

**CITY OF LEWISTON**

**CITY COUNCIL**

**AUGUST 14, 2012**

**REGULAR MEETING HELD IN THE COUNCIL ROOM AT 6:00 P.M**

THE HONORABLE ROBERT E. MACDONALD, MAYOR, PRESIDING.

PRESENT: Mayor Macdonald, Councilors D’Auteuil, Libby, Christ, Saddlemire, Cayer and Desjardins, City Administrator Edward Barrett, and City Clerk Kathleen Montejo.

Absent/Excused: Councilor Butler

Pledge of Allegiance to the Flag.

Moment of Silence.

**PUBLIC COMMENT PERIOD**

No members of the public offered comments at this time period.

**AMENDMENT TO THE TRAFFIC SCHEDULE REGARDING LOADING ZONES ON ASH STREET AND LISBON STREET AND FIRE LANES ON ASH STREET**

**VOTE (213-2012)**

Motion by Councilor Cayer, seconded by Councilor Christ:

To approve an amendment to the Traffic Schedule regarding loading zone areas and fire lanes on Ash Street and Lisbon Street. Passed - Vote 6-0

**AMENDMENT TO THE TRAFFIC SCHEDULE TO ESTABLISH A PORTION OF VALE STREET AS A SINGLE LANE, ONE WAY STREET.**

**VOTE (214-2012)**

Motion by Councilor Cayer, seconded by Councilor Christ:

To adopt the proposed amendment to the Traffic Schedule to establish a portion of Vale Street, from Sabattus Street to Central Avenue, as a one way street and a single lane street, plus to prohibit on street parking on a portion of the street. Passed - Vote 6-0

**APPROVAL TO RENAME A PORTION OF MARSTON STREET AS NORTH MARSTON STREET**

**VOTE (215-2012)**

Motion by Councilor Cayer, seconded by Councilor Christ:

To approve the request to formally name the northerly portion of Marston Street as “North Marston Street”. Passed - Vote 6-0

**PUBLIC HEARING ON THE RENEWAL APPLICATION FOR A SPECIAL AMUSEMENT PERMIT FOR THE CARRIAGE HOUSE PLUS, 1119 LISBON STREET**

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

**VOTE (216-2012)**

Motion by Councilor Saddlemire, seconded by Councilor Libby:

To grant a special amusement permit for live entertainment to The Carriage House Plus, 1119 Lisbon Street. Passed - Vote 6-0

**PUBLIC HEARING ON THE RENEWAL APPLICATION FOR A SPECIAL AMUSEMENT PERMIT FOR SPARETIME RECREATION, 24 MOLLISON WAY**

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

**VOTE (217-2012)**

Motion by Councilor Christ, seconded by Councilor Saddlemire:

To grant a special amusement permit for live entertainment to Sparetime Recreation, 24 Mollison Way. Passed - Vote 6-0

**PUBLIC HEARING FOR APPROVAL OF AN OUTDOOR ENTERTAINMENT PERMIT FOR THE GREAT FALLS BALLOON FESTIVAL**

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

**VOTE (218-2012)**

Motion by Councilor Cayer, seconded by Councilor Christ:

To conduct a public hearing on an application for an outdoor entertainment event for the Great Falls Balloon Festival, and to grant a permit for an Outdoor Entertainment Event, as required by the City Code of Ordinances, Chapter 10, Article 1, Section 10-3, to the Great Falls Balloon Festival Committee for outdoor music concerts for the annual Festival to be held at Simard-Payne Memorial Park on August 17-19, 2012, contingent upon positive recommendations from the Recreation Department, Police Department, Fire Department, Code/Health Officer and Land Use Inspector regarding compliance with all regulations and compliance with all City ordinances. Passed - Vote 6-0

**PUBLIC HEARING AND ADOPTION OF ORDER REGARDING AN AMENDMENT TO THE CITY CHARTER REGARDING THE CITY COUNCIL**

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

**VOTE (219-2012)**

Motion by Councilor Libby, seconded by Councilor Saddlemire:

To approve the Order directing that an Amendment to the Lewiston City Charter, Article II City Council, which relates to: Sections 2.04 President of the Council; 2.08 Secretary to the Council; and Section 2.10 Procedure, be placed on the November 6, 2012 Municipal Ballot:

WHEREAS, on July 17, 2012, a proposed charter amendment was presented to the City Council that would modify certain provisions relating to the City Council and Council Chair; and

WHEREAS, on July 17, 2012, an Order was passed for a public hearing on the proposed amendment; and

WHEREAS, notice was properly given pursuant to Maine Revised Statutes Annotated, Title 30-A, Section 2104 of the public hearing on Tuesday, August 14, 2012, at 7:00 pm in the Council Chambers, on the proposed amendment; and

WHEREAS, a public hearing was held at such time and place allowing for a full hearing of all the parties concerned:

Now, therefore, be It Ordered by the City Council of the City of Lewiston

**A.** That an amendment to the City Charter that will modify certain provisions relating to the City Council and Council President should be considered.

**B.** That the following question be submitted to the voters at a special Municipal Election to be held on Tuesday, November 6, 2012:

“Shall the municipality approve the charter modifications as described in the summary below?”

**C.** That, upon passage, this Order shall constitute the Report of the Municipal Officers and shall be filed in the City Clerk’s Office.

**D.** That the City Council finds that it is not practical to print the proposed amendment on the ballot and a summary of the proposed amendment would not misrepresent the subject of the proposed amendment;

**E.** That, as a result of our finding in D above, the City Clerk is hereby instructed to include the attached SUMMARY OF THE PROPOSED AMENDMENT in lieu of the text of the proposed amendment.

**F.** The Charter Amendment shall become effective thirty (30) days after approval

**G.** The Proposed Amendment to the Charter is as shown below:

**ARTICLE II. CITY COUNCIL**

**Sec. 2.04. President of the council.**

The council shall elect for a two-year term, from among its members, a president who shall act as mayor during the temporary absence or temporary disability of the mayor, but the president ~~he~~ shall have ~~no~~ appointive powers only when the temporary absence or temporary disability of the mayor exceeds 45 consecutive calendar days. When the president of the council acts as presiding officer in the temporary absence of the mayor, ~~he~~ the president shall be entitled to vote only as a councilor. In the event of the absence of both the mayor and president of the council at any duly scheduled meeting, the council shall elect from its members a temporary presiding officer.

**Sec. 2.08. Secretary to the council.**

The city clerk shall be the secretary of the council. The clerk shall keep the journal of proceedings and perform such other duties as are assigned to the clerk ~~him~~ by law, by this Charter, and by the city council. The clerk shall also give notice of council meetings to its members; and ~~he~~ shall post a notice of each meeting on a bulletin board in the city building and through such appropriate electronic means as the council may direct.

**Sec. 2.10. Procedure.**

- (a) *Meetings.* The council shall meet regularly, at least once in every month at such times and places as the council may prescribe by order. Special meetings may be held on the call of the mayor or of four (4) members by causing a notification to be given in hand or left at the usual dwelling place of each council member or through such other method of notification that the council may establish by order. Such notice shall be given ~~in writing~~ not less than six (6) hours before the special meeting.
- (c) *Action by council.* The city council shall act only by ordinance, order, ~~or~~ resolve, or other decision based upon motion.

Deletions of the existing Charter provisions are ~~struck through~~, additions are underlined.

ATTACHMENT TO ORDER  
SUMMARY OF THE PROPOSED AMENDMENT

This amendment will make a variety of changes to sections of the charter dealing with the city council by:

1. Authorizing the Council President to make appointments when acting as Mayor during a temporary absence or disability of the Mayor that exceeds 45 calendar days.
2. Authorizing the Council to elect a temporary presiding officer if both the Mayor and Council President are absent from any duly scheduled meeting.
3. Authorizing the Council to establish an alternative method of notifying members of a special meeting.
4. Authorizing the Council to act by motion in addition to order, resolve, and ordinance.

