

# CITY OF LEWISTON

CITY COUNCIL

JUNE 16, 2015

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

THE HONORABLE ROBERT E. MACDONALD, MAYOR, PRESIDING.

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

Excused/Absent: Councilor Libby is excused from this meeting since the Legislature is still in session in Augusta voting on the state budget. As allowed under the City Charter, the Mayor cast votes in his absence.

Pledge of Allegiance to the Flag.

Moment of Silence.

### PRESENTATION OF LEWISTON FIRE ASSOCIATION SCHOLARSHIP

The scholarship was presented to Nairus Abdullahi, the LYAC chairperson who has been a member for 4 years.

### PUBLIC COMMENT PERIOD

Ronnie Paradis thanked the Fire Department for saving her house during the garage fire on May 4. She noted they arrived within 4 minutes of the 911 call and were all extremely professional. She also noted in 2003 they saved her husband's life when he had a heart attack. Mrs. Paradis also thanked the City Council for naming a park after her deceased husband Mark Paradis, who passed away in 2011.

### AMENDMENT TO THE TRAFFIC SCHEDULE REGARDING LOADING ZONES ON LISBON STREET

#### VOTE (159-2015)

Motion by Councilor Cayer, seconded by Councilor Lachance:

To approve an amendment to the Traffic Schedule regarding loading zone areas on Lisbon Street, as outlined in the agenda material. Passed - Vote 7-0

### AMENDMENTS TO THE SOLID WASTE POLICY

#### VOTE (160-2015)

Motion by Councilor Cayer, seconded by Lachance:

To approve the proposed amendments to the Solid Waste Policy as recommended by the Public Works Director and the Solid Waste Superintendent. Passed – Vote 7-0

**RESOLVE ADJUSTING THE SALARY SCHEDULE FOR THE NON-UNION EMPLOYEES AND DIRECTING CERTAIN CHANGES TO THE CITY'S PERSONNEL RULES AND REGULATIONS REGARDING NON-UNION EMPLOYEE BENEFITS**

**VOTE (161-2015)**

Motion by Councilor Cayer, seconded by Councilor Lachance:

To approve the Resolve adjusting the Salary Schedule for the Non-Union Employees and directing certain changes to the City's Personnel Rules and Regulations regarding non-union employee benefits:

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%, such adjustment to be retroactive to payroll checks issued on January 7, 2015.

Be it Further Resolved that the section of the City's Personal Rules and Regulations dealing with employee entitlement upon retirement to receive payment for one half of accrued sick leave up to a maximum of 75 days is hereby amended to increase the 75 days to 80 days.

Be it Further Resolved that effective January 1, 2016, the Maine Municipal Health Trust's PPO 500 plan shall become the base employee health insurance plan offered by the City to its non-union employees, and the City Administrator is directed to take the necessary steps and prepare the necessary amendments to the Personnel rules and Regulations to allow this change to be implemented as of that date.

Passed - Vote 7-0

**ACCEPTING A PUBLIC EASEMENT AT THE SOUTHERLY TERMINUS OF OLD CHADBOURNE ROAD**

**VOTE (162-2015)**

Motion by Councilor Cayer, seconded by Councilor Lachance:

To accept a Public Easement at the southerly terminus of Old Chadbourne Road.

Passed - Vote 7-0

**PUBLIC HEARING ON A NEW LIQUOR LICENSE FOR BEAR BONES INC, 43 LISBON STREET**

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

**VOTE (163-2015)**

Motion by Councilor Cloutier, seconded by Councilor Bouchard:

To authorize the City Clerk's Office to approve a new liquor license application for Bear Bones, Inc., 43 Lisbon Street. Passed - Vote 7-0

**PUBLIC HEARING FOR APPROVAL OF AN OUTDOOR ENTERTAINMENT PERMIT FOR THE LIBERTY FESTIVAL AND ESTABLISHMENT OF A FESTIVAL ZONE**

