

**CITY OF LEWISTON**

**CITY COUNCIL**

**APRIL 6, 2004**

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

THE HONORABLE LIONEL C. GUAY, JR., MAYOR, PRESIDING.

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

Pledge of Allegiance to the Flag.

Moment of Silence.

**PRESENTATION OF ALCOHOL USE AWARENESS MONTH PROCLAMATION**

Mayor Guay and Auburn Mayor Guay made a joint presentation and jointly issued a Proclamation naming April 2004 as Alcohol Use Awareness Month within the Twin Cities, and encouraged adults to advocate and communicate the importance of safe choices to the young people in our communities.

**PROCLAMATION DECLARING THE WEEK OF APRIL 12 - 18, 2004 AS  
COMMUNITY DEVELOPMENT WEEK**

**VOTE (107-2004)**

Motion by Councilor Jean, second by Councilor Connors:

To adopt the Proclamation to declare the week of April 12 - 18, 2004 as "Community Development Week" in Lewiston:

Whereas, the Community Development Block Grant (CDBG) program has operated since 1975 to provide local governments with the resources required to meet the needs of persons of low-and-moderate-income, and CDBG funds are used by thousands of neighborhood-based, non-profit organizations throughout the nation to address pressing neighborhood and human service needs; and

Whereas, the Community Development Block Grant program has had a significant impact on our local economies through job creation and retention, physical redevelopment and improved local tax bases; and

Whereas, local governments in Maine have clearly demonstrated the capacity to administer and customize the CDBG program to identify, prioritize and resolve pressing local problems, such as affordable housing, neighborhood and human service needs, job creation and retention and physical redevelopment;

Now, Therefore, We, the City Council of the City of Lewiston, do hereby proclaim the week of April 12 - 18, 2004 as COMMUNITY DEVELOPMENT WEEK throughout the City of Lewiston, and urge all citizens to join us in recognizing the Community Development Block Grant program and the important role it plays in Maine.

Passed - Vote 7-0

**AUTHORIZATION TO SUBMIT A GRANT APPLICATION TO THE MAINE STATE LIBRARY'S PUBLIC LIBRARY RENOVATION PROGRAM FOR THE CULTURAL LEARNING CENTER PROJECT**

**VOTE (108-2004)**

Motion by Councilor Jean, second by Councilor Connors:

Be It Resolved, to authorize the City Administrator and Library Director to submit a grant application to the Maine State Library's Public Library Renovation and Construction Program for a \$100,000 grant for financial assistance in completing the Cultural Learning Center Project. Passed - Vote 7-0

**AMENDMENT TO THE TRAFFIC SCHEDULE TO ESTABLISH BUS ZONES AT FARWELL SCHOOL**

**VOTE (109-2004)**

Motion by Councilor Jean, second by Councilor Connors:

To approve amendments to the Traffic Schedule to establish a busses only zone/tow away zone at 84 Farwell Street:

Section 48 - BUSSES ONLY - Monday - Friday, 6:00am to 6:00pm, Tow Away Zone

FARWELL STREET

Even numbered side, east side, beginning at a point on the northwest corner of Dupuis Street and extending north on Farwell Street a distance of 15' and continuing a distance of 145'

Passed - Vote 7-0

**AUTHORIZATION TO ACCEPT TRANSFER OF FORFEITURE FUNDS**

**VOTE (110-2004)**

Motion by Councilor Jean, second by Councilor Connors:

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 \$403.20, or any portion thereof, in the case of the State of Maine vs. Nicholas Cormier, CE-04-0014 Court Records and the transfer of \$1,200.00, or any portion thereof, in the case of the State

of Maine vs. Sathouka Buch, CE-030015 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

**TRAFFIC SCHEDULE AMENDMENTS**

**VOTE (111-2004)**

Motion by Councilor Paradis, second by Councilor Bernier:

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

Section 26 - Parking Time Regulated, 1 Hour - 9:00am to 6:00pm

WALNUT STREET Even numbered side, beginning from a point 25' from the southwest corner of the intersection of Walnut Street and Howe Street and extending southwesterly for a distance of 22' (1 space)

