

**CITY OF LEWISTON**

**CITY COUNCIL**

**NOVEMBER 9, 2010**

**EXECUTIVE SESSION HELD IN THE  
ADMINISTRATIVE CONFERENCE ROOM AT 6:00 P.M.**

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

PRESENT: Councilors Butler, Bernier, Poulin, Jean, O’Connell, Cayer, City Administrator Ed Barrett, and Deputy City Clerk Kelly Mercier. ABSENT: Councilor Morgan

The City Council meeting was called to order by Mayor Gilbert at 6:04pm in a public session.

**EXECUTIVE SESSION**

**VOTE (299-2010)**

Motion by Councilor Butler, seconded by Councilor Jean:

To enter into an executive session pursuant to MRSA Title 1, section 405(6)(E) to discuss legal matters with the City Attorney. Passed - Vote 6-0

Executive Session began at 6:05pm and ended at 6:55pm.

**REGULAR MEETING HELD IN THE COUNCIL ROOM AT 7:00PM**

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

PRESENT: Councilors Butler, Bernier, Poulin, Jean, O’Connell, Cayer, Morgan, City Administrator Ed Barrett, and Deputy City Clerk Kelly Mercier.

Pledge of Allegiance to the Flag.  
Moment of Silence.

**PROCLAMATION**

Mayor Gilbert read a Proclamation proclaiming November as “Go the Extra Mile Month” and applauded our community’s “stand-outs” and encouraged others to join their example.

**PUBLIC COMMENT PERIOD**

No public comment was offered at this time.

**VOTE (300-2010)**

Motion by Councilor Jean, seconded by Councilor Morgan:

To dispense with the reading of the minutes of the October 19 and October 26, 2010, meetings and to accept and place them on file as prepared by the City Clerk. Passed - Vote 7-0

**RESOLVE - AUTHORIZING PAYMENT OF SEWER BACK-UP CLAIMS**

**VOTE (301-2010)**

Motion by Councilor Jean, seconded by Councilor Morgan:

To approve the Resolve Authorizing Payment of Sewer Back-up Claims:

WHEREAS, the City received a number of claims for damages relating to sewer back-ups in the Bardwell, White, and Newman Street areas resulting from storm events that occurred between July 2, 2009 and July 1, 2010; and

WHEREAS, while the City is not legally liable for these claims, the City Council approved a Sewer Claims Appeal Process on March 2, 2010 in view of the extraordinary circumstances surrounding these storms and claims; and

WHEREAS, a number of claimants have met the applicant eligibility criteria set forth in the policy including denial of the claim by both the City’s and applicant’s insurers; and

WHEREAS, the claims have been evaluated by a claims adjuster who has verified actual damages to real property and estimated the actual cash value of damage to personal property, including depreciation; and

WHEREAS, the adopted policy limits the maximum award to eligible applicants to \$15,000; and

WHEREAS, authorizing these payments shall not be deemed an admission of liability on the part of the City;

Now, therefore, Be it Resolved by the City Council of the City of Lewiston that:

The following payments are authorized to the listed claimants in Settlement of the Sewer Back-up Claims of Claimant, which payments shall be made pursuant to a settlement agreement in form and substance satisfactory to the City Attorney and provided, however, that authorizing the payment and offer and entering into any settlement agreement shall not be deemed (i) an admission of liability, which the City specifically denies, for these particular claims and/or for any other claims against the City, (ii) a policy or practice with regard to sewer claims; and (iii) not be admissible in any subsequent court proceeding as such authorization and offer is for settlement purposes only of a doubtful claim.

<b>Claimant</b>	<b>Authorized Payment</b>
Charles Bournakel	15,000.00
Gabriel and Kathleen Giguere	8,592.04
Mike Reidy and Odelle Bowman	4,567.97

Passed -Vote 7-0

**RESOLVE - RESCINDING THE SEWER CLAIMS APPEAL PROCESS FOR THE WHITE-BARDWELL-NEWMAN NEIGHBORHOOD PROPERTY OWNERS**

**VOTE (302-2010)**

Motion by Councilor Jean, seconded by Councilor Morgan:

To approve the Resolve Rescinding Sewer Claims Appeal Process for White-Bardwell-Newman Neighborhood Property Owners:

