

CITY OF LEWISTON

CITY COUNCIL

DECEMBER 19, 2006

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

THE HONORABLE RENEE M. BERNIER, CITY COUNCIL PRESIDENT, PRESIDING.

PRESENT: Councilors Mendros, O'Brien, Jean, Samson, Paradis, Rousseau, City Administrator James Bennett, and City Clerk Kathleen Montejo.

The City Council meeting was called to order by Council President Bernier at 6:02 pm in a public session.

VOTE (285-2006)

Motion by Councilor Paradis, seconded by Councilor Samson:

To enter into executive session to discuss real estate negotiations of which the premature disclosure of the information would prejudice the competitive bargaining position of the City. Passed - Vote 5-0

Executive Session began at 6:03 pm and ended at 6:50 pm. Councilors Rousseau and O'Brien arrived during the Executive Session.

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

THE HONORABLE RENEE M. BERNIER, CITY COUNCIL PRESIDENT, PRESIDING.

PRESENT: Councilors Mendros, O'Brien, Jean, Samson, Paradis, Rousseau, City Administrator James Bennett, and City Clerk Kathleen Montejo.

Pledge of Allegiance to the Flag.

Moment of Silence.

UPDATE FROM THE LEWISTON YOUTH ADVISORY COUNCIL

A member of the LYAC was not able to make a presentation at this time and the update will be postponed to the next Council meeting.

VOTE (286-2006)

Motion by Councilor O'Brien, seconded by Councilor Jean:

To dispense with the reading of the minutes of the October 17, November 14 and December 5, 2006, meetings and to accept and place them on file as prepared by the City Clerk.
Passed - Vote 7-0

APPOINTMENT OF CITY COUNCIL PRESIDENT AS INTERIM MAYOR

City Administrator James Bennett noted the written legal opinion of the City Attorney after he reviewed the City Charter regarding the current vacancy in the Office of the Mayor. Mr. Bennett reminded the Council that Section 1.03 of the Charter states it shall be liberally construed and noted the Charter designates the Council President as the presiding officer of the Council in the Mayor's absence. The City Attorney's opinion states the Council President should have the authority to act as the Interim Mayor due to the current vacancy of this office, however does recommend that the Council vote to formalize this appointment.

Larry Poulin of 394 Sabattus Street addressed the Council and requested that they follow the intent of the Charter, which he said stated the City Attorney's opinion is not doing. He noted he is concerned the Council is taking a liberal view of the Charter, rather than a stricter reading of it. Mr. Poulin advised the Council is entering a "slippery slope" with this issue.

Larry Gilbert of 39 Cote Street spoke and stated he also disagreed with the City Attorney's written opinion and suggested the Council seek a second opinion. Mr. Gilbert then read a prepared statement and excerpts from the Charter. He advised the Council that the Charter states the Mayor shall make appointments and the Council does not have the authority to do so. He recommended against making the appointments later in the meeting to the Citizens Commission on Lewiston-Auburn Cooperation and to the Downtown Neighborhood Task Force, noting these positions should be filled by the newly elected Mayor after the February election.

Councilor O'Brien noted the Council is operating on the legal advise of the City Attorney and therefore will be voting to confirm that the Council President, as the presiding officer of the Council, shall be serving as Interim Mayor until the special election. Councilor Paradis stated if members of the public have a problem or concern with the City Charter, they should put it in writing and submit it to the City Administrator's Office.

Councilor Mendros said that he was very disappointed with the City Attorney's opinion and felt that it ignored various points in the Charter, such as the Mayor is the sole authority to appoint members to committee positions. Councilor Rousseau noted that there are several committee openings that are up in January and the work of some of the boards and committees can not be done if they are short members and do not have a quorum. He noted that due to the timing, it is necessary for appointments to be made, which the Council and an Interim Mayor would have the authority to do.

VOTE (287-2006)

Motion by Councilor O'Brien, second by Councilor Paradis:

To appoint current City Council President Renee M. Bernier as the Interim Mayor, effective December 1, 2006, to serve until a new Mayor is elected and sworn into office.

