

CITY OF LEWISTON

CITY COUNCIL

DECEMBER 10, 2002

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

THE HONORABLE LAURIER T. RAYMOND, JR., MAYOR, PRESIDING.

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

Pledge of Allegiance to the Flag.
Moment of Silence.

Assistant City Administrator Phil Nadeau unveiled a historic clock that was recently installed in the Council Chambers. It is believed the clock originally was hung in the Dingley Building, when it served as a local school.

MONTHLY REPORT FROM YOUTH ADVISORY COUNCIL

Tarrah Bowen presented the monthly report, highlighting her recent trip to the National League of Cities Convention in Salt Lake City, Utah, where she served on a national panel on race relations. She noted the group is working on their noise pollution initiatives and will be attending a Department of Human Services Children's Cabinet meeting next month.

APPOINTMENT TO LEWISTON HOUSING AUTHORITY BOARD OF DIRECTORS

Mayor Raymond nominated Diantha J. Sargent of 262 Meadowview to serve on the Lewiston Housing Authority Board of Commissioners. This position is to fill a vacancy and the term shall expire October 7, 2005.

VOTE (339-2002)

Motion by Councilor Bernier, seconded by Councilor Jean:

To confirm the Mayor's nomination and to appoint Diantha J. Sargent of 262 Meadowview to serve on the Lewiston Housing Authority Board of Commissioners, said term to expire October 7, 2005. Passed - Vote 7-0

PUBLIC HEARING AND FINAL PASSAGE REGARDING AN AMENDMENT TO THE AMUSEMENT AND ENTERTAINMENT ORDINANCE

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

VOTE (340-2002)

Motion by Councilor Rousseau, seconded by Councilor Mason:

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 final passage by a roll call vote.
Passed - Vote 7-0

**PUBLIC HEARING AND FIRST PASSAGE FOR LAND USE CODE
AMENDMENTS TO ESTABLISH A MOBILE HOME PARK
OVERLAY DISTRICT**

Mayor Raymond opened the public hearing. Richard Trafton, attorney for the applicant, stated there will be twenty five new sites for twenty five new double wide mobile homes, each valued at \$40,000 - \$60,000. Mayor Raymond then closed the hearing.

VOTE (341-2002)

Motion by Councilor Paradis, seconded by Councilor Jean:

That the proposed amendments to Appendix A, Article VI "Establishment of Districts", Section 1, "Zoning Map", of the City Zoning and Land Use Code, to rezone the land now zoned Community Business, northerly of and adjacent to Stetson Brook, to be included in the Mobile Home Park Overlay District, receive first passage by a roll call vote and that the public hearing on said ordinance be continued to the meeting of January 7, 2003 for final passage. Passed - Vote 7-0

**PUBLIC HEARING AND FIRST AND FINAL PASSAGE REGARDING
AN EMERGENCY ORDINANCE FOR AMENDMENTS TO THE
AMUSEMENTS AND ENTERTAINMENT ORDINANCE REGARDING
ADULT-ORIENTED LIVE ENTERTAINMENT**

Mayor Raymond opened the public hearing. No members of the public spoke for or against this issue. Mayor Raymond then closed the hearing. The City Administrator stated the City Attorney prepared these amendments and this will close the loophole in the Code regarding Special Amusement permit holders and the exemption regarding Adult Oriented Live Entertainment permits.

VOTE (342-2002)

Motion by Councilor Paradis, seconded by Councilor Philippon:

That the proposed emergency ordinance for the City Code of Ordinances, Chapter 10 "Amusements and Entertainment", Article IV "Adult Entertainment", Section 10 - 103, receive first passage by a roll call vote. Passed - Vote 7-0

VOTE (343-2002)

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 (344-2002)

Motion by Councilor Paradis, seconded by Councilor Jean:

That the proposed emergency ordinance for the City Code of Ordinances, Chapter 10 "Amusements and Entertainment", Article IV "Adult Entertainment", Section 10 - 103, receive final passage by a roll call vote. Passed - Vote 7-0

PUBLIC HEARING AND FIRST PASSAGE REGARDING AN AMENDMENT TO THE AMUSEMENTS AND ENTERTAINMENT ORDINANCE REGARDING ADULT-ORIENTED LIVE ENTERTAINMENT AND SPECIAL AMUSEMENT PERMITS

