

**CITY OF LEWISTON**

**CITY COUNCIL**

**NOVEMBER 12, 2002**

**REGULAR MEETING HELD IN THE COUNCIL ROOM AT 7:00PM**

RENEE A. BERNIER, COUNCIL PRESIDENT, PRESIDING.

PRESENT: Councilors Philippon, O'Brien, Jean, Mason, Paradis, Rousseau, City Administrator James Bennett, and City Clerk Kathleen Montejo

Pledge of Allegiance to the Flag.

Moment of Silence.

**MONTHLY REPORT FROM THE YOUTH ADVISORY COUNCIL**

Tarrah Bowen informed the Council they are working on a noise pollution video for community awareness of loud noises such as motorcycles, etc. The Rebuilding Together event was held November 2 and several members participated. Two representatives are attending the National League of Cities conference in Salt Lake City. Council President Renee Bernier complimented the students on their work for the video.

**PUBLIC HEARING AND FINAL PASSAGE FOR REZONING PROPERTIES AT 70, 88, 96 AND 104 COMMERCIAL STREET**

Council President Bernier opened the public hearing. No members of the public spoke for or against this issue. Councilor Bernier then closed the hearing.

**VOTE (312-2002)**

Motion by Councilor Philippon, seconded by Councilor Jean:

That the proposed amendment to re-zone the properties at 70, 88, 96 and 104 Commercial Street, from the Highway Business (HB) District to the Urban Enterprise (UE) District, receive final passage by a roll call vote. Passed - Vote 7-0

**PUBLIC HEARING AND FINAL PASSAGE FOR LAND USE CODE AMENDMENTS CONCERNING ADULT BUSINESS AND ADULT AMUSEMENT STANDARDS**

Council President Bernier opened the public hearing. No members of the public spoke for or against this issue. Councilor Bernier then closed the hearing.

**VOTE (313-2002)**

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

That the proposed amendment to Appendix A, Article II "Definitions", Article XI. "District Regulations" and Article XII "Performance Standards", of the City Zoning and Land Use Code, concerning adult business and adult amusement standards, receive final passage by a roll call vote. Passed - Vote 7-0

**PUBLIC HEARING AND FINAL PASSAGE FOR LAND USE CODE  
AMENDMENTS CONCERNING DEVELOPMENT WITHIN THE  
NO NAME POND WATERSHED**

City Planning Director James Lysen stated that this item was tabled during the October 1 meeting to allow staff time to meet with interested parties around the watershed. There were concerns regarding the proposed septic system standards. He noted that the intent is not to stop development in the area, but to protect the watershed.

Council President Bernier opened the public hearing. David Chittiam of No Name Pond Road, addressed the Council regarding his concern that this was going for final passage, since there were changes from first passage. He noted that there are substantive changes, specifically the septic system modification, which he said is a brand new section. Mr. Chittiam also said that the issue of the roadway run off needs to be addressed as well and that drainage ditches are draining into the pond. He said that this Code amendment will be imposing additions from the Code onto the property owners, and the City is not currently enforcing other related regulations that are already on the books, such as set back issues and drainage issue.

Al Curran of Bradberry Road addressed the Council and said that he has two cottages on the pond. He acknowledged the work that Mr. Lysen has done on this issue and noted that it has involved numerous night-time citizen meetings. He urged the Code Department to enforce the existing Codes on the books before adding additional ones. He noted that area residents recognize that some septic systems are failing and they are exploring loans and state grants to allow for the upgrade of the systems.

Councilor Bernier then closed the hearing. She said the No Name Pond Association is working with the city and it is made up of year round and seasonal residents around the pond. Councilor Bernier said that everyone wants to protect the quality of the pond. Councilor Paradis reminded everyone that this issue has been thoroughly reviewed by the Planning Board already. The City Administrator stated that since the additional changes proposed by the Planning Department (added as a result of input from citizens since the previous meeting when first passage occurred) are substantive changes since the first passage from the previous meeting, then he recommended that the proposed amendments should be incorporated within the proposed code changes and first passage should be held this evening, with the new material.

