; \$3,000 Employee/Spouse Plan

Employees not opting to participate in the Flexible Benefits Plan or the Health Reimbursement Arrangement immediately upon being employed or not ~~complying with the requirements outlined~~voluntarily participating in the ~~Health Care Management System Focusing on Prevention~~City of Lewiston Wellness and Health Care Management Program section of the City Personnel Policy during the year, will not be eligible to participate until the next calendar year, ~~or shall pay applicable penalties outlined in the Health Care Management System Focusing on Prevention~~ until such time as they are fully compliant.

City of Lewiston Wellness and Health Care Management Program

~~**HEALTH CARE MANAGEMENT SYSTEM FOCUSING ON HEALTH CARE PREVENTION**~~
(Established 7/1/2005 - Updates Effective 7/1/2007)

The program seeks voluntary compliance with an aggressive health care management system which focuses primarily on prevention activities. The goal is to reduce the overall need for health care services among members and to prevent disease by rewarding employees for healthy behavior that will prevent disease. The program can be broken down as follows:.....

HEALTH INSURANCE

- A. The City of Lewiston shall provide the Maine Municipal Employee's Health Trust (MMEHT) Dual Option Point of Service (POS) ~~C Comprehensive Plan, the Preferred Provider Organization (PPO) 500, 1500 or comparable plans providing substantially similar coverages and deductibles (single, two-person or family plan)~~ to those eligible employees and their eligible dependents.

Eligible employees shall be authorized to receive this insurance on the first (1st) day of the month following the month they begin working for the City. Employees will pay a portion of the annual premium for the POS-C, PPO 500 or 1500 (single, two-person or family plan). Employee contributions for the POS-C, PPO 500 or 1500 Plans will be in accordance to the schedule outlined in the City Personnel Policy entitled Health Care Management System focusing on Health Care Prevention.

B. — In the event that an employee takes an approved leave of absence for medical reasons, the City shall continue to pay its share of health insurance costs for a period of six (6) months following the depletion of the employee's accumulated sick leave.

The Employer shall make available and pay for the applicable premium level of Employee health insurance coverage provided by the Maine Municipal Employees Health Trust Preferred Provider Organization (PPO) 500 or PPO 1500 plan (changes in Employee premium payments and coverages from POS C to PPO 500/1500 will become effective on the first payroll date for 1/1/16). The Employer reserves the right to convert said coverage to another carrier or other coverage which provides substantially equal or better coverage.

It is understood that the term "applicable premium" refers to all available plans---Employee only, Employee and spouse, Employee with children, Employee & spouse with children plan, or any of the other available plans. Employees wishing to participate in the Point of Service (POS) C plan may do so by paying the difference in the City's monthly cost between the PPO 500 and POS C plans for applicable coverage.

Effective January 1, 2016, all Employees shall contribute twenty-five percent (25%) for their share of the premium for MMEHT PPO 500/1500 coverage. Employees who voluntarily enroll in the Wellness and Health Care Management System program (outlined in this Policy) can achieve rewards to reduce their PPO 500/1500 (or POS-C if applicable) health insurance premium payment up to 10% (10% for single employees/parents or 5% for each employee and spouse) resulting in a reduced Minimum Health Insurance Premium (MHIP) of no less than 15%.

All new employees hired after September 1, 2007 shall contribute thirty percent (30%) for their share of the premium for MMEHT PPO 500/1500 (or POS-C if applicable) coverage. Employees who voluntarily enroll in the Wellness and Health Care Management System program can achieve rewards to reduce their health insurance premium payment up to 10% (10% for single employees/parents or 5% for each employee and spouse) resulting in a reduced MHIP of no less than 20%.

Coverages and benefits under the above program may change from time to time. The Human Resources Department will maintain up-to-date information on all benefits available under such program.

HEALTH INSURANCE INCENTIVE PLAN
Payments to Employees Who Waive Health Insurance Coverage

Any employee may elect to waive coverage in the City's Health Insurance Plan. Any employee waiving full coverage or partial coverage for which he/she would otherwise be eligible shall be paid according to the following conditions (changes from POS payment levels to PPO 500 will become effective January 1, 2016):

1. Any employee eligible for full family coverage or single coverage and who elects to waive health insurance coverage shall receive an annual payment equal to the amount of four months of POSPPO 500 health insurance premiums for which the employee is eligible.
2. An employee who is eligible for full family plan opts to take either a "single parent plan" or a "single plan" shall receive an annual payment equal to four months of the difference in premiums between the POSPPO 500 plan for which he/she is eligible and the POSPPO 500 plan which he/she opts to take.
3. In the event both spouses are employees and eligible for health insurance coverage, the ineligible spouse shall receive an annual payment equal to one month of the POS PPO 500 family plan premium.
4. The payments in lieu of health insurance shall be based on the premiums in effect the month the premiums are paid.
5. A new employee who waives health insurance coverage shall be eligible for the payment in lieu of insurance upon becoming eligible for the health insurance. (It is understood that should an employee leave the employ of the City before July 1st, the Health Insurance Incentive shall be prorated and reimbursed to the City either through payroll deduction or personal check).
6. If the employee wishes to be reinstated on the health insurance policy or change coverage from a single or a single parent plan (if he/she would otherwise be eligible for full coverage) he/she may do so as long as he or she follows the insurance carrier's requirements for evidence of insurability and portability of coverage provisions.
7. If an employee is reinstated (or covered for the first time) after receiving payment for waiving health insurance coverage, the employee shall repay the City the balance of the payment pro-rated on a monthly basis.
8. In order to receive payment for waiving health insurance coverage or to be reinstated on the health insurance plan, the employee must submit written notice to the Human Resources Director. Discontinuance of health insurance or reinstatement of coverage will be effective the first day of the following month in which written notice has been received.
9. Eligible employees who are married to other City employees covered by the MMEHT shall receive MMEHT life insurance coverage at no cost.

NOTE: Annual and prorated payments shall be based on the City's fiscal year July 1 through June 30.

SICK LEAVE

A. *Accumulation.* Permanent employees shall accrue paid sick leave at the rate of one (1) day per month, a total of twelve (12) days per year accumulating to one-hundred ~~seventy-five~~eighty (~~175~~180) days. Employees must have been compensated at least ten (10) days in a month to accumulate sick leave.