Did Not Pass - Vote 3-2-2 (Councilors O'Brien, Samson and Paradis in favor; Councilors Mendros and Jean opposed; Councilors Bernier and Rousseau abstained)

Note - Per the City Charter, all actions must receive a minimum of four affirmative votes to be adopted by the Council.

AMENDMENTS TO THE TRAFFIC SCHEDULE

VOTE (288-2006)

Motion by Councilor Jean, second by Councilor O'Brien:

To adopt the proposed amendments to the Traffic Schedule for Wood Street:

Section 50 - Parking Prohibited All Times - Intersections

WOOD STREET Beginning at the southeast corner of Wood Street and Campus Avenue, and extending southerly on Wood Street a distance of ~~35'~~ 80'

Passed - Vote 7-0

VOTE (289-2006)

Motion by Councilor Jean, second by Councilor O'Brien:

To adopt the proposed amendments to the Traffic Schedule for College Street:

Section 50 - Parking Prohibited All Times - Intersections

COLLEGE STREET From the northeast corner of College Street and Andrews Road, beginning at 258' and extending northerly on College Street a distance of 125' (Restricting 50' on either side of the Bates College Schaeffer Theater lot entrance way).

Passed - Vote 7-0

VOTE (290-2006)

Motion by Councilor Jean, second by Councilor O'Brien:

To adopt the proposed amendments to the Traffic Schedule for Vale Street:

Section 50 - Parking Prohibited All Times - Intersections

VALE STREET Beginning at the northwest corner of Vale Street and Sabattus Street, and extending northerly on Vale Street a distance of 25', with a 22' exempted space allowing for one vehicle, beginning again at a distance of 47', and extending northerly on Vale Street a distance of 53'.

Passed - Vote 7-0

VOTE (291-2006)

Motion by Councilor Jean, second by Councilor O'Brien:

To approve the amendments to the Traffic Schedule for Railroad Alley:

Section 4 - One Way Streets

~~RAILROAD ALLEY~~ ~~Travel only in a southerly direction.~~

Passed - Vote 7-0

VOTE (292-2006)

Motion by Councilor Jean, second by Councilor O'Brien:

To adopt the proposed amendment to the Traffic Schedule regarding the regulation of parking times for a portion of Lincoln Street:

Section 31 - Parking Time Regulated, 2 Hours, 9:00am - 6:00pm

~~LINCOLN STREET~~ ~~Westerly side beginning at a point 25' from the southwesterly corner of Lincoln Street and Beech Street and extending northerly on the odd side a distance of 59' (3 parking spaces)~~

~~Westerly side beginning at a point 187' from the southwesterly corner of Lincoln Street and Beech Street and extending northerly on the odd side a distance of 66' (3 parking spaces)~~

Section 27 - Parking Time Regulated, Monday Through Friday, 1 Hour, 9:00am to 6:00pm

~~LINCOLN STREET~~ ~~Odd numbered side westerly side beginning at a point 25' from the southwesterly corner of Lincoln Street and Beech Street and extending northerly on Lincoln Street to a point 25' from the southeasterly corner of Lincoln Street and Cross Street encompassing all officially designated parking spaces.~~

Passed - Vote 7-0

AUTHORIZATION TO ACCEPT TRANSFER OF FORFEITURE FUNDS

VOTE (293-2006)

Motion by Councilor Jean, second by Councilor O'Brien:

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 \$549, or any portion thereof, in the case of US Department of Justice Drug Enforcement Administration vs. Christopher Lecompte, CR-06-109 and the transfer of \$2,868 or any

portion thereof, in the case of US Department of Justice Drug Enforcement Administration vs. Christopher Lecompte, CR-06-417. 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

AMENDMENTS TO THE CITY POLICY MANUAL REGARDING THE HOUSING REHABILITATION LOAN PROGRAM POLICY

VOTE (294-2006)

Motion by Councilor Jean, second by Councilor O'Brien:

