

CITY OF LEWISTON

CITY COUNCIL

JULY 13, 2010

REGULAR MEETING HELD IN THE COUNCIL ROOM AT 7:00 P.M.

THE HONORABLE LAURENT F. GILBERT, SR., MAYOR, PRESIDING.

PRESENT: Mayor Gilbert, Councilors Butler, Bernier, Poulin, Jean, O'Connell, Cayer and Morgan, City Administrator Edward Barrett, and City Clerk Kathleen Montejo.

Pledge of Allegiance to the Flag.
Moment of Silence.

**RECOGNITION OF THE LEWISTON HIGH SCHOOL GIRLS TENNIS TEAM AND
THE LEWISTON HIGH SCHOOL BOYS TENNIS TEAM**

Members of the high school girls tennis team, the 2010 state champions, and members of the boys tennis team, the 2010 runners up in the state championship, and their coaches, received certifications of congratulations from the Mayor as well as a Legislative Sentiment presented by members of the Lewiston delegation.

APPOINTMENT OF THE LEWISTON YOUTH ADVISORY COUNCIL MEMBERS

The following students were introduced as new members of the LYAC: Jama Ahmed, Jake Bergeron, Courtney Costello, Kevin Costello, Stephanie Costello, Brendan Landry, Holly Lavorgna, Allie Lewandowski, Kon Maiwan, Kenzi Masselli, Fatuma Mohamed, Nadifa Adan Mohamed, Shunaib Naji, Jonathan Ouellette and Marissa Zaroni

PUBLIC COMMENT PERIOD

No members of the public offered comments at this time.

**PUBLIC HEARING ON A NEW LIQUOR LICENSE FOR PEDRO O'HARAS
LEWISTON, 134 MAIN STREET**

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

VOTE (198-2010)

Motion by Councilor Jean, seconded by Councilor Bernier:

To authorize the City Clerk's Office to approve a new liquor license application for Pedro O'Hara's Lewiston, 134 Main Street. Passed - Vote 7-0

**PUBLIC HEARING ON A SPECIAL AMUSEMENT PERMIT FOR
THE ACME SOCIAL CLUB, 255 PARK STREET**

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

VOTE (199-2010)

Motion by Councilor Jean, seconded by Councilor Poulin:

To grant a special amusement permit for live entertainment to the Acme Social Club, 255 Park Street. Passed - Vote 7-0

**PUBLIC HEARING ON A SPECIAL AMUSEMENT PERMIT FOR
THE DAWG HOUSE, 1018 SABATTUS STREET**

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

VOTE (200-2010)

Motion by Councilor Jean, seconded by Councilor Butler:

To grant a special amusement permit for live entertainment to The Dawg House, 1018 Sabattus Street. Passed - Vote 7-0

**PUBLIC HEARING ON A SPECIAL AMUSEMENT PERMIT FOR
IRISH TWINS PUB, LLC, 743 MAIN STREET**

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

VOTE (201-2010)

Motion by Councilor Butler, seconded by Councilor O'Connell:

To grant a special amusement permit for live entertainment to Irish Twins Public, LLC, 743 Main Street. Passed - Vote 7-0

**PUBLIC HEARING FOR AN OUTDOOR ENTERTAINMENT PERMIT FOR THE
GREAT FALLS BALLOON FESTIVAL**

Mayor Gilbert opened the public hearing to receive citizen input and comment. No members of the public spoke for or against this item. Mayor Gilbert then closed the hearing. Councilor Jean stated he has served as a volunteer for this festival and the festival is close to shutting down due to financial issues. He distributed a letter dated February 16, 2010 from Dr. John Reeder asking the Council to rescind their decision to allow the firefighters to collect donations for the Muscular Dystrophy Association near the entrance gates to the festival.