LEWISTON CITY COUNCIL

MEETING OF OCTOBER 20, 2015

AGENDA INFORMATION SHEET:

AGENDA ITEM NO. 13

SUBJECT:

Resolve stating the Opposition of the City Council to the County Charter Amendment appearing on the November election ballot relating to Salaries and Benefits of Elected Officials.

INFORMATION: Section 3.7 of the County Charter clearly states that the salaries and benefits of county elected officials must be approved by the County Budget Committee. The salaries and benefits currently being provided to the County Commissioners were set by the County Commission during the past years budget process but did not receive the required Budget Committee approval. As a result, 13 of the 14 municipalities in Androscoggin County have taken legal action in an effort to require the County to comply with its charter as well as to comply with state law governing the County's overall budget process.

The County Commission has chosen to place an amendment on the November ballot that would reduce the authority of the Budget Committee over the salary and benefits of elected officials by limiting the Committee to simply approving or denying increases in salaries or expansions of benefits.

This effort to lessen the authority of the budget committee conflicts with the clear intention of the County Charter Commission as expressed in its final report and is against the wishes of the citizens who approved the County Charter through a referendum.

The attached Resolve would place the City Council on record in opposition to this amendment.

APPROVAL AND/OR COMMENTS OF CITY ADMINISTRATOR:

The City Administrator recommends approval of the requested action.

EVA BIKMM

REQUESTED ACTION:

1	2	3	4	5	6	7	M
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To approve the Resolve stating the Opposition of the City Council to the County Charter Amendment appearing on the November election ballot relating to Salaries and Benefits of Elected Officials.



COUNCIL RESOLVE

Resolve, Stating the Opposition of the City Council to the County Charter Amendment Appearing on the November Election Ballot Regarding Salaries and Benefits of Elected officials.

Whereas, Section 3.7 of the County Charter clearly states that the salaries and benefits of county elected officials must be approved by the County Budget Committee; and

Whereas, the salaries and benefits currently being provided to the County Commissioners were set by the County Commission and did not receive the approval of the Budget Committee; and

Whereas, 13 of the 14 municipalities in Androscoggin County have taken legal action against the County in an effort to require the County to comply with section 3.7 of its charter as well as to comply with state law governing the County's overall budget process; and

Whereas, the County Commission has chosen to place an amendment on the November ballot that would reduce the authority of the Budget Committee over the salary and benefits of elected officials by limiting the Committee to simply approving or denying increases in salaries or expansions of benefits; and

Whereas, this effort to lessen the authority of the budget committee flies in the face of the clear intention of the County Charter Commission as expressed in its final report and against the wishes of the citizens who approved the County Charter through a referendum;

Now, therefore, be it resolved by the City Council of the City of Lewiston that

We oppose the proposed county charter amendment regarding the Budget Committee's authority over elected official wages and benefits and urge the citizens of Lewiston to join with us in voting no on this question on November 3rd.

LEWISTON CITY COUNCIL

MEETING OF OCTOBER 20, 2015

AGENDA INFORMATION SHEET:

AGENDA ITEM NO. 14

SUBJECT:

Resolve expressing the concern of the City Council regarding the process instituted by the County Commissioners for the County Budget Committee's review of the proposed county budget.

INFORMATION:

The County Budget Committee is made up of representatives elected by the municipal officers of the cities and towns in Androscoggin County. Its function is to review and provide oversight to the budget proposed by the County Commissioners and to make recommendations to the Commissioners on changes to it. In the past, the Commissioners and the County Treasurer have attended budget committee meetings to provide information and answer questions. This year, the Commissioners have indicated that they will not attend and the Treasurer has not attended. This will make the work of the Budget Committee more difficult and less efficient.

Councilor Bouchard, who is a member of the Budget Committee, has suggested that the City express its concern over this change from prior long-standing practice.

APPROVAL AND/OR COMMENTS OF CITY ADMINISTRATOR:

The City Administrator recommends approval of the requested action.

EAB/kmm

REQUESTED ACTION:

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To approve the Resolve expressing the concern of the City Council regarding the process instituted by the County Commissioners for the County Budget Committee's review of the proposed county budget.



COUNCIL RESOLVE

Resolve, Expressing the Concern of the City Council Regarding the Process Instituted by the County Commissioners for the County Budget Committee's Review of the Proposed County Budget.

Whereas, the County Budget Committee is established by Charter and is charged with the responsibility of reviewing and adjusting, if deemed necessary, the Commissioners' Proposed Budget, thus meeting the oversight requirements mandated by Statute and Charter; and

Whereas, the members of the Budget Committee are nominated and elected by the municipal officers of the County's cities and towns; and

Whereas, as such, the Budget Committee, in its entirety, represents all of the municipalities in Androscoggin County; and

Whereas, as required by state law, municipalities in the County must include in their tax levy the county tax, as required by the finally adopted County budget, such amounts to be paid to the municipalities by their taxpayers and forwarded to the County; and

Whereas, the Budget Committee has an oversight role to evaluate the proposed budget submitted to it by the County Commissioners, recognizing that, since the county tax is included in the municipal tax rate, it is often the municipality, not the county, that is held accountable by taxpayers for funds raised and transferred to the county; and

Whereas, the County Charter requires that the Commissioners provide the community with necessary clerical assistance, office expenses, and with meeting space, as well as access to County files and information needed to carry out its functions; and

Whereas, the Budget Committee has requested that the County Commissioners, or a representative member of the Commission, the County Treasurer, and the County Department Heads whose budgets will be reviewed at a particular meeting attend those meetings; and

Whereas, in a clear departure from past practice, the members of the County Commission have refused to be present and available at Budget Committee meetings to provide information to the Budget Committee or to answer questions from its members; and

Whereas, the County Treasurer has similarly failed to participate in Budget Committee meetings; and

Whereas, this departure from past practice makes the work of the Budget Committee less efficient and undermine its responsibility to provide budget review and accountability;

Now, therefore, be it resolved by the City Council of the City of Lewiston that

The City Council hereby expresses its concern that the process instituted by the County Commissioners for the County Budget Committee's review of the proposed county budget will negatively impact that Committee's ability to review and exercise reasonable scrutiny over the proposed budget and will undermine the credibility of the overall budget process and final budget amongst the county's cities and towns, recognizing that it is the county's municipalities that raise the taxes to support county operations and the municipal officials who are frequently held accountable for the property taxes paid by their residents to support county services. We support the request of the Budget Committee that it be provided necessary documentation to justify, explain, or elaborate on requested line item amounts, including explanations for new budget items or where line items vary significantly from prior years. Finally, we urge that the Commissioners or a representative from the Commission and the County Treasurer attend budget committee meetings to provide information and explanations to assist the Budget Committee in performing its charter mandated functions.

