

**CITY OF LEWISTON**

**CITY COUNCIL**

**SEPTEMBER 15, 2015**

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

THE HONORABLE ROBERT E. MACDONALD, MAYOR, PRESIDING.

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

Pledge of Allegiance to the Flag.  
Moment of Silence.

**RECOGNITION OF THE GIRLS SOFTBALL TEAM AND THE TRACK  
AND FIELD TEAM**

The Mayor presented certificates to representatives of each team in recognition of their achievements this past season.

**PUBLIC COMMENT PERIOD**

No members of the public offered comment at this time.

**RESOLVE ACCEPTING THE USA TRACK & FIELD ASSOCIATION FOUNDATION,  
INC. GRANT SUPPORTING YOUTH CLUB TRACK AND FIELD PROGRAM  
PARTICIPANTS**

**VOTE (229-2015)**

Motion by Councilor Libby, seconded by Councilor Lachance:

To approve the Resolve accepting the USA Track & Field Association Foundation, Inc. Grant supporting Youth Club Track and Field program participants:

Whereas, USA Track & Field Association Foundation, Inc. has awarded a \$2000 grant for youth participation in the Lewiston Recreation track and field program; and

Whereas, this Grant will support the Lewiston Recreation Division Summer Track and Field Program; and

Whereas, USA Track & Field Association Foundation, Inc. is dedicated to community outreach And supporting youth track and field programs;

Now, therefore, be it Resolved by the City Council of the City of Lewiston that a grant in the amount of \$2,000 from USA Track & Field Association Foundation, Inc. for the purpose of youth club grant for participation in the Summer Track and Field Program is hereby accepted.

Be it Further Resolved that the City Council expresses its thanks and appreciation to USA Track & Field Association Foundation, Inc. for this contribution.

Passed - Vote 7-0

**RESOLVE ACCEPTING A UNITED STATES TENNIS ASSOCIATION NATIONAL AND USTA NEW ENGLAND GRANT FOR THE PURPOSE OF SUPPORTING A YOUTH AND UNDER 36' BY 60' LINE GRANT FOR PUTTING LINES ON THE TENNIS COURTS**

**VOTE (230-2015)**

Motion by Councilor Libby, seconded by Councilor Lachance:

To approve the Resolve accepting a United States Tennis Association National and USTA New England Grant for the purpose of supporting a Youth 10 and under (36' by 60') Line Grant for putting lines on the Tennis courts:

Whereas, USTA National and New England awarded a \$468.75 grant to assist in installing blended lines on the city's tennis courts; and

Whereas, this Grant will support the instructional format for the 10 and under program within the Lewiston Recreation Division Tennis Program; and

Whereas, USTA New England is dedicated to community outreach and supporting youth tennis programs and is thankful to the Recreation Division for its commitment to growing 10 and under Tennis in Lewiston, Maine!

Now, therefore, be it Resolved by the City Council of the City of Lewiston that a grant in the amount of \$468.75 from USTA National and USTA New England for the purpose of installing blended lines for the instruction of the 10 and under Tennis Program is hereby accepted.

Be it Further Resolved that the City Council expresses its thanks and appreciation to USTA National and USTA New England for this contribution.

Passed - Vote 7-0

**ORDER ACCEPTING DONATION OF PROPERTY AT 35 ELLIS STREET REAR**

**VOTE (231-2015)**

Motion by Councilor Libby, seconded by Councilor Lachance:

To approve the Order accepting donation of the property at 35 Ellis Street Rear:

Whereas, the owners of the property at 35 Ellis Street Rear have approached the City with an offer to donate this vacant land to the City; and

Whereas, the property is crossed by No Name Stream and is largely covered by wetlands and the

stream's flood plain, restricting its potential for development; and

Whereas, the property is adjacent to other City owned parcels in the immediate area; and

Whereas, ownership of the property may be beneficial to the City as future mitigation property for wetland impacts elsewhere in the area or as an element of the City's watershed management plan for the No Name Stream watershed; and

Whereas, given the parcels location and the presence of wetlands and flood plain, the property has a limited market value;

Now, therefore, be it ordered by the City Council of the City of Lewiston that the City Administrator is hereby authorized to execute the required documents to accept ownership of the parcel of vacant land located at 35 Ellis Street Rear.