Whereas, the City Council adopted a sewer claims appeal process for the White-Bardwell-Newman neighborhood in March 2010 in response to various losses suffered by property owners as a result of sewer backups associated with severe storms occurring between July 2,2009 and July 1, 2010; and

Whereas, claims have been submitted by a number of property owners under the terms and conditions of this policy and have either been adjusted or are in the process of adjustment; and

Whereas, sufficient time has elapsed to allow individuals interested in utilizing this policy to contact the city and engage in this process; and

Whereas, it is the desire of the City Council to bring this process to a close;

Now, therefore, be It Resolved by the City Council of the City of Lewiston that

With the exception of those claims received by the City prior to October 30, 2010 which shall continue to be processed under this policy, the sewer claims appeal process for While-Bardwell-Newman neighborhood property owners is hereby rescinded and shall no longer be in effect.

Passed - Vote 7-0

**AUTHORIZATION TO ACCEPT TRANSFER OF FORFEITURE FUNDS**

**VOTE (303-2010)**

Motion by Councilor Jean, seconded by Councilor Morgan:

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:

Andrew Smith	CE-10-0026	10-DEA-532645	10% of \$6,855 less adm fee
			7% of the proceeds from the sale of a 1994 Harley
Samuel Morrill	245DBS100298	09-FBI-006602	Davidson MC less adm fee
			7% of the proceeds from the sale of a 1994 Harley
Samuel Morrill	245DBS100298	09-FBI-006529	Davidson MC less adm fee
			7% of the proceeds from the sale of a 1973 Ford Mustang
Samuel Morrill	245DBS100298	09-FBI-006543	Convertible less adm fee
Samuel Morrill	245DBS100298	09-FBI-006844	7% of 18,468 less adm fee
			7% of the proceeds from the sale of a 1969 Pontiac
Jennifer Lewis	245DBS100298	09-FBI-006556	Lemans less adm fee
			7% of the proceeds from the sale of 9 One Ounce Gold
Jennifer Lewis	245DBS100298	09-FBI-006599	Coins less adm fee

Dennis Taylor	245DBS100298	09-FBI-006469	7% of \$5,566 less adm fee
Ronald Waterman	245DBS100298	09-FBI-006423	7% of \$11,515 less adm fee
Erin Charlett (Seth Pruzansky)	CE-09-0012	10-DEA-537989	15% of \$147,500 less adm fee 16% of the proceeds from the sale of a 2005 Ford F150
Seth Pruzansky	CE-09-0012	10-DEA-538058	King Ranch Pick Up less adm fee 15% of the proceeds form the sale of a 2007 GMC
Chester Beauchesne	CE-09-0012	11-DEA-538714	Yukon Denali less adm fee
Joseph Dunn	CE-10-0044	10-DEA-538502	16% of \$31,000 less adm fee

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

**PUBLIC HEARING ON A NEW LIQUOR LICENSE APPLICATION FOR BAXTER BREWING CO., 130 MILL STREET**

Mayor Gilbert opened the 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 (304-2010)**

Motion by Councilor Butler, seconded by Councilor Jean:

To authorize the City Clerk’s Office to approve a new liquor license application for Baxter Brewing Co., 130 Mill Street. Passed - Vote 7-0

**PUBLIC HEARING ON A RENEWAL APPLICATION FOR A SPECIAL AMUSEMENT PERMIT FOR LIVE ENTERTAINMENT FOR FISH BONES AMERICAN GRILL, 70 LINCOLN STREET**

Mayor Gilbert opened the 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 (305-2010)**

Motion by Councilor Jean, seconded by Councilor Cayer:

To grant a Special Amusement Permit for Live Entertainment to the Fish Bones American Grill, 70 Lincoln Street. Passed -Vote 7-0

**PUBLIC HEARING ON THE RENEWAL APPLICATION FOR A SPECIAL AMUSEMENT PERMIT FOR LIVE ENTERTAINMENT FOR THE RAMADA CONFERENCE CENTER, 490 PLEASANT STREET**

Mayor Gilbert opened the 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 (306-2010)**

Motion by Councilor Jean, seconded by Councilor Poulin :

To grant a Special Amusement Permit for Live Entertainment to the Ramada Conference Center, 490 Pleasant Street. Passed - Vote 7-0