Passed - Vote 7-0

**VOTE (112-2004)**

Motion by Councilor Paradis, second by Councilor Jean:

To adopt the proposed amendment to the Traffic Schedule to prohibit parking on a portion of Lincoln Street:

Section 50 - Parking Prohibited, All Times - Intersections (Tow Away Zone)

LINCOLN STREET Odd numbered side, south side, beginning at a point 25' from the southeast corner of the intersection of Lincoln Street and North Street and extending easterly on Lincoln Street a distance of 22' (1 space)

Passed - Vote 7-0

Councilor Rousseau noted regarding the next item for Lisbon Street that the signs were already posted for these parking designations, prior to the Council's vote to approve these designations. He also expressed concern with having a reserved space for a police car, which could be parked in this space all day, taking away a space from the public. He suggested approving just the handicapped space this evening, and postponing the police vehicle parking only issue to the next Council meeting, to allow the Chief to attend and discuss this issue. It was also noted the changes for Lisbon Street regarding parking times regulated needs to be reviewed more as well and these should be postponed as well.

**VOTE (113-2004)**

Motion by Councilor Mendros, second by Councilor Rousseau:

To approve the proposed amendment to the Traffic Schedule for Lisbon Street to designate handicapped parking:

Section 35 - Parking Reserved - Handicapped -

LISBON STREET Beginning at a point on the southern side of Lisbon Street, 466' from the southwest corner of the intersection of Lisbon Street and Ash Street and extending westerly for a distance of 22'.

and to postpone the proposed amendment of a reserved parking space for a police vehicle and the proposed amendments for parking times on Lisbon Street to the next Council meeting. Passed - Vote 6-1 (Councilor Connors opposed)

**PUBLIC HEARING AND FINAL PASSAGE FOR LAND USE CODE  
AMENDMENTS FOR LOCATIONAL CRITERIA FOR ADULT BUSINESS  
ESTABLISHMENTS**

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

**VOTE (114-2004)**

Motion by Councilor Jean, second by Councilor Connors:

That the proposed amendments to Appendix A, Article XII "Performance Standards", Section 9, "Adult amusement and business establishments", of the City Zoning and Land Use Code, concerning the locational criteria of adult business establishments in the Centreville district, receive final passage by a roll call vote.

Passed - Vote 6-1 (Councilor Mendros opposed.)

**PUBLIC HEARING AND FIRST PASSAGE FOR AMENDMENT TO THE  
BUSINESS LICENSING ORDINANCE**

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

**VOTE (115-2004)**

Motion by Councilor Jean, second by Councilor Connors:

That the proposed amendment to the City Code of Ordinances, Chapter 22 "Businesses", Article IX "Peddlers", Section 22-260 "Special Events License", receive first passage by a

roll call vote and that the public hearing on said ordinance be continued to the meeting of April 20, 2004 for final passage. Passed - Vote 7-0

**PUBLIC HEARING FOR NEW LIQUOR LICENSE AND SPECIAL AMUSEMENT PERMIT FOR WARDEN'S BAR & GRILL, 703 SABATTUS STREET**

Mayor Guay opened the public hearing. Residents Ron Poliquin, Robert Ouellette and Bill Roy spoke, stating they are abutters of this bar, and spoke against the issuance of these licenses. They noted concerns with patrons throwing trash, bottles and cans in their yard, loud noise, problems with patrons parking in front of and on their lawns, vandalism of holiday decorations by inebriated patrons, public urination, and related issues. The residents note that they do call the police with complaints. Virginia Gagne, the new owner of the business, stated that she has been the manager at this business for the past year and a half and is buying the business. She said that she is not aware of any police complaints and that the business is in control. She did note that there is limited parking available at the business, but that people are allowed to park on the street. The City Administrator noted that since this is a new owner, it is considered a new business and the state law does not allow many reasons to deny a new license, noting that a renewal license is different. Mr. Bennett did mention that since Ms. Gagne was the manager for the past year, she should be aware of issues and concerns from neighbors, and should work with the neighbors to resolve their issues.