Passed - Vote 7-0

**RECOMMENDATION FROM THE FINANCE COMMITTEE ON PROPOSED  
AMENDMENTS TO THE PURCHASING POLICY**

**VOTE (232-2015)**

Motion by Councilor Libby, seconded by Councilor Lachance:

To approve the proposed amendments to the Purchasing Policy, Policy Manual Number 46, as recommended by the Finance Committee. Passed - Vote 7-0

**PUBLIC HEARING AND FIRST PASSAGE REGARDING AN AMENDMENT TO THE  
PARKS & RECREATION ORDINANCE TO ADD ELEMENTARY SCHOOL  
GROUNDS TO THE LIST OF CITY PARKS THAT CANNOT BE OCCUPIED  
AFTER 9PM**

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

**VOTE (233-2015)**

Motion by Councilor Libby, seconded by Councilor Cloutier:

That the proposed amendments to the City Code of Ordinances, Chapter 54 "Parks and Recreation" regarding the addition of elementary school grounds to the list of city parks that cannot be occupied after 9pm, receive first passage by a roll call vote and that the public hearing on said ordinance be continued to the next regularly scheduled City Council meeting for final passage. Passed - Vote 7-0

**PUBLIC HEARING FOR APPROVAL OF AN OUTDOOR ENTERTAINMENT  
PERMIT FOR THE DEMPSEY CHALLENGE**

Mayor Macdonald opened the public hearing to receive citizen input and comment. No members

of the public spoke for or against this item. The Mayor then closed the hearing.

**VOTE (234-2015)**

Motion by Councilor Libby, seconded by Councilor Cayer:

To conduct a public hearing on an application from The Dempsey Challenge Committee for outdoor musical concerts to be held at Simard-Payne Memorial Park on October 16<sup>th</sup>, 17<sup>th</sup> and 18<sup>th</sup>, as part of The Dempsey Challenge, 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 organizing committee for the outdoor music concerts, contingent upon positive recommendations from the Recreation Division, 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 ON AN APPLICATION FROM DANA’S GARAGE, 193 CROWLEY ROAD, FOR AN AUTOMOBILE GRAVEYARD/JUNKYARD PERMIT**

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

**VOTE (235-2015)**

Motion by Councilor Lachance, seconded by Councilor Libby:

To grant an Automobile Graveyard/Junkyard permit to Dana’s Garage, 193 Crowley Road, subject to the condition that no more than 1,000 tires may be stored on the property. Passed - Vote 7-0

**PUBLIC HEARING ON AN APPLICATION FROM MAINE HEAVY EQUIPMENT RENTAL, 1445 SABATTUS STREET, FOR AN AUTOMOBILE GRAVEYARD/JUNKYARD PERMIT**

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

**VOTE (236-2015)**

Motion by Councilor Libby, seconded by Councilor Bouchard:

To grant an Automobile Graveyard/Junkyard permit to Maine Heavy Equipment Rental, 1445 Sabattus Street. Passed - Vote 7-0

**PUBLIC HEARING ON AN APPLICATION FROM GRIMMEL’S INDUSTRIES, 50 RIVER ROAD, FOR AN AUTOMOBILE GRAVEYARD/JUNKYARD PERMIT**

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

**VOTE (237-2015)**

Motion by Councilor Libby, seconded by Councilor Lachance:

To grant an Automobile Graveyard/Junkyard permit to Grimmel's Industries, 50 River Road, subject to the following conditions:

1. The hours of operation shall be limited to 7:00am to 5:00pm, Monday through Saturday.
2. Maintain screening from the Maine Turnpike.

Passed - Vote 7-0

**PUBLIC HEARING ON AN APPLICATION FROM LEWISTON PUBLIC WORKS DEPARTMENT, 424-482 RIVER ROAD, FOR AN AUTOMOBILE GRAVEYARD/JUNKYARD PERMIT**

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

**VOTE (238-2015)**

Motion by Councilor Libby, seconded by Councilor Cayer:

To grant an Automobile Graveyard/Junkyard permit to the Lewiston Public Works Department, 424-482 River Road. Passed - Vote 7-0

**PUBLIC HEARING ON AN APPLICATION FROM REENERGY LEWISTON, LLC, 38 ALFRED A. PLOURDE PARKWAY, FOR AN AUTOMOBILE GRAVEYARD/JUNKYARD PERMIT**

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

**VOTE (239-2015)**

Motion by Councilor Libby, seconded by Councilor Bouchard:

To grant an Automobile Graveyard/Junkyard permit to ReEngery Lewiston, LLC, 38 Alfred A. Plourde Parkway, subject to the agreed upon conditions.