**VOTE (314-2002)**

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

To hold first passage on this proposed Code amendment at this time, since it is determined that substantive changes have been proposed since the previous first passage held on October 15, 2002. Passed - Vote 7-0

**VOTE (315-2002)**

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

That the proposed amendment to Appendix A, Article XI "District Regulations", Section 20, "No Name Pond" and Article XII "Performance Standards", Section 21 "Stormwater management", of the City Zoning and Land Use Code, concerning development within the No Name Pond Watershed, receive first passage by a roll call vote and that the public hearing on said ordinance be continued to the meeting of December 10 for final passage. Passed - Vote 5-2 (Councilors Philippon and Mason opposed.)

**PUBLIC HEARING AND FIRST PASSAGE REGARDING AN AMENDMENT TO THE AMUSEMENTS AND ENTERTAINMENTS ORDINANCE**

Council President Bernier opened the public hearing. No members of the public spoke for or against this issue. Councilor Bernier then closed the hearing. City Administrator Bennett stated that currently, these licenses are issued without public input and the approval is staff authorization. The recommended changes would require Council approval for the initial license approval, and staff can issue renewal licenses with the appeal process going to Council for denied licenses.

**VOTE (316-2002)**

Motion by Councilor Paradis, seconded by Councilor Philippon:

That the proposed amendments to the City Code of Ordinances, Chapter 10 "Amusements and Entertainments", Article VI "After Hours Entertainment Events", Section 10-157 "Definitions", Section 10-158 "License required", Section 10-165 "Appeals" and Section 10-167 "Restrictions on sound and noise", receive first passage by a roll call vote and that the public hearing on said ordinance be continued to the meeting of December 10, 2002 for final passage. Passed - Vote 7-0

**PUBLIC HEARING AND FIRST AND FINAL PASSAGE REGARDING AN AMENDMENT TO THE TRAFFIC AND VEHICLES ORDINANCE FOR WINTER TIME PARKING**

Council President Bernier opened the public hearing. No members of the public spoke for or against this issue. Councilor Bernier then closed the hearing.

**VOTE (317-2002)**

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

That the proposed amendment to the City Code of Ordinances, Chapter 70 "Traffic and Vehicles", Article IV "Stopping, Standing and Parking", receive first passage by a roll call vote. Passed - Vote 7-0

**VOTE (318-2002)**

Motion by Councilor Paradis, seconded by Councilor Jean:

To waive Section 7c of the Rules Governing the City Council and to allow for final reading at this time. Passed - Vote 7-0

**VOTE (319-2002)**

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

That the proposed amendment to the City Code of Ordinances, Chapter 70 "Traffic and Vehicles", Article IV "Stopping, Standing and Parking", receive final passage by a roll call vote and that the ordinance amendment shall become effective immediately upon final passage. Passed - Vote 7-0

**PUBLIC HEARING ON THE RENEWAL FOR A LIQUOR LICENSE  
APPLICATION AND SPECIAL AMUSEMENT PERMIT FOR  
THE OUTER LIMITS, 855 LISBON STREET**

**VOTE (320-2002)**

Motion by Councilor Rousseau, seconded by Councilor Jean:

To continue the public hearing regarding the approval of the liquor license and special amusement permit for The Outer Limits, 855 Lisbon Street. Passed - Vote 7-0

City Administrator James Bennett reminded Council that this item is a public hearing that was continued from the October 15 meeting. During that meeting, the Council received a petition from thirty three residents of Summit Avenue regarding their concerns with loud music and noise from The Outer Limits. The public hearing was continued from the last meeting to allow Michael Berube, owner of The Outer Limits, time to review the problems since he stated he was not aware there were concerns with neighbors. Mr. Berube was to submit a letter to the Administrator's Office outlining his proposal to make improvements at the business. Mr. Bennett stated the Council has several options regarding this issue, such as issuing both licenses, denying both licenses, issuing the liquor license but not the special amusement permit, or issuing the licenses with conditions attached.

