

**LEWISTON CITY COUNCIL AGENDA
CITY COUNCIL CHAMBERS
OCTOBER 2, 2012**

6:00 p.m. Workshop

- A. Review of Ethics and Whistleblower Policies.
- B. Discussion of Business Zoning on Arterial Streets.

7:00 p.m. Regular Meeting

Pledge of Allegiance to the Flag.
Moment of Silence.

Public Comment period - Any member of the public may make comments regarding issues pertaining to Lewiston City Government (maximum time limit is 15 minutes for all comments)

ALL ROLL CALL VOTES FOR THIS MEETING WILL BEGIN WITH THE COUNCILOR OF WARD 3.

CONSENT AGENDA: All items with an asterisk (*) are considered to be routine and will be enacted by one motion. There will be no separate discussion of these items unless a Council member or a citizen so requests, in which event, the item will be removed from the Consent Agenda and considered in its normal sequence on the Agenda.

- * 1. Authorization to accept transfer of forfeiture funds.
- * 2. Appointment to the Lewiston Housing Authority Board of Commissioners.
- * 3. Approval of election Warrant Calling for the Special Municipal Election to be held on Tuesday, November 6, 2012 for a municipal referendum and Recommendations from the City Clerk/Registrar of Voters on actions necessary to conduct the Presidential Election to be held on Tuesday, November 6, 2012.
- * 4. Continuation of Public Hearing on a new liquor license application and special amusement permit for Rondevu, Inc., 16-18 Park Street.

REGULAR BUSINESS:

- 5. Public Hearing and First Passage regarding an amendment to the Business Licensing ordinance regarding the adoption of applicable State of Maine Rules.
- 6. Public Hearing and First Passage for Land Use Code amendments concerning the placement of political campaign signs.
- 7. Amendments to the Municipal Parking Fees Policy to revise the Downtown Business Parking Fee Discount Program.
- 8. Resolve Extending the Term of the Kennedy Park Bandstand Restoration Committee.
- 9. Reports and Updates.
- 10. Any other City Business Councilors or others may have relating to Lewiston City Government.
- 11. Executive Session to discuss the Disposition of Real Estate of which the premature disclosure of the information would prejudice the competitive bargaining position of the City.
- 12. Executive Session to discuss Acquisition of Property of which the premature disclosure of the information would prejudice the competitive bargaining position of the City.

A



City of Lewiston Executive Department

EDWARD A. BARRETT
City Administrator

PHIL NADEAU
Deputy City Administrator



September 26, 2012

To: Honorable Mayor and Members of the City Council
Fr: Edward A. Barrett
Su: Ethics and Whistleblower Policies

At Tuesday's workshop, I plan to review and discuss with you two new policies. The first is an ethics policy for city employees. The impetus for developing this policy is the growing requirement under certain federal grant programs that the City have a formal ethics policy in place. In the past, we have met this requirement by referencing the International City/County Management Association's Code of Ethics. However, that Code is primarily directed toward issues and concerns affecting senior management, not the entire municipal work force. In addition, it is simply good practice to spell out clearly our expectations as to ethical behavior.

The second and related policy relates to whistleblower protection and reporting. This policy is intended to spell out clearly how the municipal officers, community members, and employees can, in good faith, report suspicions of misconduct by employees and/or any misuse of City property and resources and the protections that are in place against retaliation against anyone who does such a report. This policy will clarify exactly how the City will comply with Maine law on this subject.

These policies are not being introduced in response to any reported or suspected incident of unethical or inappropriate behavior on the part of our employees or others related to the City. Rather, they are intended as proactive measures to set out in advance the standard of ethical conduct that we expect and the protections that are in place for anyone who reports potential violations of these standards.

I look forward to hearing your thoughts, comments, and suggestions at Tuesday's meeting.

CITY OF LEWISTON
ETHICS POLICY FOR CITY EMPLOYEES

1.0 Purpose

The purpose of this Policy is to establish the ethical standards of conduct expected of all City employees by setting forth those acts or actions deemed to be in conflict or incompatible, or to create the reasonable appearance of conflict or incompatibility, with the best interests of the City. This policy shall apply to all employees who are members of any City collective bargaining unit with the exception of any provision which has been superseded by a collective bargaining agreement.

2.0 Policy

The proper operation of democratic government requires that City employees be honest, fair, impartial, and responsive to the needs of the people in the performance of their respective functions and duties; that public office not be used for personal gain; and that City employees maintain a standard of conduct that will inspire public confidence in the integrity of the City's government. In recognition of these goals, this Code of Ethics is hereby established for all City employees.

3.0 Definitions

3.1 CITY EMPLOYEE

Any individual working for and drawing an hourly wage, salary, or stipend from the City on a permanent or temporary basis, whether full or part time. The term "City employee" shall not include outside consultants or professional personnel providing services to the City as independent contractors under a written professional services contract or other similar engagement.

3.2 FINANCIAL INTEREST

A direct or indirect interest having monetary or pecuniary value, including but not limited to the ownership of shares of stock. A City employee or any member of that person's immediate family who holds a financial interest in a disclosed blind trust shall not be deemed to have a conflict of interest with regard to matters pertaining to assets held by the trust.

3.3 RELATED PERSON

Spouse, children, parents, siblings, including step, half, and in-law relations, a domestic partner of a City employee or persons sharing the same household and intermingling financial assets with a City employee.

3.4 PERSONAL INTEREST

Any interest of a City employee acting in his or her private capacity as a resident, landowner, taxpayer, citizen, or member of the general public.

3.5 SPECIAL INTEREST

A direct or indirect interest having value peculiar to a certain individual or group, whether economic or otherwise, which value may accrue to such individual or group as a result of action or failure to act on the part of the City and which interest is not shared by the general public.

4.0 Contracts, purchases and employment

4.1 No City employee shall participate directly, by means of deliberation, approval, disapproval, or recommendation, in the purchase of goods or services for the City, or in the award of any contracts with the City, except as permitted under the solicitation provisions in Section 4.3 of this Policy, the City's Purchasing Regulations, and the laws of the State of Maine, where, to his or her knowledge, there is a financial interest, personal interest, or special interest, other than that possessed by the public generally in such purchase or award, or held by:

4.1.1 That individual or a member of his or her immediate family;

4.1.2 A business in which that individual or a member of his or her immediate family serves as an officer, director, trustee, partner, or employee in a supervisory or management position; or

4.1.3 Any other person or business with whom or with which that individual or a member of his or her immediate family does business, is negotiating to do business, or has an arrangement concerning future employment.

4.2 No City employee shall participate, by means of deliberation, approval, disapproval, or recommendation, in the decision to hire, promote, discipline, lay off, or to take any other personnel action in respect to any City employee or applicant for City employment where the applicant or employee is:

4.2.1 A member of the City employee's immediate family; or

4.2.2 A person with whom either the City employee or a member of his or her immediate family is in business.

4.2.3 Action by a City employee shall be deemed authorized under this subsection when such action is permitted under the City's published Personnel Rules and Regulations, collective bargaining agreements, or adopted Nepotism policy.

4.3 No City employee shall solicit any person, vendor, company or organization for items, events, favors, or services the value of which exceeds, in total, the de minimus value as defined in Section 6.3 unless those things of value are approved by the City Administrator or his/her designee.

4.3.1 All things received by any City employee which exceed the de minimus value stated in Section 6.3, and approved under this Section, shall be posted on the City web site.

4.3.2 All defined things of value solicited by City employees and posted on the City web site shall remain posted for no less than one (1) year from the date received.

5.0 Confidential information.

No City employee shall, without proper legal authorization, disclose confidential information concerning the property, government, or affairs of the City, nor shall he or she use such information to advance his or her financial, special, or personal interest or the financial, special, or personal interest of others. For purposes of this section, the term "confidential information" shall mean any information, oral or written, that comes to the attention of, or is available to, a City employee only because of his or her position with the City and is not a matter of public record. Information received and discussed during an executive session of the City Council or any City agency called pursuant to 1 M.R.S.A. § 405 *et seq.* shall be considered within the constraints of this section and shall not be disclosed to any third party unless permitted by such body.

6.0 Things of value, gifts, and favors

- 6.1 For purposes of this Section, "Things of Value" shall mean any gift, favor, service, loan, event, promise or other thing of value.
- 6.2 Unless otherwise permitted in this policy, no City employee shall accept or solicit any Things of Value from any person, organization, or business that, to his or her knowledge, is interested or is participating directly or indirectly in any manner whatsoever in business or other legal or regulatory dealings with the City or its affiliated joint agencies. Nor shall any City employee:
 - 6.1.1 Accept any gift, favor, or thing of value that tends to influence that individual in the discharge of his or her official duties; or
 - 6.1.2 Grant in the discharge of his or her official duties any improper favor, service, or thing of value.
- 6.3 The prohibition contained in Section 6.2 shall not apply to "De Minimus" Things of Value, which shall initially be defined as Things of Value that do not exceed \$25 in total value. The City Administrator may increase this amount from time to time as may be appropriate to reflect overall price increases.
- 6.4 The prohibition contained in Section 6.2 shall not extend to the solicitation or acceptance of Things of Value that are approved by the City Council or the City Administrator or his/her designee.
- 6.5 The prohibitions contained in Section 6.2 shall not extend to such items as gifts of products or services to the City for purpose of trial or demonstration or gifts associated with holidays or special events to the extent that such gifts are made available and/or shared with all employees in a department. Nor shall it extend to reasonable gifts made to employees to recognize their service at time of retirement or separation.
- 6.6 In all such cases, gifts, products, or services with a value greater than "De Minimus" shall be reported to the City Administrator and, with the exception of retirement or separation not involving the City Administrator, shall be posted on the City web site for no less than one (1) year from the date received.

