

**CITY OF LEWISTON**

**CITY COUNCIL**

**JANUARY 17, 2017**

**REGULAR MEETING HELD IN THE COUNCIL ROOM AT 6:15 P.M.**

THE HONORABLE ROBERT E. MACDONALD, MAYOR, PRESIDING.

PRESENT: Mayor Macdonald, Councilors Lysen, Lajoie, Golden, Bouchard, Cloutier, Beam and Lachance, City Administrator Edward Barrett and City Clerk Kathleen Montejo.

**EXECUTIVE SESSION**

**VOTE (8-2017)**

Motion by Councilor Lysen, seconded by Councilor Lachance:

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

Executive Session began at 6:15pm and ended at 6:30pm.

The City Council took agenda item 16 out of order and addressed it at this time.

**VOTE (9-2017)**

Motion by Councilor Lysen, seconded by Councilor Bouchard:

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

Executive Session began at 6:30pm and ended at 6:55pm.

THE HONORABLE ROBERT E. MACDONALD, MAYOR, PRESIDING.

PRESENT: Mayor Macdonald, Councilors Lysen, Lajoie, Golden, Bouchard, Cloutier, Beam and Lachance, City Administrator Edward Barrett and City Clerk Kathleen Montejo.

Pledge of Allegiance to the Flag.  
Moment of Silence.

**PUBLIC COMMENT PERIOD**

No members of the public offered comment at this time.

**ORDER AUTHORIZING EXECUTION OF A MUNICIPAL QUITCLAIM DEED FOR  
REAL ESTATE LOCATED AT 43 MARTIN DRIVE**

**VOTE (10-2017)**

Motion by Councilor Lysen, seconded by Councilor Lajoie:

To approve the Order authorizing execution of a municipal quitclaim deed for real estate located at 43 Martin Drive:

Whereas, the owner, Jeremy Nelson, failed to pay his utility bills on a timely basis for 43 Martin Drive (Tax Map 178, Lot 35, Parcel 00-013975); and

Whereas, a stormwater lien was filed on December 6, 2013 (Book 8830 Page 204) and matured on June 7, 2015 in the amount of \$104.27; and

Whereas, payment was received in full;

Now, Therefore, Be It Ordered by the City Council of the City of Lewiston, that a quitclaim deed is hereby authorized to release the City's interest in the property located at 43 Martin Drive to the owner.

Passed - Vote 7-0

**ORDER TAKING POSSESSION OF 28 WAKEFIELD STREET AND AUTHORIZING THE CITY ADMINISTRATOR TO NEGOTIATE THE SALE OF THIS PROPERTY TO THE OWNER AT 22 WAKEFIELD STREET**

**VOTE (11-2017)**

Motion by Councilor Lysen, seconded by Councilor Lajoie:

To approve the Order taking possession of 28 Wakefield Street and authorizing the City Administrator to negotiation the sale of this property to the owner of 22 Wakefield Street:

Whereas, the City condemned and demolished the property at 28 Wakefield after it was abandoned and the mortgage was dismissed by the bank; and

Whereas, tax liens have now matured on that property; and

Whereas, a new owner recently purchased the adjacent property at 22 Wakefield Street only to subsequently discover that, prior to his ownership, it had been illegally converted from a four to a five unit building; and

Whereas, since then, the City has worked with the new owner in an effort to address this problem, including a recent zoning and land use code amendment to the neighborhood conservation B district to partially address minimum lot size per unit; and

Whereas, even with this change, the property at 22 Wakefield is not large enough to provide the required parking; and

Whereas, the owner of 22 Wakefield has expressed an interest in purchasing the property at 28 Wakefield to provide the necessary parking; and

Whereas, this would bring the property into conformity with the City's land development code;

Now, therefore, be it resolved by the City Council of the City of Lewiston that the City Administrator is hereby authorized to take possession of the property at 28 Wakefield Street due to matured tax liens and to enter into negotiations with the owner of 22 Wakefield Street for the purchase of 28 Wakefield Street, subject to a positive recommendation for the disposition of 28 Wakefield from the Planning Board and final approval of the purchase by the City Council.

Passed - Vote 7-0

**RESOLVE TAKING POSSESSION OF 81 LINCOLN STREET AS A RESULT OF  
A MATURED TAX LIEN**

**VOTE (12-2017)**

Motion by Councilor Lysen, seconded by Councilor Lajoie:

To approve the Resolve taking possession of 81 Lincoln Street as a result of matured tax liens:

Whereas, the City condemned and demolished a multi-unit property at 81 Lincoln Street and placed a special tax on the property in an effort to recover the cost of demolition; and

Whereas, this tax and other taxes due has not been paid and liens have matured on the property; and

Whereas, this property is located in the block bounded by Lincoln, Beech, Oxford, and Cross Streets and is adjacent to the Lewiston House of Pizza; and

Whereas, the City already owns significant property in this block and 81 Lincoln will increase this ownership and the potential for a significant redevelopment project;

Now, therefore, be it resolved by the City Council of the City of Lewiston that the City Administrator is authorized to take possession of the property at 81 Lincoln Street.