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

**VOTE (164-2015)**

Motion by Councilor Lachance, seconded by Councilor Bouchard:

To conduct a public hearing on an application from the Independence Day Committee for outdoor musical concerts to be held at Veteran’s Memorial Park, Simard Payne Park and surrounding areas on July 3, 4, 5, and 6, as part of the Liberty Day Festival, and to authorize a permit for an Outdoor Entertainment Event, as required by the City Code of Ordinances, Chapter 10, Article 1, Section 10-3, to the Independence Day Committee for the outdoor music concerts, contingent upon positive recommendations from the Recreation Department, Police Department, Fire Department, Code/Land Use Officer and Code/Health Officer regarding compliance with all regulations, and compliance with all City ordinance and to establish the Liberty Festival Zone as outlined on the attached map, to grant authorization for the Independence Day Committee to allow peddlers and/or vendors within the Zone during Festival activities and to prohibit any peddlers and/or vendors in the defined area who are not authorized by the Independence Day Committee. Passed – Vote 7-0

**PUBLIC HEARING FOR APPROVAL OF OUTDOOR CONCERTS SPONSORED BY L/A ARTS AT DUFRESNE PLAZA**

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

**VOTE (165-2015)**

Motion by Councilor Cloutier, seconded by Councilor Bouchard:

To conduct a public hearing on an application from L/A Arts for the evening outdoor concerts to be held at Dufresne Plaza on May 29, June 26, July 31, August 28 and September 25, and to authorize a permit for an Outdoor Entertainment Event, as required by the City Code of Ordinances, Chapter 10, Article 1, Section 10-3, to L/A Arts for the outdoor concerts, contingent upon positive recommendations from the Recreation Department, Police Department, Fire Department, Code/Land Use Officer and Code/Health Officer regarding compliance with all regulations, and compliance with all City ordinances. Passed - Vote 7-0

**PUBLIC HEARING FOR APPROVAL OF AN OUTDOOR ENTERTAINMENT PERMIT FOR THE LEWISTON FARMERS MARKET CONCERTS AND ESTABLISHMENT OF THE MARKET ZONE**

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

**VOTE (166-2015)**

Motion by Councilor Cayer, seconded by Councilor Bouchard:

To conduct a public hearing on an application for an outdoor entertainment event for the Lewiston Farmers Market concerts, 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, to the Lewiston Farmers Market Association for outdoor music concerts for the Market, contingent upon positive recommendations from the Recreation Department, Police Department, Fire Department, Code/Health Officer and Land Use Inspector regarding compliance with all regulations and compliance with all City ordinances and to establish the Farmer's Market Zone as outlined on the attached map, to grant authorization for the organizers to allow peddlers and/or vendors within the Zone during Market activities and to prohibit any peddlers and/or vendors in the defined area who are not authorized by the Market. Passed - Vote 7-0

**PUBLIC HEARING FOR APPROVAL OF AN OUTDOOR ENTERTAINMENT PERMIT FOR THE BREWFEST**

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

**VOTE (167-2015)**

Motion by Councilor Lachance, seconded by Councilor Bouchard:

To conduct a public hearing on an application from Baxter Brewing Company for the outdoor music concerts to be held at Simard Payne Park on Saturday, June 20, and to authorize a permit for an Outdoor Entertainment Event, as required by the City Code of Ordinances, Chapter 10, Article 1, Section 10-3, to Baxter Brewing Company for the outdoor concerts, contingent upon positive recommendations from the Recreation Department, Police Department, Fire Department, Code/Land Use Officer and Code/Health Officer regarding compliance with all regulations, and compliance with all City ordinances. Passed - Vote 7-0

**PUBLIC HEARING AND FIRST PASSAGE FOR LAND USE CODE AMENDMENTS TO PERMIT THE DIVISION OF LOTS, THAT CONTAIN MORE THAN ONE PRINCIPAL STRUCTURE, TO INDIVIDUAL HOUSE LOTS**