To approve the proposed amendment to the Housing Rehabilitation Loan Program Guidelines, Policy Manual Number 40, as recommended by the Director of Economic & Community Development. Passed - Vote 7-0

ADOPTION OF THE COMMUNITY DEVELOPMENT BLOCK GRANT CITIZENS PARTICIPATION PLAN FOR FY2007

VOTE (295-2006)

Motion by Councilor Jean, second by Councilor O'Brien:

To approve the Citizens Participation Plan for the FY 2007 Community Development Program, City Policy Manual Number 13, as recommended by the Economic and Community Development Department. Passed - Vote 7-0

PUBLIC HEARING AND FIRST PASSAGE REGARDING AN AMENDMENT TO THE PERSONNEL CODE REGARDING ELIMINATION OF THE PERSONNEL BOARD

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

VOTE (296-2006)

Motion by Councilor Samson, second by Councilor Jean:

That the proposed amendment to the City Code of Ordinances, Chapter 58 "Personnel", Division 2. "Civil Service" receive first passage by a roll call vote and that the public hearing on said ordinance be continued to the meeting of January 9, 2007 for final passage. Passed - Vote 7-0

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

Council President Bernier opened the public hearing to receive citizen input and comment. No members of the public spoke for or against this item. Council President Bernier then closed the hearing. Councilor Paradis asked for clarification on this item. Director of Code Enforcement and Planning Gil Arsenault noted that these items are housekeeping in nature and the changes are done to follow the newly revised state regulations, which are required.

VOTE (297-2006)

Motion by Councilor Jean, second by Councilor Samson :

That the proposed amendment to Appendix A, Article XI “District Regulations”, Article XII. “Performance Standards” and Article XIII “Development Review and Standards”, of the City Zoning and Land Use Code, concerning stormwater management, receive first passage by a roll call vote and that the public hearing on said ordinance be continued to the meeting of January 9, 2006 for final passage. Passed - Vote 7-0

**PUBLIC HEARING AND FIRST PASSAGE FOR LAND USE CODE
AMENDMENTS REGARDING SHORELAND ZONING**

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

VOTE (298-2006)

Motion by Councilor Jean, second by Councilor Samson:

That the proposed amendment to Appendix A, Article XII. “Performance Standards”, Section 2. “Shoreland Area Standards”, 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 meeting of January 9, 2006 for final passage. Passed - Vote 7-0

**PUBLIC HEARING AND FINAL PASSAGE FOR REZONING OF THE PROPERTY
AT 417 MONTELLO STREET FROM THE NEIGHBORHOOD CONSERVATION
“A” DISTRICT TO THE HIGHWAY BUSINESS DISTRICT**

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

VOTE (299-2006)

Motion by Councilor Jean, second by Councilor Samson:

That the proposed amendment to re-zone the property at 417 Montello Street from the Neighborhood Conservation “A” District to the Highway Business District, receive final passage by a roll call vote. Passed - Vote 7-0

**PUBLIC HEARING AND FIRST PASSAGE FOR REZONING OF THE
PROPERTIES AT 299 EAST AVENUE AND 3 DEMI CIRCLE**

Council President Bernier opened the public hearing to receive citizen input and comment. Shawn Bell, attorney for the property owner, and Mike Gotto, engineer for the property owner, described the project and related map. Council President Bernier then closed the hearing. Councilor Mendros stated that he has heard concerns from neighbors since this is a low traffic area and also inquired about curb cuts.

VOTE (300-2006)

Motion by Councilor Jean, second by Councilor Mendros:

That the proposed amendment to re-zone the properties at 299 East Avenue and 3 Demi Circle from the Neighborhood Conservation "A" (NCA) District to the Community Business (CB) District, receive first passage by a roll call vote and that the public hearing on said ordinance be continued to the meeting of January 9, 2007 for final passage.