Passed - Vote 6-0

**PUBLIC HEARING AND ADOPTION OF ORDER REGARDING AN AMENDMENT  
TO THE CITY CHARTER REGARDING ORDINANCES**

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

**VOTE (220-2012)**

Motion by Councilor D’Auteuil, seconded by Councilor Christ:

To approve the Order directing that an Amendment to the Lewiston City Charter relating to Ordinances, which relates to: Section 1.01 and Article II City Council, Section 2.11 Ordinances in General; and Section 2.12 Emergency Ordinances, be placed on the November 6, 2012 Municipal Ballot:

WHEREAS, on July 17, 2012, a proposed charter amendment was presented to the City Council that would modify certain provisions relating to the Ordinances adopted by the City; and

WHEREAS, on July 17, 2012, an Order was passed for a public hearing on the proposed amendment; and

WHEREAS, notice was properly given pursuant to Maine Revised Statutes Annotated, Title 30-A, Section 2104 of the public hearing on Tuesday, August 14, 2012, at 7:00 pm in the Council Chambers, on the proposed amendment; and

WHEREAS, a public hearing was held at such time and place allowing for a full hearing of all the parties concerned:

Now, therefore, be It Ordered by the City Council of the City of Lewiston

**A.** That an amendment to the City Charter that will modify certain provisions relating to Ordinances should be considered.

**B.** That the following question be submitted to the voters at a special Municipal Election to be held on Tuesday, November 6, 2012:

“Shall the municipality approve the charter modifications as described in the summary below?”

**C.** That, upon passage, this Order shall constitute the Report of the Municipal Officers and shall be filed in the City Clerk’s Office.

**D.** That the City Council finds that it is not practical to print the proposed amendment on the ballot and a summary of the proposed amendment would not misrepresent the subject of the proposed amendment.

**E.** That, as a result of our finding in D above, the City Clerk is hereby instructed to include the attached SUMMARY OF THE PROPOSED AMENDMENT in lieu of the

text of the proposed amendment.

F. The Charter Amendment shall become effective thirty (30) days after approval.

G. The Proposed Amendment to the Charter is as shown below:

## ARTICLE I. GRANT OF POWERS TO THE CITY

### **Sec. 1.01. Corporate existence retained.**

The inhabitants of the City of Lewiston shall continue to be a body politic and corporate by the name of the City of Lewiston, and shall have, exercise and enjoy all the rights, immunities, powers, privileges and franchises and shall be subject to all the duties, liabilities and obligations provided for herein or otherwise, pertaining to or incumbent upon said city as a municipal corporation or to the inhabitants or municipal authorities thereof; and may enact reasonable by-laws, regulations and ordinances for municipal purposes, not inconsistent with the constitution and laws of the State of Maine, and impose penalties for the breach thereof, ~~not exceeding one thousand dollars (\$1,000.00) in any one case~~ to be recovered for such uses as said by-laws, regulations or ordinances shall provide.

### **Sec. 2.11. Ordinances in general.**

- (a) *Form.* Every proposed ordinance shall be introduced in writing. No ordinance shall contain more than one (1) subject which shall be clearly expressed in its title. The enacting clause shall be "The City of Lewiston hereby ordains . . . ." Any ordinance which repeals or amends an existing ordinance shall set out ~~in full~~ the ordinance sections or subsections to be repealed or amended ~~and shall indicate matter to be omitted by enclosing it in brackets or by strikeout type and shall indicate new matter by underlining or by italics.~~
- (b) *Procedure.* A proposed ordinance may be introduced by any member at any regular or special meeting of the council. Upon introduction of any ordinance, the city clerk shall distribute a copy to the mayor, each council member and to the city administrator; shall file a reasonable number of copies in the office of the clerk and such other public places as the council may designate; and shall publish the proposed ordinance, together with a notice, setting out the time and place for a public hearing thereon and for its consideration by the council. The public hearing shall follow the publication by at least four (4) days, may be held separately or in connection with a regular or special council meeting and may be adjourned from time to time. All persons interested shall have a reasonable opportunity to be heard. After the hearing, the council may adopt the ordinance with or without amendment, or reject it; ~~but, if it is amended as to any matter of substance, the council may not adopt it until the ordinance and its amended sections have been subjected to all the procedure hereinbefore required in the case of a newly introduced ordinance.~~

### **Sec. 2.12. Emergency ordinances.**

To meet a public emergency affecting life, health, property or the public peace, the council may adopt one (1) or more emergency ordinances. An emergency ordinance shall be

introduced in the form and manner prescribed for ordinances generally, except that it shall be plainly designated as an emergency ordinance and shall contain, after the enacting clause, a declaration stating that an emergency exists and describing it in clear and specific terms. An emergency ordinance may be adopted with or without amendment at the meeting at which it is introduced, but at least five ~~the affirmative votes of at least five (5) councilors~~ shall be required for adoption. It shall become effective upon adoption or at such later time as it may specify. Every emergency ordinance shall stand repealed as of the sixty-first (61st) day following the date on which it was adopted; but this shall not prevent re-enactment of the ordinance in the manner specified in this section, if the emergency still exists. An emergency ordinance may also be repealed by adoption of a repealing ordinance in the same manner specified in this section for adoption of emergency ordinances. It shall not be necessary to publish the emergency ordinance prior to its enactment, but public hearing shall be had thereon.

(Deletions of the existing Charter provisions are ~~struck through~~, additions are underlined.)

ATTACHMENT TO ORDER  
SUMMARY OF THE PROPOSED AMENDMENT

This amendment will make a variety of changes to sections of the charter dealing with the city council by:

1. Eliminating the \$1,000 limit on penalties that may be imposed for violating city ordinances.
2. Eliminating the current requirement that ordinances repealing or amending other ordinances set out in full the changes as illustrated by underlines for new material and strikeouts for old.
3. Eliminating the requirement that the ordinance adoption procedure begin over in instances of substantive amendment to a proposed ordinance.
4. Clarify that five or more affirmative votes of the municipal officers are required to adopt an emergency ordinance.

Passed - Vote 6-0

**PUBLIC HEARING AND ADOPTION OF ORDER REGARDING AN AMENDMENT  
TO THE CITY CHARTER REGARDING CITY ADMINISTRATION**

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

**VOTE (221-2012)**

Motion by Councilor Libby, seconded by Councilor Christ:

To approve the Order directing that an Amendment to the Lewiston City Charter which relates to: Article III Sections 3.02 and 3.03, Powers and Duties of the City Administrator and Acting City Administrator, be placed on the November 6, 2012 Municipal Ballot:

WHEREAS, on July 17, 2012, a proposed charter amendment was presented to the City Council that would modify certain provisions relating to the City Administrator; and

WHEREAS, on July 17, 2012, an Order was passed for a public hearing on the proposed amendment; and

WHEREAS, notice was properly given pursuant to Maine Revised Statutes Annotated, Title 30-A, Section 2104 of the public hearing on Tuesday, August 14, 2012, at 7:00 pm in the Council Chambers, on the proposed amendment; and

WHEREAS, a public hearing was held at such time and place allowing for a full hearing of all the parties concerned:

Now, therefore, be It Ordered by the City Council of the City of Lewiston

**A.** That an amendment to the City Charter that will modify certain provisions relating to the City Administrator should be considered.

**B.** That the following question be submitted to the voters at a special Municipal Election to be held on Tuesday, November 6, 2012:

“Shall the municipality approve the charter modifications as described in the summary below?”

**C.** That, upon passage, this Order shall constitute the Report of the Municipal Officers and shall be filed in the City Clerk’s Office.

**D.** That the City Council finds that it is not practical to print the proposed amendment on the ballot and a summary of the proposed amendment would not misrepresent the subject of the proposed amendment.

**E.** That, as a result of our finding in D above, the City Clerk is hereby instructed to include the attached SUMMARY OF THE PROPOSED AMENDMENT in lieu of the text of the proposed amendment.