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

**VOTE (168-2015)**

Motion by Councilor Bouchard, seconded by Councilor Cloutier:

That the proposed amendments to Appendix A, Article V. "Administration and Enforcement" and Article VI "Nonconformance", of the City Zoning and Land Use Code, concerning the division of lots that contain more than one principal structure to individual house lots, receive first passage by a roll call vote and that the public hearing on said ordinance be continued to the next regular City Council meeting. Passed - Vote 7-0

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

Mayor Macdonald and the City Council conducted the hearing to determine if the building located at 84 Walnut Street has met the dangerous building statutes. No one stakeholders such as the property owner or mortgage holder were present. Director of Planning and Code Enforcement Gil Arsenault and Code Enforcement Officer Tom Maynard presented evidence to the Council regarding the unsanitary conditions, lack of utilities, water, heat, electric and sewer functions, fire load and garbage throughout the structure and the unstable floors in the building.

**VOTE (169-2015)**

Motion by Councilor Cayer, seconded by Councilor Bouchard:

With regard to the property at 84 Walnut Street, to adopt the Findings of Fact, Conclusions of Law and Order of Demolition proposed by the City Planning and Code Enforcement Department, which Order establishes the corrective action to be taken by the property owner and the time frame for taking such action, and which authorizes the City Administrator to take such corrective action if the property owner fails to do so, and to recoup the City's costs through a special tax or collective action. Passed - Vote 7-0

**RESOLVE AUTHORIZING LEGAL ACTION AGAINST ANDROSCOGGIN COUNTY  
REGARDING CERTAIN ELEMENTS OF THE COUNTY CHARTER RELATING TO  
ELECTED OFFICIAL COMPENSATION AND BENEFITS AND THE AUTHORITY OF  
THE COUNTY BUDGET COMMITTEE**

**VOTE (170-2015)**

Motion by Councilor Lachance, seconded by Councilor Cayer:

To adopt the Resolve authorizing legal action against Androscoggin County regarding certain elements of the County Charter relating to Elected Official Compensation and Benefits and the authority of the County Budget Committee:

Whereas, in 2012, the voters of Androscoggin County approved a new county charter changing the nature, responsibilities, and composition of both the Board of County Commissioners (the Board) and the County Budget Committee (the Committee); and

Whereas, the Committee's role was redefined from approving all county budget expenditures to advising on such expenditures, but with two exceptions: a requirement that the County elected officials' compensation and benefits be approved by the Committee (County Charter section 3.7) and authorizing the Committee to override specific line items recommended by the Board by an affirmative vote of 11 of its members (County Charter Section 5.5.2); and

Whereas, when the new charter went into effect, the newly constituted Committee and the transitional Board agreed that Section 3.7 of the Charter ultimately meant that the Board could not set its own salaries or benefits since final authority remained with the Committee; and

Whereas, this same understanding was reiterated without objection at the outset, during, and at

the conclusion of this year’s budget process; and

Whereas, only following final presentation of the budget and the adjournment of the Committee did the Board (upon an opinion solicited from the County’s legal counsel) disregard the Committee’s action on Commissioner compensation; and

Whereas, the official version of the charter provided to the municipal clerks prior to the charter election and upon which the voters cast their ballots clearly indicated that the County Budget Committee had the authority to change line items in the budget proposed by the Commissioners with a supermajority vote of 11 of its members; and

Whereas, subsequent to the approval of the charter, the Commissioners requested the legislature to make certain “non-substantive” changes to the voter approved charter to address practical problems in implementing the new charter; and

Whereas, one of the changes requested – to amend the charter to transform the Budget Committee into an advisory body only – constituted a substantive change; and

Whereas, subsequent to the legislature’s adoption of a resolve directing the Commissioners to amend the charter as requested by the Commissioners, the Commissioners amended the charter to eliminate the Budget Committee’s authority to make changes in the budget by a supermajority vote; and

Whereas, Maine Revised Statutes, 30-A M.R.S.A. § 1353, states that a county charter may give the board the authority to appropriate money according to the budget so long as the budget is approved by the finance committee, and the Budget Committee functions as the finance committee under 30-A M.R.S.A. § 1353 ; and

Whereas, Maine Revised Statutes, 30-A M.R.S.A. §§ 725 and 1352 provide that the Androscoggin County Budget Committee has final approval of the budget unless otherwise provided in a charter adopted by the county.