VOTE (202-2010)

Motion by Councilor Jean, seconded by Councilor Butler:

To conduct a public hearing on an application for an outdoor entertainment event for the Great Falls Balloon Festival, 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, to the Great Falls Balloon Festival Committee for outdoor music concerts for the annual Festival to be held at Simard-Payne Memorial Park on August 20 - 22, 2010, contingent upon positive recommendations from the Recreation Department, 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 FOR AN OUTDOOR ENTERTAINMENT PERMIT FOR THE BRIDGE 2010 CONCERT

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

VOTE (203-2010)

Motion by Councilor Butler, seconded by Councilor Bernier:

To conduct a public hearing on an application for an outdoor entertainment event for The Bridge 2010, 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, to The Bridge 2010 for an outdoor music concert to be held at Kennedy Park on August 21, 2010, contingent upon positive recommendations from the Recreation Department, 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 FOR AN OUTDOOR ENTERTAINMENT PERMIT FOR THE UNITY IN ACTION MUSICAL CONCERT

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

VOTE (204-2010)

Motion by Councilor Butler, seconded by Councilor Bernier:

To conduct a public hearing on an application for an outdoor entertainment event for Gospel Tent Ministries, 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, to Gospel Tent Ministries for outdoor music concerts to be held at Kennedy Park from July 19 - 27, 2010, contingent upon positive recommendations from the Recreation Department, 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 FIRST PASSAGE FOR AN AMENDMENT TO THE FIRE PREVENTION AND PROTECTION ORDINANCE

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

VOTE (205-2010)

Motion by Councilor Butler, seconded by Councilor Bernier:

That the proposed amendment to the City Code of Ordinances, Chapter 38 “Fire Prevention and Protection”, Article II, “Fire Prevention Code”, Section 38-26 “Codes Adopted”, receive first passage by a roll call vote and that the public hearing on said ordinance be continued to the meeting of August 10, 2010 for final passage. Passed - Vote 7-0

PUBLIC HEARING AND FIRST AND FINAL PASSAGE OF THE EXTENSION OF THE MORATORIUM ORDINANCE REGARDING MEDICAL MARIJUANA DISPENSARIES

Mayor Gilbert opened the public hearing to receive citizen input and comment. No members of the public spoke for or against this item. Mayor Gilbert then closed the hearing. Director of Planning and Code Enforcement Gil Arsenault made a presentation to the Council on this issue.

VOTE (206-2010)

Motion by Councilor Jean, seconded by Councilor Poulin:

That the proposed extension of the moratorium ordinance regarding medical marijuana dispensaries, to be effective July 21, 2010, receive first passage by a roll call vote. Passed - Vote 5-2 (Councilors Butler and Bernier opposed)

VOTE (207-2010)

Motion by Councilor Poulin, seconded by Councilor Jean:

To waive Section 7c of the Rules Governing the City Council and to allow for final reading at this time. Passed - Vote 5-2 (Councilors Butler and Bernier opposed)

VOTE (208-2010)

Motion by Councilor Jean, seconded by Councilor Poulin:

That the proposed extension of the moratorium ordinance regarding medical marijuana dispensaries, to be effective July 21, 2010, receive final passage by a roll call vote. Passed - Vote 5-2 (Councilors Butler and Bernier opposed)

PUBLIC HEARING AND FIRST PASSAGE FOR AN AMENDMENT TO THE CONDITIONAL REZONING AGREEMENT FOR THE PROPERTY AT 16 WELLMAN STREET

Mayor Gilbert opened the public hearing to receive citizen input and comment. No members of

the public spoke for or against this item. Mayor Gilbert then closed the hearing.

VOTE (209-2010)

Motion by Councilor Butler, seconded by Councilor Jean:

To approve first passage for the amendment to the conditional rezoning agreement for 16 Wellman Street, to conditionally rezone the property, subject to the conditions defined in the rezoning agreement and to continue the public hearing to the next City Council meeting for final passage. Passed - Vote 7-0

PUBLIC HEARING ON A BOND ISSUE TO ISSUE REFUNDING BONDS FOR ALL OR PART OF THE CITY'S 2001 GENERAL OBLIGATION BONDS, SERIES B

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

VOTE (210-2010)

Motion by Councilor Jean, seconded by Councilor Butler:

To conduct a Public Hearing to receive citizen input, and to approve the Order to finance the refunding bonds for the City's 2001 General Obligation Bonds, Series B, through a bond issue in an amount not to exceed \$3,100,000:

Ordered, That the Finance Director is authorized to issue refunding bonds in a principal amount not to exceed \$3,100,000 in order to refund all or part of the principal of and interest on the City's General Obligation Bonds, Series B, dated April 1, 2001, and to pay any redemption premiums thereon and costs of issuance;

Further Ordered, That the City Council instruct the Finance Director to advertise for bids for the bonds or negotiate the sale of the bonds with any qualified purchaser; to award the loan; and to employ Edwards, Angell, Palmer & Dodge LLP to furnish the legal opinion for the same;

Further Ordered, That the bonds shall be signed by the City Treasurer and Mayor;

Further Ordered, That the date, maturities, denominations, interest rate or rates, place or places of payment, form or other details of the bonds and of the provisions for the sale thereof shall be determined by the Finance Director; and

Further Ordered, that bonds hereunder may be subject to call for redemption on such terms as may be determined by the Finance Director.

