

CITY OF LEWISTON

CITY COUNCIL

DECEMBER 19, 2017

REGULAR MEETING HELD IN THE COUNCIL ROOM AT 6:30 P.M.

THE HONORABLE ROBERT E. MACDONALD, MAYOR, PRESIDING.

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

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

EXECUTIVE SESSIONS

VOTE (332-2017)

Motion by Councilor Lysen, seconded by Councilor Lajoie:

To enter into an Executive Session pursuant to MRSA Title 1, section 405 (6) (D) to discuss Labor Negotiations regarding the American Federation of State, County and Municipal Employees (AFSCME Council #93) Local 1458-00, on behalf of the Lewiston Public Works Unit. Passed - Vote 7-0

Executive Session began at 6:30pm and ended at 6:36pm.

VOTE (333-2017)

Motion by Councilor Lachance, seconded by Councilor Cloutier:

To enter into an Executive Session, pursuant to MRSA Title 1, section 405 (6) (C) to discuss Disposition of Property, 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 6:36pm and ended at 6:47pm.

VOTE (334-2017)

Motion by Councilor Bouchard, seconded by Councilor Lachance:

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

Executive Session began at 6:47pm and ended at 6:57pm.

THE HONORABLE ROBERT E. MACDONALD, MAYOR, PRESIDING.

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

Absent/Excused: Councilor Beam. 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.

RECOGNITION OF OUTGOING MAYOR AND CITY COUNCILORS

Mayor Macdonald presented plaques to outgoing Councilors Lajoie, Golden, Bouchard and Lachance. They were thanked for their years of dedicated service to the resident of Lewiston. Council President Cloutier then presented Mayor Macdonald with a plaque and thanked him for his six years in office as the Mayor, noted his dedication and passion for the City.

VOTE (335-2017)

Motion by Councilor Lysen, seconded by Councilor Lajoie:

To dispense with the reading of the minutes of the meetings of September 5, 19 and 21, October 3 and 17, November 21 and December 5, 2017 and to accept and place them on file as prepared by the City Clerk. Passed - Vote 7-0

PUBLIC COMMENT PERIOD

Rick Callier, president of the Lewiston Firefighters Association, thanked the outgoing City Councilors and the Mayor for their work for the City. He noted that the Mayor rarely missed an event at the Fire Department whether it was a reception to honor a retiring firefighter or their Sept 11 Recognition Event. He thanked the Mayor for his support of the Department over his six years as Mayor. Jay Allen of Six Sigma Properties said that he owns properties downtown that he is renovating and they are constantly getting broken into and his tools are getting stolen. He is seeing his tools being sold at area pawn shops days after the thefts and he asked if the Police Department can work closer with the pawn shop owners to address the acceptance of stolen goods.

AUTHORIZATION TO ACCEPT TRANSFER OF FORFEITURE FUNDS

VOTE (336-2017)

Motion by Councilor Bouchard, seconded by Councilor Lysen:

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 \$780.00, or any portion thereof, in the case of the State of Maine vs. Hussein Said Abdillahi, CR-17-2809 Court Records, being funds forfeited pursuant to the 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

AUTHORIZATION TO ACCEPT TRANSFER OF FORFEITURE FUNDS

VOTE (337-2017)

Motion by Councilor Bouchard, seconded by Councilor Lysen:

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 120 NO NAME POND ROAD

VOTE (338-2017)

Motion by Councilor Bouchard, seconded by Councilor Lysen:

To approve the Order authorizing execution of a municipal quitclaim deed for real estate located at 120 No Name Pond Road:

Whereas, the owner, Daniel Long, failed to pay his bills on a timely basis for 120 No Name Pond Road (Tax Map 14, Lot 30, Parcel 00-012622); and

Whereas, a storm water lien was filed on December 6, 2013 (Book 8830 Page 196) and matured on June 6, 2015 in the amount of \$104.27; and

Whereas, a storm water lien was filed on December 28, 2015 (Book 9282 Page 115) and matured on June 28, 2017 in the amount of \$92.18; and

Whereas, payment has been 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 120 No Name Pond Road to the owner.

