

CITY OF LEWISTON

CITY COUNCIL

NOVEMBER 16, 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 TO THE LEWISTON TENNIS TEAM

Mayor Guay presented certificates to members and coaches of the Lewiston Tennis Team to congratulate them on their second place finish in the recent New England Championship.

PRESENTATION TO VI CARON FOR HER SERVICE AS AN ELECTION WARDEN FOR 50 YEARS

Mayor Guay presented a plaque to Alvira "Vi" Caron in appreciation for her fifty years of devoted and exemplary service as an Election Warden for the voters of ward five in Lewiston. Mrs. Caron has served as an election warden since 1954. Councilors thanked Mrs. Caron for her many years of service to the community.

MONTHLY REPORT FROM THE LEWISTON YOUTH ADVISORY COUNCIL

Katie Lauze of the LYAC shared with the Council information on their recent activities. She mentioned the group has been brainstorming for ideas for "streetscaping" for the downtown, will help with the upcoming holiday celebration, will help with the Mayor's Letter from War reception, are working with the Mayor to create a Citation of Excellence program and that a local hardware store has donated house numbers for residents to put on their houses for the "Is Your Number Up?" public safety awareness campaign.

VOTE (351-2004)

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

To dispense with the reading of the minutes of the June 1, September 7, October 5 and October 19, 2004, meetings and to accept and place them on file as prepared by the City Clerk. Passed - Vote 6-0-1 (Councilor Mendros abstained)

AMENDMENTS TO THE TRAFFIC SCHEDULE

VOTE (352-2004)

Motion by Councilor Jean, second by Councilor Connors:

To approve the following amendment to the Traffic Schedule:

Section 38 - Stop Signs

HILTON PLACE 1 sign at Brentwood Avenue

Passed - Vote 7-0

VOTE (353-2004)

Motion by Councilor Jean, second by Councilor Connors:

To approve the following amendments to the Traffic Schedule:

Section 21 - Parking Time Regulated, 15 minutes - 8:00 am to 6:00 pm

WALNUT STREET Beginning at a point located 25' north of the northwest of the intersection of Walnut Street and Pierce Street extending easterly for a distance of 44'. (2 spaces)

~~Beginning at a point 25' from the northeast corner of the intersection of Walnut Street and Pierce Street and extending easterly on Walnut Street for a distance of 40'. (2 spaces)~~

Passed - Vote 7-0

VOTE (354-2004)

Motion by Councilor Jean, second by Councilor Connors:

To approve the amendments to the Traffic Schedule, Section 6 - Parking Meters - Time Limitations - 15 Minutes; Section 7 - Time Limitations - 1 Hour; Section 8 - Parking Meters Time Limitations - 2 Hours and Section 9 - Time Limitations - 4 Hours, to reflect the current location of parking meters. Passed - Vote 7-0

STREET ACCEPTANCE FOR A PORTION RADIO CIRCLE

VOTE (355-2004)

Motion by Councilor Jean, second by Councilor Connors:

ORDERED, That a portion of Radio Circle, 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 FOR A PORTION OF CEDAR STREET

VOTE (356-2004)

Motion by Councilor Jean, second by Councilor Connors:

ORDERED, That a portion of Cedar 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

**STREET ACCEPTANCE OF ALMOND AVENUE AND APPROVAL OF A
RIGHT OF ACCESS EASEMENT**

VOTE (357-2004)

Motion by Councilor Jean, second by Councilor Connors:

ORDERED, That Almond Avenue, 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; and that a right of access easement for utilities and drainage be approved. Passed - Vote 7-0

**ESTABLISHMENT OF A PUBLIC EASEMENT ON AN UNACCEPTED
PORTION OF DENISE AVENUE**

VOTE (358-2004)

Motion by Councilor Jean, second by Councilor Connors:

ORDERED, That a portion of Denise Avenue, with the boundaries and measurements of the same, as laid out and reported by the legal description, be hereby established as a public easement for the use of the City of Lewiston. Passed - Vote 7-0

**ESTABLISHMENT OF A PUBLIC EASEMENT ON AN UNACCEPTED
PORTION OF MELODY LANE**

VOTE (359-2004)

Motion by Councilor Jean, second by Councilor Connors:

ORDERED, That a portion of Melody Lane, with the boundaries and measurements of the same, as laid out and reported by the legal description, be hereby established as a public easement for the use of the City of Lewiston. Passed - Vote 7-0

AUTHORIZATION TO ACCEPT TRANSFER OF FORFEITURE FUNDS

VOTE (360-2004)

