*Amended 12/12/2016

LEWISTON CITY COUNCIL WORKSHOP & SPECIAL MEETING AGENDA

CITY COUNCIL CHAMBERS, CITY HALL

TUESDAY, DECEMBER 13, 2016

6:00 p.m. Workshop

Pledge of Allegiance to the Flag.
Moment of Silence.

1. Meeting with State Legislative Delegation.

2. Presentation from the Bike Ped Committee.

SPECIAL MEETING

* ES-1. Executive Session pursuant to MRSA Title 1, section 405(6)(A) to discuss a personnel matter.

The City of Lewiston is an EOE. For more information, please visit our website @ www.lewistonmaine.gov and click on the Non-Discrimination Policy.

LEWISTON CITY COUNCIL
WORKSHOP AGENDA
TUESDAY, December 13, 2016
6:00 PM

1. Meeting with State Legislative Delegation

   The City Council meets annually with the members of our state legislative delegation prior to the opening of each session to discuss with them issues of importance to the City. Please see the attached memo outlining potential topics to be discussed.

2. Presentation from the Bike Ped Committee

   Representatives of the Bike Ped Committee will brief the Council on the past work of the Committee and possible future directions, including the possibility of adopting a complete streets ordinance and making the Committee a permanent one. See the attached information. One major project that the Committee was involved in was working with a consultant to review major arterial streets in Lewiston/Auburn from a complete streets perspective, develop a design manual to guide future projects, and propose a route to connect the Riverside Greenway to Simard Payne Park. Those reports can be found on the ATRC website at http://www.avcog.org/index.aspx?nid=1073.

LEGISLATIVE ISSUES – DECEMBER 2016

Revenue Sharing

Background. After nearly 40 years as a stable state policy of tremendous municipal importance, the Legislature began raiding revenue sharing in 2009. Each year since, the financial redirection has grown larger until nearly $100 million each year is being diverted away from the municipal distribution and into the state government's budget. In 2015, the Legislature statutorily reduced the size of the municipal revenue sharing distribution by 60% – from 5% of all state sales and income taxes collected to just 2%. As a result, the amount of revenue sharing received by the City of Lewiston is roughly $4 million less per year than the amount we would receive if the program was funded at 5%. This represents over $2 on our property tax rate. This $100 million annual reduction is scheduled to stay in place until Fiscal Year 2020, when the commitment would return to the original 5% level. It is difficult to believe that the State will be able to return to the 5% level in one year. It is more likely that it will be ramped up, if it is ramped up, over a number of years.

Recommendation: Support restoring municipal revenue sharing to the 5% level over a three-year period beginning in 2018.

Homestead Property Tax Exemption

Background. The Homestead property tax exemption was established in 1998 as a $7,000 exemption for Maine's primary residents with 100% of each municipality's lost tax revenue reimbursed by the state, thereby preventing a shift in tax burden to businesses and other non-homesteaders. The Homestead exemption was the target of extensive and annual legislative amendment from 2004 through 2010. The ultimate result was a $10,000 exemption with only 50% of the municipal tax revenue losses reimbursed by the state, shifting tax burden onto local businesses, farmland, etc. The shift from 100% to 50% reimbursement also decreases the effective value of the exemption for the homesteaders. In 2015, the Legislature increased the value of the Homestead exemption to $15,000 (for tax year 2017) and $20,000 (for tax year 2018) and also increased the reimbursement level from 50% to 62.5% beginning in tax year 2018.

As a result of this increase in the homestead exemption, virtually all homesteaders in Lewiston saw a property tax decrease this last year, even though we were required to increase the school mill rate to meet state minimum requirements.

Recommendation: support continuation of the homestead exemption at the $20,000 level with a 62.5% municipal reimbursement.