Passed - Vote 7-0

**PUBLIC HEARING AND FIRST PASSAGE FOR THE CONDITIONAL REZONING
OF THE PROPERTIES AT 299 EAST AVENUE, 3 DEMI CIRCLE, 446 SABATTUS
STREET, 450 SABATTUS STREET AND A PORTION OF 456 SABATTUS STREET**

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

VOTE (301-2006)

Motion by Councilor Jean, second by Councilor Paradis:

To approve first passage of the amendment to the Zoning and Land Use Code and Map to conditionally rezone the properties at 299 East Avenue, 3 Demi Circle, 446 Sabattus Street, 450 Sabattus Street and a portion of 456 Sabattus Street from the Community Business (CB) District to the Urban Enterprise (UE) District, subject to a conditional agreement, and that the public hearing on said ordinance be continued to the meeting of January 9, 2007 for final passage. Passed - Vote 7-0

PUBLIC HEARING ON A NEW LIQUOR LICENSE FOR FUEL, INC.

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

VOTE (302-2006)

Motion by Councilor Jean, second by Councilor O'Brien:

To authorize the City Clerk's Office to approve a new liquor license application for Fuel, Inc., 49 Lisbon Street. Passed - Vote 7-0

At this time, the Council took a five minute recess.

SPECIAL AMUSEMENT PERMIT FOR 33 SABATTUS STREET, INC.

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

VOTE (303-2006)

Motion by Councilor O'Brien, second by Councilor Jean:

To grant a special amusement permit for dancing and entertainment to 33 Sabattus Street, Inc., 33 Sabattus Street. Passed - Vote 6-0 (Councilor Samson was absent from the Chambers during this vote)

SPECIAL AMUSEMENT PERMIT FOR THE SOUTH END SOCIAL CLUB

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

VOTE (304-2006)

Motion by Councilor Paradis, second by Councilor O'Brien:

To grant a special amusement permit for dancing and entertainment to the South End Social Club, 315 Lisbon Street. Passed - Vote 7-0

**PRESENTATION OF THE FY2006 COMPREHENSIVE ANNUAL
FINANCIAL REPORT**

Finance Director Richard Metivier, along with representatives of the City's auditing firm, made a detailed presentation to the Council of the Fiscal Year 2006 Comprehensive Annual Financial Report. Larry Poulin, 394 Sabattus Street, asked if the City is planning on a surplus for this year.

VOTE (305-2006)

Motion by Councilor Samson, second by Councilor Rousseau:

To receive and place on file the Fiscal Year 2006 Comprehensive Annual Financial Report.
Passed - Vote 7-0

APPOINTMENTS TO THE DOWNTOWN NEIGHBORHOOD TASK FORCE

Councilor Paradis suggested having more members of the committee from outside of the downtown area and stated he felt that two is too low for the committee of nine members. Councilors requested written verification from the Visible Community and Empower Lewiston of their representatives to the committee. Due to the low number of application forms submitted for this committee, the Council suggested extending the deadline a couple of weeks to allow time for additional application forms to be submitted.

VOTE (306-2006)

Motion by Councilor Paradis, second by Councilor Mendros:

To postpone action on this item until the January 23, 2007 Council meeting, to extend the committee application deadline to January 13, 2007 and to have a minimum of two citizens from outside of the downtown area to serve on the Task Force. Passed - Vote 7-0

**APPOINTMENTS TO THE CITIZENS COMMISSION ON
LEWISTON-AUBURN COOPERATION**

Councilors discussed extending the deadline for this committee as well to allow time for additional applications to be submitted.

