

**CITY OF LEWISTON  
PLANNING BOARD MEETING  
MINUTES for May 12, 1998**

**I ROLL CALL**

**Meeting Called to Order at 7:10 PM**

**Members Present:** Harry Milliken, Tom Peters, Mark Paradis, Lew Zidle.

**Members Absent:** Denis Theriault, Daniel Knowlton, Harold Skelton.

**Staff Present:** James Lysen, Diane Duplissis, Chris Branch.

**II READING OF THE MINUTES**

Minutes of April 28, 1998 were not ready for this meeting.

**III CORRESPONDENCE**

- Memo from Diane Duplissis regarding Mr. St. Clair and Woodlawn Avenue.
- Preservation form from Richard Poulin
- Letter from Kevin Clark regarding tabling West View Bluff.

**MOTION:** by L. Zidle, seconded by M. Paradis to accept the above correspondence and read at the appropriate time.

**VOTE:** 4-0.

**IV PUBLIC HEARINGS**

1. Paper Streets – Vacation/Preservation of Dexter Street, Dimsdale Street, Tobin Street, Mary Street, and Woodlawn Avenue. Tabled from April 28, 1998 meeting.

J. Lysen said he did a site visit with City Engineer Mike Paradis on all of the above paper streets. Richard Poulin from California sent information that the City had accepted a turn around at the end of Boston Avenue and he wants to extend the right at Hingham and Woodlawn. Staff's recommendation was to preserve Woodlawn Avenue and the other two streets that would be affected.

Opened to the public: Ronald Dion, 62 Boston Avenue – has problems with water and doesn't understand what the plans are for the future. He also borders Border Street. He asked if this meant there would be access through this street. Jim explained the public rights - preserve or vacate and that no one has come forward to vacate Border Street. He said he thinks the water problem is because of the cul-de-sac. J. Lysen suggested that Mr. Dion speak with Paul Boudreau of Public Works. Mr. Dion said he has already and has not gotten any results. T.

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Peters suggest he contact his city councilor. J. Lysen said he should give C. Branch an opportunity to address this issue first. H. Milliken asked if the property owners on Border and Hingham street were notified. J. Lysen said yes they were. H. Milliken asked Mr. Dion if he wanted this preserved or vacated. He said he wanted it vacated.

Joline Healey said her parents have six lots on Border Street and does not want to see it vacated. If Woodlawn is vacated, they would be landlocked. They want it preserved. Edmund Johnson is on the corner - Mrs. Johnson said she would like Border preserved. H. Milliken noted that there were already houses built in this area in question. Mrs. Johnson said she has a long driveway. T. Peters explained that these paper streets sit on the books for ages and there comes a time that they need to be either built out or vacated. No further comments from the audience.

**MOTION:** by L. Zidle, seconded by M. Paradis to send a favorable recommendation to City Council for the preservation of Woodlawn Avenue, Border Street and Hingham Street.

**VOTE:** 4-0.

**Tobin and Mary Streets**

J. Lysen said that at the last meeting, Attorney Bissonnette said this street never appeared in a recorded map and therefore was not applicable to a vacation/ preservation status. J. Lysen said he visited this area with Mike Paradis. One thing he observed was a large drainage course that comes from Lisbon Street over Mr. Lynch's property and Mr. Pellerin's property. Staff also received a few phone calls this week from people who use this as a public walkway to South Lewiston recreational fields. There were concerns about access from public works to repair the rip-rap, sewer manholes, etc.

Opened to the public. Dwight Payne, 18 Morningside Street said State of Maine was putting in trees and still gained access from that land. Dan St. Hilaire, 27 Mark Drive, abuts this property and wants the street vacated because he currently has a car port and needs about 10 feet to construct a two car garage and would not hinder any kind of passage up or down in that area. He said he would only be taking about 95 feet. H. Milliken asked J. Lysen how this would affect this gentleman to use it for set-backs. J. Lysen said the City has easements in that area, not sure of the width, can't build on the easement, however there is no set-back requirements. Kevin Lynch, abuts the property and said the City has easements across their property. It is his understanding that there may be more easements across the property. He said the rip-rap area totally failed and it had to be totally reconstructed. The easement is across his property, and Mr. Pellerin's property. J. Lysen said according to Attorney Bissonnette's opinion, the City is only talking about a small section. Claire Filietaz of 87 Bartlett Street said it was her feeling that this street was the access to their lots. She does not want this land to be landlocked. The land is different property from the funeral home, it is owned privately by Jim and Kevin Lynch. She wants the paper street preserved because it will make the land useless. One easement comes from Bonneau's parking lot, another is a sewer line down through the property, and then when they wanted to separate the surface water from the sewer, there was another easement. Mr. Payne

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approached the Board with a map by City Engineer Steve Johnson. Mr. Lynch also approached the Board. Mrs. Filliettaz said she believed that Tobin Road was part of the subdivision.