Tax Exempt Property

Background. The state's Supreme Judicial Court has issued at least two decisions that allow corporations and institutions that are exempt from paying property taxes to use their property for purposes not related to their charitable or educational mission and still retain their tax exempt status. These decisions seem to ignore an express "exclusive-use" requirement in Maine law. The Court relied on a finding that the alternative use of the property, and the revenue that alternative use generated, was "incidental" to the organization's mission and therefore allowed.

Recommendation: Reaffirm the requirement that tax exempt property be used exclusively for the charitable or "literary and scientific" purposes and expressly disallow revenue-producing incidental use.

A long-established principle of tax exemption policy is that the exemption is only provided to the qualified owner of the exempt property and not to other non-exempt interests "by extension." As a result, taxable property that is merely rented or leased by tax exempt organizations is not exempt from taxation because the true owner of the property is not entitled to exempt status. The only exception to this general principle in Maine law is the personal property leased by hospitals and certain other medical service corporations, which is exempt from taxation even though the owner of the property (the lessor) is not qualified for the exemption.

Recommendation: Supported repealing the unique property tax exemption provided to the personal property leased by hospitals and, instead, expressly qualify that property for exempt status under the Business Equipment Tax Exemption (BETE) program.

For decades, the municipalities have been seeking an authority to require tax exempt corporations to pay service fees to their host municipalities to cover the direct costs of the municipal services provided to those corporations by their municipal hosts.

Recommendation: Support legislation allowing for the imposition of service fees on tax exempt corporations.

Education

Background. The State has never met its promise to cover 55% of the total cost of K-12 education. That promise was made 32 years ago. In 2004, the voters approved an initiative reaffirming the 55% funding level.

Question #2 on the November 2016 ballot is a related citizen initiative designed to achieve the 55% funding goal. The adoption of Question 2 reaffirms the public's wish that the state finally fund at least 55% of the Essential Programs and Services school funding model (EPS). Assuming the Legislature will allow this law to go into effect in some form, it is important that these funds be distributed equitably, taking into account the special challenges faced by certain school districts and their ability to raise taxes.

Recommendation: If this goes forward, carefully monitor the system that will be used to allocate these funds. In particular, we recommend that efforts be undertaken to eliminate the **Title 1** funding offset in the current EPS model. Title 1 funds are intended to supplement, not supplant, state and local funding. The current EPS model supplants. Based on the School Department's calculations, the current system costs Lewiston approximately $1.3 million a year in lost subsidy. There is a lag built in to the EPS model in adjusting subsidies for support of **special education** students. This can place a significant burden on schools that see a sudden year over year increase in such students. We recommend support for amending the EPS model by establishing a "real time" adjustment that distributes a supplemental subsidy when current year data reveals a significant increase in special education counts.

County Jail Management and Funding

Background. Legislation enacted in 2008 was designed to provide state-level oversight with respect to the management of the county jails in order to maximize the efficient use of the 15 jails' collective capacity and ensure that individual jail business models were coordinated and not resulting in excessive incarceration costs. That experiment in "jail consolidation" suffered from a lack of buy-in from the direct participants and clear direction on jurisdictional issues, and was repealed in 2015.

A central component of the jail "consolidation" initiative was establishing a cap on the amount of property taxes that could be assessed for the purposes of jail operations. In 2008, $62.5 million was assessed for jail operating purposes, and that became the established cap with each county limited to its proportional share of the $62.5 million total.

When the Legislature repealed the consolidated jail management system, it amended the property tax cap to allow each county's assessment for jail operations to increase by up to 3% each year. We anticipate that there will be an effort to totally repeal this cap during the coming session. **Recommendation:** We urge the delegation to resist such a change.

Should the Cap be lifted, we would then **recommend** that the legislature grant express authority to each county's budget committee to have final authority over the jail operation components of the county budget. Alternatively, we **recommend** that County Governments be authorized to assess and collect their own property taxes. The current system is one of authority without accountability. By simply billing municipalities and requiring them to raise the necessary property taxes, the County is not held responsible for its actions since its budget and tax rate are largely invisible to the taxpayer. The county tax is buried in the municipal budget, where municipal public officials are held responsible. On a related note, the current system of funding counties also makes it difficult for County government to provide consolidated municipal services to all its towns since this invariably involves a shifting of burden between communities. If counties could tax directly, the Commissioners could make decisions while taxpayers could exercise accountability.