LEWISTON CITY COUNCIL
MEETING OF OCTOBER 20, 2015

AGENDA INFORMATION SHEET:

AGENDA ITEM NO. 15

SUBJECT:

Order authorizing the City Administrator to execute a Collective Bargaining Agreement with the Maine State Employees Association (MSEA).

INFORMATION:

The City Council is requested to approval an agreement with the Maine State Employees Association which represents the general government and clerical employees of the City. This agreement is for the period of July 1, 2014 to June 30, 2017.

Please see attached memorandum from Deputy City Administrator Phil Nadeau outlining the highlights of the new agreement.

APPROVAL AND/OR COMMENTS OF CITY ADMINISTRATOR:

The City Administrator recommends approval of the requested action.

EATB/KMM

REQUESTED ACTION:

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To approve the Order authorizing the City Administrator to execute a collective bargaining agreement with the Maine State Employees Association (MSEA).



COUNCIL ORDER

ORDER, Authorizing the City Administrator to Execute a Collective Bargaining Agreement with the Maine State Employees Association.

Whereas, the City has been working for the last sixteen months with the MSEA negotiating team to reach agreement on a new collective bargaining agreement; and

Whereas, the negotiated agreement has been approved by the MSEA membership; and

Whereas, the terms and conditions of the proposed agreement fall within the negotiating guidelines provided by the City Council;

Now, therefore, be it Resolved by the City Council of the City of Lewiston that

The City Administrator is hereby authorized to execute a collective bargaining agreement with the Maine State Employees Association in accordance with the terms and conditions outlined on the attached memorandum from Deputy City Administrator Phil Nadeau.



The Office of
Deputy City Administrator
Phil Nadeau
27 Pine Street • Lewiston, Maine • 04240
Tel. 207-513-3121, Ext. 3201 • Fax 207-795-5069
Email: pnadeau@lewistonmaine.gov



MEMORANDUM

TO:	Mayor and City Council
FROM:	Phil Nadeau, Deputy City Administrator & Chief City Negotiator
DATE:	October 20, 2015
RE:	Proposed MSEA Unit Contract

1. BACKGROUND

The city has been working for the last sixteen months with the MSEA negotiating team to develop the proposed contract. The MSEA membership voted to support the contract. Notable features of the proposed contract are as follows (contract copy forwarded electronically):

- Contract for three years: FY2015, FY2016 and FY2017
- WAGES: FY15, effective 1/1/15—1.5%; FY16, effective 7/1/15—1.5%; FY17, effective 7/1/16—2.0%
- Sick leave: increase accumulation from 150 to 160 days and increase retirement 50% payout from 130 to 150 days (maximum payout increased from 65 to 75 days).
- Personal days: Ability to convert 2 days of sick time to personal leave days.
- For two Parking Enforcement personnel only: Footwear allowance of \$162 will be eliminated in favor of clothing allowance of \$350.
- Health Insurance:
 - ✓ PPO 500 becomes primary insurance effective 1/1/16
 - ✓ POS C optional if employee pays difference in cost to city
 - ✓ HRA: \$1000 for single; \$2000 for family effective 1/1/16
 - ✓ Min Employee health insurance payment: 15% for employees hired before 9/1/07; 20% for employees hired on or after 9/1/07 after 10% Wellness program rewards are achieved
 - ✓ New Wellness program with elevated wellness standards to become effective in 2017
 - ✓ Opt Out Insurance Incentive – to be paid at PPO 500 levels with \$300 annual payout bonus
- New part-time language: Articulates current city HR practices for part-time employees e.g.:
 - ✓ Part time employees paying 50% of health insurance premium
 - ✓ Part time employees receiving 50% of flex time, HRA and opt out benefit

- ✓ Providing sick time, vacation time and holiday pay at an hourly pro-rated basis based on average weekly hours worked
- Reclassifications: salary survey negotiated adjustments:
 - ✓ 6 job classifications impacting 11 positions were reclassified
 - ✓ All reclassifications will become effective 7/1/15
- Pilot reclassification system now accepted as new contract language

2. RECOMMENDED ACTION

To approve the proposed contract.

LEWISTON CITY COUNCIL
MEETING OF OCTOBER 20, 2015

AGENDA INFORMATION SHEET:

AGENDA ITEM NO. 16

SUBJECT:

Resolve adjusting the Salary Schedule for the Non-Union Employees effective July 1, 2015.

INFORMATION:

This Resolve will adjust the salary schedule for non-union personnel by 1.5% retroactive to payroll checks issued on July 1, 2015. This is in line with the agreement negotiated with the City's Maine State Employees Union. Please note that this action is being taken in concert with changes to the City's employee health insurance plan designed to assist the City in controlling health insurance costs.

APPROVAL AND/OR COMMENTS OF CITY ADMINISTRATOR:

The City Administrator recommends approval of the requested action.

EATB/kmm

REQUESTED ACTION:

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To approve the Resolve adjusting the Salary Schedule for the Non-Union Employees effective July 1, 2015.



CITY OF LEWISTON, MAINE

October 20, 2015

COUNCIL RESOLVE

Resolve, Adjusting the Salary Schedule for Non-Union Employees Effective July 1, 2015.

Be it Resolved by the City Council of the City of Lewiston that the pay scale for non-union employees is hereby adjusted upward by 1.5% effective July 1, 2015, such adjustment to be retroactive to payroll checks issued on July 1, 2015.