Passed - Vote 7-0

**ORDER TAKING POSSESSION OF 8 SOUTH TEMPLE STREET AND  
AUTHORIZING THE TRANSFER OF THIS PROPERTY TO THE OWNER OF THE  
ADJACENT 6 SOUTH TEMPLE STREET**

**VOTE (13-2017)**

Motion by Councilor Lysen, seconded by Councilor Lajoie:

To approve the Order taking possession of 8 South Temple Street and authorizing the transfer of this property to the owner of the adjacent 6 South Temple Street:

Whereas, for years, the property at 8 South Temple was never separately assessed; and

Whereas, the owner of the adjacent property at 6 South Temple maintained 8 South Temple under the assumption that it was part of his property; and

Whereas, in 2014, Assessing updated its parcel database and issued supplemental tax bills to the owner of record (the J W Wilbur Land Company, the subdivision developer) for Fiscal Tax Years 2011, 2012, and 2013; and

Whereas, those bills have not been paid and a tax lien has matured on the property; and

Whereas, the owner of the adjacent property has offered to pay the back taxes due to the City in return for transfer of its ownership; and

Whereas, given the small lot size (50' by 120'), its location, and the history of its use as a part of the business at 6 South Temple, it is appropriate to transfer this property in return for the payment of back taxes;

Now, therefore, be it resolved by the City Council of the City of Lewiston that the City Administrator is authorized to take possession of the property at 8 South Temple due to matured tax liens and a quitclaim deed is hereby authorized to be issued to Carlene Boucher, the owner of the property at 6 South Temple Street, for the property at 8 South Temple Street, subject to the payment of the outstanding taxes and interest due the City.

Passed - Vote 7-0

**BIENNIAL APPOINTMENT OF THE REGISTRAR OF VOTERS**

**VOTE (14-2017)**

Motion by Councilor Lysen, seconded by Councilor Lajoie:

To appoint City Clerk Kathleen M. Montejo as the Registrar of Voters for a two-year term of office from January 1, 2017 to December 31, 2018. Passed - Vote 7-0

**PUBLIC HEARING ON THE RENEWAL APPLICATION FOR A SPECIAL AMUSEMENT PERMIT FOR LIVE ENTERTAINMENT FOR THE ELKS LEWISTON LODGE #371, 1657 LISBON STREET**

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 (15-2017)**

Motion by Councilor Cloutier, seconded by Councilor Bouchard:

To grant a Special Amusement permit for live entertainment to the Elk's Lewiston Lodge #371, 1675 Lisbon Street. Passed – Vote 7-0

**PUBLIC HEARING AND FINAL PASSAGE REGARDING AN AMENDMENT TO THE BUSINESS LICENSING ORDINANCE PROHIBITING RETAIL MARIJUANA**

**ESTABLISHMENTS OR RETAIL SOCIAL CLUBS IN THE CITY OF LEWISTON  
UNTIL THE MAINE STATE LICENSING AUTHORITY HAS ADOPTED FINAL  
RULES FOR THE PROPER LICENSING, REGULATION AND CONTROL  
OF SUCH FACILITIES**

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 (16-2017)**

Motion by Councilor Cloutier, seconded by Councilor Lysen:

That the proposed amendment to the City Code of Ordinances, Chapter 22 “Businesses”, Article XVI “Recreational Marijuana”, Sections 22-440 through 22-442, receive final passage by a roll call vote. Passed - Vote 7-0

**RESOLVE ADOPTING THE NEW COMPREHENSIVE PLAN ENTITLED  
LEGACY LEWISTON**

Councilors concurred to incorporate the newly suggested changes to Page 8 regarding Place of Diversity language. Planning Board chairperson Bruce Damon said this is primarily a planning document to steer the direction of the community for dozens of years and it contains a great deal of goals to achieve.

