

CITY OF LEWISTON

CITY COUNCIL

DECEMBER 20, 2005

**EXECUTIVE SESSION HELD IN THE
ADMINISTRATIVE CONFERENCE ROOM AT 6:30 P.M.**

THE HONORABLE LIONEL C. GUAY, MAYOR, PRESIDING.

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

The City Council meeting was called to order by Mayor Guay at 6:31 pm in a public session.

VOTE (363-2005)

Motion by Councilor Connors, seconded by Councilor Rousseau:

To enter into executive session to discuss labor union negotiations regarding the union contract for the International Association of Firefighters. Passed - Vote 6-0

Executive Session began at 6:31 pm and ended at 6:55 pm. Councilor O'Brien arrived at 6:50pm.

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 TO OUTGOING COUNCILOR ROBERT CONNORS

The City presented Councilor Connors with a wooded chair engraved with the City seal, his name and his dates of service on the City Council. The Council thanked Councilor Connors for his dedication and service to the community during his term in office.

APPOINTMENT TO THE BOARD OF ASSESSMENT REVIEW

VOTE (364-2005)

Motion by Councilor Jean, seconded by Councilor Connors:

To confirm the City Administrator's nomination of Gary Savard of 1241 Sabattus Street and William Healey Jr. of 1 Ridge Road and to appoint Mr. Savard and Mr. Healey as members

of the Board of Assessment Review for a three year term, said term to expire December 17, 2008. Passed - Vote 7-0

**APPOINTMENT OF THE CITY ADMINISTRATOR TO THE ANDROSCOGGIN
TRANSPORTATION RESOURCE CENTER**

VOTE (365-2005)

Motion by Councilor Jean, seconded by Councilor Connors:

To appoint City Administrator James Bennett to serve as the City's representative to the Androscoggin Transportation Resource Center. Passed - Vote 7-0

**RESCIND BOND AUTHORIZATION PREVIOUSLY GRANTED REGARDING
THE BOND ISSUE FOR VARIOUS DEVELOPMENT PROJECTS**

VOTE (366-2005)

Motion by Councilor Rousseau, seconded by Councilor Jean:

ORDERED, That upon recommendation of the City Administrator and Finance Director, the City Council hereby rescinds the authorization previously approved for the issuance of a \$200,000 Bond for the Pontiac Building Rehabilitation Project, the reduction of \$420,000 in an authorized bond issuance for the Heritage Initiative Project and the reduction of \$15,000 in an authorized bond issuance to the Community Facility Corporation. Passed - Vote 7-0

**PUBLIC HEARING AND FIRST PASSAGE REGARDING AN AMENDMENT TO
THE ADVERTISING ORDINANCE TO ALLOW FOR THE EXCEPTION OF THE
DISTRIBUTION OF CAMPAIGN MATERIAL**

Mayor Guay opened the 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 (367-2005)

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

That the proposed amendment to the City Code of Ordinances, Chapter 6 "Advertising", Section 6-7, "Campaign material excluded", receive first passage by a roll call vote and that the public hearing on said ordinance be continued to the meeting of January 17, 2006 for final passage. Passed - Vote 7-0

**PUBLIC HEARING AND FIRST PASSAGE REGARDING AN AMENDMENT TO
THE CITY CODE TO REFLECT THE STAFF TITLE CHANGE FOR THE
ASSISTANT CITY ADMINISTRATOR**

Mayor Guay opened the 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 (368-2005)

Motion by Councilor Connors, seconded by Councilor Mendros:

That the proposed amendments to the City Code of Ordinances, Chapter 54 "Parks and Recreation", Section 54-1, and Chapter 82 "Vehicles for Hire", Section 82-54, receive first passage by a roll call vote and that the public hearing on said ordinance amendments be continued to the meeting of January 17, 2006 for final passage. Passed - Vote 7-0

**PUBLIC HEARING AND FIRST PASSAGE REGARDING AN AMENDMENT
TO THE ADMINISTRATIVE CODE REGARDING THE DOWNTOWN
ADVISORY BOARD**