1. Permit is granted for storage of construction and demolition debris (CDD), wood waste (includes demolition debris) and oversized bulky waste (OBW). CDD and OBW will consist of wood waste, sheetrock, insulation, metal, wire, aggregate products, dirt, sand, furniture, rugs, plastics, roofing materials, cardboard and any other large burnable household goods. Unacceptable materials are units containing CFC's, universal waste, municipal solid waste (MSW), hazardous materials, asbestos, and medical waste.
2. All wood waste and OBW which is to be placed in storage shall be piled no higher than 30'.
3. The width and length of the piles will be sized as indicated on the plan view of the back yard, but shall be no wider than 90' and no longer than 150'.

4. There shall be no more than nine (9) piles of wood waste and OBW at any time. OBW will not exceed two (2) piles.
5. Access rows or fire lanes shall be maintained between piles with a minimum distance of 30' between piles.
6. The main entrance roadway must be kept at a minimum of 24' of travel way at all times.
7. An additional access road or fire lane shall be maintained from Alfred A. Plourde Parkway at a minimum width of 20' to the storage area at all times.
8. All roads and fire lanes on the facility shall be of all weather surface adequately constructed to support fire apparatus likely to be operated on site at all times.
9. All storage pile locations shall be properly identified by the placement of a pole at the corner of the pile. A mark shall be placed at a height of 30' on the pole.
10. The site shall be designated no smoking throughout except office areas and control room. A no smoking sign shall be placed at the entrance to the facility.
11. Training of employees shall be provided on the use of fire protection equipment and fire reporting procedures on an annual basis.
12. ReEnergy Lewiston, LLC shall conduct a self-inspection of their activities and inspections shall be conducted on a weekly basis. Records of inspections shall be kept on site for Fire Prevention Bureau review when requested.
13. Pine trees shall be planted along the perimeter to provide a buffer and dead and/or missing trees shall be replaced promptly.
14. That the processing of pressure treated wood be done in full compliance with the EPA & DEP regulations.
15. An effective visual screen at least six feet in height shall be located and maintained around all sides of the area where junk is located such that these areas are entirely screened from ordinary view from all directly abutting properties and public ways at all times. The existing 'wood and pole' fence that was adjacent to 32 Plourde Parkway will be replaced with a 'screen-mesh and pole' fence of similar length and height. This new fence shall be properly maintained at all times, including the replacement of the 'screen-mesh and pole' should the material degrade such that an effective visual screen is no longer provided. Given that the proposed screening material represents a non-standard design with limited history on its performance, the City reserves the right to evaluate the screening integrity of the fence bi-annually and if it is determined that it no longer meets the requirements of the City Code of Ordinances, Article XII, Section 22-75(c) (1) and (2) and MRSA Title 30-A §3754-A it will need to be replaced.

Passed - Vote 7-0

**PUBLIC HEARING AND FINAL PASSAGE FOR THE CONDITIONAL REZONING OF  
THE PROPERTY AT 111 WEBSTER STREET FROM THE NEIGHBORHOOD  
CONSERVATION "A" (NCA) DISTRICT TO THE DOWNTOWN**

**RESIDENTIAL (DR) DISTRICT**

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

**VOTE (240-2015)**

Motion by Councilor Cloutier, seconded by Councilor Cayer:

To approve Final Passage of the amendment to the Zoning and Land Use Code and Map to conditionally rezone the property a 111 Webster Street from the Neighborhood Conservation “A” (NCA) District to the Downtown Residential (DR) District, subject to a conditional agreement.

Passed - Vote 7-0

**CONDEMNATION HEARING FOR THE BUILDING LOCATED AT  
20 MASON STREET**

No City Councilors has a conflict of interest regarding this matter. Mayor Macdonald opened the public hearing to receive citizen input and comment. Sandra Guay, owner of home at 20 Mason Street, stated she has been having a hard time after the house first and dealing with the property was too emotional at first. She was struggling with the mortgage and one month after the fire lost her job. She is requesting additional time to resolve the property issue and has been working with her mortgage company regarding financing. The Mayor then closed the hearing. Director of Planning and Code Enforcement Gil Arsenault and Code Enforcement Officer Tom Maynard both presented to the Council the condition of the property – it appears to have been abandoned and has been closed up for 5 months which has created health concerns regarding the interior, the grass has not been cut, the garage is leaning severely and that was before the house fire. Mr. Arsenault noted if Ms. Guay can demonstrate the financial ability to repair the home, the city staff can work with her on a plan of action. Ms. Guay noted she does have a contractor who is willing to work with her as well.