Temporary Right of Way Signs

Background: As a result of a relatively recent U.S. Supreme Court ruling, many state and local statutes and ordinances regulating signs were ruled unconstitutional. As a result, the state law governing the placement of political signs in the right of way was amended. The new law allows for placing temporary non-commercial signs in the public right-of-way as long as they meet certain size, duration, and separation requirements. The law implies that the DOT Commissioner can delegate enforcement authority to municipalities; however, there is some question about whether it actually accomplishes this. The Legal Department at Maine Municipal recommended that municipalities not enforce the law until the legislature clarifies it.

Recommendation: Support efforts to clarify and improve this law, specifically as to its delegation of authority to municipalities.

Dangerous Buildings

The Dangerous building statutes allows the City to recover legal fees and demolition costs through the placement of a special tax on properties where dangerous buildings have been removed by the City. While the City frequently condemns and demolishes buildings, there are occasions when owners or owner representatives appear at the condemnation hearing and agree to undertake the renovations required to return meet code. By that point, however, the City has normally incurred significant legal and staff expenses. **Recommendation:** An option should be provided under which the City Council could act to declare a building a dangerous structure but delay demolition for a period of time when the property owner is willing and able to rehabilitate the property. However, the property owner should remain liable for the legal fees incurred by the City in this process, and the City should be authorized to levy a special tax to ensure these fees are recovered.

Advertising Candidates Appearing on Municipal Ballots

State statute (MRSA Title 30-A, sec 2554, ss 3, second sentence) requires cities, but not towns, to place an ad in a newspaper of general circulation listing all of the candidates on the municipal ballot. This clause was last updated in 1989, well before the internet. Since then, the costs for such ads have increased significantly. To include this information in our standard election ad costs us an average of an additional $300 – $500 each year, depending on the number of candidates.

Given the candidate coverage already provided by the media and the easy availability of candidate information on the city's website, we **recommend** that this requirement be eliminated.

Passenger Rail Investments

The City and legislative delegation have worked hard over the years encouraging the expansion of passenger rail to Lewiston Auburn. During the prior legislative session, funding was provided for a service plan that would move this effort forward. Since then, there has not been significant progress. **Recommendation:** Urge the appropriate parties to initiate this plan and work to fund and implement its recommendations.

Lead Abatement

The state recently adopted regulations to implement a reduced blood level standard for lead in children. The City is working hard, largely through federal grant funds, to address lead hazards in our older housing. Given the number, age, and condition of our older housing, the City's current funding is not sufficient to bring about significant improvement. **Recommendation:** Provide your support to City efforts to increase state and federal funding for lead remediation programs and monitor the implementation of the new lead standard.

Workforce

Economists and demographers have been raising the alarm for some time that Maine faces a workforce crisis as a result of its long-term demographic trends. As the economy has improved, we have seen the labor market tighten and good jobs go unfilled due to a lack of qualified candidates. This situation is projected to continue to worsen, jeopardizing our future economic development. **Recommendation:** While there is no silver bullet to solve this problem, the state should develop an integrated plan that would include greater emphasis and funding for technical education in our high schools, expanded availability and affordability for Community Colleges, focused efforts to convince Maine's young people that they can, indeed, find good jobs here, and programs to attract in-migration to the state. Given our declining workforce and the general aging of Maine's population, current trends pose a grave danger to the future of Lewiston and the State as a whole.

