

**CITY OF LEWISTON**

**CITY COUNCIL**

**SEPTEMBER 2, 2008**

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

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

PRESENT: Mayor Gilbert, Councilors T. Peters, N. Peters, Poulin, Theriault, Bailey, Dube, Reed, City Administrator James Bennett, and City Clerk Kathleen Montejo.

Pledge of Allegiance to the Flag.  
Moment of Silence.

**VOTE (219-2008)**

Motion by Councilor T. Peters, seconded by Councilor Theriault:

To dispense with the reading of the minutes of the meetings of July 15 and August 12, 2008 and to accept and place them on file as prepared by the City Clerk. Passed - Vote 7-0

At this time, Councilor Theriault requested to have Item One removed from the Consent Agenda.

**APPROVAL OF NAME OF PRIVATE WAY AS BEAUMONT LANE**

**VOTE (220-2008)**

Motion by Councilor T. Peters, seconded by Councilor Theriault:

To approve the request to formally name the private right of way off of Old Chadbourne Road as "Beaumont Lane". Passed - Vote 7-0

**AUTHORIZATION TO ACCEPT TRANSFER OF FORFEITURE FUNDS**

Councilor Theriault asked the Police Chief to review the recent purchase from the forfeiture funds account for the new rifles. The Chief said the Department recently purchased new rifles for the cruisers, noting the other ones were several years old and starting to misfire. Councilor Theriault noted at this time that on Friday evening, the Mayor and City Council will be doing ride-alongs with the police officers in order to gain a better perspective of their work.

**VOTE (221-2008)**

Motion by Councilor T. Peters, seconded by Councilor Theriault:

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 \$1,000.00, or any portion thereof, in the case of the State of Maine vs. Terry Stairs, CR-08-816 Court Records;

the transfer of \$585.00, or any portion thereof, in the case of the State of Maine vs. Emily Wheaton, CR-07-2413 Court Records and the transfer of \$683.00, or any portion thereof, in the case of the State of Maine vs. Paul Fitzherbert, CR-08-136 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 at People's Heritage Bank. Passed - Vote 7-0

**PUBLIC HEARING AND FINAL PASSAGE FOR LAND USE CODE AMENDMENTS REGARDING STORMWATER MANAGEMENT**

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 (222-2008)**

Motion by Councilor Theriault, seconded by Councilor Bailey:

That the proposed amendment to Appendix A, Article XI. "District Regulations" and Article XIII. "Development Review and Standards", of the City Zoning and Land Use Code, concerning stormwater management, receive final passage by a roll call vote. Passed - Vote 7-0

**PUBLIC HEARING ON A NEW LIQUOR LICENSE AND SPECIAL AMUSEMENT PERMIT FOR SHOOTERS, 347 LISBON STREET**

Mayor Gilbert opened the public hearing to receive citizen input and comment. April Tarmey, co-owner, was present and stated the business will be operating as a martini bar and will have live bands playing country and rock music. Mr. Bennett noted there have been issues and concerns with similar businesses in this location due to noise issues, and suggested that she meet with the Police Chief regarding any recommendations he may have for the business. Ms. Tarmey said the previous establishments attracted a younger crowd due to the hip hop music and they are planning to cater to an older audience. Mayor Gilbert then closed the hearing. The Mayor inquired about the density ordinance in the downtown area, questioning if this business is permitted in this location. It was noted that the Code Enforcement Department has not raised any concerns about this location, but this will be verified with staff. Councilor Reed suggested incorporating into the motion language that their approval is contingent upon compliance with the density ordinance.

**VOTE (223-2008)**

Motion by Councilor Reed, seconded by Councilor T. Peters:

To authorize the City Clerk's Office to approve a new liquor license application and special amusement permit for Shooters, 347 Lisbon Street, contingent upon there being no violations of the density ordinance. Passed - Vote 7-0

**PUBLIC HEARING FOR A SPECIAL AMUSEMENT PERMIT FOR THE CARRIAGE HOUSE, 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. It was noted that no representatives from this business were present. Mayor Gilbert then closed the hearing.