**VOTE (241-2015)**

Motion by Councilor Bouchard, seconded by Councilor Cayer:

With regard to the property at 20 Mason 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, and to allow thirty days for the property owner to either demolish the property or to present a plan of repair with the technical and financial capacity to do so, to the satisfaction of the Code Enforcement Department. If the plan presented is to the satisfaction of the Department, that substantial work be completed within six months, to the satisfaction of the Code Enforcement Department, for Ms. Guay to reimburse the city it’s attorney fees, and if she fails at any of these requirements, the City has the right to demolish the building and recoup the cost of doing so under the dangerous building statute. Passed - Vote 7-0

**RESOLVE ACCEPTING PUBLIC EASEMENTS TO A PORTION OF  
BEAUMONT LANE**

**VOTE (242-2015)**

Motion by Councilor Libby, seconded by Councilor Lachance:

To approve the Resolve accepting public easements to a portion of Beaumont Lane:

Whereas, Beaumont Lane is a private drive off Old Chadbourne Road providing access to properties at 26 and 99 Beaumont Lane; and

Whereas, the drive was constructed by Roger Beaulieu's family years ago, does not meet the City's standards for a publicly owned street, and has been maintained as a private drive; and

Whereas, neither of the properties served by Beaumont Lane have frontage on a public way, a requirement of our City Code; and

Whereas, this recently created an issue when Roger Beaulieu tried to allow his son to build a home on the property; and

Whereas, staff has worked closely with the owners of both properties served by Beaumont Lane to arrive at a solution, accepting a portion of Beaumont Lane as a public easement, that would allow a new home to be constructed while protecting the City's interests; and

Whereas, the proposed easement language contains the necessary stipulations to ensure that only limited development takes place and that the City will not be responsible for any maintenance or improvement of the public easement;

Now, therefore, be it resolved by the City Council of the City of Lewiston that public easements, as described on the attached legal descriptions, are hereby accepted on Beaumont Lane, subject to certain restrictions and stipulations, for purposes of bringing the properties served by this Lane into conformity with the City's Code requirements and to allow limited additional residential development on these properties.

Passed - Vote 7-0

**RESOLVE TRANSFERRING \$75,000 FROM THE FY2012 GENDRON BUSINESS  
PARK PROJECT TO FUND LOCAL MATCHES FOR A MAINE INTERNATIONAL  
TRADE CENTER GRANT AT \$20,000, MAINE ARTS COMMISSION GRANT AT  
\$5,000, AND A STATE DEPARTMENT OF TRANSPORTATION PASSENGER  
SERVICE RAIL STUDY IN THE AMOUNT OF \$50,000**

**VOTE (243-2015)**

Motion by Councilor Lachance, seconded by Councilor Bouchard:

To divide the question to allow each funding request to be voted on separately. Passed - Vote 7-0

Lewiston Auburn Economic Growth Council request for Maine International Trade Center Grant:  
Councilor Libby noted this is a good use of taxpayer money to reach out beyond the state borders for foreign investment.

**VOTE (244-2015)**

Motion by Councilor Cayer, seconded by Councilor Libby:

Whereas, in the FY2012 LCIP, the City Council approved the now completed Gendron Business Park project leaving a project surplus of \$204,855; and

Whereas, the Lewiston Auburn Economic Growth Council is requesting a \$20,000 local match to leverage a Maine International Trade Center Grant; and

Whereas, the City has an immediate need to spend outstanding bond proceeds derived from closed projects in order to avoid potential arbitrage rebates to the Internal Revenue Service;

Now, Therefore, Be It Resolved by the City Council of the City of Lewiston that \$20,000 is hereby transferred from the FY2012 Gendron Business Park Project to fund local matches for the Maine International Trade Center Grant at \$20,000.

Passed - Vote 5-2 (Councilors Dubois and Bouchard opposed)

LA Arts request for the State Arts Commission Grant:

**VOTE (245-2015)**

Motion by Councilor Cayer, seconded by Councilor Libby:

Whereas, in the FY2012 LCIP, the City Council approved the now completed Gendron Business Park project leaving a project surplus of \$204,855; and

Whereas, LA Arts is requesting a \$5,000 local match to support a State Arts Commission Grant to fund a \$32,000 Cultural Plan; and

Whereas, the City has an immediate need to spend outstanding bond proceeds derived from closed projects in order to avoid potential arbitrage rebates to the Internal Revenue Service;

Now, Therefore, Be It Resolved by the City Council of the City of Lewiston that \$5,000 is hereby transferred from the FY2012 Gendron Business Park Project to fund local matches for the Maine Arts Commission Grant at \$5,000.