**VOTE (116-2004)**

Motion by Councilor Jean, second by Councilor Paradis:

To authorize the City Clerk's Office to approve the applications for a liquor license and special amusement permit for dancing and entertainment for Warden's Bar & Grill, 703 Sabattus Street. Passed - Vote 5-1-1 (Councilor Bernier opposed, Councilor Rousseau abstained.)

**SPECIAL AMUSEMENT PERMIT FOR CARLTON CLUB,  
25 SABATTUS STREET**

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

**VOTE (117-2004)**

Motion by Councilor Jean, second by Councilor Mendros:

To grant a Special Amusement permit for dancing and entertainment to Carlton Club, Inc., 25 Sabattus Street. Passed - Vote 7-0

**SPECIAL AMUSEMENT PERMIT FOR LITTLE JOE'S, 740 SABATTUS STREET**

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

**VOTE (118-2004)**

Motion by Councilor Jean, second by Councilor Connors:

To grant a Special Amusement permit for dancing and entertainment to Little Joe's Inc., 740 Sabattus Street. Passed - Vote 7-0

**SPECIAL AMUSEMENT PERMIT FOR DEL'S BAR & GRILL,  
43 WALNUT STREET**

Mayor Guay opened the public hearing to receive citizen input and comment. No members of the public spoke for or against this item. Mayor Guay then closed the hearing. Councilor Paradis noted the high number of police calls to this business, and feels the police are babysitting the bars when they should be doing other work in the community, and he feels a message needs to be sent to the bars to improve their operations and be more responsible for their patrons. Councilor Bernier said she agrees with Councilor Paradis, yet hates to penalize this business by denying their license, just to use them as an example. It was noted the police did not issue a recommendation to deny this license, so they must not have a great concern with the issuance of this permit.

**VOTE (119-2004)**

Motion by Councilor Mendros, second by Councilor Jean:

To renew the special amusement permit for Del's Bar & Grill, 43 Walnut Street, with the following conditions (to be agreed upon with the owner): to have additional staff on duty to assist in recognizing and removing potential problem patrons before an incident occurs, especially between 8:00pm and 2:00am.

Passed - Vote 6-1 (Councilor Paradis opposed.)

**APPEAL HEARING FOR DENIAL OF A TAXI DRIVER'S LICENSE**

Mayor Guay opened the hearing to conduct an appeal hearing and to make a determination on Mr. Crosby's request for the issuance of his taxi driver's permit. The Taxi Appeals Board voted to deny Mr. Crosby's request for his taxi driver's permit, and he is appealing that decision to the Council. Assistant City Administrator, Phil Nadeau, serves as chairperson of the Appeals Board and provided background material on this item. Mr. Nadeau noted the Board considered the applicant's overall history as well as driving infractions while operating a taxi cab, and felt it was best when a taxi driver is arrested with a violation while operating a cab, they lose their right to operate a cab and not be a risk to citizens. Attorney George Hess represented Mr. Crosby and noted this is Mr. Crosby's livelihood and he has no other skills and training for any other employment. Mr. Hess said there are no complaints to the City about his client's driving conduct and noted that his violation of imprudent speed while operating the cab is different than reckless driving. Mr. Hess noted that the City Code states a license can be denied for reckless driving, OUI and other conditions, but imprudent speed is not one of the reasons to deny. He also noted that Mr. Crosby was not arrested but received a summons and ticket instead. Mr. Leonas, owner

of the taxi company, noted that Mr. Crosby does have a history of moving violations and his insurance company would not insure Mr. Crosby as a driver if the violations were severe. He noted some of the other items in his background check where personal related and not business related, such as an assault. Mr. Leonas said that he is willing to employ Mr. Crosby and supports his request for his license.

**VOTE (120-2004)**

Motion by Councilor Paradis, second by Councilor Bernier:

To uphold the decision of the Taxi Appeals Board which denied the issuance of this license. Did Not Pass - Vote 1-6 (Councilor Paradis in favor, others opposed.)

