

CITY OF LEWISTON

CITY COUNCIL

OCTOBER 20, 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.

EXECUTIVE SESSION

VOTE (267-2015)

Motion by Councilor Dubois, seconded by Councilor Bouchard:

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. Passed - Vote 7-0

VOTE (268-2015)

Motion by Councilor Cayer, seconded by Councilor Lachance:

To dispense with the reading of the minutes of the meetings of March 17, April 21, May 5 and 19, 2015 and to accept and place them on file as prepared by the City Clerk. Passed - Vote 7-0
Passed - Vote 7-0

PUBLIC COMMENT PERIOD

No members of the public offered comment at this time.

AUTHORIZATION TO ACCEPT TRANSFER OF FORFEITURE FUNDS

VOTE (269-2015)

Motion by Councilor Libby, seconded by Councilor Cayer:

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.
Passed - Vote 7-0

**ORDER AUTHORIZING EXECUTION OF A MUNICIPAL QUITCLAIM DEED FOR
REAL ESTATE LOCATED AT 90 HORTON STREET**

VOTE (270-2015)

Motion by Councilor Libby, seconded by Councilor Cayer:

To approve the Order authorizing execution of a municipal quitclaim deed for 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.

Passed - Vote 7-0

**ADOPTION OF CITY POLICY REGARDING SERVICE ANIMALS AND PETS IN
CITY BUILDINGS**

VOTE (271-2015)

Motion by Councilor Libby, seconded by Councilor Cayer:

To establish and adopt a Service Animals and Pets Policy, Policy Manual Number 96, as recommended by the Deputy City Administrator. Passed - Vote 7-0

**RESOLVE ACCEPTING AND APPROPRIATING THE FY2105 HOMELAND
SECURITY GRANT AWARD OF \$152,670.28**

VOTE (272-2015)

Motion by Councilor Libby, seconded by Councilor Cayer:

To approve the Resolve accepting and appropriating the FY2015 Homeland Security Grant award 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.

Passed - Vote 7-0

**PUBLIC HEARING ON THE RENEWAL APPLICATION FOR A SPECIAL
AMUSEMENT PERMIT FOR LIVE ENTERTAINMENT FOR THE MIDTOWN
ATHLETIC CLUB, 45 WALNUT STREET**

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

VOTE (273-2015)

Motion by Councilor Cloutier, seconded by Councilor Cayer:

To grant a Special Amusement permit for live entertainment to the Midtown Athletic Club, 45 Walnut Street. Passed - Vote 7-0

**PUBLIC HEARING ON THE RENEWAL APPLICATION FOR A SPECIAL
AMUSEMENT PERMIT FOR LIVE ENTERTAINMENT FOR RAILS,
103 LINCOLN STREET**

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

VOTE (274-2015)

Motion by Councilor Bouchard, seconded by Councilor Dubois:

To grant a Special Amusement permit for live entertainment to Rails, 103 Lincoln Street.
Passed – Vote 7-0

**PUBLIC HEARING ON THE RENEWAL APPLICATION FOR A SPECIAL
AMUSEMENT PERMIT FOR LIVE ENTERTAINMENT FOR SCHEMENGEEES,
551 LINCOLN STREET**

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

VOTE (275-2015)

Motion by Councilor Lachance, seconded by Councilor Bouchard:

To grant a Special Amusement permit for live entertainment to Schemengees, 551 Lincoln Street.
Passed - Vote 7-0

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

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

VOTE (286-2015)

Motion by Councilor Cayer, seconded by Councilor Cloutier:

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

**PUBLIC HEARING FOR APPROVAL OF AN OUTDOOR ENTERTAINMENT
PERMIT FOR A MUSICAL CONCERT IN KENNEDY PARK**

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

VOTE (277-2015)

Motion by Councilor Cloutier, seconded by Councilor Lachance:

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. Passed - Vote 7-0

**PUBLIC HEARING AND FINAL PASSAGE REGARDING AN AMENDMENT TO THE
BUSINESS LICENSING ORDINANCE REGARDING OUTPATIENT ADDICTION
TREATMENT CLINIC**

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

VOTE (278-2015)

Motion by Councilor Cayer, seconded by Councilor Cloutier:

That the proposed amendment to the City Code of Ordinances, Chapter 22 "Businesses", Article XIV "Outpatient Addiction Treatment Clinics", Section 22-417 "Meetings with the chief of police", receive final passage by a roll call vote. Passed - Vote 7-0

FIRST READING AND REFERRAL TO THE PLANNING BOARD FOR LAND USE

**CODE AMENDMENTS REGARDING TWO-FAMILY DWELLINGS IN THE
NEIGHBORHOOD CONSERVATION “A” DISTRICT**

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

VOTE (279-2015)

Motion by Councilor Lachance, seconded by Councilor Bouchard:

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.