**F.** The Charter Amendment shall become effective thirty (30) days after approval.

**G.** The Proposed Amendment to the Charter is as shown below:

**ARTICLE III. CITY ADMINISTRATOR**

**Sec. 3.02. Powers and duties of the city administrator.**

The city administrator shall be the chief administrative officer of the city. He shall be responsible to the council for the administration of all city affairs placed in his charge by or under this Charter. He shall have the following powers and duties:

(a) Except as may otherwise be provided by this Charter, the city administrator shall

appoint without confirmation by the city council, all department heads, and other officers and employees responsible directly to the city administrator. The chief financial officer of the city heads of departments, the primary function of which is financial, and financial officers such as auditor, treasurer, tax collector, controller and chief financial officer, should one (1) or more of those positions or similar positions be created by the city council, shall be appointed by the city administrator and confirmed by the city council. ~~The city clerk shall be appointed by the city administrator and confirmed by the city council.~~

**Sec. 3.03. Acting city administrator.**

During any vacancy in the office of city administrator ~~and during the temporary absence or disability of the city administrator, as determined by vote of the council,~~ and during any temporary absence or disability of the city administrator of more than thirty (30) consecutive calendar days, the council may designate a properly qualified person to perform the duties of city administrator and fix such person's compensation. During a temporary absence of thirty calendar (30) days or less, the city administrator may designate a qualified person to perform the duties of administrator during such absence. While so acting, such person shall have the same powers and duties as those given to and imposed on the city administrator.

(Deletions of the existing Charter provisions are ~~struck through~~, additions are underlined).

ATTACHMENT TO ORDER  
SUMMARY OF THE PROPOSED AMENDMENT

This amendment eliminates the requirement for council confirmation for all offices appointed by the city administrator except for the chief financial officer and authorizes the administrator to appoint an acting administrator during absences of 30 days or less.

Passed - Vote 6-0

**PUBLIC HEARING AND ADOPTION OF ORDER REGARDING AN AMENDMENT  
TO THE CITY CHARTER REGARDING LIMITATION OF TERMS FOR THE  
PLANNING BOARD AND BOARD OF APPEALS**

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

**VOTE (222-2012)**

Motion by Councilor Christ, seconded by Councilor Saddlemire:

To approve the Order directing that an Amendment to the Lewiston City Charter be placed on the November 6, 2012 Municipal Ballot which relates to Article IV, Section 4.08 Limitation of Terms:

WHEREAS, on July 17, 2012, a proposed charter amendment was presented to the City Council that would modify term limitations applicable to members of Boards created by the charter; and

WHEREAS, on July 17, 2012, an Order was passed for a public hearing on the proposed amendment; and

WHEREAS, notice was properly given pursuant to Maine Revised Statutes Annotated, Title 30-A, Section 2104 of the public hearing on Tuesday, August 14, 2012, at 7:00 pm in the Council Chambers, on the proposed amendment; and

WHEREAS, a public hearing was held at such time and place allowing for a full hearing of all the parties concerned:

Now, therefore, be It Ordered by the City Council of the City of Lewiston

A. That an amendment to the City Charter that will modify certain provisions relating to term limits applicable to members of Boards created by the Charter should be considered.

B. That the following question be submitted to the voters at a special Municipal Election to be held on Tuesday, November 6, 2012:

“Shall the municipality approve the charter modifications as described in the summary below?”

C. That, upon passage, this Order shall constitute the Report of the Municipal Officers and shall be filed in the City Clerk’s Office.

D. That the City Council finds that it is not practical to print the proposed amendment on the ballot and a summary of the proposed amendment would not misrepresent the subject of the proposed amendment.

E. That, as a result of our finding in D above, the City Clerk is hereby instructed to include the attached SUMMARY OF THE PROPOSED AMENDMENT in lieu of the text of the proposed amendment.

F. The Charter Amendment shall become effective thirty (30) days after approval.

G. The Proposed Amendment to the Charter is as shown below:

Sec. 4.098. Limitation of terms.

No member of any board established by this article shall serve more than two consecutive a full five-year terms on the same board ~~within any ten-year period. Said period shall be deemed to commence at the time of his first appointment.~~

(Deletions of the existing Charter provisions are ~~struck through~~, additions are underlined.)

ATTACHMENT TO ORDER  
SUMMARY OF THE PROPOSED AMENDMENT

This amendment will increase the allowable number of terms an individual may serve on the

Planning Board or Board of Appeals from one five year term within a ten year period to two consecutive full five year terms. Passed - Vote 6-0

**PUBLIC HEARING AND ADOPTION OF ORDER REGARDING AN AMENDMENT TO THE CITY CHARTER REGARDING THE SCHOOL COMMITTEE**

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

**VOTE (223-2012)**

Motion by Councilor Saddlemire, seconded by Councilor Libby:

To approve the Order directing that an Amendment to the Lewiston City Charter be placed on the November 6, 2012 Municipal Ballot which relates to: Article V. School Committee, Section 5.03 Powers and Duties, and Adding New Sections: 5.05 Meetings; 5.06 Quorum; 5.07 Record; and 5.08 Voting:

WHEREAS, on July 17, 2012, a proposed charter amendment was presented to the City Council that would modify certain provisions relating to the School Committee; and

WHEREAS, on July 17, 2012, an Order was passed for a public hearing on the proposed amendment; and

WHEREAS, notice was properly given pursuant to Maine Revised Statutes Annotated, Title 30-A, Section 2104 of the public hearing on Tuesday, August 14, 2012, at 7:00 pm in the Council Chambers, on the proposed amendment; and

WHEREAS, a public hearing was held at such time and place allowing for a full hearing of all the parties concerned:

Now, therefore, be It Ordered by the City Council of the City of Lewiston

**A.** That an amendment to the City Charter that will modify certain provisions relating to the School Committee should be considered.

**B.** That the following question be submitted to the voters at a special Municipal Election to be held on Tuesday, November 6, 2012:

“Shall the municipality approve the charter modifications as described in the summary below?”

**C.** That, upon passage, this Order shall constitute the Report of the Municipal Officers and shall be filed in the City Clerk’s Office.

**D.** That the City Council finds that it is not practical to print the proposed amendment on the ballot and a summary of the proposed amendment would not misrepresent the subject of the proposed amendment.

E. That, as a result of our finding in D above, the City Clerk is hereby instructed to include the attached SUMMARY OF THE PROPOSED AMENDMENT in lieu of the text of the proposed amendment.

F. The Charter Amendment shall become effective thirty (30) days after approval.

G. The Proposed Amendment to the Charter is as shown below:

## ARTICLE V. SCHOOL ADMINISTRATION

### Sec. 5.01. School committee.

- (a) *Election and appointment.* There shall be a school committee of nine (9) members, composed of one (1) qualified voter to be elected from each ward, one (1) at-large member to be elected from any ward, and one (1) city council member to be nominated by the mayor and appointed by the city council from any ward, all of whom shall serve two (2) year terms, as set forth herein, and until their successors are elected and/or appointed and qualified. The qualified voters of each of the seven (7) wards of the city shall nominate and elect a school committee member who shall be qualified to vote in his ward and the qualified voters of the entire city shall nominate and elect one (1) at-large school committee member who shall be qualified to vote in any ward. Nominations and elections shall be conducted as provided in Article VII. The mayor shall nominate one (1) councilor from any ward, who shall be appointed by the city council, at the first city council meeting in January after each biennial election. If an elective position on the school committee is not filled at a regular municipal election, the mayor shall nominate, subject to the consent of the city council, an eligible individual for appointment ~~who shall be appointed by the city council to assume the vacant position. The present members and their successors shall continue in office until their respective terms expire but no later than the first Monday of January, 1988. Successors are to be elected as provided herein beginning at the regular municipal election in 1987 and appointed as provided herein at the first meeting of the city council in 1988.~~

If any vacancy in office of any elected member occurs ~~thereafter less than one (1) year prior to the next regular municipal election~~, the vacancy shall be filled from the same ward for the remainder of the unexpired term by nomination of the mayor, subject to the consent of the city council, and appointment by the city council except that the at-large school committee member may be from any ward. ~~If any vacancy in the office of any elected member occurs one (1) year or more prior to the next regular municipal election, the vacancy for the unexpired term shall be filled by a special election. Such election shall be called and held and nominations made as in other elections.~~ If there is any vacancy in the office of the city council member, it shall be filled by nomination of a councilor by the mayor and appointment by the city council.