H. Milliken said that if Tobin Street does not exist, then it requires no action. Mr. Pinette said he was convinced that closing Tobin Street and Mary Extension was not legal. He said Mr. Payne continues to have access. Mr. Pinette said that even if Mary Street was closed, they would not be landlocked. He said Tobin and Mary Street are not owned by the City and not recorded, there is nothing to vacate and nothing is needed. However, vacating would force him to “redefine his rights.” Request no action by the Board. Whatever pavement was put there was put by the homeowners. If Mr. St. Hilaire builds a garage, it would cause no one any harm and not landlock any land. He supports Mr. St Hilaire’s vacation of this portion of Mary Street and requested deeds to himself and Mr. St. Hilaire from the city. Claire Filliettaz said it should be the City’s duty to figure out if it would be landlocked or not. Mr. Lynch said he has access to the land in the back. Mrs. Filliettaz said it was too steep, could never build a road there. Mr. Payne said there was a way to get to the property from Mr. Gendron’s property. Mr. Lynch and Mr. Pinette again approached the Board with a map.

H. Milliken asked if there were any other comments from the audience. Closed to public – asked the Board for a recommendation.

T. Peters said the only one before the Board tonight was Mary Street Extension, not Mary Street and Tobin Street. Because there is property behind that street presently owned by Mr. Lynch, he said it should be preserved. It is his understanding that it is probably contrary to what Mr. Pinette wants, and in agreement with what Mr. Lynch and Mr. Payne want. Mr. St. Hilaire said he has better access through Tobin Street.

**MOTION:** by T. Peters, seconded by M. Paradis to send a favorable recommendation to the City Council to preserve the Mary Street Extension (85-95 feet) and not addresses Mary and Tobin Streets because they do not appear as paper streets.

**Discussion:** H. Milliken said he would have to go along with C. Branch’s recommendation in that it makes no sense to vacate the street because of the access the City requires on the back property.

**VOTE:** 4-0.

No action taken on the rest of Mary Street and Tobin Street.

H. Milliken asked that Staff makes sure that Mr. Payne and Mr. Lynch are notified if these streets come back before the Board. Dwight Payne, 18 Morningside Street, Lewiston 04240-5019 and Mr. Kevin Lynch, 87 Bartlett Street, Lewiston.

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**Dimsdale Street**

H. Milliken asked if there was anyone in the audience regarding Dimsdale Street. No one appeared. Staff's recommendation was to vacate the portion between Webber and Reservoir.

**MOTION:** by T. Peters, seconded by L. Zidle to send a favorable recommendation to the City Council to vacate the proposed (paper) portion of Dimsdale Street.

**VOTE:** 4-0.

**Dexter Street**

J. Lysen and Donald Caron 35 Drew Street, Lewiston approached the Board. H. Milliken said his recommendation was to preserve all of this street and send it to the Street Committee to straighten out the problems.

**MOTION:** by T. Peters, seconded by M. Paradis to send a favorable recommendation to the City Council to preserve those portions of Dexter Street, from Drew Street northwesterly approximately 435 feet, to its end. With respect to Dexter Street, the Planning Board also recommends that the Street Committee review Winn and Drew Streets for possible creation of cul-de-sacs at the ends of these streets to accommodate city maintenance and public access. If the cul-de-sacs were accomplished, the Planning Board would support the vacation of the rest of Dexter Street.

**VOTE:** 3-1 (H. Milliken).

**Discussion:** J. Lysen said that if the vote goes this way it would be considered a no action because of the 3-1 vote.

2. Review and discussion of proposed amendments to the Zoning and Land Use Code regarding the standards for granting appeals (modifications), and scheduling of a Public Hearing.

J. Lysen explained the changes in red are regarding the notification process for the code enforcement officers to grant modification appeals that fit the modification criteria. The green changes were typographical changes that were picked up by the Board of Appeals members. Art Montana said the whole basis of this is to give the applicant a better avenue to present their modification appeal. In the past most appeals were just rubber stamped and a waste of time for everyone. It was the Appeal Board's recommendation

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that the staff could approve modifications that were up to 25% and would save the Board of Appeals from hearing these, since in essence they cannot deny. He also explained the maintenance agreement from abutting neighbors. Mr. Montana is strongly in favor of the modification.

