

# CITY OF LEWISTON

CITY COUNCIL

SEPTEMBER 7, 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.

### MAYOR'S PRESENTATION – RECOGNITION OF FIVE AREA CHURCHES FOR THEIR PARTICIPATION IN THE CHURCH VOLUNTEER DAY

The Mayor stated on Saturday, August 14, area churches held their first volunteer day to benefit the City. One hundred volunteers from five churches worked to make improvements to the high school cross country track, removed brush at the Multi-Purpose Center and trimmed and removed brush along the waterfront of the Simard-Payne Police Memorial Park. The five participating churches were the South Lewiston Baptist Church, the First Assembly of God church, Cross Roads Baptist church, Free Grace Baptist church and the Grace Community Church. The Mayor presented representatives of the church with certificates of appreciation and thanked them all for their work and efforts to improve the City.

### PRESENTATION OF THE GOVERNMENT FINANCE OFFICERS ASSOCIATION PLAQUE FOR EXCELLENCE IN FINANCIAL REPORTING

The Mayor presented the GFOA plaque to Finance Director Heather Hunter, noting this is the highest achievement that the Finance Department can receive in this field. This is the thirty-fifth year in a row that the City has received this award.

### PRESENTATION – INTRODUCTION OF THE 2010-2011 LEWISTON MAINEIACS HOCKEY TEAM

All members of the Maineiacs hockey team, their coaches and team executives, attended the Council meeting and introduced themselves and stated their hometown. All of the players are staying locally with host families. Some players are returning team members and others are new to Lewiston. The Mayor welcomed all of them to Lewiston and wished them well on their upcoming season.

### VOTE (248-2010)

Motion by Councilor Morgan, seconded by Councilor Cayer:

To dispense with the reading of the minutes of the meetings of June 1, 15 and 29, 2010 and to accept and place them on file as prepared by the City Clerk. Passed - Vote 7-0

### PUBLIC COMMENT PERIOD

No members of the public offered comments at this time period.

**AUTHORIZATION TO ACCEPT TRANSFER OF FORFEITURE FUNDS**

**VOTE (249-2010)**

Motion by Councilor Jean, seconded by Councilor Cayer:

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:

- 1) the transfer of 16%, less administrative fees, or any portion thereof, from the sale of a 2003 Ford Explorer SUV in the case of the US Department of Justice Drug Enforcement Administration vs. Eddy Mejia-Guerrero, CE-09-0034; 10-DEA-529842
- 2) the transfer of 16%, less administrative fees, or any portion thereof, from the sale of a 2003 Saturn Vue SUV in the case of the US Department of Justice Drug Enforcement Administration vs. Eddy Mejia-Guerrero, CE-09-0034; 10-DEA-529851
- 3) the transfer of 16%, less administrative fees, or any portion thereof, from the sale of a 1999 Toyota Camry Sedan in the case of the US Department of Justice Drug Enforcement Administration vs. Eddy Mejia-Guerrero, CE-09-0034; 10-DEA-529853
- 4) the transfer of 100%, less administrative fees, or any portion thereof, from the sale of a 2008 Toyota Camry Sedan in the case of the US Department of Justice Drug Enforcement Administration vs. Eddy Mejia-Guerrero, CE-09-0034; 10-DEA-529852
- 5) the transfer of 17% of \$6,800, less administrative fees, or any portion thereof, in the case of the US Department of Justice Drug Enforcement Administration vs. Todd Tweedie, CE-09-0038; 10-DEA-529967
- 6) the transfer of 4% of \$25,800, less administrative fees, or any portion thereof, in the case of the US Department of Justice Drug Enforcement Administration vs. Nathan G Lake, CC-10-0085; 10-DEA-530341
- 7) the transfer of 20%, less administrative fees, or any portion thereof, from the sale of a 2000 Chevy Venture Van in the case of the US Department of Justice Drug Enforcement Administration vs. Jose Cruz Jimenez, CE-09-0034; 10-DEA-531121
- 8) the transfer of 20%, less administrative fees, or any portion thereof, from the sale of a 2001 Mercury Sable Sedan in the case of the US Department of Justice Drug Enforcement Administration vs. Jose Cruz Jimenez, CE-09-0034; 10-DEA-531136
- 9) the transfer of property in the town of Hollis, York County, Map 15 Lot 54D, or any portion thereof, less administrative fees, in the case of the US Department of Justice Drug Enforcement Administration vs. person identified in Case Number 762065-08-0116; 10-ATF-005302