**VOTE (121-2004)**

Motion by Councilor Mendros, second by Councilor Connors:

To overturn the decision of the Taxi Appeals Board and to issue the license to Mr. Crosby. Passed - Vote 6-1 (Councilor Paradis opposed)

**RESOLUTION OF CONDEMNATION FOR THE PROPERTIES AT  
95 - 109 MAIN STREET**

It was noted the City and the property owner are still negotiating the details and this item is not ready to move forward at this time.

**VOTE (122-2004)**

Motion by Councilor Jean, second by Councilor Connors:

To postpone this item to the Council meeting of April 20, 2004. Passed - Vote 7-0

**AMENDMENT TO THE JOINT DEVELOPMENT AGREEMENT BETWEEN THE  
CITY OF LEWISTON, FRANKLIN PROPERTY TRUST AND  
OXFORD NETWORKS**

The City Administrator made a presentation on this item, noting the proposed new buildings, new parking spaces, switching ownership of property regarding the parking lot and a \$200,000 facade grant. He noted these investments are a result of the initial investments the Council made in this project. Councilors Rousseau and Mendros expressed concern about the high cost of the facade grant. Councilor Bernier noted these changes are increasing the number of employees in the businesses and will finish the gateway development project.

Motion by Councilor Jean, second by Councilor Connors:

To approve Amendment No. 1 to the Joint Development Agreement, dated May 27, 2003, between the City of Lewiston, Franklin Property Trust and Oxford Networks, and to authorize the City Administrator to execute the amendment in substantial form as presented.

**VOTE (123-2004)**

Motion by Councilor Mendros, second by Councilor Rousseau:

To amend the Agreement to strike out the \$200,000 facade grant.

Did Not Pass - Vote - 2-5 (Councilors Mendros and Rousseau in favor, others opposed)

The Council then voted on the motion in it's original format:

**VOTE (124-2004)**

Motion by Councilor Jean , second by Councilor Connors:

To approve Amendment No. 1 to the Joint Development Agreement, dated May 27, 2003, between the City of Lewiston, Franklin Property Trust and Oxford Networks, and to authorize the City Administrator to execute the amendment in substantial form as presented. Passed - Vote 6-1 (Councilor Rousseau opposed.)

**REPEAL OF MORATORIUM ORDINANCES REGARDING THE ISSUANCE OF  
NEW LIQUOR LICENSES IN THE CENTREVILLE DISTRICT AND URBAN  
ENTERPRISE DISTRICT**

Mayor Guay opened the public hearing. No members of the public spoke for or against this issue. Mayor Guay then closed the hearing.

**VOTE (125-2004)**

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

That the Moratorium Ordinances, approved by the City Council on February 3, 2004, regarding the issuance of new liquor licenses in the Centreville zoning district and the Urban Enterprises zoning district, be hereby repealed, effective May 6, 2004. Passed - Vote 7-0

**STREET ACCEPTANCE FOR A PORTION OF MILL STREET**

**VOTE (126-2004)**

Motion by Councilor Bernier, second by Councilor Jean:

ORDERED, That a portion of Mill Street, 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

**AGREEMENTS WITH MDOT REGARDING THE TAKING OF PROPERTIES  
FOR THE LINCOLN STREET RECONSTRUCTION PROJECT**

**VOTE (127-2004)**

Motion by Councilor Jean, second by Councilor Mendros:

To authorize the City Administrator to enter into Agreements with the Maine Department of Transportation for the taking of municipal properties for the Lincoln Street Reconstruction project. Passed - Vote 7-0

**REPORTS & UPDATES**

No reports were presented at this time.

**OTHER BUSINESS**

No other business was presented at this time.

**VOTE (128-2004)**

Motion by Councilor Bernier, second by Councilor Connors:

To adjourn at 11:10 P.M. Passed - Vote 7-0

A true record, Attest:

Kathleen M. Montejo, CMC  
City Clerk  
Lewiston, Maine