Did Not Pass - Vote 2-5 (Councilors Bouchard and Lachance in favor; others opposed)

**AMENDMENTS TO THE PERSONNEL POLICIES REGARDING THE EMPLOYEE
HEALTH INSURANCE PROGRAM**

VOTE (280-2015)

Motion by Councilor Libby, seconded by Councilor Cayer:

To approve the amendments to the Personnel Policies for the employee health insurance system program, as recommended by the Deputy City Administrator. Passed - Vote 7-0

**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**

Councilor Dubois recused herself citing a conflict of interest regarding this item.

VOTE (281-2015)

Motion by Councilor Libby, seconded by Councilor Bouchard:

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:

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.

Passed - Vote 7-0 (Note – Under the City Charter, the Mayor is able to cast a vote if a City Council is not present or able to vote.)

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

Councilor Dubois recused herself citing a conflict of interest regarding this item.

VOTE (282-2015)

Motion by Councilor Bouchard, seconded by Councilor Cayer:

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:

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.

Passed - Vote 7-0 (Note – Under the City Charter, the Mayor is able to cast a vote if a City Council is not present or able to vote.)

ORDER AUTHORIZING THE CITY ADMINISTRATOR TO EXECUTE A COLLECTIVE BARGAINING AGREEMENT WITH THE MAINE STATE EMPLOYEES ASSOCIATION (MSEA)

VOTE (283-2015)

Motion by Councilor Libby, seconded by Councilor Cayer:

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

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 the Deputy City Administrator Phil Nadeau.

Passed - Vote 7-0

RESOLVE ADJUSTING THE SALARY SCHEDULE FOR THE NON-UNION EMPLOYEES EFFECTIVE JULY 1, 2015

VOTE (284-2015)

Motion by Councilor Libby, seconded by Councilor Bouchard:

To approve the Resolve adjusting the Salary Schedule for the 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.

Passed - Vote 7-0

ORDER APPROVING THE EXTENSION OF THE PURCHASE AND SALE AGREEMENT FOR 139 AND 155 BARTLETT STREET AND 116 AND 122 PIERCE STREET

VOTE (285-2015)

Motion by Councilor Libby, seconded by Councilor Cayer:

To adopt the 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.

Passed - Vote 7-0

REPORTS AND UPDATES

No reports or updates were presented at this time.

OTHER BUSINESS

No other business was presented at this time.

EXECUTIVE SESSION

VOTE (286-2015)

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 an Economic Development issue 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 8:10pm and ended at 8:31pm.

VOTE (287-2015)

Motion by Councilor Bouchard, seconded by Councilor Cayer:

To enter into an Executive Session pursuant to MRSA Title 1, Section 405 (6) (E) to discuss a legal matter. Passed - Vote 7-0

Executive Session began at 8:31pm and ended at 8:48pm.

VOTE (288-2015)

Motion by Councilor Cayer, seconded by Councilor Libby:

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. Passed - Vote 7-0

Executive Session began at 8:48pm and ended at 9:12pm.

VOTE (289-2015)

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

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. Passed - Vote 7-0

Executive Session began at 9:12pm and ended at 9:48pm.

VOTE (290-2015)

Motion by Councilor Cloutier, seconded by Councilor Lachance:

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. Passed - Vote 7-0

Executive Session began at 9:48pm and ended at 10:14pm.

VOTE (291-2015)

Motion by Councilor Lachance, seconded by Councilor Cloutier:

To adjourn at 10:14P.M. Passed - Vote 7-0

A true record, Attest:

Kathleen M. Montejo, MMC
City Clerk
Lewiston, Maine