Mayor Guay opened the 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 (369-2005)

Motion by Councilor Jean, seconded by Councilor Paradis:

That the proposed amendments to the City Code of Ordinances, Chapter 2 "Administration", Article IV "Boards, Commissions, Committees and Bureaus", Division 8 "Downtown Advisory Board" Section 2-231, receive first passage by a roll call vote and that the public hearing on said ordinance be continued to the meeting of January 17, 2006 for final passage. Passed - Vote 7-0

**PUBLIC HEARING AND FINAL PASSAGE FOR LAND USE CODE AMENDMENT
TO ALLOW CHANGEABLE MESSAGE SIGNS**

Mayor Guay opened the 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 (370-2005)

Motion by Councilor Jean, seconded by Councilor Connors:

That the proposed amendment to Appendix A, Article XII "Performance Standards", Section 2, "Definitions" and Section 16, "Signs", of the City Zoning and Land Use Code, concerning requirements for changeable message signs, receive final passage by a roll call vote. Passed - Vote 7-0

**PUBLIC HEARING AND FINAL PASSAGE FOR LAND USE CODE AMENDMENT
REGARDING VEHICULAR SIGHT DISTANCE STANDARDS**

Mayor Guay opened the 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 (371-2005)

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

That the proposed amendment to Appendix A, Article XIII “Development Review and Standards”, Section 4, “Approval Criteria”, of the City Zoning and Land Use Code, regarding the vehicular sight distance standards, receive final passage by a roll call vote. Passed - Vote 7-0

**PUBLIC HEARING AND FINAL PASSAGE FOR AN AMENDMENT TO THE
CONDITIONAL REZONING AGREEMENT FOR 539 WEBSTER STREET/315
SCRIBNER BOULEVARD**

Mayor Guay opened the 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 (372-2005)

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

To approve final passage for the amendment to the conditional rezoning agreement for 539 Webster Street/315 Scribner Boulevard, to conditionally rezone the property, subject to the conditions defined in the rezoning agreement. Passed - Vote 7-0

**PUBLIC HEARING ON AN APPLICATION FROM DANA’S GARAGE, 193
CROWLEY ROAD, FOR AN AUTOMOBILE GRAVEYARD/JUNKYARD PERMIT**

Mayor Guay opened the hearing to receive citizen input and comment. No members of the public spoke for or against this item. Mayor Guay then closed the hearing. Land Use Inspector Eric Cousens stated that he conducted a final inspection of the property today and the issues that were identified in the past have been resolved, and the excess vehicles and tires have been removed. He stated that the Code Enforcement staff does not have any concerns at this time with the issuance of this permit. Mr. Cousens noted that under state law, a junkyard can only have 1,000 tires. At one point, the applicant had between 5,000 and 6,000 tires, however, all but about 1,000 have been removed. Councilor Connors inquired about the amount of staff time that was spent on the numerous inspections of this property. Mr. Cousens said that he made six inspections of the property at one hour each, and was unsure of the time spent by the fire inspectors and others. Councilor Bernier expressed disappointment in the need for the numerous city inspections, stating the applicant needed to be more responsible with his business operations. Councilor Paradis informed the applicant that he does not expect to see any problems with this business during the year or next year at renewal time.

VOTE (373-2005)

Motion by Councilor Jean, seconded by Councilor Rousseau:

To issue an automobile graveyard/junkyard permit for Dana’s Garage, 193 Crowley Road. Passed - Vote 6-1 (Councilor Connors abstained).

PUBLIC HEARING AND FIRST PASSAGE FOR THE CONDITIONAL REZONING OF THE PROPERTY AT 193 CROWLEY ROAD FOR OFFICE SERVICE (OS) DISTRICT TO THE URBAN ENTERPRISE (UE) DISTRICT TO ALLOW THE SALE OF USED AUTOMOBILES AND AN AUTOMOBILE GARAGE

The following motion was postponed from the previous meeting and is now on the floor at this time: Motion by Councilor Jean, seconded by Councilor Mendros:

To approve first passage of the amendment to the Zoning and Land Use Code and Map to conditionally rezone the property at 193 Crowley Road, from the Office Service (OS) District to the Urban Enterprise (UE) District, subject to a conditional agreement, and that the public hearing on said ordinance be continued to the next regular City Council meeting for final passage.