**VOTE (224-2008)**

Motion by Councilor Reed, seconded by Councilor Dube:

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

**PUBLIC HEARING ON A \$700,000 BOND ISSUE FOR REFUNDING BONDS FROM THE CITY'S 1999 PUBLIC IMPROVEMENT BONDS**

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 Reed inquired if the terms of the new loan are the same as the original loan and if there are any costs for the refinancing. The Finance Director said the terms would remain the same and there is no cost to the city for the refinancing.

**VOTE (225-2008)**

Motion by Councilor T. Peters, seconded by Councilor Reed:

To conduct a Public Hearing to receive citizen input, and to approve the Bond Order Resolution to finance the refunding bonds through a bond issue in the amount of \$700,000:

Ordered, That the Mayor and City Treasurer are authorized to issue refunding bonds in a principal amount not to exceed \$700,000 in order to refund all or part of the principal of and interest on the City's Series C Taxable Public Improvement Bonds dated May 15, 1999 and to pay any redemption premium 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 Edward 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;

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

**PUBLIC HEARING ON A \$235,000 BOND ISSUE FOR REFUNDING BONDS  
FROM THE CITY'S 2004 GUARANTEE BOND FOR THE COMMUNITY  
FACILITY CORPORATION**

Councilor T. Peters asked the same questions for this bond as the previous vote regarding terms and costs. The Finance Director said the terms are the same and there are no additional costs for the city. Councilor T. Peters complimented the Finance Director in his review of the current outstanding loans and the options to refinance at a lower interest rate, saving the city thousands of dollars in interest. Mayor Gilbert opened the public hearing to receive citizen input and comment. Joseph Roy of 9 Venise Avenue asked if this bond was taken out for the Colisee in 2004 and the Finance Director confirmed it was related to the Colisee, noting the original note was \$300,000 with a seven percent interest rate and the amount being refinanced is \$235,000 with a four percent interest rate, for a savings of approximately \$40,000 over ten years. Mr. Roy commented the City never should have sold the Colisee for only one million dollars with all of this outstanding debt that the taxpayers still must pay. Councilor Theriault pointed out that the yearly operating expenses for the Colisee were almost \$500,000. Mayor Gilbert then closed the hearing.

**VOTE (226-2008)**

Motion by Councilor Reed, seconded by Councilor Theriault:

To conduct a Public Hearing to receive citizen input, and to approve the Bond Order Resolution to finance the refunding bonds through a bond issue in the amount of \$235,000:

Ordered, That the Mayor and City Treasurer are authorized to issue bonds in the amount of \$235,000 in order to replace a guarantee bond for the Community Facility Corporation to Lewiston Development Corporation authorized by the City Council on March 16, 2004;

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 Edward 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;

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

**PUBLIC HEARING FOR APPROVAL OF AN OUTDOOR ENTERTAINMENT  
PERMIT FOR THE ROCK THE VOTE CONCERT**

Mayor Gilbert opened the public hearing to receive citizen input and comment. Heather Morin, co-owner of Guthries and Kate Diamond from the Maine League of Young Voters, addressed the Council and outlined their plans for the event. They noted this will be an outdoor music concert and voter registration effort. They have invited some local non-profit groups such as the Maine People's Alliance, Lots to Gardens and other similar groups to have informational booths at the event. They stated that no candidate or political party information will be available and this is a non-partisan event to encourage voter registration among young people. Ms. Diamond said the League is hosting similar events in Portland and Gardiner. They said that if their request to close Middle Street is approved by the Police Department, they are planning to set up the music closer to the Main Street end of the street and away from Oak Park. Councilor T. Peters asked Ms. Morin if she has spoken with the residents of Oak Park about this event and she noted she is waiting to see if their request will be approved first and then will speak with the residents. He also asked about their security plans to ensure that no alcohol is consumed outside. Ms. Morin said they will card people, issue bracelets and have a bouncer at the door. The Police Chief said the department does not have any concerns from a safety perspective for closing down the street since it will be on a weekend and it is not a major connector road. He noted he will work with the organizers regarding the noise and alcohol issues to ensure there are no problems. Councilor Reed inquired about the non-partisan affiliation of the League, noting they have endorsed candidates and issues in the past. Councilor T. Peters noted this organization is a 501C corporation and must be non-partisan in their activities or they will lose their status. Ms. Morin acknowledged this information and confirmed they are a non-partisan organization. Mr. Bennett noted the staff still has to work out the logistics of the event with the coordinators but this will be taken care of. Mayor Gilbert then closed the hearing.