**PUBLIC HEARING FOR APPROVAL OF AN OUTDOOR MUSIC CONCERT AT  
DUFRESNE PLAZA IN CONJUNCTION WITH THE TWIN CITIES  
HOLIDAY CELEBRATION**

Mayor Gilbert opened the 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 (307-2010)**

Motion by Councilor Butler, seconded by Councilor Jean:

To conduct a public hearing on an application for an outdoor music concert to be held at Dufresne Plaza on November 29, 2010 at 6:00pm, 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 Downtown Holiday Celebration Committee for an outdoor music concert, contingent upon positive recommendations from the 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

**PUBLIC HEARING ON BOND ISSUE RESOLUTIONS FOR THE LEWISTON  
MIDDLE SCHOOL BOILER PROJECT AND THE MONTELLO ELEMENTARY  
SCHOOL BOILER/INDOOR AIR QUALITY PROJECT**

Mayor Gilbert opened the 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 (308-2010)**

Motion by Councilor Poulin, seconded by Councilor Cayer:

To approve the Bond Issue Resolutions for the Lewiston Middle School Boiler Project and the Montello Elementary School Boiler/Indoor Air Project:

Be It Ordered that the Bond Resolution of the Municipal Officers of the City of Lewiston, Maine, regarding the authorization to issue bonds in the amount of \$459,271 for the Lewiston Middle School Boiler Project and authorizing and approving the bond documents, be adopted:

ORDERED: That \$459,271 be appropriated to finance capital improvements at Lewiston Middle School;

FURTHER ORDERED, that to meet this appropriation the Mayor and the City Treasurer are authorized to issue bonds in the amount of \$459,271 (the "Bonds"); that such bonds may be issued as Qualified School Construction Bonds as may be determined by the Finance Director;

FURTHER ORDERED, that the City Council instruct the Finance Director to advertise for bids for the purchase or the private placement of any portion of the Bonds or to negotiate the sale of any portion 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 date, maturities, denominations, interest rate or rates, place or places of payment, form or other details of the Bonds and the provisions for the sale thereof, including whether such Bonds shall be sold with a premium or at a discount, shall be determined by the Finance Director;

FURTHER ORDERED, that the Bonds issued hereunder may be subject to call for redemption on such terms as may be determined by the Finance Director;

FURTHER ORDERED, that the Finance Director is authorized to execute the Declaration of Official Intent in connection with the issuance of any Qualified School Construction Bonds to be used for the Lewiston Middle School project;

FURTHER ORDERED, that one or more sinking fund accounts shall be established, the annual installments into which shall be in an amount equal to the payment of the Bonds at maturity and shall be pledged solely for the payment of such Bonds; and

FURTHER ORDERED, that the Bonds shall be signed by the City Treasurer and Mayor; and

FURTHER ORDERED, that the Finance Director is authorized to execute the Declaration of Official Intent in connection with the issuance of any Qualified School Construction Bonds or other bonds to be used for the Middle School Boiler project.

AND;

Be It Ordered that the Bond Resolution of the Municipal Officers of the City of Lewiston, Maine, regarding the authorization to issue bonds in the amount of \$1,155,457 for the Montello Elementary School Boiler/Indoor Air Project, and to raise an additional \$928,908 for said Project through the Maine Municipal Bond Bank and the Revolving Renovation Fund Program, and authorizing and approving the bond documents, be adopted:

ORDERED: That \$2,084,365 be appropriated to finance capital improvements at Montello Elementary School;

FURTHER ORDERED, that to meet this appropriation the Mayor and the City Treasurer are authorized to issue bonds in the amount of \$1,155,457 (the "Bonds"); that such bonds may be issued Qualified School Construction Bonds as may be determined by the Finance Director;

FURTHER ORDERED, that the City Council instruct the Finance Director to advertise for bids for the purchase or the private placement of any portion of the Bonds or to negotiate the sale of any portion 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 date, maturities, denominations, interest rate or rates, place or places of payment, form or other details of the Bonds and the provisions for the sale thereof, including whether such Bonds shall be sold with a premium or at a discount, shall be determined by the Finance Director;

FURTHER ORDERED, that the Bonds issued hereunder may be subject to call for redemption on such terms as may be determined by the Finance Director.