Council President Bernier opened the public hearing. Owner Michael Berube spoke and stated that sound level testing was done both in the parking lot and at the top of the hill, on Summit Avenue. The decibels were sometimes over 50 but under 60. Mr. Berube stated he

could implement improvements such as sound reduction blankets to absorb the noise, repairing gaps in the building, some as large as 1 inch wide and set a control on the sound amplification so the disc jockey can not play music any louder than a pre-determined level. He also stated that perhaps he could double up on the security in the parking lot and not allow patrons to loiter in the parking lot after they have left the night club. Mr. Berube stated that eighty percent of his business occurs between 1:00am and 3:00am.

Councilor Mason asked for a clarification of how Mr. Berube will control parking lot noise. Mr. Berube stated he would increase security and look into having patrons leave at staggered times, perhaps 25 at a time, rather than everyone at once. Councilors inquired whether the recommended changes and improvements, both the physical changes and the operational changes, could occur within the next thirty days.

Councilors discussed conditions such as structural improvements for noise reduction, parking lot security and so forth. Councilor Bernier stated that she is a strong proponent of small businesses and wants to support business owners, yet reminded Mr. Berube that promises for improvements were heard before with his previous business, Shakers, and changes did not correct the problems. Mr. Berube reminded Councilor Bernier that the layout for the Shakers issue was different, since the business was located only 8 feet, 6 inches away from a house and this is not the scenario for The Outer Limits.

Mr. Berube stated that he recently became the manager of The Outer Limits when his business partner left, and he was not aware the neighbors had noise concerns. He stated the police log recorded only two calls for noise issues in the past year. He also noted that the business is not in violation of the City ordinance, since his business is operating in a commercial zone and the decibel levels recorded are allowed within the Code. The Police Chief stated that references in the police log to a disturbance at this address could also mean a noise issue.

Ray and Jane Beaudoin of 50 Summit Avenue addressed the Council. Mr. Beaudoin stated that Mr. Berube and his business partner at the time both have been to his house in the past to hear the noise problems, so Mr. Berube is aware of the neighbors' concerns. Mr. Beaudoin stated that police officers have also been to his house in response to noise concerns with this business, and that the police officers have more important things to be doing rather than to respond to noise complaints. He stated that he followed the Shaker's issue and the problems that occurred with Shakers is being repeated with this business. Mr. Beaudoin stated the neighbor had to hire an attorney and spend \$4,000 to protect her house and her ability to sleep at night, and Mr. Beaudoin does not think it is fair to have to go through that to protect the citizens. He stated Mr. Berube has a track record of similar problems with similar businesses, such as the Colosseum in Auburn. He also questioned how additional security in the parking lot could stop kids from yelling. He said that he hates to initiate a police call each time, because that is costly to the City and Mr. Berube needs to be responsible and a good neighbor. Mr. Beaudoin stated the patrons show up drunk at 1am when the other bars in town close.

Mr. Berube stated he would like to rectify the problems and find a workable and fair solution for both himself as business owner and for the neighbors. He stated he has invested a lot of

money into this business, not to mention the taxes that are paid and the costs for security to hire police officers on overtime duty.

Councilor Bernier then closed the hearing. Councilor Bernier stated she does not want to force a small business out of business and suggested approving the licenses with conditions set by Council.

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

To renew the liquor license and special amusement permit for The Outer Limits, 855 Lisbon Street, with the following conditions (to be agreed upon with the owner):

- 1) Structural improvements, including, but not limited to, repairing cracks in the walls and installing soundproof secondary hallways and doors, to be completed by December 12, 2002.
- 2) Security measures be implemented to reduce noise in the parking lot area, to be completed by December 12, 2002.
- 3) Sound decibel levels shall not exceed 50 dB(A)s
- 4) The City Council will review the licenses at the January 7, 2003 Council meeting to determine if all conditions have been met.