Passed - Vote 7-0

PUBLIC HEARING FOR PURSUANT TO 17 MRS SECTION 2856, SECURING HAZARDOUS STRUCTURE, 795 AND 805 LISBON STREET

David Jones, Public Works Director and David Hediger, Deputy Director of Planning and Code Enforcement, provided their professional background credentials regarding their working knowledge of land use codes and engineering. Also present was City Attorney Michael Carey. Mr. Carey then reviewed the background information regarding the erosion issues and the related safety issues. They then outlined the condition of the property and proximity to buildings, showing maps and photographs documenting the current situation. They stated this is an unsafe area given the erosion and becoming a dangerous situation. No members of the Council personally know the property owner and therefore do not have a conflict of interest for this hearing. Represents of Sullivan Tire and the Realty firm owning the property next door were present. No property owners representing Franklin Property Trust were present for the hearing.

VOTE (339-2017)

Motion by Councilor Cloutier, seconded by Councilor Lachance:

With regard to the property at 795 and 805 Lisbon Street, to adopt the Findings of Fact, Conclusion of Law and Order the corrective action proposed by the Public Works Department, which Order establishes the corrective action to be taken by the property owner(s) and the time frame for taking such action, and which authorizes the City Administrator to take such corrective action if the property owner(s) fails to do so, and to recoup the City's costs through a special tax or collections action. Passed - Vote 7-0

**RESOLVE AUTHORIZING THE TRANSFER OF UP TO \$150,000 WITHIN THE
STORMWATER UTILITY FUND TO STABILIZE EROSION PROBLEM AT
795 AND 805 LISBON STREET**

VOTE (340-2017)

Motion by Councilor Lysen, seconded by Councilor Cloutier:

To approve the Resolve authorizing the transfer of up to \$150,000 within the Stormwater Utility Fund to stabilize erosion problem at 795 and 805 Lisbon Street:

Whereas, the City of Lewiston Planning & Code Enforcement Department issued a Notice of Violation (NOV) on Nov 1, 2017 identifying significant erosion on 795 & 805 Lisbon St, properties owned by Franklin Property Trust of Lewiston and Storage Realty Corporation of Freeport; and

Whereas, the City of Lewiston has an easement across the Franklin Property Trust parcel for stormwater drainage pipes; and

Whereas, the erosion is significant and endangering the stability of the paved parking areas off Lisbon St as summarized in a report from David A. Jones, P.E. (Director of Public Works for the City of Lewiston) dated December 8, 2017; and

Whereas, the City Council is holding a hearing on December 19, 2017 to determine whether the paved area at the rear of 795 Lisbon St and 805 Lisbon St, Lewiston, Maine, the "Structure," poses a serious threat to the public health and safety as detailed in 17 M.R.S. § 2856 and, if so, to determine the appropriate remedy to secure the structure; and

Whereas, the estimated cost to stabilize the site, improve the safety for the public, and to prevent further erosion is between \$75,000 and \$150,000; and

Whereas, the Stormwater Utility funds include \$105,667 (Acct # 6647-647744) for the North Temple Storm Drain phase 2 that is no longer needed for that project since the work was completed for less than originally estimated); and also up to another \$45,000 from the Jepson Brook Channel Upgrade (Acct #6647-647722); however these funds will need to be replenished in FY2019 to complete the Jepson Brook project;

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

Administrator is authorized to transfer up to \$150,000 from these sources to address stabilization of the erosion issues at 795 & 805 Lisbon Street. Any excess funds unneeded for this project will be returned to the Stormwater Utility fund for the purpose for which originally approved.

Passed - Vote 7-0

ORDER AUTHORIZING THE CITY ADMINISTRATOR TO EXECUTE AN AMENDMENT TO THE AGREEMENT FOR THE PURCHASE AND SALE OF REAL ESTATE FOR 188 LINCOLN STREET WITH LWS DEVELOPMENT, LLC

VOTE (341-2017)

Motion by Councilor Cloutier, seconded by Councilor Bouchard:

To approve the Order authorizing the City Administrator to execute an amendment to the Agreement for the Purchase and Sale of Real Estate for 188 Lincoln Street with LWS Development, LLC:

Whereas, on October 3, 2017, the City Council authorized the City Administrator to execute a Purchase and Sale Agreement with LWS Development for the former Lincoln Street fire station located at 188 Lincoln Street; and

Whereas, that agreement was executed on October 17, 2017; and

Whereas, since that time, LWS Development has actively been engaged in due diligence on the building, conducting environmental assessments, having an architect complete concept renderings for two market rate apartments and a restaurant, having multiple discussions with a restaurant tenant, listing the restaurant opportunity with a commercial broker, and doing the work necessary to make the project eligible for Historic Tax Credits; and