6.7 Unless prohibited by local, state or federal law, nothing herein shall prohibit the acceptance of gifts or favors by City employees from members of their immediate families or other city employees.

6.8 In determining whether a violation of this section has occurred, the following may be taken into consideration: the monetary or pecuniary value of the Thing of Value received; the act and/or item that constitutes the Thing of Value received; any special economic value the Thing of Value received may have to the recipient; the circumstances under which the Thing of Value was received; and whether a public disclosure of the receipt was made at the time of receipt.

7.0 Use of City property.

No City employee shall use or permit the use of any City-owned property, including but not limited to motor vehicles, equipment, and buildings, for any private purposes.

Nothing herein shall prohibit:

7.1 The use of City equipment or motor vehicles by City employees in accordance with written policies and at rates established by the City Council, City Administrator, City department head concerned, or collective bargaining agreement; or

7.2 The private use of surplus City property legally disposed of by the City or its departments in compliance with procedures established by the City Council, City Administrator, or City department head concerned.

8.0 Political activities.

No City employee shall participate in any political activity that would be in conflict or incompatible with the performance of his or her official functions and duties for the City. No City employee may use his or her official authority or position for the purposes of influencing, interfering with, or affecting the results of any election, nor shall he or she solicit or accept funds or contributions during the work day from other City employees for political purposes. Nothing herein shall be construed to prohibit any City employee from participating in the political process in their capacity as private citizens or as candidates for elected office.

9.0 Incompatible Employment

No City employee shall engage in or accept private employment or render services for private interests when such employment or service is incompatible with the proper discharge of that employee's official duties or would tend to impair his or her independence of judgment or action in the performance of those official duties.

10.0 Representing Private Interests before City Agencies or Courts

No City employee shall appear on behalf of private interests before any agency of the City. A City employee shall not represent private interests in any action or proceeding against the interests of the City in any litigation to which the City is a party unless the employee is representing himself/herself as a private citizen on purely personal business or has been subpoenaed to appear. No City employee shall accept a retainer or compensation that is contingent upon a specific action by a City agency.

11.0 Disclosure of Interest in Legislation

Any City employee who has a financial, special, or other private interest, and who participates in discussions with or gives an official opinion to the Council, shall disclose the nature and extent of such interest to the Council and the public.

12.0 Discussion of Future Employment

When a City employee has been offered or is discussing future employment with a person, firm, or any other business entity that is presently dealing with the City concerning matters within the employee's current official duties, that person should disclose such possible future employment to the Human Resources Department.

13.0 Applicability of Code.

This code shall apply in all instances except when superseded by an applicable statute, ordinance, adopted personnel rule or regulation, or collective bargaining agreement. When a City employee has doubt as to the applicability of a provision of this code to a particular situation, that employee should apply to the Human Resources Director or Deputy City Administrator for a written advisory opinion and be guided by that opinion when given. The employee shall have the opportunity to present his or her interpretation of the facts at issue and of the applicable provision(s) of the code before such advisory decision is made. All such requests for advice shall be treated as confidential.

14.0 Violations & Reporting

City employees have an affirmative obligation to report all suspected violations of this Code of Ethics. Reporting violations of this Policy shall follow the reporting protocols outlined in the City's Whistleblower Protection Policy.

Violations of this Code of Ethics, including the failure to report violations of others, may result in disciplinary action, up to and including termination, in accordance with the disciplinary procedures established in the City's Personnel Rules and Regulations and applicable Collective Bargaining Agreements.

City of Lewiston

Whistleblower Protection and Reporting Policy

1.0 PURPOSE

It is critical that the City foster and maintain a workplace with high ethical standards and conduct its business in a fair, effective, efficient, and transparent manner. Further, the City must protect its assets and resources from fraudulent, illegal, and dishonest activities by maintaining effective internal controls and identifying and investigating any possibility of fraud or other improper activities. This Whistleblower Policy establishes procedures for City employees, Officers, and community residents to report alleged illegal, fraudulent, and/or improper activity by employees and to assure that such reports do not result in retaliation by the City. This policy is in compliance with the "Whistleblower's Protection Act", MRSA 26, Section 830 et. al.

2.0 POLICY

Officers ("Officer" shall be defined as municipally elected officials and Mayor and City Council appointed committee members), community members, and Employees are encouraged to report good faith suspicions of misconduct by Employees and any misuse of City property or resources. Any Employee ("Employee" shall be defined as any full or part-time individual employed in municipal government which shall not include those employed by the Lewiston School Department) or community member who makes such a good faith report is protected against adverse actions by the City for raising such allegations and shall not suffer any reprisals or retaliation by the City for making the report, whether or not the allegations are sustained.

3.0 PROHIBITED CITY ACTIONS & REPORTABLE ACTIVITIES

- 3.1 The City may not discharge, threaten, or otherwise discriminate against an Employee. or a person acting on behalf of the Employee, regarding the employee's compensation, terms, conditions, location, or privileges of employment because he or she reports, orally or in writing:
 - 3.1.1 What the Employee has reasonable cause to believe is a violation of the City's Code of Ethics Policy or a law or rule adopted under the laws of this State, the City, or the United States;
 - 3.1.2 What the Employee has reasonable cause to believe is a condition or practice that would put at risk the health or safety of that Employee or any other individual;
 - 3.1.3 What the employee has reasonable cause to believe is an act or omission that constitutes a deviation from the applicable standards governing City licensing or regulatory procedures or violations of City policy on the provision of benefits to clients or residents; or
 - 3.1.4 The Employee is requested to participate in an investigation, hearing or inquiry held by the City, or in a court action; or
 - 3.1.5 The Employee, acting in good faith, has refused to carry out a directive to engage in activity that would be a violation of the City's Code of Ethics Policy, a law or rule adopted under the laws of this State, the City, or the United States, or that would expose the employee or any individual to a condition that could result in serious injury or death, after having sought

and been unable to obtain a correction of the illegal activity or dangerous condition from the City.

- 3.2 Community members, Officers, or Employees should report information related to any of the following prohibited activities, including, but not limited to:
 - 3.2.1 Violation of any law, regulation, or ordinance.
 - 3.2.2 Conflict of interest.
 - 3.2.3 Fraud, waste, or misuse of City property, resources, or time.
 - 3.2.4 Improper or illegal use of authority.
 - 3.2.5 Creation of a specific and substantial danger to public health or safety by failing to perform duties required by the City position held.
 - 3.2.6 Theft, misuse of, or misappropriation of City resources, property, information, assets, or funds, or an attempt to do any of the same.
 - 3.2.7 Intentional falsification of records (including failure to disclose material facts or making false or misleading entries or statements with the intent to deceive on any City document or other official document, report, or form, including but not limited to, City financial records and environmental regulatory reporting), or the willful and unauthorized destruction and/or mutilation of any City document or other official document, report, or form, including City financial records, other than in accordance with the City's record retention policy and/or applicable state law.
 - 3.2.8 Intentionally submitting false claims for payment or reimbursement.
 - 3.2.9 Knowingly submitting and/or signing a timesheet that contains false information.
 - 3.2.10 Forgery or intentional unauthorized alteration of a City document or other official document, application, report, or form, including but not limited to City financial documents.
 - 3.2.11 Improprieties in the handling or reporting of financial transactions for the City.
 - 3.2.12 Authorizing or receiving payment by the City for goods not received or services not performed.
 - 3.2.13 Computer related activity involving unauthorized alteration, destruction of data, forgery, or manipulation of data or misappropriation of City-owned software.
- 3.3 Prior to submitting a formal Whistleblowing report, Employees reporting any alleged violation, unsafe condition, or practice outlined in Section 3.0 or consistent with the intent of this Policy must first bring the concern to the attention of a person having departmental supervisory authority in order to demonstrate that the City has been allowed a reasonable opportunity to correct and properly report that violation, condition, or practice.

Prior notice to the supervisor or department head is not required if the employee has specific reason to believe that prior reports to the supervisor or department head have not resulted in promptly correcting and/or properly reporting the violation, condition, or practice. In such cases the procedures outlined in Section 4.0 of this policy should be followed.

Employees are encouraged not to file Whistleblowing reports in place of applicable grievance filings in response to certain labor-management practices, working conditions, and collective bargaining agreement requirements as outlined in applicable collective bargaining agreements and the City's Personnel Policy.

- 3.4 An Employee required to report suspected physical, sexual or mental abuse, neglect, or exploitation under MRSA 22, Section 3477 or 4011-A shall follow the requirements of those sections under those circumstances. No employer may discharge, threaten or otherwise discriminate against an employee regarding the employee's compensation, terms, conditions, location or privileges of employment because the employee followed the requirements of those sections.

4.0 REPORTING PROCEDURES

4.1 When to Report

A complaint filed under this Policy should be filed within 45 days of the date of the act or event which is subject of the complaint.

4.2 Whom to and How to Report

If a community member, Officer, or Employee submits a formal Whistleblower Complaint, they may utilize the form included in this Policy, the electronic submittal form located on the City Administrator's web page, or may submit an alternate written complaint (i.e., letter with contact information or email). The following conditions shall apply for reporting purposes:

- 4.2.1 **EMPLOYEES REPORTING TO SUPERVISOR OR DEPT. HEAD.** In most instances, Employees should submit a Whistleblower complaint to their supervisor or department head. Once received, the supervisor or department head must immediately forward a copy of the complaint to the City Administrator
- 4.2.2 If the supervisor or department head does not respond to the Employee's complaint within a reasonable period of time, the Employee may notify the City Administrator using one of the written complaint procedures listed in this Section.
- 4.2.2 **EMPLOYEES UNABLE TO REPORT TO SUPERVISOR OR DEPT. HEAD.** If the Employee believes that he or she is unable to report violations outlined in this policy to either their supervisor or department head, or the report involves either their supervisor or department head, the Employee may submit the complaint directly to the City Administrator utilizing the direct reporting function in the City Administrator's web page (which will be directed to the City Administrator or the Acting City Administrator when applicable) or by downloading the form provided on the City Administrator's web site; or by picking up a form at the City Clerk's Office. All mailed forms should be forwarded to: Lewiston City Administrator, City Hall, 27 Pine Street, Lewiston, Maine 04240.
- 4.2.3 **REPORTING PROCEDURES FOR COMMUNITY MEMBERS AND OFFICERS:** All reports or written complaints submitted by Officers and community members that do not involve the City Administrator shall be submitted to the City Administrator using one of the complaint procedures listed in Section 4.2.2.