City of Lewiston Maine
City Council Order
October 20, 2015



- Order,** Approving the extension of the Purchase and Sale Agreement for 139 and 155 Bartlett Street and 116 and 122 Pierce Street.
- Whereas,** St. Laurent Housing Associates was the owner of a 29 unit affordable housing project known as Pierce Place which was located on Pierce and Bartlett Streets; and
- Whereas,** Pierce Place was consumed by an arson fire in May 2013; and
- Whereas,** St. Laurent Housing Associates (dba Pierce Place Associates L.P.) is endeavoring to rebuild the project and because of changes in zoning requirements needed twice as much land as they already owned in order to meet per unit lot size standards; and
- Whereas,** the City owns 139 and 155 Bartlett Street and 116 and 122 Pierce Street which abut the Pierce Place project site; and
- Whereas,** the City issued and actively solicited responses to a competitive Request for Proposals to purchase the city owned with a combined minimum bid price requirement of \$37,500; and
- Whereas,** Pierce Place Housing Associates was the only respondent to the Request for Proposals, bidding a total of \$61,000 for the City owned parcels; and
- Whereas,** the City Council approved the sale of the properties to St. Laurent Housing Associates at their January 6, 2015 meeting and subsequently entered into a Purchase and Sale Agreement with Pierce Place Associates L.P. (St. Laurent's assignee) for acquisition of the properties; and
- Whereas,** Pierce Place Associates has moved forward with all due haste to perform as required under the terms of that agreement, having secured Planning Board approval for reconstruction of Pierce Place, completing title research and other due diligence; and
- Whereas,** to secure financing the federal government must approve a required environmental review of the property which has been submitted by

MaineHousing but which the federal government has not yet taken action on which has put the project approximately two months behind schedule; and

Whereas, accordingly, Pierce Place Associates requested and the City Council approved that the closing date on the Purchase and Sale Agreement be extended from August 31, 2015 to October 30, 2015; and

Whereas, the first round of construction bids to build the project significantly exceeded the funding available to build the project; resulting in the developer not wishing to close on the acquisition of the city owned real estate until an acceptable construction bid is received; and

Whereas, the developer has begun working with the likely contractor to value engineer the project and get it ready for submittal for a second subcontractor bid process in the spring of 2016 when more favorable construction bid circumstances are expected; and

Whereas, to allow another round of bidding the developer has requested that the closing date on the city owned real estate be extended to March 31, 2016;

Now, therefore, be it ordered by the City Council of the City of Lewiston that

The requested extension of the closing date be granted, and that the City Administrator be authorized to execute the *Second Extension to Purchase and Sale Agreement* effectuating that change.

SECOND EXTENSION OF PURCHASE AND SALE AGREEMENT

This Second Extension of Purchase and Sale Agreement (“Second Extension”) is made between the CITY OF LEWISTON, a Maine municipal corporation (the “Seller”) and PIERCE PLACE ASSOCIATES LP, a Maine limited partnership (the “Purchaser”).

The Purchaser and the Seller entered a Purchase and Sale Agreement with an Effective Date of February 27, 2015 (the “PSA”), under which the Seller agreed to convey its real property located at 139 Bartlett Street, 155 Bartlett Street, 122 Pierce Street, and 116 Pierce Street (collectively, the “Properties”), all as more particularly described and subject to the terms and conditions stated in the PSA.

The PSA required the Closing to occur no later than 10:00 AM on August 31, 2015, unless the parties agree to a different date and time. In the First Extension of Purchase and Sale Agreement, executed on July 18, 2015; the parties agreed to extend the Closing Date to October 30, 2015.

By mutual agreement and for good and valuable consideration, the sufficiency of which is hereby acknowledged, the parties hereby extend the Closing Date to March 31, 2016. The Closing shall occur at 10:00 AM at the offices of Brann & Isaacson, 184 Main Street, Lewiston, Maine, unless the parties shall agree upon another location and time. All other terms and conditions stated in the PSA are hereby restated and shall remain in full force and effect.

The parties hereby agree to this Second Extension as of October __, 2015.

CITY OF LEWISTON

Witness

By: Edward Barrett
Its: City Administrator

PIERCE PLACE ASSOCIATES LP

Witness

By: Phyllis T. St. Laurent
Its: General Partner

Economic and Community Development

Lincoln Jeffers

Director



To: Honorable Mayor and Members of the City Council
From: Lincoln Jeffers
RE: Purchase and Sale Extension for Pierce Place Parcels
Date: October 15, 2015

At their January 6, 2015 meeting, the City Council approved the sale of 139 and 155 Bartlett Street and 116 and 122 Pierce Street to St. Laurent Housing Associates for the combined amount of \$61,000. St. Laurent is purchasing the land in order to assemble enough contiguous property to meet zoning regulations for the reconstruction of 29 units of affordable housing that were consumed by an arson fire in May 2013. The decision to sell the city owned land to St. Laurent was made after a competitive request for proposal process was conducted with 20 nearby property owners directly solicited by the city to respond. St. Laurent was the only respondent to the RFP.

The Purchase and Sale Agreement for that approval is attached. The closing date for the sale was set for August 31, 2015. The developer has diligently pursued all requirements of the purchase agreement so that they could purchase the real estate and begin construction on the project. Title work has been satisfied, design work completed, and financing secured. However, several approvals required by federal and state agencies took longer than projected and the Council agreed at their July 14th meeting to extend the closing date on the real estate to October 31, 2015. The *First Extension of Purchase and Sale Agreement* enacting that extension is attached.

The developer put the project out to bid in September. This was several months later than was planned and was caused by delays attributable to the local public referendum process and slow approvals from state and federal agencies. Two bids were received and both significantly exceeded the funds available to build the project. The high bids have been attributed to the time of year the project was put to bid. The developer has met with the chosen contractor and has begun value engineering the project, and the contractor has begun discussions with subcontractors to improve their pricing. The project will be put back out to bid this spring, historically a time when better pricing is received on construction bids.

The developer has requested that the real estate closing date be extended to March 31, 2016. This will allow time to value engineer the project and take advantage of more advantageous spring bidding conditions. The developer is

prepared to close on the real estate as soon as an acceptable construction estimate is received and the necessary documentation completed.