Whereas, with major changes to federal budget and tax policy being negotiated in Congress uncertainty exists about whether federal Historic Tax Credits will be available in the future; and

Whereas, federal policy states that buildings in the application process for Historic Tax Credits that are owned by the applicant by December 31, 2017 will be eligible for Historic Tax Credits, but, should such credits be eliminated, buildings where title is transferred after that date may not be eligible; and

Whereas, LWS Development has made significant due diligence progress toward redevelopment of 188 Lincoln Street and has requested that the City convey title to the building to LWS Development by December 31, 2017; and an agreement has been drafted that would convey title, but also allow the City to have title to 188 Lincoln Street revert back to the City, at its discretion, if LWS Development does not secure a tenant, financing, and complete construction drawings showing feasibility by June 1, 2018,

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

The City Administrator is authorized to execute the attached *Amendment to Agreement for the Purchase and Sale of Real Estate* for 188 Lincoln Street, Lewiston, Maine.

Passed – Vote 7-0

AUTHORIZING A ZERO PERCENT INTEREST RATE LOAN NOT TO EXCEED \$150,000 FROM THE CITY’S GENERAL FUND TO THE LEWISTON-AUBURN TRANSIT COMMITTEE TO PROVIDE WORKING CAPITAL UNTIL EITHER FEDERAL REIMBURSEMENTS ARE RECEIVED OR 120 DAYS HAS LAPSED

VOTE (342-2017)

Motion by Councilor Bouchard, seconded by Councilor Cloutier:

To approve the authorizing of a zero percent interest rate loan not to exceed \$150,000 from the City’s General Fund to the Lewiston-Auburn Transit Committee to provide working capital until either Federal reimbursements are received or 120 days has lapsed:

Whereas, the L-A Transit Committee is a joint agency between the Cities of Lewiston and Auburn; and

Whereas, their cash flow to pay operating costs, including the transportation contractor are heavily reliant on timely Federal fund reimbursements, and when delayed, contracts go unpaid; and

Whereas, to assist with timely payments, the Committee will exhaust all cash on hand and request cash advances from each municipalities’ operating subsidy; and

Whereas, once cash reserves are completely liquidated an as needed working capital short term loan may be requested to the Finance Director and approved by the City Administrator;

Now, Therefore, Be It Resolved by the City Council of the City of Lewiston, that the City Administrator is authorized to provide the Lewiston-Auburn Transit Committee a zero percent interest rate loan not to exceed \$150,000 from the City’s General Fund with a maturity of the shorter of 120 days or the receipt of the Federal reimbursement, subject to a similar arrangement from the City of Auburn.

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

ORDER AUTHORIZING THE CITY ADMINISTRATOR TO ENTER INTO A PARKING LEASE AGREEMENT WITH SIGMA SIX PROPERTIES, LLC, FOR PROPERTY LOCATED AT 45 MAPLE STREET

VOTE (343-2017)

Motion by Councilor Lysen, seconded by Councilor Bouchard:

To approve the Order authorizing the City Administrator to enter into a Parking Lease Agreement with Sigma Six Properties, LLC, for property located at 45 Maple Street:

Whereas, Sigma Six Properties owns the residential building at the corner of Maple and Knox Streets; and

Whereas, the City owns the adjacent parcel at 45 Maple Street; and

Whereas, Sigma Six has a limited parking area between its building and the City's property; and

Whereas, Sigma Six has approached the City with a request to least a 20 foot by 50 foot portion of the City's 45 Maple Street lot; and

Whereas, while the City has no immediate need for this property, we are interested in its eventual redevelopment as a residential or mixed use property; and

Whereas, the city is in a position to lease a small portion of this lot so long as the lease may be easily terminated should a redevelopment opportunity arise; and

Whereas, Sigma Six has agreed to such an arrangement;

Now, therefore, be it ordered by the City Council of the City of Lewiston that the City Administrator is hereby authorized to enter into a parking lease agreement with Sigma Six Properties, LLC, for a portion of the property located at 45 Maple Street, this lease to be substantially in the form attached.