### Sec. 5.03. Powers and duties.

- (a) *General powers and duties.* The school committee shall have all the powers and shall perform all duties necessary for care and management of the city's public schools pursuant to ~~prescribed for superintending school committees by~~ the general laws of the

State of Maine, which grant these powers and responsibilities to the school committee, except as otherwise provided by this Charter. The school committee shall accomplish its duties within the financial limitations established by the city council in its annual appropriation resolve and such supplemental appropriations voted by the city council, together with such other revenues it may receive from the federal or state governments, as well as gifts, grants, and payments from other sources. The school committee shall submit to the city council at least three (3) months prior to the end of the current fiscal year, for inclusion in the budget submitted to the city council under Article VI, budget estimates for the various sums required for the support of public schools for the ensuing uniform school fiscal year and shall thereafter provide the city council with such information relating to such estimates as the city council shall require. The school committee shall comply with all Charter provisions contained under Article VI.

- (b) *Employees.* All school department employees, including the superintendent of schools, shall be hired by the school committee. ~~Except when prohibited by state law, the school committee and the school department shall comply with all ordinances pertaining to personnel and shall follow the employment practices adopted by the city council.~~ The school committee shall choose a superintendent of schools solely on the basis of executive and administrative qualifications. The superintendent of schools need not be a resident of the city at the time of appointment, but shall be a resident of the city during tenure in office unless otherwise approved by the school committee.
- (c) ~~*Approval of labor contracts.* Any contract negotiated with any bargaining agent representing employees of the school department, pursuant to the Maine Public Employees Labor Relations Law, shall require approval by the city council.~~

#### Sec. 5.05. Meetings

The school committee shall meet at such time and place as it determines by rule. Meetings of the school committee other than executive session shall be open to the public as required by state statute, and the school committee shall promote public participation in and public notice of its meetings in the contemporary means of information sharing. Agendas and supporting information for meetings shall be available to the public at the superintendent of schools' office at least two business days prior to the meeting as well as electronically through the city's or school's website, if available.

#### Section 5.06. Quorum

A majority of the voting members of the school committee shall constitute a quorum for the transaction of business, but a smaller number may adjourn or compel attendance of absent members.

#### Section 5.07. Record

The school committee shall keep a record of its own proceedings which, except for executive sessions, shall be available to the public.

#### Section 5.08. Voting.

A roll call vote shall be taken on the passage of any order or resolve when requested by any member. Any action by the school committee shall require at least five affirmative votes.

(Deletions of the existing Charter provisions are ~~struck through~~, additions are underlined.)

ATTACHMENT TO ORDER  
SUMMARY OF THE PROPOSED AMENDMENT

This Amendment will:

- Authorize the Mayor to nominate , subject to consent of the City Council, an eligible individual to fill a position on the School Committee where that position is not filled at a regular election
- Clarify the powers and duties of the school committee and require that these duties be accomplished within the financial limitations established by the city council together with other state or federal funds, gifts, grants, and payments from other sources
- Repeal the requirement that the school department comply with all city ordinances and practices relating to employees
- Require that the school superintendent be selected solely on the basis of executive and administrative qualifications and be a resident of the city while in office unless otherwise approved by the school committee
- Repeal the requirement that all school department labor contracts be approved by the city council
- Require that the school committee establish the times and places of its meetings by rule; that these meetings be open to the public; that public notice be given of such meetings and public participation in them be promoted; that agendas and supporting information be made publicly available at least two days prior to the meeting and through electronic means if available
- Establish that a majority of the school committee constitutes a quorum
- Require that records be kept of open school committee proceedings and be made available to the public
- Allow any member of the committee to request a roll call vote on any order or resolve;
- Require at least five affirmative votes for the school committee to take action

Passed - Vote 6-0

**PUBLIC HEARING AND ADOPTION OF ORDER REGARDING AN AMENDMENT  
TO THE CITY CHARTER REGARDING FINANCIAL PROCEDURES**

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

**VOTE (224-2012)**

Motion by Councilor Libby, seconded by Councilor Cayer:

To approve the Order directing that an Amendment to the Lewiston City Charter be placed on the November 6, 2012 Municipal Ballot which relates to: Article VI Financial Procedures Section 6.01 (a) Fiscal year; Section 6.07 Capital Plan; Section 6.06 Budget; Section 6.08 Public Records; Section 6.12 Annual Postaudit; Section 6.13 Temporary Borrowing; Section 6.14 Bond Issues; and Section 6.15 Finance Committee:

WHEREAS, on July 17, 2012, a proposed charter amendment was presented to the City Council that would modify certain provisions relating to Financial Procedures; and

WHEREAS, on July 17, 2012, an Order was passed for a public hearing on the proposed amendment; and

WHEREAS, notice was properly given pursuant to Maine Revised Statutes Annotated, Title 30-A, Section 2104 of the public hearing on Tuesday, August 14, 2012, at 7:00 pm in the Council Chambers, on the proposed amendment; and

WHEREAS, a public hearing was held at such time and place allowing for a full hearing of all the parties concerned:

Now, therefore, be It Ordered by the City Council of the City of Lewiston

**A.** That an amendment to the City Charter that will modify certain provisions relating to financial procedures should be considered.

**B.** That the following question be submitted to the voters at a special Municipal Election to be held on Tuesday, November 6, 2012:

“Shall the municipality approve the charter modifications as described in the summary below?”

**C.** That, upon passage, this Order shall constitute the Report of the Municipal Officers and shall be filed in the City Clerk’s Office.

**D.** That the City Council finds that it is not practical to print the proposed amendment on the ballot and a summary of the proposed amendment would not misrepresent the subject of the proposed amendment.

**E.** That, as a result of our finding in D above, the City Clerk is hereby instructed to include the attached SUMMARY OF THE PROPOSED AMENDMENT in lieu of the text of the proposed amendment.

**F.** The Charter Amendment shall become effective thirty (30) days after approval.

**G.** The Proposed Amendment to the Charter is as shown below:

**ARTICLE VI. FINANCIAL PROCEDURES**

**Sec. 6.01. Fiscal year.**

- (a) *Fiscal year.* The fiscal year of the city shall be established by ~~begin on the first day of January and end on the last day of December or be such other fiscal year as the council may by resolution adopt.~~

**Sec. 6.067. Council action on capital program.**

- (a) *Notice and hearing.* The city council shall publish in one (1) or more newspapers of general circulation in the city a general summary of the capital program and a notice stating:
- (1) The times and places where copies of the capital program are available for inspection by the public;
  - (2) The time and place, no less than seven (7) nor more than fifteen (15) calendar days after such publication, for a public hearing on the capital program.
- (b) *Copy at public library.* A copy of the capital program shall be filed in the Lewiston Public Library.
- (c) *Notice in city building.* Notice shall also be posted in the city building.
- (d) *Electronic Availability.* Notice of the plan or the plan itself shall be made available through the city web site or other current technologies as the city council deems appropriate.
- (~~e~~) *Adoption.* The council by resolution shall adopt the capital program with or without amendment after the public hearing and at least four (4) months prior to the end of the current fiscal year. Adoption as provided herein shall not constitute the appropriation of funds.

**Sec. 6.067. Council action on budget.**

- (d) *Electronic Availability.* Notice of the budget or the budget itself shall be made available through the city web site or other current technologies as the city council deems appropriate.
- (g) Exception: When deemed necessary by the city council, the provisions of subsection (f) of this section may be waived by five affirmative votes ~~a two-thirds vote~~ of the municipal officers ~~city council~~.

**Sec. 6.08. Public records.**

Copies of the budget and the capital program as adopted shall be public records and shall be made available for inspection by the public at the Lewiston Public Library, ~~and~~ at such other places as may be designated by the city council, and through appropriate electronic methods.