Councilors were concerned that the January 7 meeting would be less than 30 days from the date that the changes need to be made, and this might not be enough time to determine if the sound reduction changes were sufficient enough to determine their level of impact. A suggestion was made to change the time frame from January 7 to February 4, to allow enough time to measure the impact of the corrections.

**VOTE (321-2002)**

Motion by Councilor Jean, seconded by Councilor Paradis:

To amend the proposed motion to change the date the Council will review the licenses from January 7, 2003 to February 4, 2003, to allow additional time for the sound reduction improvements to be tested to determine if the changes have worked well. Passed - Vote 7-0

**VOTE (322-2002)**

(Vote on original motion, as amended)

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

To renew the liquor license and special amusement permit for The Outer Limits, 855 Lisbon Street, with the following conditions (to be agreed upon with the owner):

- 1) Structural improvements, including, but not limited to, repairing cracks in the walls and installing soundproof secondary hallways and doors, to be completed by December 12, 2002.
- 2) Security measures be implemented to reduce noise in the parking lot area, to be completed by December 12, 2002.

- 3) Sound decibel levels shall not exceed 50 dB(A)s
- 4) The City Council will review the licenses at the February 4, 2003 Council meeting to determine if all conditions have been met.

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

**PUBLIC HEARING ON A \$1,000,000 PUBLIC IMPROVEMENT BOND ISSUE IN SUPPORT OF THE PUBLIC INFRASTRUCTURE IMPROVEMENTS FOR THE WALMART DISTRIBUTION FACILITY PROJECT**

Council President Bernier opened the public hearing. No members of the public spoke for or against this issue. Councilor Bernier then closed the hearing.

**VOTE (323-2002)**

Motion by Councilor Philippon, seconded by Councilor Jean:

To approve the Order to finance the public infrastructure improvements associated with the Walmart Distribution Facility project through a Public Improvement Bond Issue in the amount of \$1,000,000:

**ORDERED**, That \$1,000,000 be appropriated to finance additional public infrastructure improvements associated with the Wal-Mart Distribution Facility;

**FURTHER ORDERED**, That to meet this appropriation, \$1,000,000 shall be raised by a Public Improvement Bond Issue;

**FURTHER ORDERED**, That the City Council instruct the Finance Director to advertise for bids for \$1,000,000 Public Investment Bonds; to award the loan; and to employ Palmer and Dodge to furnish the legal opinion for the same; provided that in the alternative the Finance Director is authorized to award the loan to the Maine Municipal Bond Bank;

**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 issued 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 \$71,092 BOND ISSUE FOR THE MONTELLO ELEMENTARY SCHOOL ADA PROJECT**

Council President Bernier opened the public hearing. No members of the public spoke for or against this issue. Councilor Bernier then closed the hearing.

**VOTE (324-2002)**

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

To approve the Bond Issue Order to finance the ADA Improvements at Montello Elementary School with the School Revolving Renovations Bonds in the amount of \$71,092.00:

**ORDERED**, That \$71,092 be appropriated to finance the Montello ADA Project;

**FURTHER ORDERED**, That to meet this appropriation, \$71,092 be raised through a bond issue for five years to be financed through The Maine Municipal Bond Bank and the School Revolving Renovation Fund, with the local share being \$436,134;

**FURTHER ORDERED**, That other details of the bonds shall be determined by the Finance Director and/or the Maine Municipal Bond Bank.

Passed - Vote 7-0

**PUBLIC HEARING REGARDING ADOPTION OF BOND RESOLUTION IN THE  
AMOUNT OF \$1,000,000 FOR THE TRI-COUNTY MENTAL HEALTH  
SERVICES PROJECT**

Council President Bernier opened the public hearing. No members of the public spoke for or against this issue. Councilor Bernier then closed the hearing.

**VOTE (325-2002)**

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

That the bond resolution of the Municipal Officers of the City of Lewiston, Maine, authorizing the issuance of \$1,000,000 in revenue obligation securities, (Tri-County Mental Health Services project) and authorizing and approving the bond documents, be adopted.