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

The City Administrator reviewed the material from the Code Enforcement Department which outlined the violations that currently exist on this property. The items are in violation of a current conditional rezoning agreement for this location. The conditional rezoning agreement was to allow a house to be constructed at this location. Some of the requirements were for screening, no vehicles from the business, etc. It was noted it has been about two years and these items have not been completed. The recommendation from staff is that this pending conditional rezoning agreement not be approved. Councilor Paradis stated that he concurred with the recommendation. Councilor O'Brien stated that this item has been before the Council for the past several months and the applicant was well aware of the violations and should have fixed them during the past few months. She noted that too much staff time has been spent on monitoring this problem site.

VOTE (374-2005)

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

To remove the language in the Conditional Rezoning Agreement to allow for a used car dealership at this location, 193 Crowley Road, as outlined in sections A and F of the document. Passed - Vote 5-2 (Councilor Connors and Paradis opposed.)

VOTE (375-2005)

Motion by Councilor Jean, seconded by Councilor Mendros:

To approve first passage of the amendment to the Zoning and Land Use Code and Map to conditionally rezone the property at 193 Crowley Road, from the Office Service (OS) District to the Urban Enterprise (UE) District, subject to a conditional agreement, as amended, and that the public hearing on said ordinance be continued to the next regular City Council meeting for final passage.

Did Not Pass - Vote 4-3 (Councilor Jean, Connors and Paradis opposed.)

Note - Since this item received a negative recommendation from the Planning Board, a minimum of five affirmative votes of the Council is required to approve the motion (per City Land Use Code, Article XVII, Section 5e2).

**PUBLIC HEARING ON A NEW LIQUOR LICENSE APPLICATION AND
SPECIAL AMUSEMENT PERMIT FOR THE BLUE ELEPHANT LOUNGE,
37 PARK STREET**

Mayor Guay opened the 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 (376-2005)

Motion by Councilor Jean, seconded by Councilor Paradis:

To authorize the City Clerk's Office to approve a new liquor license application and special amusement permit for The Blue Elephant Lounge, 37 Park Street. Passed - Vote 7-0

**GRANTING OF A SPECIAL AMUSEMENT PERMIT FOR DANCING AND
ENTERTAINMENT FOR THE FRATERNAL ORDER OF EAGLES, #618,
1327 SABATTUS STREET**

Mayor Guay opened the 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 (377-2005)

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

To grant a special amusement permit for dancing and entertainment to the Fraternal Order of Eagles #618, 1327 Sabattus Street. Passed - Vote 7-0

**GRANTING OF A SPECIAL AMUSEMENT PERMIT FOR DANCING AND
ENTERTAINMENT FOR 33 SABATTUS STREET, INC.**

Mayor Guay opened the 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 (378-2005)

Motion by Councilor Jean, seconded by Councilor Paradis:

To grant a special amusement permit for dancing and entertainment to 33 Sabattus Street, Inc., 33 Sabattus Street. Passed - Vote 7-0

**PRESENTATION OF THE FY2005 COMPREHENSIVE ANNUAL
FINANCIAL REPORT**

Finance Director Richard Metivier and representatives from the City's auditing firm made a presentation regarding the findings from the annual city audit for fiscal year 2005.