**Sec. 6.12. Annual postaudit.**

Council shall appoint an accounting firm, whose minimum qualification shall include certified public accountants on staff, for the purpose of conducting the annual postaudit of the current fiscal year's municipal finances, as required by law. The council may enter into multi-year contracts pursuant to the competitive bid process for terms not to exceed five ~~three (3)~~ (5) ~~consecutive~~ fiscal years.

**Sec. 6.13. Temporary borrowing.**

Money may be borrowed temporarily in anticipation of taxes or of the issuance of bonds, in accordance with the provisions of 30-A M.R.S.A. § 5771, as amended.

**Sec. 6.14. Bond issues.**

The city may issue general obligation and revenue obligation securities for funding or refunding all or any part of its debt or for any purpose for which it may raise money in accordance with Maine Statutes. Before passage of an order or orders providing for the issuance of bonds, the city council shall hold a public hearing, notice of which shall be advertised at least once in one (1) or more newspapers of general circulation in Lewiston, such publication to be made not less than seven (7) days and no more than fifteen (15) days before the public hearing final action by the council. Final action on the order or orders must take place no later than sixty (60) calendar days following the public hearing. In addition to the public hearing required herein, where the amount of any single purpose bonds authorized for an individual project exceeds fifteen (15) percent of the property tax levy of the preceding fiscal year, such authorization must be approved by the voters at a regular or special election prior to issuance.

**Sec. 6.15. Finance committee.**

- (a) *Appointment.* There shall be a finance committee composed of five (5) members, who shall be appointed as follows: The president of the city council shall appoint two (2) members of the city council to serve two-year terms; the mayor shall appoint three (3) qualified voters of Lewiston to serve staggered three-year terms. ~~Following the adoption of this Charter, the mayor shall appoint one (1) member to serve one (1) year, one (1) member to serve two (2) years, one (1) member to serve three (3) years. Thereafter a~~All terms shall be for three (3) years. No non-city-council member shall serve on the finance committee for more than six (6) consecutive years.
- (d) *Appeal.* Any party, including employees of the city, aggrieved by action of the finance committee taken under section 6.15(c), may appeal such action to the council within seven (7) days from the date of the action which is the subject of the appeal.
- (f) *Rules of procedure.* The finance committee shall adopt appropriate rules of procedure consistent with the provisions of this Charter and policies adopted by the city council, to enable it to carry out its functions.

(Deletions of the existing Charter provisions are ~~struck through~~, additions are underlined.)

ATTACHMENT TO ORDER  
SUMMARY OF THE PROPOSED AMENDMENT

This amendment will make a variety of changes to sections of the charter dealing with financial procedures by:

1. Eliminating the reference to the City's Fiscal year as beginning on the first day of January and ending on the last day of December and empowering the city council to determine the dates of each fiscal year by resolution.

2. Relocating the section on the capital plan from 6.07 to 6.06 and renumbering the sections as appropriate.
3. Requiring that notice of the capital plan and budget be made available through the City's web site or by means of other appropriate electronic technologies.
4. Specifying that five affirmative votes of the municipal officers, as opposed to a two-thirds vote of the Council, is required to override the Charter's budget appropriation limit.
5. Increasing the length of time the Council may appoint an accounting firm to conduct the annual postaudit from three (3) to five (5) years.
6. Authorizing the City to issue bond anticipation notes.
7. Requiring that the final council action on bond orders must take place no later than sixty (60) days following the public hearing on such order rather than within seven (7) to fifteen (15) days of publication of notice of public hearing on the issuance of bonds.
8. Clarifying that employees of the City may appeal actions of the Finance Committee to the city council.
9. Requiring the Finance Committee's rules of procedure to be consistent with the policies adopted by the city council.

Passed - Vote 6-0

**PUBLIC HEARING AND ADOPTION OF ORDER REGARDING AN AMENDMENT  
TO THE CITY CHARTER REGARDING NOMINATIONS, ELECTIONS AND  
VACANCIES IN OFFICE**

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

**VOTE (225-2012)**

Motion by Councilor Christ, seconded by Councilor Cayer:

To approve the Order directing that an Amendment to the Lewiston City Charter be placed on the November 6, 2012 Municipal Ballot which relates to: Nominations, Elections, Vacancies in Office - Article II City Council - Prohibitions, Council Vacancies; Article V School Administration - School Committee Vacancies; and Article VII Nominations and Elections - Write-In Candidates:

WHEREAS, on July 17, 2012, a proposed charter amendment was presented to the City Council that would modify certain provisions relating to Nominations, Elections, and Vacancies in Office; and

WHEREAS, on July 17, 2012, an Order was passed for a public hearing on the proposed amendment; and

WHEREAS, notice was properly given pursuant to Maine Revised Statutes Annotated, Title 30-A, Section 2104 of the public hearing on Tuesday, August 14, 2012, at 7:00 pm in the Council Chambers, on the proposed amendment; and

WHEREAS, a public hearing was held at such time and place allowing for a full hearing of all the parties concerned:

Now, therefore, be It Ordered by the City Council of the City of Lewiston

- A. That an amendment to the City Charter that will modify certain provisions relating to Nominations, Elections, and Vacancies in Office should be considered.
- B. That the following question be submitted to the voters at a special Municipal Election to be held on Tuesday, November 6, 2012:

“Shall the municipality approve the charter modifications as described in the summary below?”
- C. That, upon passage, this Order shall constitute the Report of the Municipal Officers and shall be filed in the City Clerk’s Office.
- D. That the City Council finds that it is not practical to print the proposed amendment on the ballot and a summary of the proposed amendment would not misrepresent the subject of the proposed amendment.
- E. That, as a result of our finding in D above, the City Clerk is hereby instructed to include the attached SUMMARY OF THE PROPOSED AMENDMENT in lieu of the text of the proposed amendment.
- F. The Charter Amendment shall become effective thirty (30) days after approval.
- G. The Proposed Amendment to the Charter is as shown below:

**ARTICLE II. CITY COUNCIL**

**Sec. 2.05. Prohibition.**

Except as otherwise provided by law, no person who holds an appointive office in the city government or is an employee of the city shall ~~be eligible to be a candidate for or~~ hold an elective office in the city government. However, a person holding an elective office shall be eligible, during his term of office, to become a candidate for the same or another elective office. In the event such person is elected to the second office, a vacancy shall exist in the first office when such person qualifies for the second office. No person shall be a candidate for more than one (1) city elective office in the same city election.

**Sec. 2.06. Forfeiture of office of councilor.**

- (b) In the event that a vacancy in the office occurs as a result of the failure to elect a candidate at the regular city election, the remaining members of the council shall, within thirty (30)

calendar days after the vacancy exists, either appoint an eligible person to fill the term or order that a special election be held.

- (~~b~~c) If a vacancy in the office occurs one (1) year or more prior to the next regular municipal election for reasons other than that set forth in section 2.06(b), the vacancy for the unexpired term shall be filled by a special election. Such election shall be called and held and nominations made as in other elections.

## ARTICLE V. SCHOOL ADMINISTRATION

### Sec. 5.01. School committee.

#### (a.) Election and appointment.

If an elective position on the school committee is not filled at a regular municipal election, the mayor shall nominate, subject to the consent of the city council, an eligible individual who shall be appointed by the city council to assume the vacant position.

If any vacancy in office of any elected member occurs thereafter less than one (1) year prior to the next regular municipal election, the vacancy shall be filled from the same ward for the remainder of the unexpired term by nomination of the mayor, subject to the consent of and appointment by the city council except that the at-large school committee member may be from any ward. ~~If any vacancy in the office of any elected member occurs one (1) year or more prior to the next regular municipal election, the vacancy for the unexpired term shall be filled by a special election. Such election shall be called and held and nominations made as in other elections.~~ If there is any vacancy in the office of the city council member, it shall be filled by nomination of a councilor by the mayor subject to consent and appointment by the city council.