Whereas, state law also requires that amendments to county charters adopted by referendum must be approved by referendum, a process that was not followed in this case; and

Whereas, the county’s municipalities have strongly objected to the County Commission’s interpretation of the county charter that, in effect, denies any meaning to Section 3.7 of the charter dealing with the compensation and benefits of elected officials; and

Whereas, the municipalities also object to the Commission taking unilateral action without consultation with its municipalities to pursue a substantive change in the charter to transform the budget committee into a purely advisory body; and

Whereas, the Commission’s proposal to place an amendment to section 3.7 of the charter on the November ballot is unacceptable in that it continues to advance the Commission’s position that the budget committee is and remains purely advisory; and

Whereas, when presented recently with a proposed charter amendment to clarify the ability of the

Budget Committee to make line item budget changes with a supermajority vote, the Commission failed to take action; and

Whereas, these actions of the Commission have undermined the checks and balances intended by the framers of the Charter and the will of the public as expressed in their approval of a county charter that clearly and unequivocally provided authority to the Budget Committee to approve elected official salaries and benefits and to make changes in the county budget with a supermajority vote, actions that have served to undermine the legitimacy of the County's governance structure;

Now, therefore, be it resolved by the City Council of the City of Lewiston that the firm of Brann & Isaacson is hereby authorized to initial legal action against Androscoggin County in regard to certain actions of the Commissioners relating to elected official compensation and benefits and the authority of the county budget committee, subject to the participation of the lesser of seven other communities or communities representing two thirds or more of the total municipal assessed value of the county and to share costs and expenses in accordance with the formula used to allocate the County Tax; and

Be It Further Resolved that the City is authorized to act as fiscal agent for the communities joining in this legal action, and the City Administrator is authorized to enter into such agreements as the Administrator deems necessary to implement the foregoing resolutions; and

Be It Further Resolved that the Council designates Councilor Lachance as its representative to any meetings of the communities participating in this effort.

Passed - Vote 6-0 (Councilor Dubois abstained citing a conflict of interest regarding this item.)

**RESOLVE EXPRESSING THE SUPPORT OF THE CITY COUNCIL OF THE CITY OF LEWISTON FOR THE PROCESS NOW UNDERWAY TO DEVELOP A PLAN AND CHARTER FOR THE POSSIBLE CONSOLIDATION OF THE CITIES OF LEWISTON AND AUBURN FOR PRESENTATION TO THE VOTERS IN NOVEMBER 2016**

Ron Potvin, 291 Pond Road, noted in 2009 the Councils voted to end the Joint Services Commission, after \$100,000 of tax payer money was spent. He stated he served on the Auburn City Council at the time and the concept failed on its merits and the amount of money in proposed savings of a merger could not be reconciled. He said there was no real benefit to merge to two cities and the cities have already spent \$100,000 on a failed effort. He expressed concern there was not a citizen vote to specifically state the residents wanted to establish a Charter Commission to look into this issue.

Charles Soule, 135 Bartlett Street, noted he was the only candidate for the Charter Commission who was opposed to the merger. He also stated he noticed none of the Charter Commission members are present to support this request.

Larry Gilbert, 39 Cote Street, stated that he was a member of the Mayors' Joint Services Commission Task Force and their task was to find ways for the two cities to join services but not as cities and the Commission found that there could be a savings of \$2.6 million dollars.

Craig Saddlemire, 75 Maple Street, noted he supports the Resolve and the Commission is doing good work and he is interested in having them use all available resources to support their work.