Passed - Vote 7-0

**PROPOSED SETTLEMENT FOR THE 49 MAIN STREET PROJECT**

Councilors inquired about the settlement costs associated with this project; staff stated the settlement costs are \$265,000.

**VOTE (326-2002)**

Motion by Councilor Paradis, seconded by Councilor Rousseau:

To approve the proposed Settlement Agreement between the City of Lewiston and Ronald Amlotte regarding the property at 49 Main Street, and to authorize the City Administrator to sign the Agreement on behalf of the City. Passed - Vote 6-1 (Councilor Mason opposed.)

**RATIFICATION OF COLLECTIVE BARGAINING AGREEMENT WITH  
LEWISTON DEPUTY FIRE CHIEFS ASSOCIATION**

Human Resources Director Denis Jean stated this contract is retroactive to July 1, 2001 and that the contract requires the employees to pay three percent per year of their health insurance costs, same as the other city union contracts.

**VOTE (327-2002)**

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

To ratify the Collective Bargaining Agreement between the City of Lewiston and the Lewiston Deputy Fire Chiefs Association, said agreement being for the period of July 1, 2001 to June 30, 2003, and to authorize the Mayor to sign the agreement on behalf of the City of Lewiston. Passed - Vote 7-0

**ADOPTION OF CITY POLICY REGARDING THE BUSINESS DEVELOPMENT  
LOAN PROGRAM MANAGEMENT PLAN**

Councilor Rousseau stated that he feels this policy is on the fast track and suggested that it be reviewed in detail during a workshop. He stated the Councilors are policy makers, not loan makers or bankers. The City Administrator and Councilor Rousseau then briefly discussed the pros and cons of the policy.

**VOTE (328-2002)**

Motion by Councilor Rousseau, seconded by Councilor Mason:

To refer this item to workshop for additional review and discussion. Passed - Vote 7-0

**RUSSELL STREET IMPROVEMENT PROJECT**

Public Works Director Chris Branch stated that this agenda item is to review the Russell Street Improvement Project, as outlined in the Russell Street Corridor Study, recently approved by the Androscoggin Transportation Resource Center Policy Committee, and to select one of the two alternatives as recommended by the Public Works Department, for the Russell Street Improvement Project. Mr. Branch reviewed items such as a median strip, pedestrian crossing, signal improvements and previous accidents in the area. It was stated that Alternative B is the recommendation. Councilor Bernier wanted to ensure that this addressed such issues as the bike path, students walking to Pettingill School and joggers in the area around the campus, and staff stated that these were taken into consideration. Mr. Branch said this is a good compromise - it works for the flow of traffic and the residents like the plan. Council President Bernier then opened the floor for public comments.

Larry Sampson asked about the turning lane to Morris Avenue and asked if Robinson Gardens could be considered as well.

Steve Hockstadt stated there is a concern regarding Morris Avenue and the speed of vehicles, noting that several students are walking to the junior high school in this area.

Robert Gladu said that he owns property on Bardwell and Russell Streets and noted the citizens committee to study this plan did not have any home owners from Russell Street on the committee, and he feels that traffic might be forced onto Central Avenue in front of the junior high, and suggested that the City put down paint marks first to notify drivers, then install the traffic islands.

Robert Faunce encouraged Councilors to adopt the plan with the pedestrian safety crossing and recommended plants and nice landscaping within the crossing area.

Sandra Miller of Robinson Gardens spoke against the plantings due to visibility and encouraged the addition of a turning lane.

Melinda Sampson of Robinson Gardens spoke in favor of the traffic signal and lighting systems and the need to control speed in the area. She noted the state and city will spend a lot of funds to implement this plan and suggested it be done right.

Mr. Branch stated a traffic signal will cost between \$100,000 and \$125,000.