Passed - Vote 7-0

Department of Transportation request for the Passenger Rail Service Study:

Councilor Libby noted the Lewiston Legislative Delegation worked hard to get the state match for this program. Councilor Lachance noted the railroad stops in Freeport and Brunswick and he

wanted to know the economic impact on these towns as a result. He also noted that this is spending more money on more plans and more studies and the grant money should be spent in implementation of projects. Darby Ray of 15 Bearce Avenue stated that many employees of Bates College would love to have this service and many of their spouses work in the Portland area, so the families could live in Lewiston and the spouse could commute to Portland for work.

**VOTE (246-2015)**

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

To table the issue of funding the Passenger Rail Service Study to allow time for representatives of this program to be present. Did Not Pass - Vote 1-6 (Councilor Lachance in favor, others opposed)

**VOTE (247-2015)**

Motion by Councilor Libby, seconded by Councilor Cloutier:

Whereas, in the FY2012 LCIP, the City Council approved the now completed Gendron Business Park project leaving a project surplus of \$204,855; and

Whereas, the Department of Transportation is requesting \$50,000 as a local share for a study and to complete a plan for the implementation of passenger rail service between the cities of Lewiston and Auburn and the Amtrak Downeaster service; and

Whereas, the City has an immediate need to spend outstanding bond proceeds derived from closed projects in order to avoid potential arbitrage rebates to the Internal Revenue Service;

Now, Therefore, Be It Resolved by the City Council of the City of Lewiston that \$50,000 is hereby transferred from the FY2012 Gendron Business Park Project to fund local matches for the State Department of Transportation Passenger Service Rail Study in the amount of \$50,000.

Passed - Vote 5-2 (Councilors Dubois and Lachance opposed)

**RESOLVE AUTHORIZING THE TRANSFER OF \$24,000 OF SURPLUS  
STORMWATER UTILITY CAPITAL OUTLAY FUNDING (DEPRECIATION  
EXPENSE)**

**VOTE (248-2015)**

Motion by Councilor Cayer, seconded by Councilor Libby:

To approve the Resolve authorizing the transfer of \$24,000 of Surplus Stormater Utility Capital Outlay Funding (Depreciation Expense):

Whereas, the 2016 Stormwater Utility project "Solid Waste Detention Pond Modifications" was funded at \$80,000 to meet regulatory requirements of Maine DEP; and

Whereas, the bids for the project came in much higher with the apparent low bid at about \$136,000; and

Whereas, City Staff, the design firm, and the contractor were able to identify savings bringing the cost down to ~\$104,000 (including a 5% contingency); and

Whereas, even with the reductions, an additional \$24,000 is still needed to supplement the previously approved \$80,000 to award and complete the project; and

Whereas, the recently completed Pond Road Rehab project produced surplus Stormwater Utility operating funds of ~\$32,000 due to competitive bids received;

Now, Therefore, Be It Resolved by the City Council of the City of Lewiston that the transfer of \$24,000 in surplus stormwater proceeds for the purpose of supplementing the \$80,000 previously authorized for the Solid Waste Detention Pond Modifications project to allow award and completion of the project is hereby approved.

Passed - Vote 7-0

**REPORTS AND UPDATES**

Councilor Cloutier noted the School Committee is interested in televising their meetings and is exploring the logistics involved with establishing this goal.

**OTHER BUSINESS**

No other business was presented at this time.

**EXECUTIVE SESSION**

**VOTE (249-2015)**

Motion by Councilor Dubois, seconded by Councilor Libby:

To enter into an Executive Session pursuant to MRSA Title 1, section 405 (6) (D) to discuss Labor Negotiations regarding the International Association of Firefighters, Local 785.

Passed - Vote 7-0

Executive Session began at 8:19pm and ended at 9:05pm.

**VOTE (250-2015)**

Motion by Councilor Lachance, seconded by Councilor Bouchard:

To adjourn at 9:05P.M. Passed - Vote 7-0

A true record, Attest:

Kathleen M. Montejo, MMC  
City Clerk  
Lewiston, Maine