FURTHER ORDERED, that one or more sinking fund accounts shall be established, the annual installments into which shall be in an amount equal to the payment of the Bonds at maturity and shall be pledged solely for the payment of such Bonds;

FURTHER ORDERED, that the Bonds shall be signed by the City Treasurer and Mayor;

FURTHER ORDERED, that the Finance Director is authorized to execute the Declaration of Official Intent in connection with the issuance of any Qualified School Construction Bonds to be used for the Montello Elementary School project;

FURTHER ORDERED, that to meet this appropriation an additional \$928,908 shall be raised by a loan through the Maine Municipal Bond Bank and the Revolving Renovation Fund Program, with \$319,452 of the total loan amount to be repaid by the City over a ten year term with no interest to be charged and the remaining balance of \$609,456 to be forgiven by the Maine Department of Education;

FURTHER ORDERED, that the Maine Municipal Bond Bank application shall be signed by the Finance Director.

Passed - Vote 7-0

**PUBLIC HEARING AND FIRST PASSAGE FOR LAND USE CODE AMENDMENTS  
CONCERNING THE EXPIRATION OF DEVELOPMENT REVIEW  
APPROVED PROJECTS**

Mayor Gilbert opened the 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 (309-2010)**

Motion by Councilor Cayer, seconded by Councilor Jean:

That the proposed amendment to Appendix A, Article XIII "Development Review and Standards", Section 11, "Expiration of Approval" of the City Zoning and Land Use Code, receive first passage by a roll call vote and that the public hearing on said ordinance be continued to the next regular City Council meeting. Passed - Vote 7-0

**PUBLIC HEARING AND FIRST PASSAGE FOR LAND USE CODE AMENDMENTS  
CONCERNING LODGING HOUSES, BOARDING HOUSES AND SHELTERS**

Mayor Gilbert opened the 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 (310-2010)**

Motion by Councilor Morgan, seconded by Councilor Jean:

That the proposed amendment to Appendix A, Article II “Definitions”, Section 2, “Definitions”, Article XI “District Regulations”, Section 4, “Medium-density residential district”, Section 7 “Neighborhood conservation “B” district”, Section 8, “Office residential district”, Section 9 “Downtown residential district”, Section 13 “Centreville district”, and Section 16 “Urban enterprise district”, of the City Zoning and Land Use Code, receive first passage by a roll call vote and that the public hearing on said ordinance be continued to the next regular City Council meeting. Passed - Vote 7-0

**ADOPTION OF A NEW CITY POLICY REGARDING A CLAIMS HANDLING AND PROCESSING POLICY**

**VOTE (311-2010)**

Motion by Councilor Morgan, seconded by Councilor Cayer:

To establish and adopt a Claims Handling and Processing Policy, Policy Manual Number 86, as recommended by the City Administrator. Passed - Vote 7-0

**AMENDMENT TO THE GENERAL ASSISTANCE POLICY FOR ANNUAL AUTHORIZATION OF ELIGIBILITY AMOUNTS**

Councilor Jean mentioned that Social Security was not receiving an increase this year and that unemployment was not likely to be extended and he felt that it wouldn't be fair to increase the General Assistance Maximums.

**VOTE (312-2010)**

Motion by Councilor Butler, seconded by Councilor Cayer:

That the maximum amounts allowed for general assistance and the maximum amounts allowed for food, housing, personal/household supplies, and utilities in the General Assistance Policy, for persons eligible to receive assistance in accordance with the standards of eligibility, be adopted as presented, in accordance with HUD guidelines and the current Thrifty Food Plan.

Passed - Vote 5-2 (Councilors Bernier and Jean opposed)

**RESOLVE - ADOPTION OF A STRATEGIC PLAN FOR THE CITY OF LEWISTON**

Councilor Poulin thanked staff for making amendments that he had requested earlier and made a motion to add the an additional goal in the Strategic Plan.

**VOTE (313-2010)**

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

To amend the Strategic Plan by adding the additional goal of #8 Collaborative Approach to Address Poverty. Passed - Vote 7-0

Councilor Butler mentioned that he would like the phrasing of a paragraph under the “Identify Neighborhoods and What Makes Them Unique” section of the Strategic Plan to read differently. Councilors Poulin and Bernier agreed and made the following motion.