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

VOTE (345-2002)

Motion by Councilor Jean, seconded by Councilor Philippon:

That the proposed amendment to the City Code of Ordinances, Chapter 10 "Amusements and Entertainment", Article III "Special Amusement Permit", Section 10 -82 and 10-83 and Article IV "Adult Entertainment", Section 10 - 103 and 10-130, receive first passage by a roll call vote and that the public hearing on said ordinance be continued to the meeting of January 7, 2003 for final passage. Passed - Vote 7-0

PUBLIC HEARING AND FIRST PASSAGE REGARDING AN AMENDMENT TO THE PERSONNEL CODE REGARDING APPEALS OF EMPLOYEE GRIEVANCES

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

VOTE (346-2002)

Motion by Councilor Paradis, seconded by Councilor Jean:

That the proposed amendment to the City Code of Ordinances, Chapter 58 "Personnel", Article II "Personnel System", Section 58-72 "Grievance Procedure" receive first passage by a roll call vote and that the public hearing on said ordinance be continued to the meeting of January 7, 2003 for final passage. Passed - Vote 7-0

PUBLIC HEARING FOR AUTHORIZATION TO ISSUE \$2,000,000 QUALIFIED ZONE ACADEMY BONDS FOR SCHOOL CAPITAL IMPROVEMENT PROJECTS

Mayor Raymond opened the public hearing. No members of the public spoke for or against this issue. Mayor Raymond then closed the hearing. Finance Director Dick Metivier stated this is a project with zero interest financing and the available funds will expire at the end of this month. Councilor Bernier stated the School Committee approved this issue last night and encouraged passage of this item. City Administrator James Bennett stated the City will be able to have about two million dollars worth of work done without any interest payments.

VOTE (347-2002)

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

To approve the Order to finance various school capital improvement projects through a Qualified Zone Academy Bond Issue in the amount of \$2,000,000:

ORDERED: That \$2,000,000 be appropriated to finance the following school renovation projects:

<u>Project</u>	<u>Amount</u>
Middle School Asbestos Floor Tile Phase 1	\$150,000
Middle School Roofing	350,000
Middle School Boiler Replacement	110,000
High School Athletic Room Renovation Phase 1	200,000
High School Fire Alarm Upgrade	125,000
High School Athletic Room Renovation Phase 2 of 2	100,000
High School Windows	550,000
Middle School Central Avenue Parking Lot Paving	55,000
High School Ventilation Improvements	<u>360,000</u>
TOTAL	\$2,000,000

FURTHER ORDERED, That to meet this appropriation, \$2,000,000 shall be raised by the issue of Qualified Zone Academy School Bonds;

FURTHER ORDERED, That the City Council instruct the Finance Director to negotiate the sale of the Bonds with Peoples Heritage Bank, N.A. or any other qualified purchaser; to award the loan; and to employ Palmer & Dodge LLP to furnish the legal opinion for the same;

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.

Passed - Vote 7-0

VOTE (348-2002)

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

To rescind the authorization previously approved at the City Council meeting of June 4, 2002, Vote #176-2002, pertaining to the issuance of \$685,000 of General Obligation Bonds for the following projects:

Middle School - Asbestos Floor Tile	\$150,000
Middle School - Roofing, Cafeteria, Library, Shop	\$225,000
Middle School - Boiler Replacement	\$110,000
High School - Athletic Room Renovation	\$200,000

Passed - Vote 7-0

PUBLIC HEARING ON THE APPLICATIONS FOR AUTOMOBILE GRAVEYARD/JUNKYARD PERMITS

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

VOTE (349-2002)

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

To grant Automobile Graveyard/Junkyard permits to Public Works Department, 424-482 River Road; Al's Used Parts, Crowley Road, subject to conditions; Normand St. Laurent, 1445 Sabattus Street, subject to conditions; Grimmel's Industries, 50 River Road, subject to conditions; and KTIBio Fuels, Inc., 38 Alfred A. Plourde Parkway, subject to conditions.

Grimmel's Industries:

1. The hours of operation shall be limited to 7:00 A.M. to 5:00 P.M. Monday through Saturday.
2. Maintain screening from the Maine Turnpike.