4.2.4 **REPORTING ACTIVITY INVOLVING THE CITY ADMINISTRATOR:**
All reports or written complaints submitted by Officers, community members, or Employees regarding the City Administrator shall be submitted to the City Attorney. The complaint must be submitted in writing and mailed to the City Attorney c/o Martin Eisenstein, Esq., Lewiston Whistleblower Program, P.O. Box 3070, Lewiston, ME 04243-3070 **(PLEASE NOTE: submitting the electronic form through the City Administrator's web site will send the Whistleblower complaint to the City Administrator).**

4.3 **Anonymity**

Although every effort will be made to protect the anonymity of the whistleblower, there may be situations where anonymity cannot be guaranteed.

4.4 **Accessing Reporting Forms**

The **Whistleblower Complaint Form** is available on the City website (click on the City Administrator's webpage under "Whistleblower Handling Process"). The form will also be available at all municipal building Employee information areas and on the second floor of City Hall near the City Clerk's Office.

5.0 PROTECTION FROM RETALIATION

5.1 **Retaliation Prohibited**

No Officer or Employee shall use or threaten to use any official authority to influence, restrain, or prevent any other person who is acting as a whistleblower in good faith or upon a reasonable good faith belief. No Officer or Employee shall use or threaten to use any official authority or influence to cause any adverse employment action (including discharge, demotion, suspension, harassment, or other forms of discrimination) as retaliation against an Officer or employee who acts as a whistleblower in good faith and with reasonable belief that improper conduct has occurred. However, this Policy does not prohibit the City from taking an adverse action for legitimate or non-discriminatory reasons due to a mere casual connection to the protected Whistleblower activity. Such legitimate or non-discriminatory actions may include discipline for appropriate cause or refusing to hire/promote/transfer or to take any other personnel action based on inadequate qualifications or poor performance reviews.

5.2 **Investigation of Complaints**

Depending upon on the nature of the complaint, the City Administrator or her/his designee or the City Attorney will investigate the complaint to determine if misconduct and/or a violation of this Policy has occurred. To the extent permitted by personnel privacy laws and collective bargaining agreements, the City Administrator, her/his designee, or the City Attorney will meet with the complainant to discuss the findings of the investigation. Any action required by local, state and federal law will be applicable.

In the event that the complaint involves the City Administrator, the City Attorney shall advise the City Council of the report. Any investigation of the

City Administrator must be compliant with the requirements of the City Charter and state/federal law.

5.3 Penalties

Any Officer or Employee who violates this Policy may be subject to discipline up to and including dismissal. All applicable collective bargaining and City Policy provisions shall apply. All applicable local, state, and federal penalties shall apply. In addition to all penalties provided by law, any Employee, Officer, supervisor, or department head who has been found by a court to have violated this Policy and the state and/or federal law under which it is promulgated may be individually liable for damages in an action brought against him or her by the injured Employee.

WHISTLEBLOWER COMPLAINT FORM

(Optional) Name: _____

(Optional) Address: _____

(Optional) Work Phone: _____ (Optional) Home/Cell Phone: _____

Are you a City of Lewiston employee? Yes ___ No ___

If yes, what is your position or relationship to the City?

1. Identify the person or persons against whom your allegations are made.
2. Describe the nature of your complaint, the incident(s) or event(s), date(s), time(s), and place(s). Attach additional pages to this complaint if necessary.
3. Identify others who may have observed or witnessed the incident(s) that you described.
4. Do you have any documents that support your allegation? (Please list and attach copies).

FOR ALL COMPLAINTS NOT INVOLVING THE CITY ADMINISTRATOR:

You may mail this form to City Administrator, Lewiston City Hall, 27 Pine Street, Lewiston ME 04240 or email it to whistleblower@lewistonmaine.gov. If you are submitting this form through the City Administrator's web site, the form will be forwarded automatically to the City Administrator when you click "Submit."

FOR ALL COMPLAINTS INVOLVING THE CITY ADMINISTRATOR:

Mail this form to Martin Eisenstein, Esq., Lewiston Whistleblower Program, P.O. Box 3070,
Lewiston, ME 04243-3070.

B

September 25, 2012

To: Honorable Mayor and Members of the City Council
Fr: Edward Barrett
Su: Business Zoning on Arterial Streets

Recently, Mayor Macdonald requested that a workshop be scheduled to discuss the City's zoning as it impacts businesses located on certain arterial streets. While this relates back to discussions that have been held in the past regarding business zoning in the block between Sabattus and Atwood Streets, it extends beyond this area to certain other arterials as well such as sections of Lisbon and Main Streets.

Below and attached please find a brief history of zoning discussions in the Sabattus/Atwood area as well as a memo from Planning outlining the proposed rezoning of this area as well as a copy of the proposed zoning language. As you are aware, the rezoning failed.

At this point, there are a number options on how to proceed. First, the Council could request that this issue be fully reviewed and considered in the forthcoming update of the City's comprehensive plan. It has been a goal of the City to increase the number of jobs, investment, and expand the tax base in Lewiston. Many of Lewiston's commercially zoned lots are supported by major road arterials but lack the depth necessary to support current economic development and/or immediately abut residential zoning districts. The consultant will be asked to assess the location of current residential and nonresidential zoning districts and the appropriateness of expanding them.

The Council could also request that the Planning Board revisit this issue now in several ways. The Board could simply be asked to consider adopting the newly proposed zone without considering any specific areas to be rezoned. In addition, they could also be asked to initiate the process of rezoning the Sabattus/Atwood area and/or other potential areas where such a change might prove valuable.

Property owners also have the ability to initiate a zone change request via petition. Given the history of the property and parties involved, I would think such a request would be unlikely at this time.

If you have any questions or need any other information, please let me know.

From: David Hediger
Sent: Monday, July 09, 2012 8:54 PM
To: Ed Barrett
Cc: Gildace Arsenault
Subject: Atwood Street Rezoning History

The following summarizes the requests for rezoning portions of the Atwood Street neighborhood off Sabattus Street.

Property Information

- Prior to 1988, both 21 Atwood Street and the rear portion of 906 Sabattus Street were zoned Commercial. In fact, the Commercial district along this portion of Sabattus Street extended a depth of 250 from Sabattus Street, making Atwood Street the district boundary. The zoning boundary changed to its present configuration in January 1988 as part of city wide rezoning.

21 Atwood Street:

- The property at 21 Atwood Street is a 10,000 square foot lot containing a single car garage and driveway providing access to 914 Sabattus Street. Both properties are owned by Daniel and Brenda Cote. The property at 914 Sabattus Street is zoned HB with a mixed use structure consisting of two dwelling units and commercial space for a water treatment business, Aqua-max of Maine. The Cote's have expressed interest in the past in rezoning 21 Atwood Street in effort to provide greater opportunities for future expansion of their business or other businesses and so that commercial vehicles may access Atwood Street.

906 Sabattus Street:

- The rear portion of 906 Sabattus Street consists of 10,000 square foot portion of a 20,000 square foot lot at 906 Sabattus Street with frontage Atwood Street, owned by Arlene and Gary Dubois. The entire property consists of a single structure with three dwelling units, a restaurant (Dubois Café) and other commercial space along with parking and access to both Sabattus and Atwood Streets. The property and structure are split zoned. Therefore, the commercial use of the property within the NCA portion of the property is nonconforming. The Dubois have expressed interest in rezoning their property in effort to make their property more conforming with respect to the commercial use of the property and to provide greater opportunities for future expansion of their business or other businesses.

Proposed Zoning History

April 2008:

- Daniel and Brenda Cote made a request in April 2008 for a conditional rezoning of 21 Atwood Street. After two meetings, the Planning Board voted 5-1 to send a favorable recommendation to the City Council. After one meeting at the City Council, the conditional rezoning request failed 2-4.

January 2011:

- Daniel and Brenda Cote and Arlene and Gary Dubois submitted a petition to rezone 21 Atwood Street and the rear portion of 906 Sabattus Street from the Neighborhood Conservation "A" (NCA) district to Highway Business (HB). The Planning Board provided a negative recommendation (0-7 vote) for the Council's consideration. On January 18th the Council failed to support the petitioner's request



CITY OF LEWISTON

Department of Planning & Code Enforcement



TO: Honorable Mayor and Members of the City Council
FROM: David Hediger, City Planner
DATE: June 16, 2011
RE: Proposal to rezone parcels referenced as Map 119: Lot 182, 183, 184, 185, 186, 188, 189, 190, 191, 192, 193, 194, 195, 196, 197, 198, 199, 200, 268 and Map 90: Lot 20 , 21, 224, 225, 234 from the Neighborhood Conservation "A" (NCA) District and Highway Business District (HB) to the Business Transition-1 (BT-1) District.

As the Council may recall, the discussion of rezoning this neighborhood began with the Planning Board's January 2011 negative recommendation (0-7 vote) to the Council regarding a petition to rezone 21 Atwood Street and the rear portion of 906 Sabattus Street. On January 18th, the Council failed to support the petitioner's request to rezone said properties by a 3-2 vote. (A minimum of four affirmative votes is required at the first Council reading. Therefore, the request failed that evening.) However, pursuant to Article XVII, Section 5 of the Zoning and Land Use Code, the City Council voted 5-0 on January 18, 2011 to direct staff to work with the residents and owners to develop a proposal to rezone the area bounded by Sabattus Street, Old Greene Road, Atwood Street, and Garcelon Street and to present this proposal to the Planning Board for their review and recommendation to the City Council.