Attached is a *Second Extension of Purchase and Sale Agreement* which will extend the closing date to March 31, 2016. The council is being asked to approve the extension and to authorize the city administrator to execute the agreement. Staff recommends approval of this request.

PURCHASE AND SALE AGREEMENT

THIS PURCHASE AND SALE AGREEMENT ("Agreement") is made and entered into as of February 27, 2015 (the "Effective Date") by and between: the CITY OF LEWISTON, a Maine municipal corporation (hereafter referred to as the "Seller"), and PIERCE PLACE ASSOCIATES LP, a Maine limited partnership (hereafter referred to as the "Purchaser").

ARTICLE I.

SALE OF THE PROPERTIES

1.1 Subject Property. For the consideration and upon and subject to the terms, provisions and conditions of this Agreement, Seller agrees to sell to Purchaser, and Purchaser agrees to purchase from Seller, those certain parcels of real property owned by Seller, known as 139 Bartlett Street, 155 Bartlett Street, 122 Pierce Street, and 116 Pierce Street, all of which are more fully described on Exhibits A-D attached hereto (each address referred to herein as a "Property" and collectively as the "Properties").

ARTICLE II.

PURCHASE PRICE

2.1 Purchase Price. The price for 139 Bartlett Street is \$15,500.00. The combined price for 155 Bartlett Street, 122 Pierce Street, and 116 Pierce Street is \$45,500.00. The total price for all Properties is therefore \$61,000.00 (the "Purchase Price"). The Purchase Price, less the Deposit described in Article III, shall be paid to Seller at Closing by bank check or wire transfer to the IOLTA trust account of the Seller's attorney, at least 24 hours prior to Closing, to be held in escrow until the Seller delivers the deeds required by this Agreement.

ARTICLE III.

DEPOSIT

3.1 Deposit. Seller has received from Purchaser the amount of \$6,100 (the "Deposit"), which Seller will hold in escrow until the Deposit is applied or disposed of as provided in this Agreement.

3.2 Application of Deposit. If the purchase and sale hereunder is consummated, then the Deposit shall be applied to the Purchase Price at Closing to reduce the amount required under Section 8.2(b)(i) hereof. In all other events, the Deposit shall be disposed of as provided in this Agreement.

3.3 Seller's Right to Retain the Deposit. The Seller shall be entitled to retain the Deposit in the event that the Purchaser fails to consummate the transaction contemplated by this Agreement on or before August 31, 2015, unless such failure arises from Seller's breach of this Agreement, or in the event any of the conditions set forth in Section 7.1 below is not satisfied by the Closing Date.

ARTICLE IV.

TITLE AND SURVEY

4.1 Title. At Closing, Seller shall deliver good and marketable (or insurable as set forth below) title to the Properties to the Purchaser by municipal quitclaim deed. The Seller shall have no obligation to cure any defects in the title to the Properties, but will provide reasonable cooperation to the Purchaser and Purchaser's title insurer as required to obtain title insurance; provided, however, that the Seller shall not be required to acquire or dispose of any additional property or property interests, modify any land use requirement, or expend any additional funds in order for the Purchaser to obtain title insurance. . [In the event Seller is unable to convey the Properties to Purchaser with good and marketable title free and clear of liens, claims and encumbrances, Purchaser may terminate this Agreement by written notice, whereupon Seller shall promptly return the Deposit to Purchaser. If title shall prove not to be marketable. Purchaser shall make good faith efforts to seek affirmative title insurance coverage from a national title insurer, but the terms and cost of such affirmative coverage shall be satisfactory to Purchaser in its sole discretion, and if Purchaser is not satisfied with such affirmative coverage, it may terminate this Agreement by written notice, whereupon Seller shall promptly return the Deposit to Purchaser.]

ARTICLE V.

INSPECTION BY PURCHASER

5.1 Inspection Rights. Purchaser shall have a period of time commencing on the Effective Date and expiring at 5:00 p.m. on April 30, 2015 (the "Inspection Period"), within which to examine the title and condition of the Properties. Purchaser shall not permit any construction, mechanic's or materialman's liens or any other liens to attach to any Property or any portion thereof by reason of the performance of any work or the purchase of any materials by Purchaser or any other party in connection with any studies or tests conducted pursuant to this Section 5.1. Purchaser shall give reasonable advance notice to Seller prior to entry onto any Property and shall permit Seller to have a representative present during all investigations and inspections conducted with respect to such Property. Purchaser shall take all reasonable actions and implement all reasonable protections necessary to ensure that all actions taken in connection with the investigations and inspections of the Properties, and all equipment, materials and substances generated, used or brought onto the Properties pose no threat to the safety of persons or the environment and cause no damage to the Properties or other persons. Purchaser shall indemnify, defend and hold Seller harmless for, from and against any and all claims, liabilities, causes of action, damages, liens, losses and expenses (including, without limitation, attorneys' fees and costs) incident to, resulting from or in any way arising out of any of Purchaser's or its agents', contractors' or representatives' activities on the Properties or from Purchaser's breach of its obligations or agreements under this Article V. Purchaser's indemnity obligations contained in this Section 5.1 shall survive the Closing and not be merged therein and shall also survive any termination of this Agreement. Without limiting the generality of the foregoing, this Agreement and Buyer's purchase of the Premises are subject to a determination by Maine State Housing Authority as to the desirability of the Premises for Buyer's intended use as a result of the completion of the environmental review process required by HUD

5.2 Approval of Inspections. If Purchaser reasonably determines at any time prior to the expiration of the Inspection Period that any or all of the Properties are not satisfactory to Purchaser, or that title to any or all of the Properties is not insurable, then Purchaser may terminate this Agreement by delivering written notice of termination to Seller prior to the end of such Inspection Period, in which event neither party shall have any further rights, duties or obligations hereunder (except with respect to the provisions of this Agreement which expressly survive the termination of this Agreement). If Purchaser properly terminates this Agreement pursuant to this Section 5.2, then this Agreement shall be terminated, the Seller shall return the Deposit to Purchaser, and neither party shall have any further rights, duties or obligations hereunder except with respect to the provisions of this Agreement which expressly survive the termination of this Agreement. If Purchaser does not timely deliver to Seller written notice of termination during the Inspection Period, the conditions of this Section 5.2 shall be deemed satisfied, and Purchaser may not thereafter terminate this Agreement pursuant to this Section 5.2.