**VOTE (227-2008)**

Motion by Councilor T. Peters, seconded by Councilor Theriault:

To conduct a public hearing on an application for an outdoor entertainment event for the Rock the Vote concert, 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 She Doesn't Like Guthries and the Maine League of Young Voters for an outdoor music concert for the voter registration and voter education event to be held at 115 Middle Street inside and outside of Guthries restaurant on September 27, 2008, contingent upon positive recommendations from the Police Department, Fire Department, Code/Health Officer and Land Use Inspector regarding compliance with all regulations and compliance with all City ordinances. Passed - Vote 6-1 (Councilor N. Peters opposed)

**APPROVAL OF A LEASE AGREEMENT BETWEEN THE LEWISTON AND AUBURN RAILROAD COMPANY AND THE CITY OF LEWISTON REGARDING THE GRAND TRUNK DEPOT PARKING LOT**

The motion was continued from the August 12 City Council meeting to this meeting:

To authorize the City Administrator to enter into a Lease Agreement between the Lewiston and Auburn Railroad Company and the City of Lewiston, regarding the Grand Trunk Depot Parking

Lot, substantially in the form as presented, and that the City Administrator be and hereby is authorized to make, execute and deliver other such documents as he, in his discretion, may deem necessary or convenient to the accomplishment of such transaction.

**VOTE (228-2008)**

Motion by Councilor T. Peters, seconded by Councilor Poulin:

To postpone action on this item to a future Council meeting. Passed - Vote 6-0-1 (Councilor Dube abstained)

The next item on the agenda was the Recommendation to the Finance Committee to approve a contract extension with Pine Tree Waste. No motion was made regarding this item and the Council continued with the next item scheduled on the agenda

**DISCUSSION REGARDING THE CREATION OF A REGIONAL SOLID WASTE AND RECYCLING COMMITTEE**

Councilor Reed noted that he is no longer the co-chairperson of the Solid Waste Committee. He said that he is not suggesting the current city committee be eliminated, but that a regional committee to address the issue be explored and made up of Selectmen and Councilors from the different towns in Androscoggin County. He noted this approach is being viewed for assessing functions and the issue of solid waste is a major issue facing all towns and should be addressed on a larger, regional scale. He mentioned the issue of pay per bag as one item that should be addressed regionally to be effective. Councilor Dube said a similar group already meets at AVCOG which is made up of the transfer station managers from area towns and she wondered if this would be redundant. Councilor T. Peters suggested the city's solid waste committee could explore interacting with regional representatives. Councilor Reed noted that people from Auburn and other area towns already attend the Lewiston solid waste committee meetings, so it would not be a stretch to expand the committee. Michael Dumas was introduced as the new chairperson of the city's solid waste committee and he said he would object to forming a new group to explore regional efforts, but would bring it to the committee for discussion. Mr. Bennett outlined some of the history of the regional solid waste issues, specifically the formation of MWAC.

Robert Soucy of 373 Pinewoods Road said that bringing in other towns on the committee might be to Lewiston's advantage. Joseph Roy of 9 Venise Avenue said the city should go back to owning and operating garbage trucks instead of contracting this service out. Normand Sherbourne of 238 Dyer Road asked what the city is planning to do about recycling, noting the landfill will be filled with recyclable materials that, if eliminated, could expand the life of the landfill. He said Lewiston has a very low ratio of residents who recycle and he suggested employing a full time city employee to serve as a recycling educator. Dan Gregoire of 19 Mitchell Street said there is a lack of education regarding recycling and the solid waste committee did not want to add enforcement language into the ordinance regarding lack of recycling at this point. He said there isn't a need to create an additional committee and that the current committee should be restructured to include people from other communities. Joseph Roy spoke again and suggested a neighborhood watch style program for recycling.