Since March, the Planning Board and staff have been discussing the zoning of the above referenced neighborhood and properties in effort to draft district regulations that expands the commercial zoning while providing provisions to minimize adverse impacts to abutting residential properties. The proposed rezoning creates a new zoning district, the Business Transition-1 (BT1) district, in an effort to provide for the orderly transition of residential areas along major traffic arteries to nonresidential uses which tend to be dependent on automobile borne customers and typically require large parking areas to be successful. The transition district would also allow for the conversion of existing properties from residential to nonresidential in a manner which provides controlled traffic access and adequate parking and protects adjoining residential neighborhoods from undesirable impacts and high standards of site design. The area proposed to become BT1 is currently zoned HB or NCA.

Staff has observed the Planning Board's challenge in trying to draft district regulations that take into consideration what uses may be appropriate and what type of performance standards should be in place in effort to balance the desires of both commercial and residential development. There was some discussion that Atwood Street and Orchard Heights are unique in Lewiston, both being residential city streets that run parallel within a couple hundred feet of commercially zoned corridors. However, there are other locations within the city with a similar street

configuration where the commercial zoning boundary extends to a street parallel to a commercial corridor:

- First Avenue from Acadia Avenue to Simard Street: First Avenue runs parallel to Lisbon Street and is the zoning boundary between Community Business (CB) and NCA.
- Oak Street from Elm Street to Sabattus Street: Oak Street runs parallel to Main Street and is the zoning boundary between Centreville (CV), CB, and Neighborhood Conservation “B” (NCB) districts.

In an effort lessen possible adverse impacts from commercial activity on nearby residential uses, the proposed BT1 district off Sabattus Street provides more rigid space, bulk, and performance standards than are available to these other referenced neighborhoods. These additional standards are found Section (f), Additional Standards, and include provisions that prohibit nonresidential vehicular access to Atwood Street and Orchard Heights, limitations on modifications to setbacks and yards, and buffer requirements.

On June 13, 2011, the Planning Board voted 4-3 to send a negative recommendation for the City Council’s consideration regarding the above reference rezoning. Board members in favor of the proposed amendment believed it would provide future opportunities for commercial development and should be adopted for its long-term planning value. Those opposed indicated that they did so because they did not want to create an additional zoning district, the new district regulations would not resolve existing neighborhood disputes, and it is not the right time to focus on this neighborhood without having a specific project requesting the rezoning. Overall, the majority of the Board agreed that the proposed amendment was well drafted and may be used as a template for zoning in other areas of the city.

Planning and Code Enforcement staff believe the proposed amendment provides the above referenced lots the ability to be developed for commercial uses in a manner that protects adjoining residential neighborhoods from undesirable impacts and provides high standards of site design. Staff agrees with the Board that adopting this ordinance will not resolve existing neighborly disputes and that it may be used as a template in other areas of the city. However, staff believes adopting the ordinance provides a reasonable compromise on behalf of both commercial and residential properties, provides the ability to be proactive with respect to zoning in making additional commercially zoned land available with provisions that lessen impacts to abutters, and allows commercial development to occur rather than waiting for a specific project to initiate a zoning amendment with an unknown outcome.

Given the Planning Board’s disapproval and negative recommendation of the proposed rezoning, the affirmative vote of at least five (5) councilors would be required to approve this amendment to the City’s Land Use Code.

Atwood Street/Business Transition District-1 Proposal

6/13/11

**AN ORDINANCE PERTAINING TO ZONING BOUNDARIES AND THE
BUSINESS TRANSITION-1 DISTRICT**

THE CITY OF LEWISTON HEREBY ORDAINS:

Appendix A of the Code of Ordinances of the City of Lewiston, Maine is hereby amended as follows:

**APPENDIX A
ZONING AND LAND USE CODE
ARTICLE IV. ESTABLISHMENT OF DISTRICTS**

Sec. 1. Zoning Map.

The "Official Zoning Map, City of Lewiston," adopted pursuant to this Section, is hereby amended by rezoning the parcels shown on Exhibit "A" attached hereto, to the Business Transition-1 (BT-1) District, said parcels being Map 119: Lot 182, 183, 184, 185, 186, 188, 189, 190, 191, 192, 193, 194, 195, 196, 197, 198, 199, 200, 268 and Map 90: Lot 20, 21, 224, 225, 234 from the Neighborhood Conservation "A" (NCA) and Highway Business District.

ARTICLE XI. DISTRICT REGULATIONS

Sec. 22. Business Transition-1 (BT-1) district.

- (a) *Statement of purpose.* The purpose of the business transition-1 district is to provide for the orderly transition of residential areas along major traffic arteries to nonresidential uses which tend to be dependent on automobile borne customers and typically require large parking areas to be successful. The conversion of existing properties from residential to nonresidential use should occur in a manner which provides controlled traffic access and adequate parking and protects adjoining residential neighborhoods from undesirable impacts and high standards of site design.
- (b) *Applicability.* The standards of the business transition-1 district shall apply to all land shown on the "Official Zoning Map of the City of Lewiston" as being located within the business transition-1 district.
- (c) *Permitted uses.* Within the district any new building or structure which is constructed, any existing building or structure or part thereof which is used, altered or enlarged and any parcel of land, whether in whole or in part, may be used for one or more of the following:
- (1) Hotel, motel, or inn
 - (2) Restaurant
 - (3) Retail stores
 - (4) Arts and crafts studios
 - (5) Professional offices
 - (6) Office buildings and business offices
 - (7) Tradesman's offices

Atwood Street/Business Transition District-1 Proposal

6/13/11

- (8) Personal services
- (9) New and used car dealers
- (10) Religious facilities including churches, synagogues, and other houses of worship, rectories and parsonages and church-affiliated community purpose facilities
- (11) Municipal buildings and facilities
- (12) Home occupations
- (13) Accessory buildings and uses
- (14) Small day care facilities
- (15) Family day care homes
- (16) Day care centers

(d) *Conditional uses.* Within the district, any new building or structure which is constructed, any existing building or structure or part thereof which is used, altered or enlarged and any parcel of land, whether in whole or in part, may be used for one or more of the following uses only after the issuance of a conditional use permit in accordance with article X of this Code:

- (1) Drive-in restaurants
- (2) Places of indoor assembly, amusement or culture
- (3) Recreational vehicle dealers
- (4) Gasoline service stations
- (5) Auto and equipment repair garages
- (6) Mortuary or funeral parlor
- (7) Academic institutions, including buildings or structures for classroom, administrative, laboratory, art, theater, dining, service, library, bookstore and student recreational uses, and athletic buildings or structures in which the number of spectators permitted under the fire code of the City of Lewiston shall not exceed the combined staff and resident student population of the institution; together with buildings accessory to the foregoing permitted principal buildings or structures
- (8) Hospitals, including institutions for the handicapped
- (9) Private or commercial schools including business colleges
- (10) Automotive services, except repair
- (11) Movie theaters
- (12) Group care facilities
- (13) Mixed use structures
- (14) Reservoirs, pumping stations, standpipes or other water supply uses involving facilities located on or above the ground surface
- (15) Transformer stations, high voltage power transmission lines, substations, telephone exchanges, microwave towers or other public utility or communications use

(e) *Space and bulk standards*

Minimum lot size	
------------------	--

Atwood Street/Business Transition District-1 Proposal

6/13/11

uses serviced by public sewerage	none
uses not serviced by public sewerage	20,000 square feet
Minimum frontage - all uses	150 feet
Minimum front setback from Sabattus Street -all uses	10 feet or such lesser distance in accordance with subsection (f)
from all other streets -all uses	30 feet
Minimum front yard from Sabattus Street - all uses	10 feet
from all other streets - all uses	20 feet
Minimum side and rear setback structures measuring less than 125 square feet accessory to residential uses	10 feet
all other uses	20 feet or such lesser distance in accordance with subsection (f)
Minimum side and rear yard - all uses	10 feet or such lesser distance in accordance with subsection (f)
Maximum impervious surface ratio	0.75
Minimum open space ratio	0.25
Maximum building height	40 feet

(f) *Additional standards.* Any building, structure or use of land within the overlay district shall comply with the following standards:

- (1) Access is prohibited onto Atwood Street and Orchard Heights by nonresidential uses.
- (2) The use of an existing building or structure shall be changed to another allowed use or the expansion of an existing use by either the enlargement of the building or structure shall be permitted only if there is adequate off-street parking to meet the requirements of article XII.
- (3) Where the front yard area for uses other than residential is located across the street from an abutting property in a residential zoning district, the minimum required front yard area shall not be reduced or modified and must be maintained as a buffer in accordance with the buffer standards of

Atwood Street/Business Transition District-1 Proposal

6/13/11

article XIII.

- (4) Where the side or rear yard area adjoins a residential zoning district or a property in residential use, any required side or rear yard area shall not be reduced or modified and shall be maintained as a buffer in accordance with the buffer standards of article XIII.
- (5) Notwithstanding subsection (3) and (4), modifications of the space and bulk standards contained in subsection (e) may not be granted by the board of appeals, planning board, staff review committee or code enforcement officials, with the exception of side and rear setbacks and yards where the abutting use is nonresidential.
- (6) Existing lots of record having 150 feet or less of frontage on a street functionally classified as an arterial shall be limited to one point of vehicular access to the arterial to service all development on the lot including the division of the lot into additional lots.
- (7) Existing lots of record having more than 150 but less than 500 feet of frontage on a street functionally classified as an arterial shall be limited to two points of vehicular access to the arterial to service all development on the lot including the division of the lot into additional lots.
- (8) The following design standards are encouraged for any project subject to development review; however, any of these may be waived by the appropriate reviewing authority due to site limitations and the nature of the development:
 - a. Off-street parking shall be encouraged to be located on the side and rear of buildings;
 - b. Shared driveway entrances shall be encouraged with adjacent sites, in order to minimize curb cuts.
 - c. Additional landscaping, buffering, and screening are encouraged to minimize views of parking areas from streets and abutting properties.
 - d. Any new development or renovations shall generally relate in design features to the surrounding building, showing respect for the local context of the neighborhood, as seen from Street to Street.