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 \$1,008.00, or any portion thereof, in the case of the State of Maine vs. Jonathan Green, CD-04-0015 and 05-DEA-442423 Court Records; the transfer of \$2,600.00, or any portion thereof, in the case of the State of Maine vs. Dana Brousseau, CR-03-3939 Court Records; the transfer of \$2,904.96, or any portion thereof, in the case of the State of Maine vs. Dorothy Hailu CE-03-0015 Court Records; the transfer of \$176.72, or any portion thereof, in the case of the State of Maine vs. Alfredo Mejias CE-03-0041 Court Records; the transfer of \$214.00, or any portion thereof, in the case of the State of Maine vs. Tracy Marion CE-04-0027 Court Records; and the transfer of twenty percent of the proceeds from the sale of a 2002 Suzuki GSXR Motorcycle or any portion thereof, in the case of the State of Maine vs. Thomas Lowrey CE-03-0016 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

DECEMBER COUNCIL MEETING SCHEDULE

VOTE (361-2004)

Motion by Councilor Jean, second by Councilor Connors:

To suspend Section 1,(a) of the Rules Governing the City Council and to hold one regular meeting during the month of December on December 7, 2004. Passed - Vote 7-0

PUBLIC HEARING ON AN APPLICATION FOR AN AUTOMOBILE GRAVEYARD/JUNKYARD PERMIT

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

VOTE (362-2004)

Motion by Councilor Jean, second by Councilor Mendros:

To grant an Automobile Graveyard/Junkyard permit to Dana's Garage. Passed - Vote 7-0

CONSENT AGREEMENT FOR A SPECIAL AMUSEMENT PERMIT FOR DANCING & ENTERTAINMENT FOR ROCK N' ROBINS

The City Administrator announced that the applicant, Michael Berube, submitted a written statement to his office earlier in the day, stating that he is withdrawing all requests for the issuance of the special amusement permit for his business, in light of the fact that he is closing the current business and is opening another business in this location which will not require a special amusement permit. The Administrator noted that the Consent Agreement is no longer necessary at this time.

VOTE (363-2004)

Motion by Councilor Jean, second by Councilor Mendros:

To withdraw the Consent Agreement without prejudice. Passed - Vote 7-0

**PUBLIC HEARING AND FIRST PASSAGE FOR CODE AMENDMENT
REGARDING THE SOLID WASTE ORDINANCE**

Motion by Councilor Jean, second by Councilor Connors:

That the proposed amendment to the City Code of Ordinances, Chapter 62 "Solid Waste", Section 62-13 "Municipal collection of solid waste and recyclable materials" and Section 62-16 "Penalties and enforcement", receive first passage by a roll call vote and that the public hearing on said ordinance be continued to the meeting of December 7, 2004 for final passage.

Mayor Guay opened the public hearing for this item to receive citizen input and comment. No members of the public spoke for or against this item. Mayor Guay then closed the hearing. Councilor Connors suggested adding the phrase "except as noted above" so the intended policies of the Solid Waste Code would be a bit clearer to the reader in what the intention of the Code is, regarding this section. Councilors and staff concurred with his recommendation.

VOTE (364-2004)

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

To amend the proposed amendments to the Solid Waste ordinance by adding, "except as noted above" to the sentence in Section 62-13 that reads "Service will not be reinstated once it is terminated". Passed - Vote 7-0

VOTE (365-2004)

Vote on original motion, as amended:

That the proposed amendment to the City Code of Ordinances, Chapter 62 "Solid Waste", Section 62-13 "Municipal collection of solid waste and recyclable materials" and Section 62-16 "Penalties and enforcement", as amended above, receive first passage by a roll call vote and that the public hearing on said ordinance be continued to the meeting of December 7, 2004 for final passage. Passed - Vote 7-0

**PUBLIC HEARING ON A NEW LIQUOR LICENSE APPLICATION
AND SPECIAL AMUSEMENT PERMIT FOR
THE GALLERY THEATRE BAR & 351 MARTINI BAR**

Mayor Guay opened the public hearing for this item to receive citizen input and comment. No members of the public spoke for or against this item. Mayor Guay then closed the hearing. Councilor Jean asked the Police Chief if there are any issues with the business,

especially since they operate until 1am. The Chief stated that the Department is recommending the renewal of the permit and said that the business owner works closely with the Police Department when any issues arise. Scott Verreault, owner of The Gallery Bar, said that there have been fourteen disorderly conduct listings in the police log during the past year, but noted that many are a result of patrons coming from other bars after these bars close. He said his staff will not serve many of these patrons and this is what has been creating a disturbance.