**MOTION:** by T. Peters seconded by L. Zidle to send a favorable recommendation to City Council to adopt the proposed changes as submitted.

**VOTE:** 4-0.

**Discussion:** T. Peters suggested that the Board of Appeals also send a favorable recommendation to the City Council. H. Milliken also said that there should be a note sent to city council that this was decided by Planning Board and Board of Appeals at a joint meeting.

**V REVIEW OF DEVELOPMENT PROPOSALS - FINAL HEARING**

Gendron & Gendron Fill Project – 277 River Road (near intersection of Alfred Plourde Parkway)

Arthur Montana of ARCC Land Surveyors, Inc. and Leo Larochelle, of Performance Technology, Inc., on behalf of Gendron & Gendron have submitted plans for a proposal to place fill material in excess of one hundred thousand (100,000) cubic yards on 3.5 acres of land located at 277 River Road. The Zoning and Land Use Code defines fill projects in excess of five thousand (5,000) cubic yards as a major project and therefore this project required Planning Board's approval. It was noted that the filling operation had commenced at this time and the request before the Board is for a partial "after-the-fact" approval of the fill project. Mr. Larochelle, project engineer, stated that there is approximately fifteen thousand (15,000) cubic yards of fill material presently on site and they are seeking approval for filling an additional one hundred thousand (100,000) cubic yards.

Pursuant to Article XIII, Section 3(h)(5), the applicant is requesting a number of non-applicable status and waiver requests to the application requirements listed under Section 3(h)(1-3). Upon review of the request, Staff found that they were justified and recommended that the Board grant them with the exception of a waiver for the drainage/erosion control plan, which is critical to a project such as this and has been requested by Public Works. In addition, the plans reflect contours at five (5) foot intervals, not the required two (2) foot intervals, and a modification was not requested. Staff had no concerns with this issue other than correcting the Modification/Waiver Checklist Form.

Staff reviewed the site plan and was in the opinion that a construction schedule with a final

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completion date should be required and that security measures should be implemented in order to keep unwanted fill from being dumped indiscriminately on the site. There is also a question concerning the elevation of the flood plain in this area. The Flood Insurance Rate Map for the City of Lewiston indicates an elevation of approximately 131'; the plan shows the elevation as being 134'. Copies of the plans were forwarded to the Police, Fire and Public Works Departments for their review and comments. Police and Fire had no concerns; however, Steve Johnson, Engineer at the Public Works Department had several comments regarding the project:

- “1. The developer must install and maintain erosion control measures while the fill site is active. At a minimum, this would be (a) properly installed and maintained silt fence. The silt fence should be inspected on a regular basis and repaired as required. Also a standard detail of the silt fence should be shown on the plans.
2. As the fill site progresses, the developer should install temporary seeding in unused areas to minimize sediment and phosphorus impacts to the Androscoggin River. Once the project has achieved final grading, permanent seeding must be installed and maintained. All erosion control measures and Best Management Practices should conform to the *Maine Erosion and Sediment Control Handbook for Construction: Best Management Practices, 1991*.
3. Any filling operations must not cause storm water impacts to abutting property owners. If filling operations impact abutters, the developer must address these issues.
4. The developer must install and maintain an adequate crushed stone mat at the site entrance to minimize soil migration from truck tires into the travelway of River Road.”

J. Lysen said this was listed as a final hearing on the agenda, but it is a pre-application and asked for a determination of completeness so that it can be scheduled for a final hearing.

**MOTION:** by T. Peters, seconded by L. Zidle that the requested waivers and/or modifications of submission requirements by Gendron & Gendron be granted because of the size of the project and the circumstances of the site, such requirements would not be applicable or would be an unnecessary burden upon the applicant; that such waivers do not adversely affect the abutting landowners or the general health, safety, and welfare of the city, except for the following:

1. The waiver concerning a soil and erosion control plan be denied, and

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2. That a modification to the contour interval be granted to allow five foot intervals rather than the required two foot interval.

**VOTE:** 4-0.

**MOTION:** by T. Peters seconded by L. Zidle that the application of Gendron & Gendron is determined to be complete. Further moved that review of the completed application be scheduled on May 26, 1998 at 7 PM and that all of staff's concerns be addressed by that time.