**RECOMMENDATION TO THE FINANCE COMMITTEE TO APPROVE A TWO YEAR CONTRACT EXTENSION WITH PINE TREE WASTE FOR SOLID WASTE AND CURBSIDE COLLECTION**

It was noted the Solid Waste Committee voted 6-1 to approve the extension of the contract with Pine Tree Waste.

**VOTE (229-2008)**

Motion by Councilor Theriault, seconded by Councilor T. Peters:

To send a recommendation to the Finance Committee to authorize a two year contract extension with Pine Tree Waste for solid waste and curbside collection. Passed - Vote 7-0

**DISCUSSION REGARDING THE POSTING OF PLAYGROUNDS, ATHLETIC FIELDS AND GREENSPACES IN REGARDS TO PROHIBITING DOGS, SMOKING AND LITTERING**

Councilor Theriault noted this information ties in with the work of the Mayor's efforts regarding downtown beautification and working with the landlords to clean up the downtown residential area. He noted these efforts are undermined by dog feces and litter all over the area and that ordinances need to be strengthened for enforcement. Councilor T. Peters said he does not want to ban dog walking in parks and does not want to restrict the use of public space, but people should clean up their pet's mess. He said a citizen has suggested the creation of a dog park. The Mayor also noted smoking is an issue in some areas as a potential fire hazard if a lit cigarette is discarded into bark mulch. Councilor Theriault said he supported banning smoking in athletic fields and playgrounds. Councilor Bailey said this original request came from her since the new Knox Street park is very small and should not have dogs. Deputy Public Works Director Megan Bates and Deputy Recreation Director Joline Banaitis said they are recommending that no dogs or smoking be allowed in city owned playground areas and athletic fields. They noted the School Department already has a no dogs and no smoking policy on school grounds. Councilor T. Peters asked that city staff draft an ordinance with enforcement language for a first and second violation and bring back to Council for consideration.

**UPDATE REGARDING THE IMPACT ON LOCAL PAVING PROJECTS AS A RESULT OF THE MAINE DEPARTMENT OF TRANSPORTATION'S SUSPENSION OF PAVING OPERATIONS**

City Administrator Jim Bennett said the City has been notified by MDOT that due to the high cost of asphalt, which is made from oil, the state will not be moving forward with some scheduled road construction projects. Three of these projects are in Lewiston - Main Street from Lisbon Street to Sabattus Street; Main Street from Sabattus Street to Riverside Street and East Avenue from Lisbon Street to Sabattus Street. Councilor Theriault noted the Finance Committee reviewed paving costs for local road projects and locked in costs with the contractors, so the city road repair projects will move forward.

**DISCUSSION REGARDING THE MANDATORY FREEDOM OF ACCESS LAW  
TRAINING FOR ELECTED OFFICIALS**

City Administrator Jim Bennett reminded the Council of the new law that requires each elected official in Maine to participate in Right to Know law training by November 1 of this year. He said the Council can review the training material on line and certify that this was done, they can participate in the training at MMA convention or have the city set up a workshop for them. Councilor T. Peters offered to clarify information for anyone who wanted to do the on line tutorial if they had questions about the material after reading the information. It was determined that Councilors will do the on line training at the state's website and submit their certification to the City Clerk for filing.

**REVIEW OF THE PROPOSED DRAFT BUDGET SCHEDULE FOR FY10  
MUNICIPAL BUDGET**

City Administrator Jim Bennett distributed a proposed draft budget schedule for Fiscal Year 2010. He noted the dates are earlier than usual, with a tentative date of February 10 for a budget presentation to the Council, rather than the middle of March.

**REPORTS AND UPDATE**

Councilor Poulin noted the new Pettingill Elementary School is currently under construction.

**OTHER BUSINESS**

No other business was presented at this time.

**VOTE (230-2008)**

Motion by Councilor Theriault, second by Councilor Bailey:

To adjourn at 9:45 P.M. Passed - Vote 7-0

A true record, Attest:

Kathleen M. Montejo, MMC  
City Clerk  
Lewiston, Maine