ARTICLE VI.

REPRESENTATIONS AND WARRANTIES; DISCLAIMERS AND WAIVERS

6.1 Representations and Warranties of Purchaser. Purchaser represents and warrants to Seller as of the Effective Date and/or as of the Closing Date, as applicable that:

(a) Purchaser is a limited partnership duly organized and validly existing under the laws of the State of Maine;

(b) Purchaser has full right, power and authority to enter into this Agreement and to consummate the transactions contemplated herein;

(c) This Agreement constitutes a valid and legally binding obligation of Purchaser, enforceable in accordance with its terms;

6.2 Representations and Warranties of Seller. Seller represents and warrants to Purchaser as of the Effective Date and/or as of the Closing Date, as applicable:

(a) Seller is a municipal corporation duly organized and validly existing under the laws of the State of Maine; and

(b) This Agreement constitutes a valid and legally binding obligation of Seller, enforceable in accordance with its terms.

(c) To the best of the undersigned's knowledge, Seller has received no notice of any claim adverse to Seller's interest in any of the Properties and has received no notices from any State or federal agency alleging violations of any environmental laws with respect to any of the Properties.

6.3 NO ADDITIONAL REPRESENTATIONS OR WARRANTIES OF SELLER. PURCHASER ACKNOWLEDGES AND AGREES THAT, EXCEPT AS EXPRESSLY SPECIFIED IN SECTION 6.2 OF THIS AGREEMENT, SELLER HAS NOT MADE, AND SELLER HEREBY SPECIFICALLY DISCLAIMS, ANY REPRESENTATION OR WARRANTY OF ANY KIND, ORAL OR WRITTEN, EXPRESS OR IMPLIED, OR ARISING BY OPERATION OF LAW, WITH RESPECT TO THE PROPERTIES, INCLUDING, BUT

NOT LIMITED TO, ANY WARRANTIES OR REPRESENTATIONS AS TO HABITABILITY, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, ZONING, TAX CONSEQUENCES, PHYSICAL OR ENVIRONMENTAL CONDITION, UTILITIES, VALUATION, GOVERNMENTAL APPROVALS, THE COMPLIANCE OF THE PROPERTY WITH GOVERNMENTAL LAWS, THE TRUTH, ACCURACY OR COMPLETENESS OF ANY INFORMATION PROVIDED BY OR ON BEHALF OF SELLER TO PURCHASER, OR ANY OTHER MATTER OR THING REGARDING THE PROPERTIES. PURCHASER AGREES TO ACCEPT THE PROPERTIES AND ACKNOWLEDGES THAT THE SALE OF THE PROPERTY AS PROVIDED FOR HEREIN IS MADE BY SELLER ON AN "AS IS, WHERE IS, AND WITH ALL FAULTS" BASIS. PURCHASER IS AN EXPERIENCED DEVELOPER OF PROPERTIES SUCH AS THE PROPERTIES AND PURCHASER HAS MADE OR WILL MAKE PURCHASER'S OWN INDEPENDENT INVESTIGATION OF THE PROPERTIES. THE PROVISIONS OF THIS SECTION 6.3 SHALL SURVIVE THE CLOSING HEREUNDER.

ARTICLE VII.

CONDITIONS PRECEDENT TO PURCHASER'S AND SELLER'S PERFORMANCE

7.1 Conditions to Purchaser's Obligations. Purchaser's obligation under this Agreement to purchase the Property is subject to the fulfillment of each of the following conditions (any or all of which may be waived by Purchaser):

- (a) the City of Lewiston's Planning Board shall approve the Purchaser's plans and designs for redevelopment of the Properties, and such approvals shall not contain any conditions unacceptable to Purchaser as it reasonably determines;
- (b) the Purchaser shall have secured sufficient financing to cover the Purchase Price and Purchaser's development plans on terms reasonably acceptable to Purchaser;
- (c) the Purchaser shall have received a title insurance commitment for the Properties at rates and containing only those exceptions reasonably acceptable to Purchaser;
- (d) the Purchaser shall not have delivered written notice of termination to the Seller as required by Section 5.2; and
- (e) the Properties shall be substantially in the same condition as at the time of Purchaser's inspections, and there shall have been no material adverse change in such condition as of the Closing Date.

In the event any of the conditions set forth in this Section 7.1 is not satisfied by the Closing Date, Purchaser shall be entitled to terminate this Agreement by written notice, whereupon Seller shall promptly return the Deposit to Purchaser.

7.2 Conditions to Seller's Obligations. Seller's obligation under this Agreement to sell the Property to Purchaser is subject to the fulfillment of each of the following conditions (any or all of which may be waived by Seller):

(a) the representations and warranties of Purchaser contained herein shall be true, accurate and correct in all material respects as of the Closing Date; and

(b) Purchaser shall have delivered the Purchase Price and other funds required hereunder and all the documents and other items required pursuant to Section 8.2(b), and shall have performed, in all material respects, all other covenants, undertakings and obligations, and complied in all material respects with all conditions required by this Agreement to be performed or complied with by Purchaser at or prior to Closing.

ARTICLE VIII.

CLOSING

8.1 Closing Date.

(a) Time and Place. Provided the terms and conditions set forth in this Agreement have been fulfilled, the consummation of the purchase and sale of the Properties (the "Closing") shall take place at the office of Brann & Isaacson, 184 Main Street, Lewiston, Maine, no later than 10:00 a.m. on August 31, 2015, unless the parties agree to a different date and time (the "Closing Date").

8.2 Items to be Delivered at the Closing.

(a) Seller. At the Closing, Seller shall deliver, or cause to be delivered, to the Title Company each of the following items with respect to the Property:

(i) A municipal quitclaim deed respecting each Property (the "Deed", and collectively the "Deeds"), in a form reasonably acceptable to Purchaser;

(ii) A Non-Foreign Affidavit from Seller for purposes of compliance with Section 1445 (b)(2) of the Internal Revenue Code of 1986, as amended, and the regulations adopted thereunder; and

(iii) Other items reasonably customary and required for the sale of the Properties in accordance with this Agreement or for administrative requirements for consummating the Closing.

