

CITY OF LEWISTON

CITY COUNCIL

SEPTEMBER 5, 2017

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

THE HONORABLE ROBERT E. MACDONALD, MAYOR, PRESIDING.

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

Absent/Excused: Councilor Lysen. Note – Under the City Charter, the Mayor is entitled to cast a vote in the absence of a City Councilor

EXECUTIVE SESSION

VOTE (218-2017)

Motion by Councilor Lachance, seconded by Councilor Lajoie:

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

Executive Session began at 6:00pm and ended at 6:23pm.

VOTE (219-2017)

Motion by Councilor Cloutier, seconded by Councilor Bouchard:

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

Executive Session began at 6:23pm and ended at 6:36 pm.

VOTE (220-2017)

Motion by Councilor Lajoie, seconded by Councilor Lachance:

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

Executive Session began at 6:36pm and ended at 6:55pm.

THE HONORABLE ROBERT E. MACDONALD, MAYOR, PRESIDING.

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

Absent/Excused: Councilor Lysen. Note – Under the City Charter, the Mayor is entitled to cast a vote in the absence of a City Councilor

Pledge of Allegiance to the Flag.

Moment of Silence.

ALZHEIMER'S ASSOCIATION PROCLAMATION

Mayor Macdonald read the Proclamation recognizing "End Alzheimer's Day of Recognition 2017" and presented it to representatives of the Association.

PUBLIC COMMENT PERIOD

No members of the public offered comment at this time.

PUBLIC HEARING ON THE RENEWAL APPLICATION FOR A SPECIAL AMUSEMENT PERMIT FOR LIVE ENTERTAINMENT FOR THE CARRIAGE HOUSE PLUS, 1119 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 (221-2017)

Motion by Councilor Lachance, seconded by Councilor Cloutier:

To grant a Special Amusement Permit for Live Entertainment to the Carriage House Plus, 1119 Lisbon Street. Passed - Vote 7-0

PUBLIC HEARING AND FIRST & FINAL PASSAGE ON AMENDMENTS TO THE TRAFFIC AND VEHICLES ORDINANCE REGARDING THE ESTABLISHMENT OF A RESIDENT PARKING PERMIT ONLY SECTION OF THE ORDINANCE

Citing a conflict of interest with her employer, Councilor Cloutier recused herself from this item. Mayor Macdonald opened the public hearing to receive citizen input and comment. Charles Soule stated to just ban all parking in the area and therefore there will not be a need for a permit. Brian Banton of 38 Davis Street asked the Council not to eliminate on street parking. The Mayor then closed the hearing. Councilors noted they were interested in the other option presented by the City Administration which is outlined in the next agenda item.

VOTE (222-2017)

Motion by Councilor Lachance, seconded by Councilor Lajoie:

To postpone this item indefinitely. Passed - Vote 6-0

PUBLIC HEARING AND FIRST & FINAL PASSAGE ON AMENDMENTS TO THE TRAFFIC AND VEHICLES ORDINANCE REGARDING THE ESTABLISHMENT OF AN OVERNIGHT PARKING PROHIBITED SECTION OF THE ORDINANCE

Citing a conflict of interest with her employer, Councilor Cloutier recused herself from this item. Mayor Macdonald opened the public hearing to receive citizen input and comment. Matthew Roy questioned if this was an emergency item and needed to have first and final passage in the same evening. Brian Banton said that residents in Ward 1 would be mostly impacted and he asked with the absence of Councilor Lysen from Ward 1, if the Council could postpone action on

this matter until the next meeting. He also noted the residents in the neighborhood want action and this is an OK first step, but more is needed to be done, this issue has an impact on the quality of life for the neighborhood. Steven Kottler stated this has been an issue for more than a decade, that Councilor Lysen has met with the residents, neighbors, and Bates College representatives several times, so there is no need to postpone this matter. The Mayor then closed the hearing.

VOTE (223-2017)

Motion by Councilor Lachance, seconded by Councilor Bouchard:

That the proposed amendment to the City Code of Ordinances, Chapter 70 “Traffic and Vehicles”, Section 70-167 “Overnight Parking Prohibited” receive first passage by a roll call vote. Passed - Vote 5-1 (Councilor Golden opposed)

VOTE (224-2017)

Motion by Councilor Lachance, seconded by Councilor Bouchard:

To waive Section 7c of the Rules Governing the City Council and to allow for final passage at this time. Passed - Vote 5-1 (Councilor Golden opposed)

VOTE (225-2017)

Motion by Councilor Bouchard, seconded by Councilor Lajoie:

That the proposed amendment to the City Code of Ordinances, Chapter 70 “Traffic and Vehicles”, Section 70-167 “Overnight Parking Prohibited” receive final passage by a roll call vote. Passed - Vote 5-1 (Councilor Golden opposed)