Reason for amendment and conformance with the Comprehensive Plan

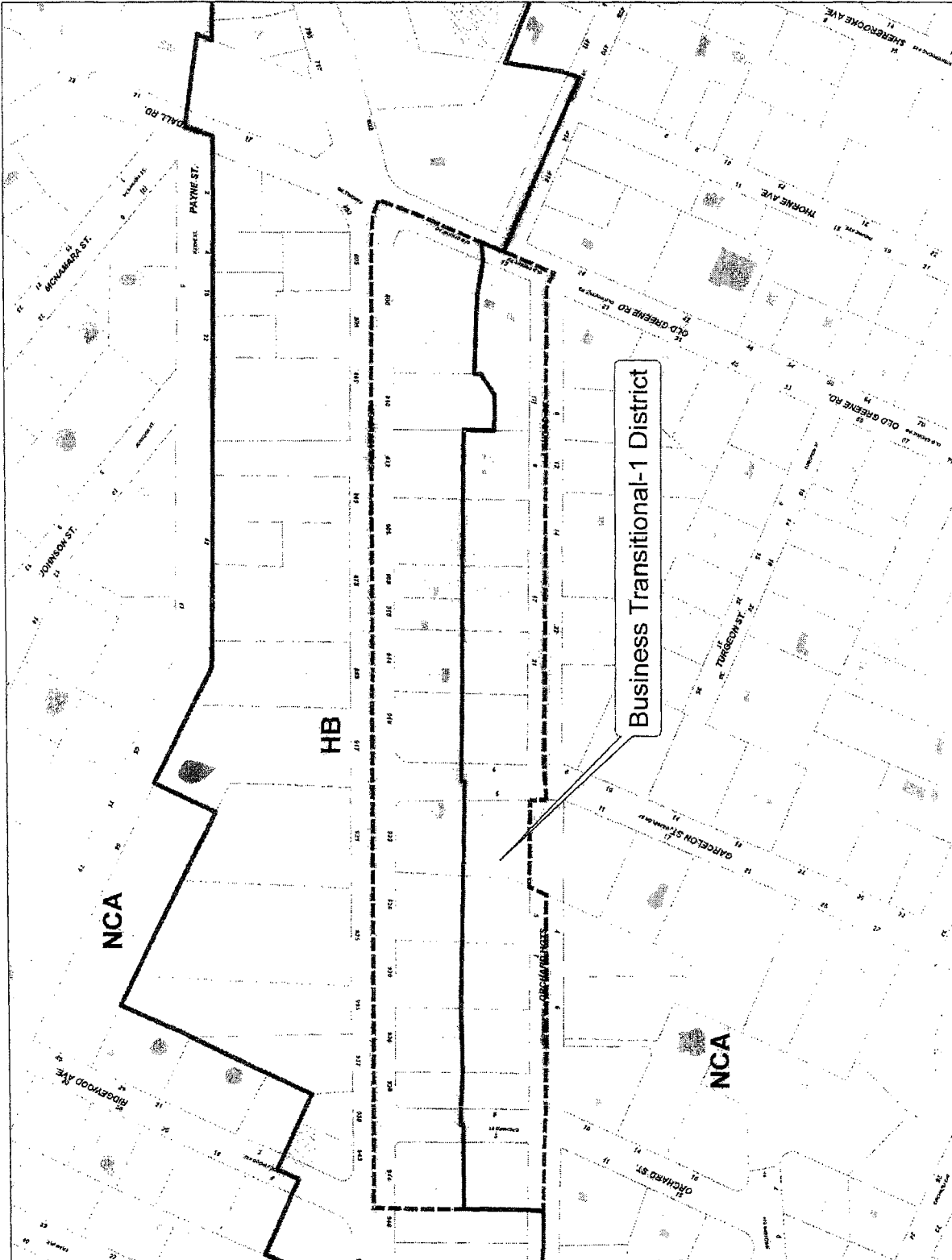
The Business Transition-1 district provides for the orderly transition of residential areas along major traffic arteries to nonresidential uses which tend to be dependent on automobile borne customers and typically require large parking areas to be successful. The transition district will also allow for the conversion of existing properties from residential to nonresidential to occur in a manner which provides controlled traffic access and adequate parking and protects adjoining residential neighborhoods from



PLANNING DEPARTMENT
CITY OF CHICAGO
150 NORTH LAKE STREET
CHICAGO, ILLINOIS 60601
TEL: 312.437.3300
WWW.CITYOFCHICAGO.IL.GOV

Proposed Business Transitional-1 District

May 2011
Sheet 1 of 6



LEWISTON CITY COUNCIL

MEETING OF OCTOBER 2, 2012

AGENDA INFORMATION SHEET:

AGENDA ITEM NO. 1

SUBJECT:

Authorization to accept transfer of forfeiture funds.

INFORMATION:

The Lewiston Police Department is requesting that the City Council authorize the acceptance of funds, in the amounts outlined below, as reimbursement for costs associated with assisting in a criminal investigation.

The funds are available to the Lewiston Police Department due to its substantial contribution to the investigation of this or a related criminal case.

APPROVAL AND/OR COMMENTS OF CITY ADMINISTRATOR:

The City Administrator recommends approval of the requested action.

EATB/kmm

REQUESTED ACTION:

1	2	3	4	5	6	7	M
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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 items as outlined on the attached listing, less administrative fees or any portion thereof, in the cases of US Department of Justice Drug Enforcement Administration vs the cases outlined on the attached listing. 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' account.



MEMO



Date: September 24, 2012
To: Kelly Mercier, Deputy City Clerk
From: Michael Bussiere, Chief of Police
Re: Forfeiture funds

The following investigations are pending in federal court and upon a favorable final disposition, the funds in the cases listed below will be released to the Lewiston Police Department. Please make the necessary notifications to the City Council that would allow them to address the issue and consent to the acceptance of these funds. Please credit these funds to the Federal Drug Forfeiture Account, number 590-3514050.

<u>Name</u>	<u>Docket #</u>	<u>Asset ID#</u>	<u>Asset</u>
Pruzansky, Seth	CE-09-0012	11-DEA-541156	15% less admin fees from the sale of property at 11 Weymouth Pond Rd, Stoneham ME
Ryder, Robert & Suzanne	CE-12-0027	12-DEA-564777	11.25% less administrative fees of \$8,815
Rodney Lacroix	CE-10-0017	12-DEA-566059	13.34% less adm fees of \$2,869
Patrick Hanson	CE-10-0017	12-DEA-565657	13.34% less adm fees of \$3,480
Robert Tataseo/Joseph Dunn	CE-10-0044	12-DEA-565195	16% less adm fees from the sale of 1993 Chevrolet Corvette Convertible
Smith, Frederick	CE-12-0038	12-DEA-568520	10.87% less adm fees of \$129,237

LEWISTON CITY COUNCIL

MEETING OF OCTOBER 2, 2012

AGENDA INFORMATION SHEET:

AGENDA ITEM NO. 2

SUBJECT:

Appointment to the Lewiston Housing Authority Board of Commissioners.

INFORMATION:

There is one opening on the Lewiston Housing Authority Board of Commissioners. The Mayor is recommending the following reappointment to the Lewiston Housing Authority Board of Commissioners:

- 1) Marc A. Pellerin, 22 Pond Ridge Road, term to expire Sept. 17, 2017

This is a five year appointment.

James Dowling, Executive Director of the Housing Authority, endorses this appointment. These appointments do require Council confirmation.

APPROVAL AND/OR COMMENTS OF CITY ADMINISTRATOR:

Appointments to Boards and Committees are a policy decision of the Council.

EATB/KMM

REQUESTED ACTION:

1	2	3	4	5	6	7	M
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To confirm the Mayor's nomination and to appoint the following resident as a member of the Board of Commissioners of the Lewiston Housing Authority:

Marc A. Pellerin of 22 Pond Ridge Road (term to expire September 17, 2017)

LEWISTON CITY COUNCIL

MEETING OF OCTOBER 2, 2012

AGENDA INFORMATION SHEET:

AGENDA ITEM NO. 3

SUBJECT:

Approval of Election Warrant Calling for the Special Municipal Election to be held on Tuesday, November 6, 2012 for a municipal referendum and Recommendations from the City Clerk/Registrar of Voters on actions necessary to conduct the Presidential Election to be held on Tuesday, November 6, 2012.

INFORMATION: Under the Maine State Statutes, the municipal officers shall issue an election warrant calling for a municipal election. The City Clerk will be conducting a special city election on Nov 6, 2012 for the purpose of voting on a municipal referendum for the Charter amendments.

Recommendations on election related issues:

A. That the hours for acceptance of registrations in person only, prior to the Nov 6th election, as required by MRSA Title 21A, sec. 122, 6A(2), be set at 8:00am to 4:30pm, Oct. 17 through Nov 5, 2012; and additional hours of 8:00am to 12 noon on Saturday, October 27, and until 7pm on Thursday, Nov. 1, 2012.

B. That the names of those persons who register during the closed session for registration shall be recorded in accordance with MRSA Title 21A, sec. 122, subsec. 7B, expect the day prior to the election when they shall be recorded in accordance with subsec. 7A.