(b) Purchaser. At the Closing, Purchaser shall deliver or cause to be delivered each of the following items with respect to the Properties:

(i) The Purchase Price, less the Deposit, by bank check or wire transfer delivered in escrow as required by Article II;

(ii) Such additional funds as may be necessary to cover Purchaser's share of the closing costs and prorations hereunder, including recording fees;

(iii) Evidence reasonably satisfactory to the Seller that the person or persons executing this Agreement and the closing documents on behalf of Purchaser have full right, power and authority to do so; and

(iv) Other items reasonably customary and required for the sale of the Properties in accordance with this Agreement or for administrative requirements for consummating the Closing.

8.3 Costs of Closing.

Each party shall pay its own legal fees and advisory fees incidental to the execution of this Agreement and the consummation of the transactions contemplated hereby. The provisions of this Section 8.3 shall survive the Closing or earlier termination of this Agreement.

ARTICLE IX.

DEFAULTS AND REMEDIES

9.1 Default by Purchaser. If Seller shall not be in default hereunder and Purchaser refuses or fails to consummate the Closing under this Agreement for reasons other than as permitted by this Agreement, Seller's sole remedy at law or in equity shall be to terminate this Agreement and retain the Deposit as liquidated damages (Seller and Purchaser hereby acknowledging that the amount of damages in the event of Purchaser's default is difficult or impossible to ascertain but that such amount is a fair estimate of such damages), and neither party shall have any further rights, duties, or obligations hereunder except with respect to the provisions hereof which expressly survive the termination of this Agreement.

9.2 Default by Seller. If Purchaser shall not be in default hereunder and if Seller refuses or fails to consummate the Closing under this Agreement for reasons other than as permitted by this Agreement for which the Seller is entitled to retain the Deposit, Purchaser shall have may in the alternative (i) terminate this Agreement in which event neither party shall have any further rights, duties or obligations hereunder except with respect to the provisions of this Agreement which expressly survive the termination hereof, and Seller shall promptly refund to Purchaser the Deposit, or (ii) seek specific performance of Seller's obligations under this Agreement. In no event shall Seller be liable to Purchaser for any damages, including, without limitation, any actual, punitive, speculative or consequential damages or damages for loss of opportunity or lost profit.

ARTICLE X.

BROKERAGE COMMISSIONS

10.1 Brokerage Commission. Seller and Purchaser each represent to the other that neither has had any dealings with any broker, finder or other party concerning the purchase of the Properties. Purchaser and Seller each agree to indemnify, defend and hold the other harmless for, from and against any and all loss, liability, damage, cost or expense (including, without limitation, reasonable attorneys' fees) arising out of or paid or incurred by the other party by reason of any claim to any broker's, finder's or other fee in connection with this transaction by any party claiming by, through or under such party. The indemnity obligations set forth in this Section 10.1 shall survive the Closing or the termination of this Agreement.

ARTICLE XI.

MISCELLANEOUS

11.1 Notices. Any notice provided or permitted to be given under this Agreement must be in writing and may be served by depositing the same in the United States Mail, postage prepaid, or by delivering the same in person to the party to be notified via a delivery service, Federal Express or any other nationally recognized overnight courier service that provides a return receipt showing the date of actual delivery of same to the addressee thereof. Notice shall be deemed effective when delivered or when delivery is refused. For purposes of notice, the addresses of the parties shall be as follows:

If to Purchaser: PIERCE PLACE ASSOCIATES LP
P.O. Box 11
Lewiston, Maine 04240
Attn: Phyllis T. St. Laurent, General Partner

With a copy to: Maurice A. Selinger, III, Esq.
Curtis Thaxter LLC
P.O. Box 7320
Portland, ME 04112

If to Seller: CITY OF LEWISTON
27 Pine Street
Lewiston, Maine 04240
Attn: Edward Barrett, City Administrator

With a copy to: Brann & Isaacson
184 Main Street, P.O. Box 3070
Lewiston, Maine 04243-3070
Attn: Martin I. Eisenstein

11.2 GOVERNING LAW. THE LAWS OF THE STATE OF MAINE SHALL GOVERN THE VALIDITY, CONSTRUCTION, ENFORCEMENT AND INTERPRETATION OF THIS AGREEMENT.

11.3 Entirety and Amendments. This Agreement embodies the entire agreement between the parties and supersedes all prior agreements and understandings, if any, relating to the transaction described herein, and may be amended or supplemented only by an instrument in writing executed by the party against whom enforcement is sought.

11.4 Assignment. This Agreement may not be assigned in whole or in part by Purchaser without the prior written consent of Seller, which consent Seller may withhold in its sole and absolute discretion. Subject to the foregoing, this Agreement shall be binding upon and inure to the benefit of Seller and Purchaser and their respective heirs, personal representatives, successors and assigns.

11.5 Time of Essence. It is expressly agreed by the parties hereto that time is of the essence with respect to this Agreement and Closing hereunder.

11.6 Multiple Counterparts. This Agreement may be executed in one or more counterparts as may be convenient or required. It shall not be necessary that the signature or acknowledgment of, or on behalf of, each party, or that the signature of all persons required to bind any party, or the acknowledgment of such party, appear on each counterpart. All counterparts shall collectively constitute a single instrument.

11.7 Risk of Loss. Subject to the provisions of Article IX of this Agreement, risk of loss or damage to the Properties, or any part thereof, by fire or any other casualty from the date this Agreement is fully executed up to the time of Closing will be on Seller and, thereafter, will be on Purchaser.

11.8 Business Days. All references to “business days” contained herein are references to normal working business days, i.e., Monday through Friday of each calendar week, exclusive of federal and national bank holidays. In the event that any event hereunder is to occur, or a time period is to expire, on a date which is not a business day, such event shall occur or time period shall expire on the next succeeding business day.

11.9 Captions. The captions, headings and arrangements used in this Agreement are for convenience only and do not in any way affect, limit, amplify or modify the terms and provisions hereof.