## ARTICLE VII. NOMINATIONS AND ELECTIONS

### Sec. 7.05 Write-In Candidates.

In order for ballots cast for a write-in candidate to be counted, such candidate must (a) register his or her candidacy with the City Clerk at least 30 calendar days prior to the date of the election and (b) be eligible for the office for which he or she wishes to become a candidate.

### Sec. 7.067. Determination of election results.

- (e) Write-In Candidates. In order to be eligible to be elected, a write-in candidate must receive at least the same number of votes as are required for nomination for the position for which the write-in candidate is competing.

(Deletions of the existing Charter provisions are ~~struck through~~, additions are underlined.)

## ATTACHMENT TO ORDER SUMMARY OF THE PROPOSED AMENDMENT

This proposed amendment would make the following changes to the charter in regard to Nominations, Elections, and Appointments:

1. An individual who holds an appointive office in city government would be permitted to run for an elective office without resigning the appointed position until that individual assumes the elective office.
2. If a council vacancy results from failure to elect someone at a regular election, the remaining councilors may either appoint an eligible person to fill the term or call a special election to fill the vacancy.
3. If a school committee vacancy results from failure to elect someone at a regular election, the mayor shall nominate an eligible individual who shall be appointed by the city council.
4. Currently, school committee vacancies of greater than one year are filled through a special election. This amendment would eliminate the need for an election and authorize the mayor to nominate an eligible person and the council to appoint that person.
5. In order for ballots for a write-in candidate to be counted, such candidate must register with the City Clerk at least 30 calendar days prior to the date of the election.
6. In order to be elected, a write-in candidate must receive at least the same number of votes as are required for nomination for the position for which the write-in candidate is competing.

Passed - Vote 5-1 (Councilor D'Auteuil opposed)

**PUBLIC HEARING AND ADOPTION OF ORDER REGARDING AN AMENDMENT TO THE CITY CHARTER REGARDING GENERAL PROVISIONS**

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

**VOTE (226-2012)**

Motion by Councilor Libby, seconded by Councilor Cayer:

To approve the Order directing that an Amendment to the Lewiston City Charter be placed on the November 6, 2012 Municipal Ballot which relates to: Article VIII General Provisions, Section 8.01 Term; Section 8.02 First Council Meeting and Adding a New Section - Periodic Charter Review:

WHEREAS, on July 17, 2012, a proposed charter amendment was presented to the City Council that would modify certain General Provisions relating to terms, date of first council meeting, and requiring periodic review of the charter; and

WHEREAS, on July 17, 2012, an Order was passed for a public hearing on the proposed amendment; and

WHEREAS, notice was properly given pursuant to Maine Revised Statutes Annotated, Title 30-A, Section 2104 of the public hearing on Tuesday, August 14, 2012, at 7:00 pm in the Council Chambers, on the proposed amendment; and

WHEREAS, a public hearing was held at such time and place allowing for a full hearing of all the parties concerned:

Now, therefore, be It Ordered by the City Council of the City of Lewiston

**A.** That an amendment to the City Charter that will modify certain General Provisions relating to terms, date of first council meeting, and requiring periodic review of the charter should be considered.

**B.** That the following question be submitted to the voters at a special Municipal Election to be held on Tuesday, November 6, 2012:

“Shall the municipality approve the charter modifications as described in the summary below?”

**C.** That, upon passage, this Order shall constitute the Report of the Municipal Officers and shall be filed in the City Clerk’s Office.

**D.** That the City Council finds that it is not practical to print the proposed amendment on the ballot and a summary of the proposed amendment would not misrepresent the subject of the proposed amendment.

**E.** That, as a result of our finding in D above, the City Clerk is hereby instructed to include the attached SUMMARY OF THE PROPOSED AMENDMENT in lieu of the text of the proposed amendment.

**F.** The Charter Amendment shall become effective thirty (30) days after approval.

**G.** The Proposed Amendment to the Charter is as shown below:

**ARTICLE VIII. GENERAL PROVISIONS**

**Sec. 8.01. Terms of officers and employees.**

- (a) *Elected officers.* The term of any elected officer shall date from the first Monday in January next following his election, except that in the event the first Monday shall fall on a holiday or the day following a holiday, then on the following Tuesday. ~~then on the next day following.~~ If a person is elected to fill a vacancy in office, ~~his~~ that person’s term shall begin immediately upon taking the oath of office.

**Sec. 8.02. First council meeting.**

The city council shall convene on the first Monday in January next following its election;

except that in the event the first Monday shall fall on a holiday or the day following a holiday, then on the following Tuesday, ~~the city council shall convene the next day following.~~

**Sec. 8.09. Periodic Charter Review.**

In calendar years ending in 1, the Mayor shall appoint a charter review committee composed of seven members who shall be residents of the city and who the Mayor determines to have a background in or understanding of city government and its operations. The committee shall undertake a comprehensive review of this charter and shall recommend to the city council amendments to the charter designed to improve the operations of city government, such recommendations to be made no later than the date established by the Mayor at the time the committee is established.

Deletions of the existing Charter provisions are ~~struck through~~, additions are underlined.

**ATTACHMENT TO COUNCIL ORDER**  
**SUMMARY OF THE PROPOSED AMENDMENT**

This proposed amendment will:

- Specify that the terms of newly elected officials will begin on the first Tuesday in January if the first Monday falls on a holiday or the day after a holiday.
- Establish a new Section 8.09 requiring the Mayor to appoint a charter review committee in every calendar year ending in 1 to undertake a comprehensive review of the charter and recommend amendments.

Passed - Vote 6-0

**PUBLIC HEARING AND ADOPTION OF ORDER REGARDING AN AMENDMENT TO THE CITY CHARTER REGARDING COMPENSATION AND FORFEITURE OF OFFICE**

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

**VOTE (227-2012)**

Motion by Councilor Christ, seconded by Councilor Libby:

To approve the Order directing that an Amendment to the Lewiston City Charter be placed on the November 6, 2012 Municipal Ballot which relates to: Compensation and Forfeiture of Office - Section 2.02 Compensation, Expenses; Section 2.06 Forfeiture of office of councilor; Section. 2.07 Forfeiture of office of mayor; Section 4.05(b) Planning Board Compensation; Section 4.06 (b) Board of Appeals Compensation; Section 4.08 Forfeiture of Office, Planning Board and Board of Appeals; Section 5.01 (b) School Committee Compensation; Section 5.01( c) School Committee Forfeiture of Office; Section 6.15 (b) Finance Committee Compensation; and Section 6.15 (g) (1) and (2) Finance Committee Forfeiture of Office:

WHEREAS, on July 17, 2012, a proposed charter amendment was presented to the City Council that would modify certain provisions relating to compensation and forfeiture of office; and

WHEREAS, on July 17, 2012, an Order was passed for a public hearing on the proposed

amendment; and

WHEREAS, notice was properly given pursuant to Maine Revised Statutes Annotated, Title 30-A, Section 2104 of the public hearing on Tuesday, August 14, 2012, at 7:00 pm in the Council Chambers, on the proposed amendment; and

WHEREAS, a public hearing was held at such time and place allowing for a full hearing of all the parties concerned:

Now, therefore, be It Ordered by the City Council of the City of Lewiston

A. That an amendment to the City Charter that will modify certain provisions relating to compensation and forfeiture of office should be considered.

B. That the following question be submitted to the voters at a special Municipal Election to be held on Tuesday, November 6, 2012:

“Shall the municipality approve the charter modifications as described in the summary below?”

C. That, upon passage, this Order shall constitute the Report of the Municipal Officers and shall be filed in the City Clerk’s Office.

D. That the City Council finds that it is not practical to print the proposed amendment on the ballot and a summary of the proposed amendment would not misrepresent the subject of the proposed amendment.

E. That, as a result of our finding in D above, the City Clerk is hereby instructed to include the attached SUMMARY OF THE PROPOSED AMENDMENT in lieu of the text of the proposed amendment.

F. The Charter Amendment shall become effective thirty (30) days after approval.

G. The Proposed Amendment to the Charter is as shown below:

Sec. 2.02. Compensation, expenses.