- 10) the transfer of 13% of \$5,704, less administrative fee, or any portion thereof, in the case of the US Department of Justice Drug Enforcement Administration vs. Jacob Smith & Randy Bourgojn, CE-10-0032; 10-DEA-535192
- 11) the transfer of 13% of \$1,906, less administrative fee, or any portion thereof, in the case of the US Department of Justice Drug Enforcement Administration vs. Jacob Smith, CE-10-0032; 10-DEA-535196
- 12) the transfer of 13% of \$155,400, less administrative fee, or any portion thereof, in the case of the US Department of Justice Drug Enforcement Administration vs. Jacob Smith, CE-10-0032; 10-DEA-535245
- 13) the transfer of 13%, less administrative fee, or any portion thereof, from the sale of a 2000 Mercedes Benz 430 Coupe, in the case of the US Department of Justice Drug Enforcement Administration vs. Jacob Smith, CE-10-0032; 10-DEA-535225
- 14) the transfer of 13%, less administrative fee, or any portion thereof, from the sale of a 2005 GMC Sierra 1500 Pick Up, in the US Department of Justice Drug Enforcement Administration vs. Jacob Smith & Randy Bourgojn, CE-10-0032; 10-DEA-535257
- 15) the transfer of \$1,089.52, or any portion thereof, in the case of the State of Maine vs. Chester Beauchesne, CR-10-611 Court Records
- 16) the transfer of \$2,230.00, or any portion thereof, in the case of the State of Maine vs. Nicole Ann Schidzig-Rodriguez, CR-10-92 Court Records
- 17) the transfer of \$2,975.00, or any portion thereof, in the case of the State of Maine vs. Jason Niemszyk, CR 10-695 Court Records
- 18) the transfer of \$21,540, or any portion thereof, in the case of the State of Maine vs. Albert Lowe, CR 10-693 Court Records

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', funds to be deposited in Account No. 590-3514050.

Passed - Vote 7-0

**APPOINTMENT TO THE LEWISTON HOUSING AUTHORITY BOARD OF COMMISSIONERS**

**VOTE (250-2010)**

Motion by Councilor Jean, seconded by Councilor Cayer:

To confirm the Mayor's nominations and to appoint the following residents as members of the Board of Commissioners of the Lewiston Housing Authority:

- 1) Amie Morin of 7 Pleasant Street (term to expire September 17, 2015)
- 2) Bertrand Dutil of 23 Spofford Street (term to expire October 7, 2015)
- 3) Theresa Samson of 15 Shank Street (term to expire September 17, 2013)

Passed - Vote 7-0

**PUBLIC HEARING ON A NEW LIQUOR LICENSE APPLICATION FOR THE  
POP SHOPPE DINER, 413 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 (251-2010)**

Motion by Councilor Jean, seconded by Councilor Morgan:

To authorize the City Clerk's Office to approve a new liquor license application for the Pop Shoppe Diner, 413 Main Street. Passed - Vote 7-0

**PUBLIC HEARING ON A SPECIAL AMUSEMENT PERMIT FOR HI STYLE  
CATERING/CARRIAGE HOUSE PLUS, 1119 LISBON 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 (252-2010)**

Motion by Councilor Jean, seconded by Councilor Poulin:

To grant a special amusement permit for live entertainment to Hi Style Catering/Carriage House Plus, 1119 Lisbon Street. Passed - Vote 7-0

**PUBLIC HEARING ON AN OUTDOOR ENTERTAINMENT PERMIT FOR THE  
DEMPSEY CHALLENGE**

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 (253-2010)**

Motion by Councilor Jean, seconded by Councilor Morgan:

To conduct a public hearing on an application from The Dempsey Challenge Committee for outdoor musical concerts to be held at Simard-Payne Memorial Park on October 2nd and 3rd, as part of The Dempsey Challenge, and to authorize a permit for an Outdoor Entertainment Event, as required by the City Code of Ordinances, Chapter 10, Article 1, Section 10-3, to the organizing committee for the outdoor music concerts, contingent upon positive recommendations from the Recreation Department, Police Department, Fire Department, Code/Land Use Officer and Code/Health Officer regarding compliance with all regulations, and compliance with all City ordinances. Passed - Vote 7-0

At this point, Mayor Gilbert took agenda item 10 out of order and addressed it at this time.