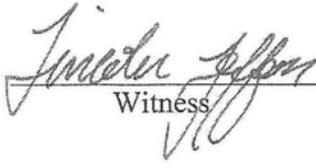
11.10 Interpretation. No provision of this Agreement shall be construed in favor of, or against, any particular party by reason of any presumption with respect to the drafting of this Agreement; both parties, being represented by counsel and having fully participated in the negotiation of this instrument, hereby agree that this Agreement shall not be subject to the principle that a contract would be construed against the party which drafted the same.

11.11 Incorporation of Exhibits. All exhibits attached and referred to in this Agreement are hereby incorporated herein as though fully set forth in (and shall be deemed to be a part hereof) this Agreement.

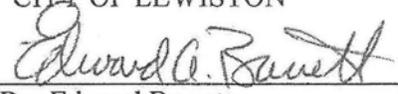
11.12 Third-Party Beneficiaries. Nothing in this Agreement, express or implied, is intended to confer any rights or remedies upon any person, other than the parties hereto and, subject to the restrictions on assignment herein contained, their respective successors and assigns.

11.13 Faxed or Electronically Transmitted Signatures. The parties agree that faxed or electronically transmitted signatures may be used to expedite the transaction contemplated by this Agreement. Each party intends to be bound by its faxed or electronically transmitted signature and each is aware that the other will rely on the faxed or electronically transmitted signature, and each acknowledges such reliance and waives any defenses to the enforcement of the documents effecting the transaction contemplated by this Agreement based on a faxed or electronically transmitted signature.

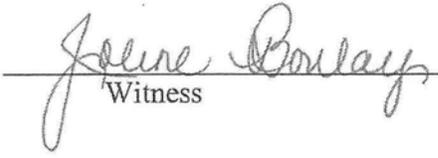
IN WITNESS WHEREOF, the Parties have signed and executed this Agreement as of the above-written date.



Witness

CITY OF LEWISTON


By: Edward Barrett
Its: City Administrator



Witness

PIERCE PLACE ASSOCIATES LP


By: Phyllis T. St. Laurent
Its: General Partner

EXHIBIT A
139 Bartlett Street

A certain lot or parcel of land, with the building thereon, situated in said Lewiston, County of Androscoggin, State of Maine, bounded and described as follows:

Beginning on the westerly side of Bartlett Street at a point one hundred fifty (150) feet southerly from the southwesterly corner of Walnut and Bartlett Street; thence running southerly on said Bartlett Street fifty (50) feet; thence at right angles westerly one hundred (100) feet; thence at right angles northerly fifty (50) feet; thence at a right angle easterly one hundred (100) feet to the point of beginning.

Subject to the restrictions that no building erected thereon shall be placed nearer the line of Bartlett Street than twelve (12) feet.

EXHIBIT B
155 Bartlett Street

A certain lot or parcel of land, with the building thereon, situated in said Lewiston, County of Androscoggin, State of Maine, bounded and described as follows:

Commencing at a point in the westerly line of Bartlett Street three hundred fifty (350) feet southerly from the southerly line of Walnut Street; thence running southerly by the westerly line of said Bartlett Street fifty (50) feet to land conveyed by the Franklin Company to Louis Frechette by deed #1305, dated April 1, 1911; thence westerly at a right angle by the northerly line of said Frechette's land one hundred (100) feet to land conveyed by the Franklin Company to Patrick Kearnon by deed #430, dated November 8, 1869; thence northerly at a right angle by land of said Kearnon fifty (50) feet; thence easterly at a right angle one hundred (100) feet to Bartlett Street and point of beginning.

Subject to the restriction that no building erected thereon shall be placed nearer the line of Bartlett Street than twelve (12) feet.

EXHIBIT C
122 Pierce Street

Certain lots or parcels of land, with the building thereon, situated in said Lewiston, County of Androscoggin, and State of Maine, bounded and described as follows:

Commencing on the easterly side of Pierce Street at a point one hundred (100) feet northerly from the northeasterly corner of lot bonded to J. D. Rollins; thence running northerly on said line of Pierce Street fifty (50) feet; thence at a right angle easterly one hundred (100) feet; thence southerly at a right angle fifty (50) feet; thence at a right angle westerly one hundred (100) feet to the point of commencement.

Subject to the restriction that no buildings erected thereon shall be placed nearer the line of Pierce Street than twelve (12) feet.

EXHIBIT D
116 Pierce Street

A certain lot or parcel of land, with the building thereon, situated in said Lewiston, County of Androscoggin, State of Maine, bounded and described as follows:

Beginning at a point in the easterly line of Pierce Street at the northwesterly corner of land conveyed by the Franklin Company to Patrick Kearnon by Deed No. 430 dated November 8, 1869; thence running easterly by the northerly line of said land so conveyed to said Patrick Kearnon, one hundred (100) feet; thence northerly at a right angle, fifty (50) feet; thence westerly at a right angle, one hundred (100) feet to said easterly line of said Pierce Street; thence southerly by said easterly line of said Pierce Street, fifty (50) feet to said land so conveyed to said Patrick Kearnon and the point of beginning.

Subject to the restriction that no buildings erected on said premises shall be placed nearer the line of said Pierce Street than twelve (12) feet.

LEWISTON CITY COUNCIL
MEETING OF OCTOBER 20, 2015

AGENDA INFORMATION SHEET:

AGENDA ITEM NO. 20

SUBJECT:

Executive Session regarding a Legal Matter.

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 state statutes outline the issues that will be discussed in executive session.

ETAB/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)(E) to discuss a legal matter.

LEWISTON CITY COUNCIL

MEETING OF OCTOBER 20, 2015

AGENDA INFORMATION SHEET:

AGENDA ITEM NO. 21

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.



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 OCTOBER 20, 2015

AGENDA INFORMATION SHEET:

AGENDA ITEM NO. 22

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 OCTOBER 20, 2015

AGENDA INFORMATION SHEET:

AGENDA ITEM NO. 23

SUBJECT:

Executive Session to discuss labor union negotiations regarding the city's six employee unions.

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.

← FAB/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) (D) to discuss Labor Negotiations regarding the city's six employee unions - International Association of Firefighters, Local 785; Maine State Employees Association, Local 1989; Maine Association of Police; Lewiston Police Supervisory Command Unit; Lewiston Professional Technical Unit, Local 3855 and Lewiston Public Works Unit, Local 1458.