C. Pursuant to Title 21A, sec 759(7), absentee ballots will be processed at the central polling place at 7:00am, 4:00pm, 7:00pm and any and all remaining shall be processed at 8:00pm, if necessary.

APPROVAL AND/OR COMMENTS OF CITY ADMINISTRATOR:

The City Administrator recommends approval of the requested action.

ETAB/Kmm

REQUESTED ACTION:

1	2	3	4	5	6	7	M
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Be It Ordered by the City Council that the Election Warrant be issued for the Special Municipal Election to be held on Tuesday, November 6, 2012 for the purposes of voting on a municipal referendum regarding Charter amendments; and

To approve the following recommendations from the City Clerk/Registrar of Voters on actions necessary to conduct the Special Municipal and Presidential Election to be held on Tuesday, November 6, 2012:

A. That the hours for acceptance of registrations in person only, prior to the Nov 6thelection, as required by MRSA Title 21A, sec. 122, 6A(2), be set at 8:00am to 4:30pm, Oct. 17 through Nov 5, 2012; and additional hours of 8:00am to 12 noon on Saturday, October 27, and until 7pm on Thursday, Nov. 1, 2012.

B. That the names of those persons who register during the closed session for registration shall be recorded in accordance with MRSA Title 21A, sec. 122, subsec. 7B, expect the day prior to the election when they shall be recorded in accordance with subsec. 7A.

C. Pursuant to Title 21A, sec 759(7), absentee ballots will be processed at the central polling place at 7:00am, 4:00pm, 7:00pm and any and all remaining shall be processed at 8:00pm, if necessary.

WARRANT FOR SPECIAL MUNICIPAL ELECTION

CITY OF LEWISTON

County of Androscoggin, SS.

To Michael Bussiere, a constable of Lewiston, Maine: You are hereby required in the name of the State of Maine to notify the voters of the City of Lewiston of the election described in this warrant.

To all voters of the City of Lewiston: You are hereby notified that the Special Municipal Election in this municipality will be held on November 6, 2012, at your respective voting place:

Ward 1 Lewiston Armory, 65 Central Ave.
Ward 2 Montello School Gym, 407 East Ave.
Ward 3 Lewiston Armory, 65 Central Ave.
Ward 4 Multi-Purpose Center, 145 Birch St.

Ward 5 Multi-Purpose Center, 145 Birch St.
Ward 6 Elk’s Lodge, 1675 Lisbon Road
Ward 7 Multi-Purpose Center, 145 Birch St.

Said election being held for the purpose of voting on the following proposed City Charter amendments:

- Question 1 - Amendments relating to the City Council*
- Question 2 - Amendments relating to Ordinances*
- Question 3 - Amendments relating to the City Administrator*
- Question 4 - Amendments relating to Limitation of Terms*
- Question 5 - Amendments relating to School Committee*
- Question 6 - Amendments relating to Financial Procedures*
- Question 7 - Amendments relating to Nominations, Elections and Vacancies in Office*
- Question 8 - Amendments relating to General Provisions*
- Question 9 - Amendments relating to Compensation and Forfeiture of Office*
- Question 10 - Amendments relating to Office of the Mayor*
- Question 11 - Amendments relating to Technical Housekeeping Changes*

The polls shall be opened at 7:00 a.m. and closed at 8:00 p.m.. Absentee ballots will be processed at the City Hall Central Voting Precinct at 7:00A.M, 4:00P.M., 7:00 P.M., and any and all remaining at 8:00 P.M., if necessary.

Dated at Lewiston, Maine on October 2, 2012.

_____	_____
_____	_____
_____	_____
_____	_____

ATTEST: _____
Kathleen M. Montejo, MMC
City Clerk

LEWISTON CITY COUNCIL
MEETING OF OCTOBER 2, 2012

AGENDA INFORMATION SHEET:

AGENDA ITEM NO. 4

SUBJECT:

Continuation of Public Hearing on a new liquor license application and special amusement permit for Rondevu, Inc., 16-18 Park Street.

INFORMATION:

The City Clerk received an application for a new liquor license and special amusement permit for a new business called Rondevu to be located at 16-18 Park Street. The required legal advertisement for the public hearing ran in the newspaper last week. However, on Friday, the attorney for the business contacted the City Clerk and asked to continue the hearing on their application until the next City Council meeting to allow the business additional time to finalize their business plans. Since the legal advertisement has already run, the Council is asked to vote to continue the hearing to the next City Council meeting.

APPROVAL AND/OR COMMENTS OF CITY ADMINISTRATOR:

The City Administrator recommends approval of the requested action.

EAB/kmm

REQUESTED ACTION:

1	2	3	4	5	6	7	M
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To continue the public hearing regarding a new liquor license application and special amusement permit for Rondevu, Inc., 16-18 Park Street to the next regular City Council meeting of October 16, 2012.

LEWISTON CITY COUNCIL
MEETING OF OCTOBER 2, 2012

AGENDA INFORMATION SHEET:

AGENDA ITEM NO. 5

SUBJECT:

Public Hearing and First Passage regarding an amendment to the Business Licensing ordinance regarding the adoption of applicable State of Maine Rules.

INFORMATION:

The Department of Planning and Code Enforcement has administratively adopted the following sets of State of Maine Rules:

- 1) State of Maine Food Code 2011
- 2) Rules Relating to Lodging Establishments
- 3) Rules Relating to the Administration and Enforcement of Establishments Licensed by the Health Inspection Program

The State Department of Health and Human Services has requested that the City formally adopt these rules by ordinance. DHHS, for many years, has granted the City delegated authority to conduct inspections of eating and lodging establishments as well as pool and spa inspections on behalf of the State. Please see the attached memorandum from Director of Planning and Code Enforcement Gil Arsenault for additional information.

APPROVAL AND/OR COMMENTS OF CITY ADMINISTRATOR:

The City Administrator recommends approval of the requested action.

EAJB/kmm

REQUESTED ACTION:

1	2	3	4	5	6	7	M
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That the proposed amendment to the City Code of Ordinances, Chapter 22 "Businesses", Article II "Licenses", Section 22-49 receive first passage by a roll call vote and that the public hearing on said ordinance be continued to the meeting of October 16 for final passage.

**AN ORDINANCE PERTAINING TO THE ADOPTION OF STATE OF MAINE RULES
RELATING TO FOOD SERVICE, LODGING AND ADMINISTRATION AND ENFORCEMENT
OF ESTABLISHMENTS LICENSED BY THE HEALTH INSPECTION PROGRAM**

THE CITY OF LEWISTON HEREBY ORDAINS:

CHAPTER 22

BUSINESSES

ARTICLE II. LICENSES

Sec. 22-49 Adoption of State of Maine Rules.

For the purpose of protecting the public health the City hereby adopts and enacts the following State of Maine Rules:

1. State of Maine Food Code 2001 as adopted by the Maine Department of Human Services 10-144 CMR 200 and the Maine Department of Agriculture, Food and Rural Resources 01-001 CMR 331 May 1, 2001.
2. Rules Relating to Lodging Establishments, Department of Health and Human Services, Maine Centers for Disease Control and Prevention, Division of Environmental Health 10-144 CMR 206 January 1, 2003.
3. Rules Relating to the Administration and Enforcement of Establishments Licensed by the Health Inspection Program, Department of Health and Human Services, Maine Center for Disease Control and Prevention, Division of Environmental Health Inspection Program 10-144 CMR Chapter 201 January 18, 2011.

Secs. 22-49 50– 22-70 Reserved.

REASON FOR PROPOSED AMENDMENT

The Department of Planning and Code Enforcement has administratively adopted the above referenced rules as provided in Chapter 22, Article II Section 22-35; however, the Maine Center for Disease Control (CDC) and the Maine Department of Health and Human Services (DHHS) have requested that the City specifically adopt these rules by ordinance. The CDC and DHHS via a memorandum of agreement with the City have for many years granted the City delegated authority to conduct eating and lodging establishments and pool and spa inspections on behalf of the State of Maine.

MEMORANDUM

TO: Mayor Robert E. Macdonald
Members of the City Council

FR: Gildace J. Arsenault, Director of Planning and Code Enforcement

RE: Amendment to Chapter 22, Businesses

DT: September 26, 2012

Attached please find the following document:

Proposed amendment to Chapter 22, Article II, Sec. 22-49 Adoption of State of Maine Rules.

The Department of Planning and Code Enforcement has administratively adopted the following rules as provided for in Chapter 22, Article II, Section 22-35:

State of Maine Food Code 2001 as adopted by the Maine Department of Human Services 10-144 CMR 200 and the Maine Department of Agriculture, Food and Rural Resources 01-001 CMR 331 May 1, 2001.

Rules Relating to Lodging Establishments, Department of Health and Human Services, Maine Centers for Disease Control and Prevention, Division of Environmental Health 10-144 CMR 206 January 1, 2003.

Rules Relating to the Administration and Enforcement of Establishments Licensed by the Health Inspection Program, Department of Health and Human Services, Maine Center for Disease Control and Prevention, Division of Environmental Health Inspection Program 10-144 CMR Chapter 201 January 18, 2011.

The Maine Center for Disease Control (CDC) and the Maine Department of Health and Human Services (DHHS) have requested that the City specifically adopt these rules by ordinance. The CDC and DHHS via a memorandum of agreement with the City have for many years granted the City delegated authority to conduct eating and lodging establishments and pool and spa inspections on behalf of the State of Maine. As per this request staff has prepared a proposed amendment to Chapter 22 for the Council to consider the adoption of the above referenced rules.

I plan to attend your October 2nd meeting to provide any assistance that you may require.