**VOTE (314-2010)**

Motion by Councilor Poulin, seconded by Councilor Bernier:

To replace the wording in the third paragraph under the “Identify Neighborhoods and What Makes Them Unique” section of the Strategic Plan with the following:

Advocate with the School Committee for an open process that will allow the public to fully participate in the discussion of the replacement location of Longley School or the consolidation of Longley School with another school as prescribed by state law and the current new school construction process by the State of Maine's Department of Education.

Passed - Vote 7-0

**VOTE (315-2010)**

Motion by Councilor Cayer, seconded by Councilor Jean:

To approve the Resolve adopting a Strategic Plan, as amended, for the City of Lewiston:

Whereas, during calendar years 2008 and 2009, the City engaged in an extensive strategic planning process involving the Council, staff, and the public and culminating in a draft plan that was released for comment in March 2009; and

Whereas, subsequent events intervened, and the plan was never completed or adopted; and

Whereas, in June of this year, the Council reactivated the strategic planning process with the objective of updating and revising the draft plan; and

Whereas, toward this end, committees composed of staff and elected officials were formed to review the draft plan, update it to current conditions, and evaluate comments and suggestions provided by the City Council and members of the public; and

Whereas, as an element of this process, the draft plan was reviewed by the Planning Board and their comments and suggestions were also considered in redrafting the plan; and

Whereas, these groups completed their work in October when a revised plan was presented to the Mayor and Council in workshop session; and

Whereas, at that workshop, additional comments and suggestions were received, many of which have been incorporated into a revised plan; and

Whereas, the revised plan, the intent of which is to outline the directions in which the City

wishes to move over the next three to five years, has now been completed and is in order for Council approval;

Now, therefore, be It Resolved by the City Council of the City of Lewiston that the 2010 Strategic Plan for the City of Lewiston is hereby adopted.

Passed - Vote 7-0

### **REPORTS AND UPDATE**

Councilor Poulin mentioned that the School Committee voted unanimously for the new School Superintendent William Webster, Jr. and that he will be starting the beginning of January 2011.

### **AWARD OF CONTRACT FOR REPAIRS TO BATES MILL #5 ROOF**

City Administrator Ed Barrett pointed out the he had distributed a memo concerning a bid on the repair to the roof of Bates Mill #5. The mill roof sustained damage to the roof membrane caused by the Cowan Mill fire in July of 2009. Finance Director Heather Hunter explained that due to the fact that the demolition of the mill was suspended the liability insurance company is now requiring the roof be repaired for coverage to continue.

After a brief discussion Councilors requested that staff explore a less expensive way to secure the roof.

### **VOTE (316-2010)**

Motion by Councilor Butler, seconded by Councilor Jean:

To award the bid for repairs to the Bates Mill #5 roof to Above and Beyond, LLC, Lewiston, Maine, at their bid price of \$9,885. Failed - Vote 3-4 (Councilors Bernier, Poulin, O'Connell and Cayer opposed)

### **OTHER BUSINESS**

Lewiston Youth Advisory Council representative Kon Maiwan mentioned that the LYAC was planning a World Peace Day ceremony on November 17<sup>th</sup> at the Bernard Lown Peace Bridge and invited everyone to attend.

City Administrator Ed Barrett reported that the employees of the City of Lewiston were the recipients of the Spirit of the Androscoggin Award in recognition of the long term support of the United Way. That award is giving to one participating organization each year and is a lifetime achievement award. Mr. Barrett recognized Norm Beauparlant and Joyce Ruby for their leadership role in the campaign.

City Administrator Ed Barrett thanked Library Director Rick Speer and Community Relations Coordinator Dottie Perham-Whittier for their work on the Strategic Plan.

**EXECUTIVE SESSION**

**VOTE (317-2010)**

Motion by Councilor Cayer, seconded by Councilor Morgan:

To enter into an Executive Session, pursuant to MRSA Title 1, section 405(6)(c), to discuss Real Estate negotiations, 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 7:55pm and ended at 8:25pm.

**VOTE (318-2010)**

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

To adjourn at 8:26 P.M. Passed - Vote 7-0

A true record, Attest:

Kelly J. Mercier, CMC  
Deputy City Clerk  
Lewiston, Maine