Passed - Vote 7-0

APPROVAL OF FUNDING FOR THE GRAND TRUNK DEPOT REDEVELOPMENT

Councilors Morgan and Bernier spoke in favor of supporting this project. Councilor Bernier cautioned about the types of businesses that would be located at this site. Members of the Lewiston Auburn Railroad Company Board of Directors addressed the Council regarding this project and spoke in favor of supporting the project. They stated the Railroad has limited funds

and outlined the work the Railroad has done for the City in the past, such as the purchase and donation of the land formerly known as Railroad Park.

VOTE (211-2010)

Motion by Councilor Poulin, seconded by Councilor Cayer:

To adopt the Order, Authorizing an expenditure of CDBG funds to be used in the redevelopment of the Grand Trunk Depot Building:

Whereas, The Lewiston Auburn Railroad Company (LARC) owns the Grand Trunk Depot building located at 103 Lincoln Street; and

Whereas, LARC has received numerous requests to lease the building but has not acted upon those requests because of insufficient LARC resources to fund the necessary improvements to lease the property; and

Whereas, if borrowed, the debt service on the funding needed to rehabilitate the building exceeds what current market lease rates would generate for income; and

Whereas, LARC has been successful in securing a \$200,000 USDA Rural Business Enterprise Grant; and

Whereas, LARC is seeking additional project funding that will enable it to redevelop the property and offer it for lease at market rates; and

Whereas, the City desires to support new investment, the creation of new jobs, renewed vitality and the elimination of blight in the Lincoln Street area;

Now, therefore, Be it Ordered By the City Council of the City of Lewiston that CDBG funding in the amount of a \$55,000 grant and a \$60,700 loan at 3% interest amortized for 15 years be provided to the LARC to be used for the redevelopment of the Grand Trunk Depot building. The funds will be used as a match to a \$200,000 grant provided by the USDA, and a \$55,000 investment by the LARC and will be disbursed on a proportional basis as work is completed. The loan documents will include the right to defer payments with interest accruing when the property is not leased, with any unpaid balance remaining to be paid in full upon the 20 year anniversary of the loan disbursement.

Did Not Pass - Vote 3-4 (Councilors Cayer, Butler and Poulin in favor; Councilors Morgan, Bernier, Jean and O'Connell opposed)

VOTE (212-2010)

Motion by Councilor Bernier, seconded by Councilor Morgan:

To approve the Order, Authorizing an expenditure of CDBG funds to be used in the redevelopment of the Grand Trunk Depot Building:

Whereas, The Lewiston Auburn Railroad Company (LARC) owns the Grand Trunk Depot

building located at 103 Lincoln Street; and

Whereas, LARC has received numerous requests to lease the building but has not acted upon those requests because of insufficient LARC resources to fund the necessary improvements to lease the property; and

Whereas, if borrowed, the debt service on the funding needed to rehabilitate the building exceeds what current market lease rates would generate for income; and

Whereas, LARC has been successful in securing a \$200,000 USDA Rural Business Enterprise Grant; and

Whereas, LARC is seeking additional project funding that will enable it to redevelop the property and offer it for lease at market rates; and

Whereas, the City desires to support new investment, the creation of new jobs, renewed vitality and the elimination of blight in the Lincoln Street area;

Now, therefore, Be it Ordered By the City Council of the City of Lewiston that CDBG funding in the amount of up to a \$115,700 grant be provided to the LARC to be used for the redevelopment of the Grand Trunk Depot building. The funds will be used as a match to a \$200,000 grant provided by the USDA, and a \$55,000 investment by the LARC and will be disbursed on a proportional basis as work is completed.