Passed - Vote 7-0

ORDER AUTHORIZING THE CITY ADMINISTRATOR TO EXECUTE A NEW COLLECTIVE BARGAINING AGREEMENT BETWEEN THE CITY OF LEWISTON AND THE AMERICAN FEDERATION OF STATE, COUNTY AND MUNICIPAL EMPLOYEES (AFSCME) LOCAL 1458 ON BEHALF OF THE LEWISTON PUBLIC WORKS UNIT

VOTE (344-2017)

Motion by Councilor Lachance, seconded by Councilor Bouchard:

To approve the Order authorizing the City Administrator to execute a New Collective Bargaining Agreement between the City of Lewiston and the American Federation of State, County and Municipal Employees (AFSCME) Local 1458 on behalf of the Lewiston Public Works Unit:

Whereas, the City and Local 1458 Unit representatives have worked diligently over the last several months to develop a new collective bargaining agreement; and

Whereas, all who participated in the development of the Local 1458 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 and Local 1458;

Now, therefore, be it Ordered by the City Council of the City of Lewiston that the City Administrator is authorized to execute the new FY 2017-2020 American Federation of State, County, and Municipal Employees, Local 1458 Collective Bargaining Agreement and is authorized to approve any final administrative, non-monetary, and non-substantive amendments as needed.

Passed - Vote 7-0

APPOINTMENT TO THE PLANNING BOARD

VOTE (345-2017)

Motion by Councilor Cloutier, seconded by Councilor Lysen:

To appoint Kristine Kittridge as a full member of the Planning Board, said term to expire January 8, 2019. Passed - Vote 7-0

ORDER APPROVING AN AMENDMENT TO THE HOME AGREEMENT FOR THE HARTLEY BLOCK AND AUTHORIZING THE CITY ADMINISTRATOR TO EXECUTE THE SAME

VOTE (346-2017)

Motion by Councilor Lysen, seconded by Councilor Cloutier:

To approve the Order approving an Amendment to the HOME Agreement for the Hartley Block and authorizing the City Administrator to execute the same:

Whereas, the Szanton Company, dba as Szanton Monks Properties, LLC, as The Hartley Block, LP, and as Maine Workforce Housing, LLC, desires to build a 63 unit mixed income housing project at 159 – 177 Lisbon Street in Lewiston, Maine; and

Whereas, the City Council approved a Joint Development Agreement between the City and the Hartley Block, LP that was executed on June 28, 2016; and

Whereas, in that Agreement, the City agreed to provide \$325,000 of HOME funds to assist with construction of the project; and

Whereas, on November 21, 2017, the City Council approved a *HOME Agreement and Declaration of Covenants and Restrictions* between the City and The Hartley Block, LP that referenced, in addition to the City HOME funding, \$625,075 in HOME funding from MaineHousing, which combined required a total of seven HOME designated units; and

Whereas, MaineHousing has replaced \$409,000 of HOME funds with a different funding source; and

Whereas, this change in funding sources has reduced the total number of HOME units required to four, all of which will be *High HOME Units*, and of which two will be funded with Lewiston HOME funds, and two will be funded with MaineHousing HOME funds; and

Whereas, MaineHousing has requested that Lewiston’s HOME Agreement only reference the HOME units funded with Lewiston HOME funds.

Now, therefore, be it Ordered by the City Council of the City of Lewiston that the attached amended *HOME Agreement and Declaration of Covenants and Restrictions* between the City and The Hartley Block, LP is hereby approved and the City Administrator is authorized to execute the document on behalf of the City.

Passed - Vote 6-1 (Councilor Lachance opposed)

UPDATE FROM THE LEWISTON SCHOOL COMMITTEE REPRESENTATIVE

Councilor Cloutier reported their last meeting of the year was held on December 11 and at that meeting they received the annual audit report and appointed a new Chief Administrative Officer. Their next meeting is January 2.

REPORTS AND UPDATES

The City Administrator thanked the 2016-2018 City Council for their fine service to the City and stated all of the city staff appreciated their hard work and dedication for the betterment of the City. He complimented the Mayor on his support of city programs and stated the Mayor worked hard over the past six years to move the City forward.

OTHER BUSINESS

Outgoing Councilors thanked city staff for their work for the community.

VOTE (347-2017)

Motion by Councilor Lysen, seconded by Councilor Lachance:

To adjourn at 8:50P.M. Passed - Vote 7-0

A true record, Attest:

Kathleen M. Montejo, MMC
City Clerk
Lewiston, Maine