PUBLIC HEARING AND FIRST PASSAGE REGARDING AN AMENDMENT TO THE STREETS AND SIDEWALKS ORDINANCE REGARDING THE LOCATION OF POLES IN SIDEWALKS

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 (226-2017)

Motion by Councilor Bouchard, seconded by Councilor Lachance:

That the proposed amendments to the City Code of Ordinances, Chapter 66 “Streets and Sidewalks”, Section 66-8 “Alterations in sidewalks; installing posts, poles or trees”, 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. Passed - Vote 7-0

PUBLIC HEARING AND FIRST PASSAGE TO CONTRACTUALLY REZONE THE PROPERTY AT 2 CENTRAL AVENUE FROM THE OFFICE RESIDENTIAL (OR) DISTRICT TO THE NEIGHBORHOOD CONSERVATION “B” (NCB) DISTRICT

Mayor Macdonald opened the public hearing to receive citizen input and comment. Brother Bouchard said this change will help the shelters that the church runs, noting currently they

operate a shelter for men and women and this would allow them to open a shelter just for women, which is greatly needed he noted. The Mayor then closed the hearing.

VOTE (227-2017)

Motion by Councilor Lajoie, seconded by Councilor Cloutier:

To approve First Passage of the amendment to the Zoning and Land Use Code and Map to contractually rezone the property at 2 Central Avenue from the Office Residential (OR) District to the Neighborhood Conservation “B” District, subject to a contractual agreement and to continue the public hearing for final passage to the next regularly scheduled City Council meeting. Passed - Vote 7-0

PUBLIC HEARING AND FIRST PASSAGE FOR LAND USE CODE AMENDMENTS REGARDING THE CREATION OF THE LEWISTON CANAL WATER POWER HISTORIC DISTRICT

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 (228-2017)

Motion by Councilor Bouchard, seconded by Councilor Cloutier:

That the proposed amendments to Appendix A, Article XV “Significant Buildings and Districts”, Section 6. “Designated Historic Structures and Historic Districts”, Subsection b3 “Lewiston Canal Water Power Historic District”, of the City Zoning and Land Use Code, receive first passage by a roll call vote. Passed – Vote 7-0

PUBLIC HEARING AND FIRST PASSAGE FOR LAND USE CODE AMENDMENTS CONCERNING SPACE AND BULK REQUIREMENTS FOR ACADEMIC INSTITUTIONS

Citing a conflict of interest with her employer, Councilor Cloutier recused herself from this item. Mayor Macdonald opened the public hearing to receive citizen input and comment. Jeffrey Swift, Bates College Treasurer, said the College is seeking support for this change. The Mayor then closed the hearing.

VOTE (229-2017)

Motion by Councilor Bouchard, seconded by Councilor Lajoie:

That the proposed amendment to Appendix A, Article XI “District Regulations”, Section 10, “Institutional Office”, of the City Zoning and Land Use Code, concerning regulations for space and bulk requirements in this district, 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 4-2 (Councilors Lajoie and Lachance opposed)

ADOPTION OF A NEW CITY POLICY REGARDING A RESIDENT PARKING BY PERMIT ONLY POLICY

This item was removed from the agenda since it was connected with Item 2 – “Traffic and Vehicles Ordinance regarding the establishment of a Resident Parking by Permit Only section of the ordinance”. Since that item was Postponed Indefinitely, this item is not needed and therefore was removed from the agenda.

**AMENDMENT TO THE TRAFFIC SCHEDULE REGARDING OVERNIGHT
PARKING PROHIBITED ON CERTAIN STREETS AROUND
BATES COLLEGE CAMPUS**

VOTE (230-2017)

Motion by Councilor Lachance, seconded by Councilor Lajoie:

To adopt the following amendment to the Traffic Schedule:

OVERNIGHT PARKING PROHIBITED, 11:00pm - 6:00am September 1 - May 31

Bardwell Street (Campus Ave to Vale St)
Campus Street (College St to Central Ave)
Central Ave (Campus Ave to Vale St)
College St (Holland St to Russell St)
Davis Street
Elm Street (College St to Oak St)
Franklin St (Campus Ave to Vale St)
Oak Street (Elm St to Frye St)
Vale Street (College St to Central Avenue)
White Street

Passed - Vote 7-0

**ORDER AUTHORIZING THE CITY ADMINISTRATOR TO EXECUTE AN
ASSIGNMENT AND ASSUMPTION AGREEMENT AMONG THE CITY OF
LEWISTON, CENTRAL MAINE POWER AND BROOKFIELD WHITE PINE HYDRO
LLC – LEWISTON CANAL SYSTEM AND AN AMENDMENT TO THE
DONATION AGREEMENT**