VOTE (379-2005)

Motion by Councilor Connors, seconded by Councilor Paradis:

To receive and place on file the Fiscal Year 2005 Comprehensive Annual Financial Report.
Passed - Vote 7-0

**AMENDMENT TO THE JOINT DEVELOPMENT AGREEMENT BETWEEN THE
CITY OF LEWISTON AND SOLO PROPERTIES LLC**

VOTE (380-2005)

Motion by Councilor Connors, seconded by Councilor Jean:

To approve the First Addendum to the Joint Development Agreement, dated February 15, 2005, between the City of Lewiston and Solo Properties LLC for the Island Point Project, and to authorize the City Administrator to execute the Addendum, in substantial form as presented, and other related documents necessary to the accomplishment of such transaction.
Passed - Vote 7-0

**REQUEST FROM THE NINO CORPORATION REGARDING ISSUANCE OF
REIMBURSEMENT FOR THEIR EXPENSES OF RECONFIGURING THE LANES
ON OUTER LISBON STREET**

The action before the City Council was to review the request from Nino Corporation regarding reimbursement of project costs associated with the reconfiguring of lanes on outer Lisbon Street and to determine if the City shall reimburse the costs and if so, to determine if the costs will be paid immediately or when there are available funds in the impact fee account.

The City Administrator reviewed the costs, noting the Public Works Department spent \$10,427 for re-stripping, which was absorbed by the City, and the developer paid for the grinding and engineering design. Mr. Bennett stated that about 30% of the road that was changed was changed at the City's request and was above and beyond what was needed for the project - South Lisbon Road to the Turnpike Overpass.

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

To reimburse the Nino Corporation \$16,686.04 immediately, which represents the amount of cost for the work from the South Lisbon Road to the Turnpike overpass, and to split equally (50/50) the balance of the rest of the work, which was \$43,573.66, which would be \$21,786.83, to be paid when traffic impact fees are received from future projects.

VOTE (381-2005)

Motion by Councilor Bernier, seconded by Councilor Mendros:

To postpone action on this item to the January 17, 2006 Council meeting.

Passed - Vote 5-2 (Councilors O'Brien and Connors opposed.)

RATIFICATION OF COLLECTIVE BARGAINING AGREEMENT WITH LOCAL #785, INTERNATIONAL ASSOCIATION OF FIREFIGHTERS (IAFF)

VOTE (382-2005)

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

To ratify the Collective Bargaining Agreement between the City of Lewiston and Local #785, International Association of Firefighters (IAFF), said agreement being for the period of January 1, 2005 to June 30, 2007, and to authorize the City Administrator to sign the agreement on behalf of the City of Lewiston. Passed - Vote 7-0

AMENDMENT TO THE RESOLUTION FOR THE RETIREMENT HEALTH SAVINGS PLAN PROGRAM

VOTE (383-2005)

Motion by Councilor Connors, seconded by Councilor Paradis:

To amend the Resolution authorizing the establishment of a Retirement Health Savings Plan program to add "Firefighters" to the group of employees who are eligible to participate in the program. Passed - Vote 7-0

At this time, Councilor Bernier retired from the meeting.

REQUEST FROM COUNCILOR JEAN TO REVIEW THE STIPEND AMOUNTS FOR THE MAYOR AND CITY COUNCILORS

Councilor Jean suggested that the City Council should review the stipend amount for their service as Councilor and suggested that the amount be increased. He noted the stipend has not been increased since 1990 and the volume of work has increased substantially. He suggested an increase of \$300 next year and \$300 the following year.

VOTE (384-2005)

Motion by Councilor Jean, seconded by Councilor Rousseau:

To hold a special meeting next week to review and discuss an increase in the Councilor stipend.

Did Not Pass - 3-4 (Councilors Paradis, Mendros and Jean in favor; Councilors Rousseau, O'Brien and Connors opposed. Mayor Guay voted to break the tie, and voted in the negative.)

REPORTS AND UPDATES

No reports or updates were presented at this time.

OTHER BUSINESS

The City Administrator noted that Assistant City Administrator Greg Mitchell's last day with the City is tomorrow and that a luncheon is planned if Councilors would like to attend.

VOTE (385-2005)

Motion by Councilor Rousseau, second by Councilor Mendros:

To adjourn at 10:20 P.M. Passed - Vote 6-0

A true record, Attest:

Kathleen M. Montejo, CMC
City Clerk
Lewiston, Maine