LEGAL AD

**PUBLIC HEARING NOTICE
CITY OF LEWISTON
PROPOSED ORDINANCE AMENDMENTS**

A public hearing on the following ordinance amendments, for passage on first reading, will be held in the Council Chambers, Lewiston City Hall, on **Tuesday, October 2, 2012, at 7:00pm**, or as soon thereafter as it may be heard. Any interested person may appear and will be given the opportunity to be heard before final action on said ordinance adoption.

ORDINANCE PERTAINING TO SIGNS

This amendment would clarify that political signs placed outside of the public right-of-way are not subject to time limits for posting.

BUSINESS ORDINANCE

These amendments would adopt the following State rules and regulations for application within the City of Lewiston: 1) the State of Maine Food Code 2001; 2) Rules Relating to the Administration and Enforcement of Establishments Licensed by the Health Inspection Program and 3) Rules Relating to Lodging Establishment Health Inspection Program.

The City of Lewiston is an EOE. For more information, please visit our website at www.lewistonmaine.gov and view on the Non-Discrimination Policy.

Kathleen M. Montejo, MMC
City Clerk

LEGAL AD - SUN JOURNAL - Thursday, September 27, 2012

TO: LSJ Advertising Dept. 784-3062 fax Attn: Venise
FROM: Lewiston City Clerk's Office 784-2959 fax

Thank you.

Please bill the City Clerk's Dept account.

LEWISTON CITY COUNCIL

MEETING OF OCTOBER 2, 2012

AGENDA INFORMATION SHEET:

AGENDA ITEM NO. 6

SUBJECT:

Public Hearing and First Passage for Land Use Code Amendments concerning the placement of political campaign signs.

INFORMATION:

Recently, it has come to the attention of the Department of Planning and Code Enforcement staff that time limitations associated with the placement of political signs on private property is questionable with respect to constitutional issues of free speech. Therefore, staff has prepared a proposed amendment to eliminate such restrictions.

This proposed amendment is on the City Council October 2nd agenda for first reading. In the event the Council moves to approve the proposed amendment, the Council would then move to forward it to the Planning Board for their recommendation. Once the Planning Board has conducted a public hearing and made their recommendation, the matter will be returned to the Council for a second reading/public hearing.

Director of Planning and Code Enforcement Gil Arsenault will be at the meeting to address any questions from the Council or public.

APPROVAL AND/OR COMMENTS OF CITY ADMINISTRATOR:

The City Administrator recommends approval of the requested action.

EAB/kmm

REQUESTED ACTION:

1	2	3	4	5	6	7	M
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That the proposed amendment to Appendix A, Article XII "Performance Standards", Section 16, "Signs", of the City Zoning and Land Use Code, concerning the time limits for the placement of political signs outside of the public right-of-way, receive first passage by a roll call vote, that this proposed amendment be forwarded to the Planning Board for their recommendation, and that the public hearing on said ordinance be continued to a future City Council meeting for final passage.

**AN ORDINANCE PERTAINING TO ZONING AND LAND USE PERFORMANCE
STANDARDS RELATIVE TO POLITICAL SIGNS**

THE CITY OF LEWISTON HEREBY ORDAINS:

APPENDIX A

ZONING AND LAND USE CODE

ARTICLE XII.

PERFORMANCE STANDARDS

Sec. 16. Signs.

(b) *Signs permitted in all districts.*

(1) The following types of signs may be erected in all zoning districts without obtaining a permit from the code enforcement official:

c. *Temporary signs.* Temporary signs listed below shall not be placed in a position that will impair vision, obstruct traffic, or in any manner create a hazard or nuisance to the general public.

5. *Political signs.* Signs of a temporary nature bearing political messages relating to an election, primary or referendum may be placed within ~~or~~ ~~outside~~ the public right-of way of any street or highway in accordance with the timelines established in M.R.S.A. Title 23, §1913-A, Section 1(H). Political signs placed outside of the public right-of-way are not subject to time limits. Political signs located within or outside the public right-of-way of any street or highway are prohibited on or in front of City owned property including schools, parks, cemeteries and municipally owned buildings. Notwithstanding Article V, Sec. 7, the code enforcement official may remove any political signs erected contrary to this section.

REASON FOR PROPOSED AMENDMENT

Current provisions for political signs provide for time limitations on the placement of political signs on private property. The imposition of time restrictions on political signs located on private property is questionable with respect to constitutional issues of free speech; therefore, this proposed amendment eliminates such restrictions.

CONFORMANCE WITH COMPREHENSIVE PLAN

Review permitting and licensing policies and practices to see where they can be streamlined in order to better service the development community. . . (see Economy, Policy 1, Strategy C, p 39).

MEMORANDUM

TO: Mayor Robert E. Macdonald
Members of the City Council

FR: Gildace J. Arsenault, Director of Planning and Code Enforcement

RE: Political Signs

DT: September 25, 2012

Attached please find the following document:

Proposed amendment to Zoning and Land Use Code, Article XII, Section 16(b)
(1) c 5, Political Signs

Recently, it has come to the attention of staff that time limitations associated with the placement of political signs on private property is questionable with respect to constitutional issues of free speech; therefore, staff has prepared a proposed amendment to eliminate such restrictions.

This proposed amendment will be on your October 2nd agenda for first reading. In the event that the Council moves to approve the proposed amendment, the Council would then move to forward it to the Planning Board for their recommendation. Once the Planning Board has conducted a public hearing and made their recommendation, the matter will be returned to the Council for a second reading/public hearing.

I plan to attend your October 2nd meeting to provide any assistance that you may require.

LEGAL AD

**PUBLIC HEARING NOTICE
CITY OF LEWISTON
PROPOSED ORDINANCE AMENDMENTS**

A public hearing on the following ordinance amendments, for passage on first reading, will be held in the Council Chambers, Lewiston City Hall, on **Tuesday, October 2, 2012, at 7:00pm**, or as soon thereafter as it may be heard. Any interested person may appear and will be given the opportunity to be heard before final action on said ordinance adoption.

ORDINANCE PERTAINING TO SIGNS

This amendment would clarify that political signs placed outside of the public right-of-way are not subject to time limits for posting.

BUSINESS ORDINANCE

These amendments would adopt the following State rules and regulations for application within the City of Lewiston: 1) the State of Maine Food Code 2001; 2) Rules Relating to the Administration and Enforcement of Establishments Licensed by the Health Inspection Program and 3) Rules Relating to Lodging Establishment Health Inspection Program.

The City of Lewiston is an EOE. For more information, please visit our website at www.lewistonmaine.gov and view on the Non-Discrimination Policy.

Kathleen M. Montejo, MMC
City Clerk

LEGAL AD - SUN JOURNAL - Thursday, September 27, 2012

TO: LSJ Advertising Dept. 784-3062 fax Attn: Venise
FROM: Lewiston City Clerk's Office 784-2959 fax

Thank you.

Please bill the City Clerk's Dept account.

LEWISTON CITY COUNCIL

MEETING OF OCTOBER 2, 2012

AGENDA INFORMATION SHEET:

AGENDA ITEM NO. 7

SUBJECT:

Amendments to the Municipal Parking Fees Policy to revise the Downtown Business Parking Fee Discount Program.

INFORMATION:

Lincoln Jeffers, Interim Director of the Economic and Community Development Department, has been working with local downtown businesses regarding parking issues and he is recommending amendments to the Downtown Business Parking Fee Discount Program. Please see the attached material for an outline of the suggested policy changes.

Note: Additions are underlined; deletions have ~~strikeout~~ lines.

APPROVAL AND/OR COMMENTS OF CITY ADMINISTRATOR:

The City Administrator recommends approval of the requested action.

EA/BJ/kmm

REQUESTED ACTION:

1	2	3	4	5	6	7	M
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To approve the proposed amendments to the Parking Fees Policy, Policy Manual Number 42, as recommended by City Administration and the Economic and Community Development Department.

(Note - Full copy of the amendments are attached.)

PARKING FEES

MUNICIPAL PARKING FACILITIES

- A. \$1.00 each hour; maximum of \$6.00 per day. The fees shall apply between the hours of 6 a.m. and 6 p.m. Any vehicle that enters and exits from a parking facility within one hour shall not be charged a fee.
- B. That monthly parkers be assessed a fee of \$55.00 per month payable on the first working day of each month. A five-working-day grace period will be granted before monthly parking card is keyed out.
- C. That a fee of \$600.00 be set for a yearly parking pass. Payments to be made in each city fiscal year as follows:
 - 1. \$300.00 on the first working day of July
 - 2. \$150.00 payable on the first working day of October
 - 3. \$150.00 payable on the first working day of January
- D. Major Employer Parking Fee Discount Program

A property tax paying company that purchases 50 or more parking passes may do so at a 10% discount off of the Yearly Parking Pass rate under the following conditions:

- 1. Passes are paid for with one lump sum annual payment made on or before July 15 of each fiscal year and equal to the number of passes being purchased multiplied by the discounted rate.
- 2. After provision of the passes by the City to the company purchasing the passes, it is the purchaser's responsibility to issue the parking passes to employees and administers their utilization.
- 3. No credit will be provided by the city for unused or underutilized passes.
- 4. This program cannot be combined with or be utilized in addition to any other parking discount program offered by the city.

- E. Downtown ~~Small Business Owner/Lewiston Resident~~ Parking Fee Discount Program

~~Primary owners of b Businesses with less than 50 employees and that are located within the area described in the last sentence of this section; and who also own a residential property within Lewiston city limits that they claim a Homestead Exemption on are eligible to receive two parking passes at the Special Rate for Downtown Residents. The discount rate will only apply for one parking space per owner and will not extend to employees. The discount will not apply to employees or shareholders in companies that offer an Employee Stock Ownership Plan, revenue sharing, or other compensation plans that could be interpreted to provide an ownership interest in a company. The passes may be used by the owners or employees of the business. Businesses that own or lease real estate and operate owners with businesses located within the area beginning at the corner of Main and Bates Streets, southward to Adams Avenue, westward to Canal Street, northward to Cedar Street, westward to Lincoln Street, northward to Main Street and eastward to the point of beginning are eligible for this program.~~

This program cannot be combined with or be utilized in addition to any other parking discount program offered by the city.