VOTE (231-2017)

Motion by Councilor Bouchard, seconded by Councilor Lajoie:

To approve the Order authorizing the City Administrator to Execute an Assignment and Assumption Agreement among the City of Lewiston, Central Maine Power and Brookfield White Pine Hydro LLC – Lewiston Canal System and an amendment to the Donation Agreement:

Whereas, on September 20, 2016, the City Council authorized the City Administrator to enter into an agreement to acquire ownership of the Lewiston Canal System and associated facilities (the “Donation Agreement”), per the attached resolution; and

Whereas, as part of the Donation Agreement, Brookfield has agreed to assign to the City certain

environmental indemnification obligations of Central Maine Power Company subject to the City's assumption of certain obligations; and

Whereas, the proposed Assignment and Assumption Agreement with regard to the foregoing is in the form of the attached; and

Whereas, as part of the Donation Agreement, as reviewed and approved by the City Council on September 20, 2016, the City has agreed to assume certain obligations of Brookfield and to indemnify Brookfield for assumed obligations, including liabilities arising during the City's ownership of the canals and certain other obligations; and

Whereas, as part of the anticipated Closing, Brookfield desires to make sure that the City has waived any defense under the Maine Tort Claims Act (14 M.R.S.A. §8101 et seq., as it may be amended from time of time) with regard to the City's indemnification obligations under the Donation Agreement.

Now, therefore, be it ordered by the City Council of the City of Lewiston that the City Administrator is hereby authorized to execute (i) the Assignment and Assumption Agreement among the City of Lewiston, Brookfield White Pine Hydro LLC, and Central Maine Power Company regarding the Lewiston Canal System in a form substantially as attached hereto; (ii) the Donation Agreement as amended so as to provide for a waiver of any defense under the Maine Tort Claims Act (14 M.R.S.A. §8101 et seq., as it may be amended from time of time) with regard to the City's obligation thereunder.

Passed - Vote 7-0

ORDER AUTHORIZING THE CITY ADMINISTRATOR TO EXECUTE A COLLECTIVE BARGAINING AGREEMENT BETWEEN THE CITY OF LEWISTON AND THE INTERNATIONAL ASSOCIATION OF FIREFIGHTERS (IAFF LOCAL 785) ON BEHALF OF THE LEWISTON FIREFIGHTERS UNIT

VOTE (232-2017)

Motion by Councilor Bouchard, seconded by Councilor Lajoie:

To adopt the Order authorizing the City Administrator to execute a Collective Bargaining Agreement between the City of Lewiston and the International Association of Firefighters (IAFF Local 785) on behalf of the Lewiston Firefighters Unit:

Whereas, the City and Local #785 Unit representatives have worked diligently over many months to develop a new collective bargaining agreement; and

Whereas, negotiators for the Local and the City have reached an agreement on a contract that is sensitive to the current economic climate while reflecting the organizational goals and objectives of both the City and Local #785;

Now, therefore, be it Ordered by the City Council of the City of Lewiston that

The City Administrator is authorized to execute the FY 2014-2017 International Association of Firefighters, Local #785 Collective Bargaining Agreement that addresses the terms and conditions outlined on the attached summary.

Passed - Vote 7-0

ORDER AUTHORIZING THE CITY ADMINISTRATOR TO EXECUTE A FISCAL YEAR 2017 TO 2019 COLLECTIVE BARGAINING AGREEMENT BETWEEN THE CITY OF LEWISTON AND THE INTERNATIONAL ASSOCIATION OF FIREFIGHTERS (IAFF LOCAL 785) ON BEHALF OF THE LEWISTON FIREFIGHTERS UNIT

Councilor Lajoie noted he is very pleased the City and the Firefighters were able to reach an agreement and get this done. He noted Rick Callier as their union president has been professional and is extremely dedicated to the Fire Department members.

VOTE (233-2017)

Motion by Councilor Bouchard, seconded by Councilor Lajoie:

To adopt the Order authorizing the City Administrator to execute a Fiscal Year 2017 to 2019 Collective Bargaining Agreement between the City of Lewiston and the International Association of Firefighters (IAFF Local 785) on behalf of the Lewiston Firefighters Unit:

Whereas, the City and Local #785 Unit representatives have worked diligently for many months to develop a new collective bargaining agreement; and

Whereas, all who participated in the development of the Local #785 Collective Bargaining Agreement believe that negotiations have produced a contract which is sensitive to the current economic climate and reflects the organizational goals and objectives of both the City Local #785;

Now, therefore, be it Ordered by the City Council of the City of Lewiston that the City Administrator is authorized to execute a FY 2018-2019 International Association of Firefighters, Local #785 Collective Bargaining Agreement that addresses the terms and conditions outlined on the attached summary.