**REQUEST FOR USE OF CITY SERVICES FOR THE DEMPSEY CHALLENGE**

**VOTE (254-2010)**

Motion by Councilor Jean, seconded by Councilor Cayer:

To approve the request for the use of city services for The Dempsey Challenge to be held on October 2 and 3, 2010 at the Simard-Payne Police Memorial Park. Passed - Vote 7-0

**PUBLIC HEARING AND FINAL PASSAGE FOR LAND USE CODE AMENDMENTS  
CONCERNING THE REESTABLISHMENT OF NONCONFORMING USES IN  
HISTORIC STRUCTURES IN THE CENTREVILLE DISTRICT**

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 (255-2010)**

Motion by Councilor Butler, seconded by Councilor Cayer:

That the proposed amendment to Appendix A, Article VI “Nonconformance”, Section 4, “Nonconforming uses”, and Article XI “District Regulations”, Section 13 (Centreville district) of the City Zoning and Land Use Code, receive final passage by a roll call vote. Passed - Vote 7-0

**PUBLIC HEARING FOR THE ESTABLISHMENT OF A TAX INCREMENT  
FINANCING (TIF) DISTRICT AND APPROVAL OF A DEVELOPMENT ASSISTANCE  
AGREEMENT FOR THE LOFTS AT BATES MILL AFFORDABLE  
HOUSING PROJECT**

Councilor Butler stated he feels this is a great project and it fits in with the draft Strategic Plan of improvements along the Riverfront and for mixed use housing in the downtown area. Councilor Poulin said he had severe reservations about the project and wondered if young professionals would best be served by the affordable housing options. He feels if the target young professionals need to keep their income low in order to qualify for the rental terms, they will be limiting their potential in their career and feel they cannot excel in their career due to their income limits for the rental agreement. He said if they are offered a promotion at work, they would have to turn it down or move, and he questioned how this would benefit them. Councilor Cayer said he supports the project and he called Exeter, NH where another project is located by the same developer, to get an idea if there were any problems with the mixed income units. He said he was told the place is clean, parking is not a problem and there are no additional police calls for this complex. Councilor Bernier inquired about the impact on the tax rate regarding this project and wanted to know what it will cost the community. The City Administrator stated home owners should see little to no negative impact and this development should be a positive impact since the project will be generating new taxes, which will reduce others taxes overall. Councilor Bernier noted the project is being developed with federal funds and the building is privately owned, so it would be foolish to turn down the federal development funds. Councilor

Morgan noted that Riverfront development starts one brick at a time, and this is a good project to start with. He said that he toured the Portland site and it was well kept and well secured. The Mayor stated he also toured the Portland site and found it to be of top quality. He said it was an impressive mixture of young professionals and senior citizens. He noted with the Bates Mill exit strategy, the City needs to provide parking, yet with residential units, less parking is required, so the city will save about two million dollars on future parking needs. He encouraged the Council to support the project. Councilor Cayer said he has heard concerns from some landlords in the city about their vacancy rates and the city developing additional housing units. The City Administrator said a workshop would be held soon regarding this issue.

Mayor Gilbert opened the public hearing to receive citizen input and comment. Pauline Gudas of 6 Raymond Avenue said the project is not a good idea and encouraged the Council not to support it. She noted a recent article in the Sunday newspaper which stated there are 5,000 apartments in the Lewiston-Auburn area that are subsidized or vouchered, and she questioned why the City needed more low income units in town. She also asked about green space and recreational space for the tenants. Ms. Gudas noted the maximum income for a rental unit is \$29,075 and if a married couple are both working locally at TD Bank making \$10.25 an hour, they are over the income limit. She questioned how this is helping the area young professionals. She also questioned the 198 parking spaces that would not have to be built. The City Administrator said the City has been in ongoing discussions with Mr. Platz, but the understanding is that the residential units are a less intensive use of the Mill and therefore less parking is needed. She also noted that the city's landlords are hurting and something needs to be done to support them.

Len Tracey of Falmouth said his family owns the Roy Hill Mill and the Continental Mill and that manufacturing will never fill these buildings again, so different options for use of the buildings needs to be explored and he supported the residential units. He highlighted examples in Biddeford and Saco of residential units in old mill buildings. He said using the mill buildings rather than having them sit dormant will eliminate the blight factor.

Steven Goulette of Greene said he has owned a Lewiston apartment since 1993 and he has seen the slums in the downtown area. He questioned if Lewiston is the dumping ground for New England for Section 8 housing and questioned the need for more low income housing units.

Bob McDonald of Jolin Street said the City does not need any additional Section 8 housing units and cannot afford anymore. He also asked who will be responsible if a child gets injured in the canals. He also expressed concerned about the increased education costs.

Jules Patry, owner of Davinci's, spoke in support of the project and said it will serve as a catalyst for change in the area. Mayor Gilbert then closed the hearing.