The mayor shall receive an annual salary of three thousand six hundred dollars (\$3,600.00), payable monthly. and Each of the councilors shall receive an annual salary as set by ordinance of one thousand eight hundred dollars (\$1,800.00), payable monthly. The council may also, by ordinance, provide for compensation for elected officials who are appointed by the council, the mayor, or the council president to represent the city on the governing bodies of any joint agency, quasi-governmental organization or non-profit organization. Such compensation shall be on a per diem basis for any day on which the elected official attends a meeting of such governing body. No ordinance increasing such salaries shall take effect during the term for which the mayor or the councilors were elected. The mayor and members of the council shall receive their actual and necessary expenses incurred in the performance of their duties of office. During the term of office for which they have been elected, neither the mayor nor any councilor

shall hold the office of city administrator, acting city administrator or any other office or employment, compensation for which is payable by the city. No former mayor or councilor shall hold employment in any position created during his term or terms of office until one (1) year after the termination of his last term of office. ~~The city council may, by ordinance, establish the amount that the mayor and members of the council shall be entitled to receive as salary, but no such ordinance increasing such salaries shall take effect during the term for which the mayor or the councilors were elected.~~ Nothing herein shall prevent a councilor serving on the finance committee from receiving as additional compensation the salary authorized by section 6.15(b) or a councilor serving on the school committee from receiving as additional compensation the salary authorized by section 5.01(b).

Sec. 2.06. Forfeiture of office of councilor.

- (a) A vacancy in the office of councilor shall exist if he:
- (1) Dies;
  - (2) Resigns;
  - (3) Moves from the ward from which he was elected or appointed;
  - (4) Is convicted of a crime punishable by imprisonment of one year or more or a crime of a sexual nature or of dishonesty or false statement, regardless of the punishment or offense involving moral turpitude while in office; or
  - (5) Is found in violation of section 8.04 of this Charter.
  - (6) Fails to attend three consecutive regular meetings of the city council without being excused by the mayor or president of the council, such excuse to be documented with the city clerk.

Sec. 2.07. Forfeiture of office of mayor.

- (a) A vacancy in the office of mayor shall exist if he:
- (1) Dies;
  - (2) Resigns;
  - (3) Moves from the city;
  - (4) Is convicted of a crime punishable by imprisonment of one year or more or a crime of a sexual nature or dishonesty or false statement, regardless of the punishment or offense involving moral turpitude while in office; or
  - (5) Is found to be in violation of section 8.04 of this Charter.
  - (6) Fails to attend three consecutive regular meetings of the city council without being excused by the council president or city council.

Sec. 4.05. Planning board.

- (b) *Compensation.* Each member shall receive compensation salary at the rate established by ordinance by the city council of three hundred sixty dollars (\$360.00) per year, payable monthly.

Sec. 4.06. Board of appeals.

- (b) *Compensation.* Each member shall receive compensation salary at the rate established by ordinance by the city council of three hundred sixty dollars (\$360.00) per year, payable monthly.

Sec. 4.07. Compensation.

~~Compensation paid to members of the planning board and board of appeals may be changed by ordinance.~~

(Amend. eff. 1-1-07)

Sec. 4.078. Forfeiture of office.

A member of the planning board or board of appeals shall forfeit his office and a vacancy therein shall exist, if he:

- (1) Dies;
- (2) Resigns;
- (3) Moves from the city;
- (4) In the case of the planning board and board of appeals if he moves from his ward into a ward in which there are currently two (2) members of the same board;
- (5) Is convicted of a crime punishable by imprisonment of one year or more or a crime of a sexual nature or of dishonesty or false statement, regardless of the punishment or offense involving moral turpitude while in office;
- (6) Is found to be in violation of section 8.04 of this Charter; or
- (7) Exceeds the tenure authorized for the office.
- (8) Fails to attend three consecutive regular meetings of the board without being excused by the chair or, in the case of the chair, by the board.

Sec. 5.01. School committee.

- (b) *Compensation.* Each member shall receive compensation salary at the rate set by ordinance by the city council of six hundred dollars (\$600.00) per year, payable monthly. ~~Such compensation may be changed by ordinance.~~
- (c) *Forfeiture of office.* A member of the school committee shall forfeit his office and a vacancy therein shall exist if he:
  - (1) Dies;
  - (2) Resigns;
  - (3) For the seven (7) members elected by ward, moves from the ward in which he was elected;
  - (4) For the one (1) at-large member, moves from the city;
  - (5) Is convicted of a crime punishable by imprisonment of one year or more or a crime of a sexual nature or dishonesty or false statement, regardless of the punishment or offense involving moral turpitude while in office;
  - (6) Is found to be in violation of section 8.04 of this Charter; or
  - (7) For the councilor member, is no longer a member of the city council.
  - (8) Fails to attend three consecutive regular meetings of the school committee without being excused by the chair or, in the case of the chair, by the school committee.

Sec. 6.15. Finance committee.

- (b) *Compensation.* The members of the finance committee shall receive compensation salary at the rate established by ordinance by the city council of four hundred eighty dollars (\$480.00) per year, payable monthly. Compensation paid to members of the finance

committee may be changed by ordinance, but no such ordinance increasing compensation for a member of the finance committee who is a member of the city council shall take effect during the term for which the councilor was elected.

(g) *Forfeiture.*

- (1) A member of the finance committee appointed by the mayor shall forfeit his office and a vacancy therein shall exist if he:
  - a. Dies;
  - b. Resigns;
  - c. Is convicted of a crime punishable by imprisonment of one year or more or a crime of a sexual nature or dishonesty or false statement, regardless of the punishment or offense involving moral turpitude while in office;
  - d. Is found to be in violation of section 8.04 of this Charter; or
  - e. Exceeds the tenure authorized for the office.
- (2) A member of the finance committee who is a member of the city council shall forfeit his office and a vacancy therein shall exist if he:
  - a. ~~Dies;~~
  - b. ~~Resigns;~~
  - c. ~~Is convicted of a crime punishable by imprisonment of one year or more or a crime of dishonesty or false statement, regardless of the punishment or offense involving moral turpitude while in office;~~
  - d. ~~Is found to be in violation of section 8.04 of this Charter; or~~
  - e. ~~I~~ is no longer a member of the city council.

(Deletions of the existing Charter provisions are ~~struck through~~, additions are underlined)

ATTACHMENT TO ORDER  
SUMMARY OF THE PROPOSED AMENDMENT

This amendment would:

- Replace the dollar amounts specified as compensation for the Mayor, Council, School Committee, Finance Committee, Planning Board, and Board of Appeals with compensation set by city council ordinance;
- Authorize compensation on a per diem basis to councilors appointed to represent the city on governing bodies of various organizations and agencies;
- Specify that the Mayor, councilors, school committee, finance committee, planning board, and board of appeals members shall forfeit their office if convicted of a crime punishable by imprisonment of one year or more or a crime of a sexual nature or of dishonesty or false statement regardless of the punishment or fails to attend three consecutive meetings without being excused.

Passed - Vote 6-0

**PUBLIC HEARING AND ADOPTION OF ORDER REGARDING AN AMENDMENT  
TO THE CITY CHARTER REGARDING THE OFFICE OF MAYOR**

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

**VOTE (228-2012)**

Motion by Councilor Cayer, seconded by Councilor Saddlemire:

To approve the Order directing that an Amendment to the Lewiston City Charter be placed on the November 6, 2012 Municipal Ballot which relates to: Office of the Mayor, Article I, section 1.02 Powers and Duties; Article II, Sections 2.01 ( c) Term Limits; Sections 2.03 and 2.10 (d) Authority of Mayor to Vote; and Section 2.07 Forfeiture of the Office of Mayor:

WHEREAS, on July 17, 2012, a proposed charter amendment was presented to the City Council that would modify certain provisions relating to the Office of the Mayor; and

WHEREAS, on July 17, 2012, an Order was passed for a public hearing on the proposed amendment; and

WHEREAS, notice was properly given pursuant to Maine Revised Statutes Annotated, Title 30-A, Section 2104 of the public hearing on Tuesday, August 14, 2012, at 7:00 pm in the Council Chambers, on the proposed amendment; and

WHEREAS, a public hearing was held at such time and place allowing for a full hearing of all the parties concerned:

Now, therefore, be It Ordered by the City Council of the City of Lewiston

**A.** That an amendment to the City Charter that will modify certain provisions relating to the Office of the Mayor should be considered.