Passed - Vote 7-0

ORDER AUTHORIZING THE CITY ADMINISTRATOR TO EXECUTE A TERM SHEET WITH THE FRANKLIN PROPERTY TRUST, LLC WITH REGARD TO THE AGREEMENT DATED DECEMBER 16, 2014 BETWEEN THE CITY AND FRANKLIN TRUST

VOTE (234-2017)

Motion by Councilor Lachance, seconded by Councilor Cloutier:

To approve the Order authorizing the City Administrator to execute a Term Sheet with the

Franklin Property Trust, LLC with regard to the Agreement dated December 16, 2014 between the City and Franklin Trust:

Whereas, the City and Franklin Trust entered into an agreement dated December 16, 2014 intended to allow the lotting of certain properties owned by the Trust for the purpose of offering the owners of buildings on land leased from the trust the opportunity to purchase the land; and

Whereas, a disagreement has arisen between the City and Franklin Trust regarding certain terms and conditions of the initial agreement; and

Whereas, the parties have reached an agreement on a method of resolving these issues;

Now, therefore, be it Ordered by the City Council of the City of Lewiston that the City Administrator is hereby authorized to execute the attached term sheet with the Franklin Property Trust, LLC with regard to the agreement dated December 16, 2014 between the City and Franklin Trust.

Be it Further Ordered, that the City Attorney, City Administrator, and such other staff as the Administrator may assign are hereby authorized, at City Expense, to represent the Complainants who agree to the conditions for the City to represent them, as the City Council finds that it is in the public interest to so proceed on behalf of the Complainants in connection with the initial agreement.

Passed - Vote 7-0

RESOLVE DIRECTING THAT SHARROW MARKINGS ON LISBON STREET AND OTHER CONGESTED STREETS POSTED AT 25 MILES PER HOUR OR SLOWER BE PLACED IN THE CENTER OF THE TRAVEL LANE AND NORMALLY BE ANNUALLY REFRESHED NO LATER THAN JUNE 15 OF EACH YEAR

VOTE (235-2017)

Motion by Councilor Lachance, seconded by Councilor Lajoie:

To approve the Resolve directing that Sharrow Markings on Lisbon Street and other congested streets posted at 25 miles per hour or slower be placed in the center of the travel lane and normally be annually refreshed no later than June 15 of each year:

Whereas, the United States Federal Highway Administration and the Manual on Uniform Traffic Control establish that Sharrows be placed a minimum of 11 feet from the curb where on-street parking is allowed and 4 feet from the curb where there is no parking; and

Whereas, these standards are only minimums, with most national associations and real-world studies on sharrow placement and safety encouraging placements that, while meeting minimums, actually take into consideration safety; and

Whereas, the conclusions of those studies are that “on streets with posted 25 mile per hour speeds or slower, preferred placement is in the center of the travel lane to minimize wear and encourage

bicyclists to occupy the full travel lane;¹” and

Whereas, the Lewiston Bike-Ped Committee recommended that sharrows be placed in the middle of the travel lane on the section of Lisbon Street between Pine and Main Streets “due to the special nature of that street: slower traffic, reasons to stop on either side, and the likelihood that many riders will ride in many different parts of the lane;” and

Whereas, given the issues raised by a travel lane designated for joint use, it is essential that these sharrows be refreshed annually early in the painting season;

Now, therefore, be it resolved by the City Council of the City of Lewiston that sharrow markings on Lisbon Street and other congested streets posted 25 miles per hour or slower be placed in the center of the travel lane. Absent unfavorable weather conditions or unforeseen problems such as equipment failure or staff shortages, priority shall be placed on annually refreshing the mid-lane sharrow markings on Lisbon Street on or before June 15th of each year.

Passed - Vote 6-1

UPDATE FROM THE LEWISTON SCHOOL COMMITTEE REPRESENTATIVE

Councilor Cloutier reported the School Committee received updates on staff position changes and approved various Policies for the School Department.

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 (236-2017)

Motion by Councilor Lajoie, seconded by Councilor Bouchard:

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

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

¹ [National Association of City Transportation Officials](http://nacto.org/publication/urban-bikeway-design-guide/bikeway-signing-marking/shared-lane-markings/) (NACTO); see also: *The Center for Transportation Research, The University of Texas at Austin. (2010).* Source Ref: <http://nacto.org/publication/urban-bikeway-design-guide/bikeway-signing-marking/shared-lane-markings/>

VOTE (237-2017)

Motion by Councilor Lachance, seconded by Councilor Lajoie:

To adjourn at 9:12P.M. Passed - Vote 7-0

A true record, Attest:

Kathleen M. Montejo, MMC
City Clerk
Lewiston, Maine