VOTE (307-2006)

Motion by Councilor Paradis, second by Councilor Mendros:

To postpone action on this item until the January 23, 2007 Council meeting and to extend the committee application deadline to January 13, 2007. Passed - Vote 7-0

STREET ACCEPTANCE OF BOWDOIN DRIVE

VOTE (308-2006)

Motion by Councilor Jean, second by Councilor Mendros:

ORDERED, That Bowdoin Drive, with the boundaries and measurements of the same, as laid out and reported by the legal description, be hereby accepted, allowed and established as a public street or public way for the use of the City of Lewiston. Passed - Vote 7-0

STREET ACCEPTANCE OF ST. JAMES PLACE

VOTE (309-2006)

Motion by Councilor Samson, second by Councilor Jean:

ORDERED, That St. James Place, with the boundaries and measurements of the same, as laid out and reported by the legal description, be hereby accepted, allowed and established as a public street or public way for the use of the City of Lewiston. Passed - Vote 7-0

REQUEST FROM THE LEWISTON URBAN CIVIC CENTER ENTERPRISES BOARD FOR A WORKING CAPITAL LOAN FROM THE CITY FOR OPERATIONS AT THE ANDROSCOGGIN BANK COLISEE

City Administrator James Bennett provided background material on this item and reminded the Council of the history regarding this property.

Douglas Foss of 29 Katie Avenue spoke against this item, noting the operation has lost \$996,000 in the past two year and that no banks would grant this operation a loan if it was a private company and had this type of operating budget.

Joseph Roy of 9 Venise Avenue said that Roger Therriault received a loan from the City and was given the time to repay the loan before the City took the building from him. Mr. Roy inquired about the role of the Maineiacs in the Colisee operation. He noted the civic center building has not made money in the past 25 - 30 years and said this action would be throwing good money after bad.

Councilor Rousseau commented on the economic development spin off that has been created as a result of the upgraded facility, noting the many people from out of town who come here for events, which range from concerts to sporting events to graduations, and so forth.

Larry Poulin of 392 Sabattus Street inquired about the intent of the Colisee and if it supposed to be a for profit operation like a business or a city service like the Library.

Bruce Damon of 22 Buttonwood Drive reminded the Council he addressed them in January 2004 regarding Colisee issues and told them it was a bad rush to judgement to get involved with the facility, knowing the City did not analyze the full costs of the property and entered into this project with a lot of unknowns. He also stated he feels the Maineiacs are not paying their fair share for the operating costs at the Colisee, since it is their home location.

Larry Gilbert of 39 Cote Street mentioned he is a great supporter of the Maineiacs and remembers receiving an email from Phil Nadeau a few years ago asking him to pledge to be a season ticket holder when the team officially came to Lewiston. He stated these funds should not be called a loan since there is no plan for repayment of the money. Mr. Gilbert suggested the City should look at cutting our losses and going with a private owner of the Colisee.

Ron Chartier of Larrabee Road asked if Global Spectrum does not meet their goals, what their penalty will be. He also inquired what other entity would be able to access additional operating funds if it lost money year after year. Mr. Chartier also mentioned that the City should consider making the Colisee a private operation.

Councilor Rousseau stated the Colisee is working hard to be at a break even point, noting that most municipally operated civic center facilities do not make money and usually lose funds each year. He also noted the Colisee has been gaining ground in the sense that the operation is losing less funds each year, working toward a break even point. Councilor Mendros said the City should look into subsidizing the facility a bit, even if it was in private hands, because the costs would be less. Councilor Paradis said the Colisee is a vital part of the community and the economic development spin off is a tremendous benefit.

VOTE (310-2006)

Motion by Councilor Samson, second by Councilor Paradis:

To approve the issuance of a working capital loan in the amount of \$550,000 from the City's undesignated fund balance to the Lewiston Urban Civic Center Enterprises Board for operations costs, and of these funds, to authorize an immediate transfer of \$250,000 and to approve the reserve of \$300,000 to be held until later in the current fiscal year to be used if necessary. Passed - Vote 6-1 (Councilor Mendros opposed)

REPORTS AND UPDATES

No reports or updates were presented at this time.

OTHER BUSINESS

Councilor Mendros thanked Representative Samson for being in attendance at this meeting and appreciates the Rep. Samson is taking an interest in our local issues.

VOTE (311-2006)

Motion by Councilor Jean, second by Councilor Samson:

To adjourn at 11:25 P.M. Passed - Vote 7-0

A true record, Attest:

Kathleen M. Montejo, CMC
City Clerk
Lewiston, Maine