**VOTE (17-2017)**

Motion by Councilor Lysen, seconded by Councilor Golden:

To approve the Resolve adopting the New Comprehensive Plan entitled Legacy Lewiston:

Whereas, the City began working with a consulting firm on a new comprehensive plan in June of 2013 with the intent of replacing the City’s prior plan adopted in 1997; and

Whereas, work on the plan included an intensive initial five days of public participation and stakeholder workshops that assisted in developing the overall framework for a new plan; and

Whereas, the initial draft of the plan was reviewed in detail by a stakeholder advisory group appointed by the Mayor; and

Whereas, a revised draft was then reviewed in detail by the Planning Board at a series of meetings and public hearings designed to solicit comments and ideas from the public and from members of the Board; and

Whereas, the Planning Board subsequently approved and forwarded to the City Council a revised plan that incorporated its changes; and

Whereas, the City Council and the Planning Board held a joint meeting in November 2015 to review and discuss the draft plan; and

Whereas, the City Council subsequently conducted a public hearing on the plan on May 3, 2016 followed by several workshops where details of the plan were reviewed and discussed; and

Whereas, the plan has also been reviewed by the State of Maine and found to be complete and consistent with the Growth Management Act ; and

Whereas, after an unprecedented level of public participation and scrutiny by the Comprehensive Plan Advisory Committee, the Planning Board, and the City Council, the plan is now ready to be enacted;

Now, therefore, be it resolved by the City Council of the City of Lewiston that a new comprehensive plan, "Legacy Lewiston" is hereby approved and adopted.

Be it Further Resolved that The City Council hereby expresses its appreciation to all who participated in the creation of this plan. Without an unprecedented level of community involvement, this plan would not have been possible.

Passed - Vote 7-0

**RECONSIDERATION OF FIRST PASSAGE OF THE CONDITIONAL REZONING OF THE PROPERTY AT 209 WEBSTER STREET FROM THE NEIGHBORHOOD CONSERVATION "A" (NCA) DISTRICT TO THE OFFICE RESIDENTIAL (OR) DISTRICT**

Louis Ouellette, the applicant, stated he would like to construct senior housing on this property and would hope to begin work by July. John Butler, 20 Ware Street, spoke in favor of this zoning change and said this development would be low noise, low traffic, have a main road access, need no public assistance for the development and is supported in the new Comp Plan. Dave Bergeron of 165 East Avenue said there are 23,000 cars a day that use East Avenue and he would like more information to be known by the City and abutters regarding traffic issues impacted by this development. Residents of 26 Moody Street and 29 Moody Street spoke and said this is quiet residential neighborhood and this development would disturb that. They also noted there are wetlands on the property to be developed. Diane Derocher of 10 Moody Street spoke in opposition to this item and spoke about concerns regarding lighting, wetlands and traffic. Bruce Damon said the developer cannot answer some of the public questions now because engineering has not been done because as a developer, there is no need to invest money to address those issues until it is known if the project is permitted at that location or not. He said the Planning Board voted 7-0 to approve this change and this zoning change is giving the applicant the right to build this facility as one option on this site. He also noted the facility conforms to the Comp Plan and is for the greater good. Zack Pettengill of 200 Montello Street said this vote only allows the applicant to find out if he can put a building at this location. He also noted this fits the Comp Plan goals 100%. Debra Allen said the applicant knows what he wants to build but questions why a lot of the plans are still unknown. A resident of 157 East Avenue noted this area is a single family neighborhood and this development does not belong in this area. Jim Derocher of 10 Moody Street said he is opposed to this change and encouraged the Council not to alienate the neighborhood for the sake of adding one building. Paul Bergeron of 169 East Avenue said he has lived in this neighborhood for 50 years and it is a residential area where this facility does not belong.

**VOTE (18-2017)**

Motion by Councilor Beam, seconded by Councilor Lysen:

To approve reconsideration of the vote taken at the January 3, 2017 City Council meeting regarding First Passage of the Conditional Rezoning of the property at 209 Webster Street from the NCA District to the OR District, subject to a conditional agreement.

Passed - Vote 4-3 (Councilors Bouchard, Lachance and Lajoie opposed)

Motion now automatically back on the floor before the City Council for consideration as a result of approval of the motion to Reconsider:

To approve First Passage of the amendment to the Zoning and Land Use Code and Map to conditionally rezone the property at 209 Webster Street from the Neighborhood Conservation "A" (NCA) District to the Office Residential (OR) District, subject to a conditional agreement and to continue the public hearing for final passage to the next regularly scheduled City Council meeting.