AI's Used Parts:

Settlement of back due real estate and/or personal property taxes. The amount of back due taxes shall be paid in full prior to the issuance of the permit, or the applicant may enter into a written payment agreement with the City Tax Collector regarding a settlement of the past due amount.

Normand St. Laurent:

Settlement of back due real estate and/or personal property taxes. The amount of back due taxes shall be paid in full prior to the issuance of the permit, or the applicant may enter into a written payment agreement with the City Tax Collector regarding a settlement of the past due amount.

K.T.I. Bio Fuels, Inc.:

1. Permit is granted for storage of wood waste and oversized bulky waste (OBW). OBW will consist of furniture, rugs, plastics, and any other large burnable household goods. Unacceptable OBW consists of sheetrock, roofing materials (unless wood), aggregate products, dirt and sand, fiberglass insulation, and no hazardous materials such as asbestos.
1. All wood waste and OBW which is to be placed in storage shall be piled no higher than 30'.
2. The width and length of the piles will be sized as indicated on the plan view of the back yard, but shall be no wider than 90' and no longer than 150'.
4. There shall be no more than nine (9) piles of wood waste and OBW at any time. OBW will not exceed two (2) piles.
5. Access rows or fire lanes shall be maintained between piles with a minimum distance of 30' between piles.
6. The main entrance roadway must be kept at a minimum of 24' of travel way at all times.
7. An additional second access road, or fire lane at least 20' in width, from the main road, (Alfred A. Plourde Parkway) to the storage area must be maintained.
8. All roads and fire lanes on the facility shall be of all weather surface adequately constructed to support the heaviest piece of fire apparatus likely to be operated on the fire lane or road.
9. All storage pile locations be properly identified by the placement of a pole at the corner of the pile. A mark shall be placed at a height of 30' on the pole.
10. The site be designated no smoking throughout except office areas and control room. A sign shall be placed at the entrance to the facility designating the facility as no smoking.
11. Training of employees for use of fire protection equipment and reporting of fires shall be conducted.
12. KTI shall conduct a self-inspection of their activities. The self-inspections shall be performed on a weekly report submitted to Fire Prevention for review.

13. That pine trees be planted along the perimeter of the site to replace dead and/or missing trees.
14. Replacement of buffer pine trees as necessary.
15. That the processing of pressure treated wood be done in full compliance with the EPA & DEP regulations.

Passed - Vote 7-0

PUBLIC HEARINGS FOR SPECIAL AMUSEMENT PERMITS

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

VOTE (350-2002)

Motion by Councilor Mason, seconded by Councilor Rousseau:

To grant a Special Amusement Permit for Dancing and Entertainment to The Ramada, 490 Pleasant Street. Passed - Vote 7-0

Mayor Raymond opened the public hearing. No members of the public spoke for or against this issue. Mayor Raymond then closed the hearing. Councilor Mason stated that due to a conflict of interest, since he serves as the Manager of the Acme Social Club, he will be abstaining from the vote and from any discussion regarding this issue.

VOTE (351-2002)

Motion by Councilor Paradis, seconded by Councilor Rousseau:

To grant a Special Amusement Permit for Dancing and Entertainment to the Acme Social Club, 255 Park Street. Passed - Vote 6-0-1 (Councilor Mason abstained.)

Mayor Raymond opened the public hearing. The manager of The Gallery addressed the Council and stated they are working with the Police Department regarding problems and issues at the bar and they are in full support of the conditions recommended by the Police Department. Mayor Raymond then closed the hearing. Councilors inquired about staff training with the Maine Liquor Commission and additional security such as bouncers at the door. Sergeant McGonagle stated the Police are concerned with the number of assaults and intoxication level of patrons, but the management has been cooperative and wants to improve the conditions and has voluntarily hired police officers to be at the bar from 10:30pm to 1:30am. Councilor Mason asked about parking issues and debris from patrons.