- F. Special Rate for Downtown Residents:
 - 1. Residents of the Downtown are eligible for a reduced monthly parking rate at any City owned public parking facility. To be eligible, a resident must reside in the area as defined by the Downtown Master Plan.
 - 2. The special residential parking fee will be \$42.00 as of July 1, 2010. Any future

PARKING FEES

- increase will be set proportionately to the regular monthly parking rate.
3. To qualify for the reduced residential parking rate, a resident must prove residency in the downtown area by submitting a copy of a driver's license, an automobile registration, or any other documentation which may prove residency.
- G. Structure and fees for specific parking lots:
1. **Empire Theater Lot:** Lot created by the demolition of building(s) and retrofitting of vacant properties occupying the space formerly known by parcel address 142 Main Street: Two hour parking from 7:00 am to midnight.
 2. **Canal Street Lot:** Lot created by the demolition of building(s) and retrofitting of vacant properties occupying the space formerly known by parcel addresses 60 Canal Street and 10 Ash Street: Parking spaces to be rented on a month by month basis. The fee will be \$69.00 per month with an initial fee of \$40.00 to pay for signage for that space.
 3. **Cedar & Lincoln Street Lot:** Lot created by the demolition of building(s) and retrofitting of vacant properties occupying the space formerly known by parcel address 198 Lincoln Street: Daily parking to be governed by permits in the spaces not articulated in the Traffic Schedule Chapter 8 as being designated for (2 hour meters) public parking.
 4. **Chestnut Street Lot:** Lot created by the demolition of buildings and retrofitting of vacant properties occupying the space formerly known by parcel address 113, 115, 121, & 131 Lincoln Street, and 8 & 12 Chestnut Street: Daily parking to be governed by permits except with the spaces articulated in the Traffic Schedule Chapter 26 as being designated for (1 hour) public parking.

ON-STREET PARKING FEES

Hourly parking meters be set at \$.50 per hour
(Amended by City Council - 5/18/2004 Vote # 181-04)

PENALTY FEES

Interference with enforcement - Chapter 70, Traffic and Vehicles

A penalty shall not be less than \$55.00 nor more than \$1,055.00. Note: This penalty is outlined in the City Code of Ordinances Chapter 70, Article I In General.

Parking violation payment schedule - Chapter 70, Traffic and Vehicles



**City of Lewiston Maine
City Council Resolve
October 2, 2012**



Resolve, Adopting Amendments to Policy No. 42 - Parking Fees, Downtown Small Business Parking Fee Discount Program.

Whereas, the City of Lewiston has established a Downtown Business Owner/Lewiston Resident Parking Fee Discount Program; and

Whereas, the City has received requests from small downtown businesses to reduce the qualifying criteria and to expand the program; and

Whereas, the City values small businesses and wants to set policy that supports small businesses and attracts businesses to the downtown; and

Whereas, the City must also weigh the needs and desires of small business with the fiscal responsibilities of public ownership of parking and seeks to balance impacts on taxpayers with the benefits of economic development in the downtown; and

Whereas, the City Council believes that removing the Lewiston residency requirement for the small business discount program, increasing the number of passes each business can receive from one to two, and allowing the parking passes to be used by either owners or employees achieves that balance;

Now, therefore, be it Resolved by the City Council of the City of Lewiston that

the attached amendment to Policy No. 42 - Parking Fees, which revises the Downtown Small Business Parking Fee Discount Program, is hereby adopted.

LEWISTON CITY COUNCIL
MEETING OF OCTOBER 2, 2012

AGENDA INFORMATION SHEET:

AGENDA ITEM NO. 8

SUBJECT:

Resolve Extending the Term of the Kennedy Park Bandstand Restoration Committee.

INFORMATION:

Last fall, the City Council established the Kennedy Park Bandstand Restoration Committee and authorized the Committee to undertake a fund raising effort and establish a process for seeking and handling donations. Per last fall's Resolve, the Committee was to dissolve in September unless they were making sufficient progress and there was still work to accomplish. Since the Committee is still working on their goal of restoration of the bandstand, the Council is asked to authorize an extension of the committee until June 30, 2013 to allow them to continue toward their goal and to complete their task.

APPROVAL AND/OR COMMENTS OF CITY ADMINISTRATOR:

The City Administrator recommends approval of the requested action.

E. ABK/mm

REQUESTED ACTION:

1	2	3	4	5	6	7	M
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To approve the Resolve extending the term of the Kennedy Park Bandstand Restoration Committee.



**City of Lewiston Maine
City Council Resolve
November 1, 2011**



Resolve, Extending the Term of the Kennedy Park Bandstand Restoration Committee

Whereas, on November 1, 2011, the City Council established the Kennedy Park Bandstand Restoration Committee and authorized it to undertake fund raising efforts for the restoration of the Kennedy Park Bandstand; and

Whereas, the Council has designated up to \$75,000 in Community Development Block Grant Funds to be used to match donations received by the City for the restoration; and

Whereas, the Committee also received Council authorization to expend up to \$4,000 of this \$75,000 to undertake design activities and to develop a cost estimate for the restoration project; and

Whereas, this work has been completed and the Kennedy Park Bandstand Restoration Committee has developed a fundraising brochure and a budget; and

Whereas, the Term of the Committee formally expired on September 30, 2012 with the caveat that the Council would consider extending this term if sufficient progress had been made by that date; and

Whereas, the Council finds that sufficient progress has been made;

Now, therefore, be It Resolved by the City Council of the City of Lewiston that

The term of the Kennedy Park Bandstand Restoration Committee is hereby extended to June 30, 2012.

MEMORANDUM

TO: Mayor Robert E. Macdonald
Members of the City Council

FR: Gildace J. Arsenault, Director of Planning and Code Enforcement

RE: Kennedy Park Bandstand Committee Reauthorization

DT: September 27, 2012

On November 1, 2011, the City Council established the Kennedy Park Bandstand Restoration Committee which has been authorized to undertake fund raising efforts to accept donations, on behalf of the City, for the restoration of the Kennedy Park Bandstand. The Council designated up to \$75,000 in Community Development Block Grant Funds that have been appropriated for Kennedy Park improvements to be used to match donations received by the City for the restoration. The City will contribute \$1 for every \$2 received in cash or documented in-kind donations from private individuals and organizations.

The Kennedy Park Bandstand Restoration Committee received Council authorization on March 6, 2012 to expend up to \$4,000 of the \$75,000 allocated for the Bandstand to engage the services of Smith Reuter Lull Architects to undertake design activities and to develop a cost estimate for the restoration project. This work has been completed and the Kennedy Park Bandstand Restoration Committee has developed a fundraising brochure and a budget. Given the condition of the Bandstand and the recommendation of the Architects, the Committee voted to demolish the existing Bandstand; however, the roof will be saved to be used for a new bandstand.

On May 3, 2012 the Historic Preservation Review Board granted a certificate of appropriateness to demolish the bandstand with the exception of the roof and to construct a new bandstand adjacent to the Bates Street and Walnut Street entrance to Kennedy Park. This location was chosen in part as it offers excellent handicapped accessibility without the use of a mechanical lift while preserving the height of the bandstand.

Chair William Clifford, Jr. Esq., Lee Myles of the Bandstand Restoration Committee and I attended a Council workshop on July 17th and we discussed the status of the restoration and fundraising project. We indicated that we would return to the Council to request approval to extend the Committee as the November 1, 2011 resolution passed by the Council to create the Committee states that it shall be officially dissolved on September 30, 2012 unless its term is formally extended by the City Council after a finding that sufficient fund raising progress has been made to justify extending the Committee's term to allow it to complete the project. Therefore, on October 2nd we will provide you with an update on the work of the Committee and we will ask for your approval to reauthorize the Committee to June 30, 2013 in order to complete the project.

Thank you.

LEWISTON CITY COUNCIL

MEETING OF OCTOBER 2, 2012

AGENDA INFORMATION SHEET:

AGENDA ITEM NO. 11

SUBJECT:

Executive Session to discuss the Disposition of Real Estate of which the premature disclosure of the information would prejudice the competitive bargaining position of the City.

INFORMATION:

The Maine State Statutes, Title 1, section 405, define the permissible grounds and subject matters of executive sessions for public meetings.

APPROVAL AND/OR COMMENTS OF CITY ADMINISTRATOR:

The City Administrator recommends approval of the requested action.

EVAB/mm

REQUESTED ACTION:

1	2	3	4	5	6	7	M
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To enter into Executive Session, pursuant to MRSA Title 1, section 405(6)(c), to discuss the Disposition of Real Estate of which the premature disclosure of the information would prejudice the competitive bargaining position of the City.

LEWISTON CITY COUNCIL

MEETING OF OCTOBER 2, 2012

AGENDA INFORMATION SHEET:

AGENDA ITEM NO. 12

SUBJECT:

Executive Session to discuss Acquisition of Property of which the premature disclosure of the information would prejudice the competitive bargaining position of the City.

INFORMATION:

The Maine State Statutes, Title 1, section 405, define the permissible grounds and subject matters of executive sessions for public meetings.

APPROVAL AND/OR COMMENTS OF CITY ADMINISTRATOR:

The City Administrator recommends approval of the requested action.

EAB/kmm

REQUESTED ACTION:

1	2	3	4	5	6	7	M
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To enter into Executive Session, pursuant to MRSA Title 1, section 405(6)(c), to discuss Acquisition of Property of which the premature disclosure of the information would prejudice the competitive bargaining position of the City.