**VOTE (19-2017)**

Motion by Councilor Lysen, seconded by Councilor Cloutier:

To refer this project and the Conditional Rezoning back to the Planning Board for them to look at some specific conditions related to this matter:

- 1) To make this project be subject to being a 55 year old or older senior housing project
- 2) To have DEP involved in examining the wetlands and examination of the vernal pool
- 3) If a Traffic Impact Analysis is done and indicates that a full Traffic Study needs be done, that that (Study) be implemented prior to the Conditional Rezoning Agreement
- 4) If the project goes before the Planning Board, to ask the LA Transit Committee to see if this location can be included on the bus route of the bus system
- 5) For this project not to be a Congregate Care facility but an independent living facility

This is being referred back to the Planning Board so it can have due process and to gain more information before a final vote on the rezoning is taken.

Passed - Vote 4-3 (Councilors Bouchard, Lachance and Lajoie opposed)

**ORDER AUTHORIZING THE CITY ADMINISTRATOR TO ACQUIRE THE  
PROPERTY AT 280 BARTLETT STREET**

**VOTE (20-2017)**

Motion by Councilor Lysen, seconded by Councilor Bouchard:

To approve the Order authorizing the City Administrator to acquire the property at 280 Bartlett Street:

Whereas, the Lewiston School Department plans to construct a new elementary school on property in Franklin Pasture adjacent to Lewiston High School; and

Whereas, the location of the new school will impact current athletic fields originally constructed with the assistance of a Federal Land and Conservation Fund (LWCF) grant; and

Whereas, this grant requires any assisted property to remain forever as recreation and open space; and

Whereas, the School Department has received advanced approval from the National Park Service to convert the Franklin Pasture space to educational uses, subject to replacing the lost space with other recreational property; and

Whereas, the School Department's purchase of Druin Field will partially meet this obligation; however, additional recreational space must be provided to meet federal requirements; and

Whereas, the School Department currently holds an option to purchase the property at 280 Bartlett Street, the current location of Hudson Bus; and

Whereas, this option will expire on January 31, 2017; and

Whereas, the intent is to convert this property for future development of an athletic field and related amenities;

Now, therefore, be it ordered by the City Council of the City of Lewiston that the City Administrator is hereby authorized to acquire the property at 280 Bartlett Street in an amount not to exceed \$345,000, subject to his determination that any environmental issues are addressed, with the intent of using this property to partially replace the value of the Franklin Pasture property to be converted from Land and Water Conservation Fund purposes to educational purposes through construction of an elementary school. Once this substitution has been approved by state and federal officials, it will be the intent of the City to designate this property for recreation and open space purposes.

Passed - Vote 7-0

**RESOLVE MAKING AN APPROPRIATION AND TRANSFERRING A CAPITAL PROJECT BALANCE FOR PURPOSES OF FUNDING THE PURCHASE OF THE PROPERTY LOCATED AT 280 BARTLETT STREET**

**VOTE (21-2017)**

Motion by Councilor Lajoie, seconded by Councilor Bouchard:

To approve the Resolve making an Appropriation and Transferring a Capital Project balance for purposes of funding the purchase of the property located at 280 Bartlett Street:

Whereas, the Lewiston School Department plans to construct a new elementary school on property in Franklin Pasture adjacent to Lewiston High School; and

Whereas, the location of the new school will impact current athletic fields originally constructed with the assistance of a Federal Land and Conservation Fund (LWCF) grant; and

Whereas, property located at 280 Bartlett Street has been identified as a potential partial replacement for the land to be converted from Land and Water Conservation Fund purposes; and

Whereas, the School Department currently holds an option to purchase this property; and

Whereas, this option will expire on January 31, 2017;

Now, therefore, be it resolved by the City Council of the City of Lewiston that the following funds are hereby transferred or appropriated for the purpose of purchasing the property at 280 Bartlett Street: \$98,200 transferred from the Gendron Business Park Phase II project and \$246,800 appropriated from interest and premium received from the City's most recent bond issue.

Passed - Vote 7-0

**UPDATE FROM THE LEWISTON SCHOOL COMMITTEE REPRESENTATIVE**

Councilor Cloutier said they received the financial audit about the school department finances, the Blue Ribbon Commission Report and reviewed the LCIP School capital budget requests. The next meeting is on January 23 at the Dingley Building.

**REPORTS AND UPDATES**

The City Administrator announced that there will be a Council workshop on January 24.

**OTHER BUSINESS**

No other business was presented at this time.

**EXECUTIVE SESSION**

**VOTE (22-2017)**

Motion by Councilor Lysen, seconded by Councilor Cloutier:

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 9:37pm and ended at 10:20pm.

**VOTE (23-2017)**

Motion by Councilor Bouchard, seconded by Councilor Cloutier:

**CITY COUNCIL**

**JANUARY 17, 2017**

To adjourn at 10:20P.M. Passed - Vote 7-0

A true record, Attest:

Kathleen M. Montejo, MMC  
City Clerk  
Lewiston, Maine