ORDINANCE, ESTABLISHING THE COMPLETE STREETS COMMITTEE

Be it Ordained, that the Code of Ordinances be Amended to Create the Complete Streets Committee as follows:

Article IV, Boards, Commissions, Committees and Bureau's
Division ___ -- Complete Streets Committee

Section 2- ___. Purpose and Mission

The purpose of the Complete Streets Committee is to

(a) Promote and advise the development of public infrastructure which supports a multi-modal transportation system for all users, not strictly motor vehicles, and includes the best design practices for enhancing safety as well as community and economic development;
(b) Develop and recommend policies to the respective governing bodies and planning agencies that address and support all modes of transportation in Lewiston Auburn;
(c) Advise the respective public works and engineering departments on how all modes of travel can be accommodated in street, highway, trail, and open space projects;

Section 2-___. Appointment and Membership.

(a) The Committee shall consist of nine (9) members as follows: 4 residents of the City of Auburn, 4 residents of the City of Lewiston, and 1 representative of an organization directly involved in issues of public health and wellness. A city councilor may be appointed as a resident.
(b) The residents of each community shall be appointed in accordance with the standard procedures employed by each community for such appointments. The representative of an organization directly involved in issues of public health shall be appointed by majority vote of the members of the full committee.
(c) The initial term for resident members shall be three (3) years, as shall the term of the representative of a public health organization. These terms shall run from the first day of January of the year in which the appointment is made. At the time the initial appointments are made, the appointing authority shall assign each resident member to a term with one member appointed to a one year term; one to a two year term; and one to a three year term. Members shall remain in office until their successors are appointed.
(d) Vacancies shall be filled following the same process employed for the initial appointment of members.
(e) A vacancy shall be declared if any member of the committee fails to attend three consecutive regular meetings of the committee without being excused by the committee chair.

Section 2-___. Duties and Responsibilities.

The Complete Streets Committee shall:

(a) Follow the City's Complete Streets Policy, oversee its implementation, and review the policy every 2 years to recommend changes as appropriate;
(b) Serve as the primary resource representing Lewiston and Auburn in the update of Regional and Statewide plans dealing with transportation issues involving motorized vehicles, bicycles, pedestrians, public transportation, and other non-automobile related transportation issues;
(c) Develop and recommend policies and ordinances for passage by the City Councils in support of alternative modes of transportation;
(d) Review and comment on existing transportation projects including regionally approved projects, municipally initiated projects, and improvements originating from Traffic Movement Permits associated with development projects; and
(e) Participate with appropriate city and state departments, committees, and metropolitan planning organizations in planning coordinated multi-modal transportation systems in L-A and the surrounding region, such as rail, bus, and air.

Section 2-___ Organization.

(a) The Committee shall have the following officers: Chair, vice-chair, and secretary, each of whom shall be selected by a majority of the members of the committee at its first meeting in January of each year. The chair shall preside over all meetings of the board, shall supervise the affairs of the board, and shall perform such other duties as may be assigned to the office by the committee. The vice-chair shall assist the chair in carrying out the latter's duties and shall preside at meetings in the chair's absence. The secretary shall be responsible for preparing and distributing committee agendas and minutes and ensuring that the legal posting requirements are met.
(b) A quorum necessary to conduct an official meeting shall consist of at least six members and at least six concurring votes shall be necessary to constitute an action on any matter.
(c) The committee shall meet at least quarterly and may meet more frequently at the call of the chair.
(d) Unless otherwise prescribed by this Division or by bylaws established by the Committee, the Committee shall operate in accordance with Robert's Rules of Order.

Section 2-___. Staff Support. The City Manager/Administrator of each community shall designate a planning or public works staff member to serve as a liaison to the committee.

LEWISTON CITY COUNCIL
MEETING OF DECEMBER 13, 2016

AGENDA INFORMATION SHEET: **AGENDA ITEM NO.** ES-1

SUBJECT:

Executive Session pursuant to MRSA Title 1, section 405(6)(A) to discuss a personnel 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:

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

EATB/KMM

REQUESTED ACTION:

1	2	3	4	5	6	7	M

To enter into an executive session pursuant to MRSA Title 1, section 405(6)(A) to discuss a personnel matter.