**VOTE (329-2002)**

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

To select Alternative B, as recommended by the Public Works Department, for the Russell Street Improvement Project. Passed - Vote 7-0

**DISCONTINUANCE OF A PORTION OF FORTIER ROAD**

**VOTE (330-2002)**

Motion by Councilor Paradis, seconded by Councilor Jean:

That the Order vacating and discontinuing a portion of Fortier Street, be adopted.  
Passed - Vote 7-0

**ADOPTION OF CITY POLICY ENTITLED PRIVATE STORMWATER  
INFLOW POLICY**

**VOTE (331-2002)**

Motion by Councilor Jean, seconded by Councilor Mason:

To adopt and establish the Private Stormwater Inflow Policy as a formal city policy to be incorporated into the City Policy Manual. Passed - Vote 7-0

**AMENDMENT TO THE GENERAL ASSISTANCE POLICY**

Councilor Bernier stated that she disagreed with the state figures, saying they are set too high and the high amounts encourage someone to remain on city assistance rather than to find employment and other means to support themselves. Councilor Philippon noted the figures are adjusted for inflation and the costs increase each year. Councilor O'Brien noted that there are eligibility requirements that each applicant must meet.

**VOTE (332-2002)**

Motion by Councilor Philippon, seconded by Councilor Mason:

That the maximum amounts allowed for general assistance and the maximum amounts allowed for food and housing, in the General Assistance Policy, for persons eligible to receive assistance in accordance with the standards of eligibility, be amended in accordance with HUD guidelines and the current Thrifty Food Plan.

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

**AMENDMENTS TO THE PERSONNEL POLICY REGARDING  
THE TRAVEL POLICY**

**VOTE (333-2002)**

Motion by Councilor Jean, seconded by Councilor Philippon:

To approve the amendments to the Personnel Policies regarding the Travel Policy, as recommended by the Personnel Board and the Human Resources Director.

Passed - Vote 7-0

**REQUEST FOR EXTENSION OF CITY SEWER SERVICE ON MARTIN DRIVE**

**VOTE (334-2002)**

Motion by Councilor Jean, seconded by Councilor Philippon:

To deny the request to extend the city sanitary sewer line on Martin Drive, based upon the recommendation of the Planning Board and Department of Public Works.

Passed - Vote 7-0

**CORRECTIVE ACTION ON DEEDS FOR LAND EXCHANGE BETWEEN THE  
CITY OF LEWISTON AND JAMES WELLEHAN**

**VOTE (335-2002)**

Motion by Councilor Jean, seconded by Councilor Philippon:

To adopt the amended Order of Discontinuance and to authorize the City Administrator to execute deeds with corrected legal descriptions for an exchange of land between the City and

James Wellehan that was originally authorized by the Lewiston City Council at it's August 16, 1994 meeting. Passed - Vote 7-0

**LEGISLATIVE UPDATE**

No update was presented at this time.

**REPORT FROM THE SCHOOL COMMITTEE**

Councilor Bernier reported that the High School football team will be in the divisional playoffs and the game is this Saturday. She urged Councilors to support the football team.

**OTHER BUSINESS**

**VOTE (336-2002)**

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

To approve the swap of approximately 2 acres of city owned property located in New Gloucester for an equal amount of property owned by the Maine Turnpike Authority near Route 495. Land will be used for operation of a new outer marker by the FAA under a lease agreement with the Auburn-Lewiston Municipal Airport. Passed - Vote 7-0

**VOTE (337-2002)**

Motion by Councilor Bernier, seconded by Councilor Jean:

To appoint Lucy Bisson, 1046 Sabattus Street, as a full member the Planning Board for a term to expire January 4, 2005.  
Passed - Vote 5-0-2 (Councilors O'Brien and Mason abstained.)

**VOTE (338-2002)**

Motion by Councilor Mason, second by Councilor Jean:

To adjourn at 11:15 P.M. Passed - Vote 7-0

A true record, Attest:

Kathleen M. Montejo, CMC  
City Clerk  
Lewiston, Maine