### **VOTE (256-2010)**

Motion by Councilor Cayer, seconded by Councilor Jean:

To approve the Order authorizing the City Administrator to execute the Agreement for Development Assistance and Tax Increment Financing between the City of Lewiston and The Lofts at Bates Mill, LP; to establish and approve The Lofts at Bates Mill Tax Increment Financing District and Development Program; and to submit an Affordable Housing Tax

Increment Financing District application to MaineHousing for approval:

Whereas, the developer, Maine Workforce Housing, has approached the City for financial participation in the development of the Lofts at Bates Mill; and

Whereas, the project is a mixed income property in which approximately 68% of the units will be affordable; and

Whereas, the creation of mixed income housing in the Bates Mill complex will add to the vitality of downtown and the riverfront area; and

Whereas, municipal financial participation greatly enhances the project's competitiveness for Low Income Housing Tax Credits, which will be a primary financing mechanism for the project; and

Whereas, City staff have reviewed the financial projections for the project and determined that the projections are reasonable, the use of TIF proceeds going back to the project are needed to help meet operational expenses and the project would not be financially viable or eligible for Low Income Housing Tax Credits without the TIF assistance;

Now, therefore, be It Ordered by the City Council of the City of Lewiston that The Lofts at Bates Mill Affordable Housing Tax Increment Financing District and Development Program be established and approved as described in the *Agreement for Development Assistance and Tax Increment Financing* between the City and The Lofts at Bates Mill, LP and in the associated Affordable Housing Tax Increment Financing Application; that the City Administrator is authorized to execute the *Agreement for Development Assistance and Tax Increment Financing* and other documents necessary to establish the TIF District and Program; and that City Staff is authorized to submit the Affordable Housing Tax Increment Financing Application for The Lofts at Bates Mill to MaineHousing.

Passed - Vote 6-1 (Councilor Poulin opposed)

**ORDER AUTHORIZING THE CITY ADMINISTRATOR TO COMMIT HOME FUNDS  
TOWARDS THE DEVELOPMENT OF THE LOFTS AT BATES MILL MIXED  
INCOMING HOUSING PROJECT**

**VOTE (257-2010)**

Motion by Councilor Butler, seconded by Councilor Jean:

To approve the Order authorizing the City Administrator to commit HOME funds towards the development of The Lofts at Bates Mill Mixed Income Housing Project:

Whereas, the developer, Maine Workforce Housing, has approached the City for financial participation in the development of the Lofts at Bates Mill; and

Whereas, the project is a mixed income property in which approximately 68% of the units will be affordable; and

Whereas, HOME funds received by the City through its consortium with the City of Auburn are designed to provide affordable housing; and

Whereas, municipal financial participation greatly enhances the project's competitiveness for Low Income Housing Tax Credits, which will be a primary financing mechanism for the project; and

Whereas, the City anticipates sufficient HOME funding between current fund balances and next year's Federal HOME fund allocation to the consortium to be able to fund this request fully by July 2011;

Now, therefore, be It Ordered by the City Council of the City of Lewiston that the City Administrator is hereby authorized to make available up to \$538,000 of HUD HOME Funds allocated to Lewiston for use towards the development of the Lofts at Bates Mill mixed income housing project and to authorize City staff to take necessary and appropriate steps to provide these funds to the project.

Passed - Vote 6-1 (Councilor Poulin opposed)

**RECONSIDERATION OF AN AMENDMENT TO THE TRAFFIC SCHEDULE TO ESTABLISH A PORTION OF HORTON STREET AS A ONE WAY STREET**

**VOTE (258-2010)**

Motion by Councilor Poulin, seconded by Councilor Morgan:

To reconsider the Council's action of August 10, 2010 regarding the vote on the Traffic Schedule amendment to establish a portion of Horton Street as a one way street.

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

**RATIFICATION OF COLLECTIVE BARGAINING EXTENSION AGREEMENT WITH THE MAINE STATE EMPLOYEES ASSOCIATION**

**VOTE (259-2010)**

Motion by Councilor Jean, seconded by Councilor Morgan:

To ratify the Collective Bargaining Extension Agreement between the City of Lewiston and the Maine State Employees Association, said agreement being for the period of July 1, 2010 to June 30, 2011, and to authorize the Mayor and City Administrator to sign the agreements on behalf of the City of Lewiston. Passed - Vote 7-0

**REPORTS AND UPDATES**

Councilors expressed appreciation to the Police Department for their work on the vandalism case involving Riverside Cemetery and also for their work regarding the robbery at Oak Park. Finance Director Heather Hunter stated the recent sale of bonds generated good rates, and the City should see a savings of \$750,000 over the next ten years.

**OTHER BUSINESS**

Deputy City Administrator Phil Nadeau reminded the Council of the special meeting at LAWPCA regarding the Anaerobic Digestion system.

**VOTE (260-2010)**

Motion by Councilor Jean, second by Councilor Butler:

To adjourn at 9:40 P.M. Passed - Vote 7-0

A true record, Attest:

Kathleen M. Montejo, MMC  
City Clerk  
Lewiston, Maine