VOTE (352-2002)

Motion by Councilor Mason, seconded by Councilor Paradis:

To add the following conditions to the permit: "The business shall have additional staff on duty to assist in recognizing and removing potentially problem patrons and to have staff

meet with State Liquor Enforcement Officers to obtain training to better recognize intoxicated patrons.” Passed - Vote 7-0

VOTE (353-2002)

Motion by Councilor Paradis, seconded by Councilor Bemier:

To grant a Special Amusement Permit for Dancing and Entertainment to The Gallery, 347 Lisbon Street, subject to the following conditions: the business shall have additional staff on duty to assist in recognizing and removing potentially problem patrons and to have staff meet with State Liquor Enforcement Officers to obtain training to better recognize intoxicated patrons. Passed - Vote 7-0

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

VOTE (354-2002)

Motion by Councilor Rousseau, seconded by Councilor Philippon:

To grant a Special Amusement Permit for Dancing and Entertainment to Sportsman’s Athletic Club, 2 Bates Street. Passed - Vote 7-0

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

VOTE (355-2002)

Motion by Councilor Rousseau, seconded by Councilor Paradis:

To grant a Special Amusement Permit for Dancing and Entertainment to the South End Social Club, 327 Lisbon Street. Passed - Vote 7-0

Mayor Raymond opened the public hearing. Business owner Augustine Russo inquired about the criteria the Council would use to deny a special amusement permit. He stated that he works hard to run his business “by the book” and follow the proper rules and regulations. He noted that one business owner in town has encountered problems regarding noise issues and problems with neighbors that have been ongoing, and Mr. Russo was wondering what standards would be applied to shut down a business. Mayor Raymond then closed the hearing.

VOTE (356-2002)

Motion by Councilor Philippon, seconded by Councilor Paradis:

To grant a Special Amusement Permit for Dancing and Entertainment to Augustine’s, 37 Park Street. Passed - Vote 7-0

**CONTINUATION OF PUBLIC HEARING FOR AMENDMENTS TO THE LAND
USE CODE REGARDING THE NO NAME POND WATERSHED AREA**

VOTE (357-2002)

Motion by Councilor Mason, seconded by Councilor Jean:

To continue the public hearing for Final Passage of the amendments to the Land Use Code regarding the No Name Pond Watershed area to the Council meeting of January 7, 2003.
Passed - Vote 7-0

**ADOPTION OF COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG)
CITIZENS PARTICIPATION PLAN FOR FY2004**

VOTE (358-2002)

Motion by Councilor Mason, seconded by Councilor Jean:

To approve the Citizens Participation Plan for the FY2004 Community Development Program, as recommended by the Planning Board. Passed - Vote 7-0

MUNICIPAL STATE PROJECT AGREEMENTS WITH MDOT

VOTE (359-2002)

Motion by Councilor Mason, seconded by Councilor Jean:

To authorize the City Administrator to enter into a Municipal/State Project Agreement with the Maine Department of Transportation for the proposed improvements to Pond Road from Sabattus Street to Sheffield Avenue. Passed - Vote 7-0

VOTE (360-2002)

Motion by Councilor Mason, seconded by Councilor Jean:

To authorize the City Administrator to enter into a Municipal/State Project Agreement with the Maine Department of Transportation for the proposed improvements to Main Street from Montello Street to the Town Line. Passed - Vote 7-0

VOTE (361-2002)

Motion by Councilor Mason, seconded by Councilor Jean:

To authorize the City Administrator to enter into a Municipal/State Project Agreement with the Maine Department of Transportation for the proposed improvements to Pleasant Street from The Ramada to Jill Street. Passed - Vote 7-0

ACQUISITION OF PROPERTIES AT 28 AND 29 LINCOLN STREET

Business Development Manager Lincoln Jeffers made a brief presentation on this issue. He noted it is a win-win solution - the property is under city control, the business is able to remain in town, and the City does not have to borrow funds and can make regular payments for the property. Councilor Bernier inquired about an option for eminent domain. Councilor Rousseau stated the location could serve as a future second entrance for Railroad Park.

VOTE (362-2002)

Motion by Councilor Jean, seconded by Councilor Paradis:

To authorize the City Administrator to close on the purchase of properties at 28 and 29 Lincoln Street, for a combined purchase price of \$220,000.00, plus closing costs, with the funds to purchase these properties to be allocated from the LMRC Acquisition and Demolition Fund, to approve the acquisition of the properties as defined in the Purchase and Sale Agreement, and to authorize the City Administrator to execute all documents associated with the transaction. Passed - Vote 6-1 (Councilor Bernier opposed.)