VOTE (366-2004)

Motion by Councilor Jean, second by Councilor Connors:

To authorize the City Clerk's Office to approve a new liquor license application and special amusement permit for The Gallery Theatre Bar & 351 Martini Bar, 347 & 351 Lisbon Street. Passed - Vote 7-0

PUBLIC HEARING ON A NEW LIQUOR LICENSE AND SPECIAL AMUSEMENT PERMIT FOR DANCING AND ENTERTAINMENT FOR ROCK N' ROBINS

The City Administrator stated that the application for this permit is from two gentlemen who have stated that they are the new owners of the business. It is the recommendation of city staff to deny this permit for several reasons: the application was not completely filled out, the police department has stated there is substantial omissions on the application regarding the applicant's background and history, that one of the applicants was involved with the day to day operation of the previous business, and there is no known purchase and sale agreement for the business or a sublease for the location, therefore not creating a clear indication that it is a new business establishment. Mr. Bennett stated that one of the applicants has two assault charges in his background, yet did not disclose this information and in fact on the application stated that there were no violations of this nature. Councilor Paradis supported the suggestion to deny the permit, stating that a message needs to be sent to area businesses. Councilor Bernier stated that the Council goes "round and round" with bars that take up police resources, and said that the prime applicant worked at this business in the past, and he has given no indication that the problems won't continue under his ownership. She said she is not willing to jeopardize the police department for this business.

Mayor Guay opened the public hearing for this item to receive citizen input and comment. Paul Downing addressed the Council and stated he is the new co-owner of the business, along with Vincent Oden who could not attend the meeting tonight. Mr. Downing outlined their plans for the new business: to fix the past problems and to work with the police department on the various issues, to hire professional bouncers, to install security cameras, to implement a dress code, to keep out gang colors, to charge a cover charge after 11pm, to change the name of the club, to train the bartending staff better and to hire local police officers to serve as bouncers. Councilor Paradis asked Mr. Downing if he has ever been involved with running a bar in the past, or if he is involved with the current business of Rock 'n Robins. Mr. Downing stated he has never run a bar before and is new to Lewiston, having just retired from the Navy two months ago. Mayor Guay then closed the hearing.

VOTE (367-2004)

Motion by Councilor Bernier, second by Councilor Jean:

To deny the licenses based upon information presented from the Police Department and to direct City staff to prepare a Findings of Fact for the denial of the licenses and to report back at the next City Council meeting. Passed - Vote 7-0

REPORTS AND UPDATES

The City Administrator stated that there will be an upcoming meeting with the new legislative delegation to discuss tax reform and the results of the City's Palesky report. Councilor Bernier stated there is a fifteen percent increase in the county budget, noting that the county elected officials are getting a three percent pay increase. She also said that during a recent county budget workshop, Deputy Sheriff Gagnon stated that the Sheriff's Department could run police/public safety patrol for all towns in the county and do it cheaper and more efficiently than is currently being done in towns with municipal police departments. Councilor Bernier directed the City Administrator to receive a proposal from the county regarding this issue, noting that it would need to include all of the services that the Lewiston Police Department currently provides.

OTHER BUSINESS

Councilor Rousseau thanked the Lewiston residents who voted "No" two weeks ago on the recent tax cap issue, and pledged to work to implement some of the findings of the task force.

EXECUTIVE SESSION

VOTE (368-2004)

Motion by Councilor Paradis, second by Councilor Jean:

To enter into Executive Session to discuss pending litigation with the City Attorney.
Passed - Vote 7-0

Executive Session began at 8:15 pm and ended at 8:35 pm.

SETTLEMENT OF LEGAL MATTER

VOTE (369-2004)

Motion by Councilor Connors, second by Councilor Paradis:

Having conferred with counsel, in an executive session convened pursuant to 1 M.R.S.A. Sec. 405(6)(E), regarding a proposed settlement in Lewiston's favor in the matter of City of Lewiston v. Fleet Environmental Services, LLC, et al., U.S. District Ct. Docket No. CV-03-141-P-H, the Council hereby authorizes the City Administrator to complete the negotiations

and enter into a settlement agreement to conclude this litigation that is materially consistent with the terms disclosed by counsel in executive session. Passed - Vote 7-0

VOTE (370-2004)

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

To adjourn at 8:45P.M. Passed - Vote 7-0

A true record, Attest:

Kathleen M. Montejo, CMC
City Clerk
Lewiston, Maine