Passed - Vote 7-0

ORDER AUTHORIZING THE CREATION OF A JOINT DEVELOPMENT AGREEMENT BETWEEN THE CITY OF LEWISTON AND THE LEWISTON AUBURN RAILROAD COMPANY

VOTE (213-2010)

Motion by Councilor Jean, seconded by Councilor Poulin:

To approve the Order, Authorizing the Creation of a Joint Development Agreement between the City of Lewiston and Lewiston Auburn Railroad Company:

Whereas, The Lewiston Auburn Railroad Company (LARC) owns the Grand Trunk Depot building located at 103 Lincoln Street; and

Whereas, LARC has received numerous requests to lease the building but has not acted upon those requests because of insufficient LARC resources to fund the necessary improvements to lease the property; and

Whereas, the City desires to support new investment, the creation of new jobs, renewed vitality and the elimination of blight in the Lincoln Street area; and

Whereas, LARC has received commitments for sufficient funding, including financial support from the City to move forward with redevelopment of the Grand Trunk Depot; and

Whereas, the City desires to insure that the type of use that occupies the Grand Trunk Depot will bring people to and positively add to the revitalization of that area of the City, and

Whereas, the terms of the financial support to be provided by the City and the rights and obligations need to be better defined,

Now, therefore, Be it Ordered By the City Council of the City of Lewiston that staff is authorized to develop a Joint Development Agreement between the City of Lewiston and the LARC which outlines the details of the financial agreement between the two parties as well as provides guidance on acceptable uses for the property and the process for taking action on proposed uses that are not specifically defined as acceptable.

Passed - Vote 7-0

ORDER AUTHORIZING THE CONDITIONAL EXTENSION OF A CONDEMNATION ORDER FOR THE BUILDINGS LOCATED AT 55 OLD LISBON ROAD

Nico Corrao, son of property owner Frank Corrao, made a detailed presentation to the Council regarding the background of this issue and the related issues that led up to the condemnation order. He noted that he and his family have been aggressively working on the site to clean up and remove the debris and other matters and he is hoping to work with the City to save the family land. He thanked the city staff for their help with this project. Mr. Corrao said the family is working hard to avoid the condemnation order since this property is their homestead. Ann Keith of 54 Old Lisbon Road asked the Council to consider other options before granting an extension, noting the property has been a constant mess since she has lived there and she hopes the city requires the family to clean it up.

Suggestion by Councilors Poulin and Bernier to delete paragraph A in the proposed Order which would require Mr. Corrao to submit a building permit application by August 15, 2010, and to change the date in paragraph B from September 30, 2010 to March 30, 2011. It was unanimously agreed to include this as a friendly amendment and to incorporate into the Order.

VOTE (214-2010)

Motion by Councilor Butler, seconded by Councilor Cayer:

To approve the Order authorizing the conditional extension of a Condemnation order approved by the City Council on July 15, 2008, for the property located at 55 Old Lisbon Road, said property owned by Mr. Frank Corrao:

Whereas, the 2008-2009 City Council authorized the City Administrator and city staff to enforce a condemnation order approved by the City Council on July 15, 2008; and

Whereas, the authorized City Administrator date extension contained within the condemnation order will expire on July 15, 2010; and

Whereas, owner Frank Corrao has demonstrated some progress to fully comply with the order but has yet to accomplish full compliance to date ; and

Whereas, Administration believes that the efforts demonstrated by Mr. Corrao to date warrant some limited and conditional extension of time, and that Administration the conditional extension of time will also protect those residents who live in the Old Lisbon Road neighborhood from any unreasonable delays on complying with the extension of the Council's original July 15, 2008 condemnation order;

Now, therefore, be it Ordered by the City Council of the City of Lewiston that The City Council Condemnation Order, dated July 15, 2008, be conditionally extended and to authorize the City Administrator to fully enforce this condemnation order extension.