**VOTE:** 4-0.

**Discussion:** H. Milliken said there should be clean fill.

**VI REVIEW OF DEVELOPMENT PROPOSALS PRE APPLICATION**

West View Bluffs - Revision V - West View Drive

Per Kevin Clark's request, this item was tabled. J. Lysen suggested that Code Enforcement not issue any more permits until these issues are taken care of. Because there was nothing in front of the Board this evening, problems could not be addressed by the Board at this time. It was the consensus that this should go to Code Enforcement. T. Peters said that it was his understanding that once it has been brought before the Board, that the Board could act on it even if no one from this project was present to give their input. J. Lysen said this was a private street and public work washed their hands of it. He further noted that the homeowners association has not kicked in yet – not enough lots have been sold. J. Lysen said to perhaps table it to a date certain to give them an opportunity to have a month to put something together. J. Lysen said the City should get an opinion from the City's attorney to see who is responsible for what. J. Lysen said perhaps the Board should get clarification

**MOTION:** by T. Peters, seconded by M. Paradis to instruct Jim Lysen to write a letter to Mr. Starbird and other appropriate individuals as to what Planning Board needs for clarity and ask for a response in writing and appear in person at the scheduled hearing of June 9<sup>th</sup>. Planning Board also instructs Code Enforcement that no further permits be issued.

**VOTE:** 4-0.

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**VI OTHER BUSINESS**

A. New Business:

1. Water's Edge Subdivision - Review of Amendments to By-Laws and Deed Restrictions.

**MOTION:** by L. Zidle, seconded by T. Peters to table this item until May 26, 1998.

**VOTE:** 4-0.

2. Empowerment Zone (EZ) / Enterprise Community (EC) Project. Not reached.
3. Downtown Bicycle and Pedestrian System - Phase I Implementation. Not reached.
4. Acquisition/Disposition of Property in South Park Industrial Park.

Chris Branch said there were errors in the original plotting of the parcels in South Park. He stated the land originally belonged to the City of Lewiston and was supposed to be transferred back to South Park. Deed description had an error in the property line. At this time, Mr. Branch was asking for the City to transfer it back to South Park.

Mr. Branch pointed out the boundary lines in South Park that needed changes. He said the City needed a 25 foot set back for the city pit. Cottage Road Associates - will transfer Lot 26 from South Park to the City of Lewiston. Another parcel will go from the City to South Park. There is no transfer of money - it will be a land swap. T Peters asked if the twenty-five foot set back would then be met. C. Branch answered yes. Another issue is the area along Goddard Road. About a year ago the City came up with a new description of the road saying it will be 55 feet wide. Will change right of way to 55 feet instead of 60 feet. Tom Ouellette of Budget Machines will grant some frontage along with transfer of property from LDC in the front and an equivalent in the back of the lot to the City. Land has been surveyed by TSI. H. Milliken opened the meeting to the public. No comments.

**MOTION:** by T. Peters, seconded by L. Zidle to send a favorable recommendation to the City Council regarding several proposed land transactions between the City, South Park Development Corporation, and individual property owners within the South Park Industrial park, as outlined in the memo from Public Works Director Chris Branch to James Lysen dated May 6, 1998 with attachments.

**VOTE:** 4-0.



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**B. Old Business:**

1. Report and discussion on the Urban Enterprise District and allowed uses within the downtown area and possible creation of a new "Downtown Redevelopment District"(3-11-97). Not reached.
2. Review and discussion of the applicability of the Bates Mill Complex/Municipal Buildings & Facilities for Development Review. (Continued from 2-24-98) Not reached.
3. Update on the status of property located at 18 Fireslate Place. (10-14-97) Not reached.
4. Comprehensive Plan Update:
  - a) Development of a Work Plan for the implementation of the Comprehensive Plan. (8-19-97)
  - b) Review and discussion of amendments to the Comprehensive Plan to respond to the review comments from the State. (8-19-97 & 11-25-97) Not reached.
5. Discussion concerning required changes to Zoning and Land Use Code to keep DEP Site Location Delegated Review authority. Not reached.
6. Access Management. Not reached.

H. Milliken said he received a letter from Estelle Rubenstein of Head Start asking the Board to write a letter of support for one of her programs. H. Milliken asked Diane to draft up a new letter and send it to Ms. Rubenstein on or before the May 18<sup>th</sup> deadline. The Board voted to authorize the letter be drafted and reviewed by the chair and signed on behalf of the Board.

**VII ADJOURNMENT**

**MOTION:** by L. Zidle, seconded by M. Paradis to adjourn the meeting.

**VOTE:** 4-0.

Meeting adjourned at 9:15 PM.

Respectfully submitted,

Denis Theriault

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Secretary - absent, but reviewed by full Board.

dd