Some Councilors noted that the Cities were told at the beginning of the process that no taxpayer funds were going to be used for this effort and state money is taxpayer money.

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

To approve the Resolve expressing the support of the City Council of the City of Lewiston for the process now underway to develop a plan and charter for the possible consolidation of the Cities of Lewiston and Auburn for presentation to the voters in November 2016:

Whereas, the Cities of Lewiston and Auburn are recognized leaders in the State of Maine for intergovernmental cooperation, working together to cost effectively provide a wide range of services from water pollution control to public transportation; and

Whereas, at a joint Lewiston Auburn City Council meeting held on May 1, 2013, the Councils discussed the concept of municipal consolidation as the next step in cooperation; and

Whereas, following the discussion held at that joint meeting, residents of both Lewiston and Auburn organized successful petition campaigns for the purpose of creating a Joint Charter Commission to explore and formalize a consolidation effort; and

Whereas, members of the joint charter commission were elected in June 2014 and have been working diligently since then; and

Whereas, the commission has tentatively selected the general election of Novembers 2016 as the date where the communities will vote on a charter that would formally consolidate the two communities into a single local government; and

Whereas, it is right and appropriate that the residents of Lewiston and Auburn have the opportunity to vote on whether to approve a joint charter and consolidate the two communities;

Now, therefore, be it resolved by the City Council of the City of Lewiston that we support the process now underway to develop a plan and charter for a consolidated Lewiston Auburn that is tentatively scheduled to be presented to the voters of our community in November 2016. We urge all residents to become informed about and participate in this process in order to be prepared to vote on whether or not to adopt a joint charter and become one municipality.

**VOTE (171-2015)**

Motion by Councilor Cloutier, seconded by Councilor Cayer:

To table this motion to the next regularly scheduled meeting or next special meeting, to allow for a full attendance of the City Council since Councilor Libby is delayed at the State House in Augusta.

Did Not Pass – Vote 3 – 4 (Councilors Cayer, D’Auteuil and Cloutier in favor; others opposed).

**VOTE (172-2015)**

Vote on original motion as presented:

To approve the Resolve expressing the support of the City Council of the City of Lewiston for the process now underway to develop a plan and charter for the possible consolidation of the Cities of Lewiston and Auburn for presentation to the voters in November 2016:

Whereas, the Cities of Lewiston and Auburn are recognized leaders in the State of Maine for intergovernmental cooperation, working together to cost effectively provide a wide range of services from water pollution control to public transportation; and

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Did Not Pass - Vote 2-5 (Councilors Cayer and D’Auteuil in favor; others opposed)

Councilor Cloutier noting that she voted on the prevailing side requested to have this matter on the agenda for Reconsideration at the next City Council meeting.

**REPORTS AND UPDATES**

Update on Court Ruling regarding state reimbursement of General Assistance benefits to Asylees – The City Administrator provided background information to update the City Council and noted

there are 47 Asylum cases in Lewiston which represents 69 people. The Mayor then opened the floor to receive comments from residents regarding this issue. Most stressed the need to support these families because under federal law they are not permitted to work and they have no other source of financial support.

**OTHER BUSINESS**

Councilor Cayer asked for an update on the status of the DOT work on the Wiseman Bridge repairs.

**EXECUTIVE SESSION**

**VOTE (173-2015)**

Motion by Councilor Dubois, seconded by Councilor Lachance:

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

Executive Session began at 9:29pm and ended at 9:47pm.

**EXECUTIVE SESSION**

**VOTE (174-2015)**

Motion by Councilor Dubois, seconded by Councilor Cloutier:

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

Executive Session began at 9:47pm and ended at 10:15pm.

**VOTE (175-2015)**

Motion by Councilor Cayer, seconded by Councilor Bouchard:

To adjourn at 10:15 P.M. Passed - Vote 7-0

A true record, Attest:

Kathleen M. Montejo, MMC  
City Clerk  
Lewiston, Maine