STREET ACCEPTANCE FOR HIGH STREET

VOTE (363-2002)

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

ORDERED, That High 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

**RATIFICATION OF COLLECTIVE BARGAINING AGREEMENT WITH
LOCAL 785 OF THE IAFF**

The City Administrator reviewed the highlights of the new contract - this is an eighteen month agreement which expires December 31, 2002; there is a five percent increase across the board, retroactive back to January 1, 2002; also retroactive to January 1, 2002 is the firefighter's deduction for health insurance premiums, similar to other employees; a wellness/fitness clause and a twenty five year, no age limit retirement clause. In addition, there is a provision in the contract which allows for the possible cross-training in emergency medical services (EMS), yet the details need to be explored and fully reviewed. The Union approved the contract last week, and it is viewed as a fair contract from both sides. Councilor Mason stated that he will be abstaining from the vote, since he is new to the Council and not aware of background information regarding the negotiations.

VOTE (364-2002)

Motion by Councilor Bernier, seconded by Councilor Paradis:

To ratify the Collective Bargaining Agreement between the City of Lewiston and the Local 785 of the International Association of Fire Fighters (IAFF), said agreement being for the period of July 1, 2001 to December 31, 2002, and to authorize the Mayor to sign the agreement on behalf of the City of Lewiston.

Passed - Vote 6-0-1 (Councilor Mason abstained.)

**RESOLUTION REGARDING THE RELOCATION OF SEXUAL OFFENDERS
TO LEWISTON**

Mayor Raymond stated that Senator Rotundo recently met with representatives from the Department of Corrections and this issue will be reviewed. The Mayor said he is seeking a more equitable distribution for the placement of sexual offenders around the state, rather than having a concentration in Lewiston. Councilor O'Brien stated that many of these folks do not have ties here or family here and they have no connection to Lewiston. Linda Hartell of Auburn addressed the Council. She stated she serves as the CEO for a local mental health organization and urged the Council not to overreact to this issue, and to move forward in a mindful manner and work with local mental health agencies. She noted the sexual offenders relocated to Lewiston need assistance in transitioning into a new community.

VOTE (365-2002)

Motion by Councilor Mason, seconded by Councilor Rousseau:

To adopt the Resolution regarding the relocation of sexual offenders to the City of Lewiston:

Whereas, The Lewiston City Council's number one priority as elected officials is the safety and well being of residents;

Whereas, We are concerned about the increasing number of convicted sex offenders who are being placed within our community;

Whereas, We do understand that communities must share in the placement of convicted sexual felons who are reentering society; however, we strongly advocate that such placements be distributed fairly;

Whereas, We believe that the Lewiston-Auburn community currently has a disproportionate share of such individuals residing here;

Whereas, We are very concerned about the number of convicted sex offenders within Lewiston and the staff and resources required to monitor these individuals.

Whereas, Above all, though, we are concerned about the ever-existing potential of our citizens becoming future victims, should these individuals choose to re-offend.

Whereas, We want Lewiston residents to feel that they are safe and secure within their community and to have the assurance that Lewiston is not the automatic “open door” for placement of convicted sex offenders.

Now, Therefore, Be It Resolved by the City Council of the City of Lewiston, that the Lewiston City Council is strongly requesting that the Department of Corrections review and amend their placement practices to ensure that convicted sex offenders are distributed in a fair and proportionate manner within communities.

Passed - Vote 7-0

UPDATE FROM LEWISTON MILL REDEVELOPMENT CORPORATION REPRESENTATIVES

No report was presented at this time.

REPORT FROM THE SCHOOL COMMITTEE

No report was presented at this time.

OTHER BUSINESS

No other business was brought forth at this time.

EXECUTIVE SESSION

VOTE (366-2002)

Motion by Councilor Jean, seconded by Councilor Mason:

To enter into executive session to discuss a personnel issue regarding a preliminary performance evaluation of the City Administrator. Passed - Vote 7-0

Executive Session began at 9:25 pm and ended at 9:50 pm.

VOTE (367-2002)

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

To adjourn at 9:51 P.M. Passed - Vote 7-0

A true record, Attest:

Kathleen M. Montejo, CMC
City Clerk
Lewiston, Maine