The City Council shall authorize the City Administrator to allow Mr. Frank Corrao to begin construction at the 55 Old Lisbon Road site damaged by fire on November 14, 2006, on the condition that he comply with the milestone dates and all requirements listed below in this City Council action and, in the event that Mr. Corrao does not comply with this condemnation order extension, authorizes the City Administrator to also take those actions listed below:

- A. Mr. Corrao will be required to meet all city code conditions for the building of a home on the existing fire damaged site to receive a building permit and must be in possession of a building permit for a home in that location no later than March 30, 2011.
- B. Once the building permit is issued to Mr. Corrao, the City Administrator will issue a letter stating that Mr. Corrao is in compliance with the city council order and terminate the filing of the order with the County Registry. It is understood that if a building permit is issued sooner than September 30, 2010, the City Administrator will take immediate action to issue Mr. Corrao a letter in accordance with the above.
- C. The City Administrator will be authorized to record the condemnation order if Mr. Corrao fails to comply with any of the terms and conditions of this condemnation order extension.
- D. If Mr. Corrao fails to comply with any of the conditions of this condemnation order extension, the City Administrator will be authorized to proceed with the recording of the condemnation order at the County Registry of Deeds and to take pursue all reasonable legal actions to have Mr. Corrao remove the existing foundation and other structures, fill the site and meet all city code requirements.
- E. If Mr. Corrao is deemed to be in default of this condemnation order extension by the City Administrator and fails to clean the site within the prescribed time, the City Administrator will be authorized to expend all city funds necessary to clean the site and take all reasonable actions to recover city costs.
- F. Mr. Corrao must comply with certain requirements for a building permit. It will be Mr. Corrao's obligation to ensure that he work with the city to meet those building permit requirements. Code Enforcement staff are prepared to work with Mr. Corrao to outline all the requirements per the city code.
- G. Per the city code, if a building permit is issued, Mr. Corrao will be required to begin construction within 6 months from the date of issuance and must complete construction within one year of issuance.

- H. If construction on the site does not occur within one year of the building permit issuance date, the city will reserve the right to pursue another condemnation order.
- I. Beyond what is explicitly stated in this Council action, the City Council does not authorize the City Administrator to grant any further extensions of the original July 15, 2008 Condemnation Order.

Passed - Vote 7-0

**ORDER AUTHORIZING THE TRANSFER OF COMMUNITY DEVELOPMENT
BLOCK GRANT (CDBG) FUNDS**

VOTE (215-2010)

Motion by Councilor Butler, seconded by Councilor Jean:

To approve the Order, Authorizing the Transfer of Community Development Block Grant (CDBG) funds:

Whereas, City staff has received an influx of interest in its commercial development loan/grant products in recent months; and

Whereas, there are not sufficient funds available in the appropriate loan pool accounts to accommodate the current demand; and

Whereas, there is a previously allocated balance of funds in the City's Housing Rehabilitation loan pool that is not currently anticipated to be used; and

Whereas, previously allocated, but unspent, CDBG funds may be freely transferred between existing loan accounts;

Now, therefore, Be it Ordered By the City Council of the City of Lewiston that City Staff are authorized to transfer \$161,226 in previously allocated, but unspent CDBG funds in the Housing Rehabilitation loan pool account into the Commercial Rehabilitation loan pool account

Passed - Vote 7-0

**AMENDMENT TO THE CITY POLICY MANUAL TO ELIMINATE THE CITIZEN
BUDGET REVIEW COMMITTEE**

Councilor Poulin spoke in favor of keeping the committee, noting it is effective to have citizens review and comment on the budget.

VOTE (216-2010)

Motion by Councilor Cayer, seconded by Councilor Jean:

To delete City Policy Manual Number 86, the Citizen Budget Review Committee.

Passed - Vote 5-2 (Councilors Poulin and Morgan opposed)

REPORTS AND UPDATES

No reports or updates were presented at this time.

OTHER BUSINESS

Councilor Jean made a motion to rescind Vote 127-2009 of the Council regarding the Council's decision on the fundraising efforts of the firefighters during the Great Falls Balloon Festival. This motion did not receive a second and therefore did not materialize.

VOTE (217-2010)

Motion by Councilor Cayer, seconded by Councilor Morgan:

To approve the proposed amendments to the City Departments Miscellaneous Fees and Penalties Policy, Policy Manual 81, as recommended by the City Clerk's Department.

Passed - Vote 7-0

VOTE (218-2010)

Motion by Councilor Morgan, seconded by Councilor Cayer:

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 (219-2010)

Motion by Councilor Bernier, second by Councilor O'Connell:

To adjourn at 10:40 P.M. Passed - Vote 7-0

A true record, Attest:

Kathleen M. Montejo, MMC
City Clerk
Lewiston, Maine