**B.** That the following question be submitted to the voters at a special Municipal Election to be held on Tuesday, November 6, 2012:

“Shall the municipality approve the charter modifications as described in the summary below?”

**C.** That, upon passage, this Order shall constitute the Report of the Municipal Officers and shall be filed in the City Clerk’s Office.

**D.** That the City Council finds that it is not practical to print the proposed amendment on the ballot and a summary of the proposed amendment would not misrepresent the subject of the proposed amendment.

**E.** That, as a result of our finding in D above, the City Clerk is hereby instructed to include the attached SUMMARY OF THE PROPOSED AMENDMENT in lieu of the text of the proposed amendment.

**F.** The Charter Amendment shall become effective thirty (30) days after approval.

G. The Proposed Amendment to the Charter is as shown below:

Sec. 1.02. Powers and duties.

- (b) The mayor and members of the city council shall be and constitute the municipal officers of the City of Lewiston for all purposes required by statute and, except as otherwise herein specifically provided, shall have all powers and authority given to, and perform all duties required of, municipal officers and mayors of cities under the laws of this state. The mayor, when ~~he acts~~ acting as a municipal officer, shall be entitled to vote ~~only~~ to break a tie, when a council vacancy exists, when in the absence of a councilor, when a councilor is absent from a meeting, or when a councilor has been recused due to a conflict of interest.

Sec. 2.01. Composition, eligibility, wards, elections and terms.

- (c) *Elections and terms.* The mayor and the ward councilors shall be elected at each regular election to serve two-year terms. The mayor shall not be eligible to serve for more than ~~two~~ three (3) full successive terms.

Sec. 2.03. Mayor.

The mayor shall be the presiding officer of the council and shall be entitled to vote only to break a tie, when a council vacancy exists, in the absence of a councilor, or when a councilor has been recused due to a conflict of interest. The mayor shall be recognized as the head of the city government for all ceremonial purposes. He shall solely make appointments to committees and boards created under this Charter, to statutory boards and commissions as are required by the Statutes of the State of Maine to be made by the municipal officers and shall solely appoint citizens to ad hoc advisory committees.

Sec. 2.07. Forfeiture of office of mayor.

- (b) If a vacancy in the office occurs ~~nine (9)~~ twelve (12) months or more prior to the next regular municipal election, the vacancy shall be filled by a special election for the unexpired term. Such election shall be called and held and nominations made as in other elections.
- (c) If a vacancy in the office occurs less than ~~nine (9)~~ twelve (12) months prior to the next regular municipal election, the president of the council shall serve the remainder of the unexpired term as the mayor of the city with all the powers, privileges and authority of the mayor. In such event, the vacancy in the city council caused by the president of the council becoming the mayor shall not be filled.

Sec. 2.10. Procedure.

- (d) *Voting.* Voting, except on procedural motions, shall be by roll call and the ayes and nays shall be recorded in the journal. Four (4) members of the council shall constitute a quorum, but a smaller number may adjourn from time to time. No action of the council, except as provided in the preceding sentence and in section 2.06(e) shall be binding or valid unless adopted by the affirmative vote of four (4) or more members of the council,

including the mayor, if voting to ~~break a tie~~ under section 2.03.

Deletions of the existing Charter provisions are ~~struck through~~, additions are underlined.

**ATTACHMENT TO ORDER  
SUMMARY OF THE PROPOSED AMENDMENT**

This amendment will make a variety of changes to sections of the charter dealing with the mayor by:

1. Expanding the authority of the Mayor to vote as a municipal officer to situations where there is a council vacancy or when a councilor is absent or recused due to a conflict of interest.
2. Increasing the number of full consecutive terms an individual could serve as Mayor from two to three.
3. Increasing the period during which the Council President serves as Mayor when the office of Mayor is vacant from nine to twelve months. Vacancies of twelve months or more would be filled by a special election.

Passed - Vote 6-0

**PUBLIC HEARING AND ADOPTION OF ORDER REGARDING AN AMENDMENT  
TO THE CITY CHARTER REGARDING TECHNICAL HOUSEKEEPING CHANGES**

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

**VOTE (229-2012)**

Motion by Councilor Saddlemire, seconded by Councilor Cayer:

To approve the Order directing that an Amendment to the Lewiston City Charter be placed on the November 6, 2012 Municipal Ballot which relates to: Technical Housekeeping Changes including making the charter gender neutral, specifying that references to days means calendar days, repealing unnecessary transitional language and renumbering sections as appropriate:

WHEREAS, on July 17, 2012, a proposed charter amendment was presented to the City Council that would make certain technical and housekeeping changes; and

WHEREAS, on July 17, 2012, an Order was passed for a public hearing on the proposed amendment; and

WHEREAS, notice was properly given pursuant to Maine Revised Statutes Annotated, Title 30-A, Section 2104 of the public hearing on Tuesday, August 14, 2012, at 7:00 pm in the Council Chambers, on the proposed amendment; and

WHEREAS, a public hearing was held at such time and place allowing for a full hearing of all the parties concerned:

Now, therefore, be It Ordered by the City Council of the City of Lewiston

**A.** That an amendment to the City Charter that will make certain technical and housekeeping changes should be considered.

**B.** That the following question be submitted to the voters at a special Municipal Election to be held on Tuesday, November 6, 2012:

“Shall the municipality approve the charter modifications as described in the summary below?”

**C.** That, upon passage, this Order shall constitute the Report of the Municipal Officers and shall be filed in the City Clerk’s Office.

**D.** That the City Council finds that it is not practical to print the proposed amendment on the ballot and a summary of the proposed amendment would not misrepresent the subject of the proposed amendment.

**E.** That, as a result of our finding in D above, the City Clerk is hereby instructed to include the attached SUMMARY OF THE PROPOSED AMENDMENT in lieu of the text of the proposed amendment.

**F.** The Charter Amendment shall become effective thirty (30) days after approval.

**G.** The Proposed Amendment to the Charter is as shown below:

**ARTICLE VIII. GENERAL PROVISIONS**

**~~Sec. 8.09. Gender.~~**

~~Words of the masculine gender may include the feminine.~~

(Deletions of the existing Charter provisions are ~~struck through~~, additions are underlined)

ATTACHMENT TO ORDER  
SUMMARY OF THE PROPOSED AMENDMENT

This amendment will make technical housekeeping changes to the charter including making the charter gender neutral, correcting punctuation and grammar, specifying that days means calendar days, repealing unnecessary transitional language, and renumbering sections as appropriate.

The following no longer necessary transitional provisions would be repealed:

- Section 2.01 (b) reference to ward lines as they exist as of the date of the adoption of this Charter
- Section 4.05 (a) specifying the terms of the members of the planning board initially appointed after the adoption of the Charter

- Section 4.06 (a) specifying the terms of the members of the board of appeals initially appointed after the adoption of the Charter
- Section 5.01 (a) specifying that members of the school committee and their successors continued in office until their respective terms expired but no later than the first Monday of January 1988.
- Section 5.01 (d) specifying that the terms of the school committee members shall terminate immediately upon the election, appointment, and qualification of members of the committee under the provisions of this Charter
- Section 6.15 (a) specifying the terms of members of the Finance Committee initially appointed after the adoption of the charter.
- Section 9.01 First Elections
- Section 9.02 Termination of office
- Section 9.03 Officers and Employees
- Section 9.04 Boards and commissions, transfer of power
- Section 9.05 Existing departments, offices and agencies
- Section 9.09 Property and records.

In addition, Section 8.09 Gender would be deleted as the Charter would be made gender neutral.

Passed - Vote 6-0

**CONDEMNATION HEARING FOR THE BUILDING LOCATED AT  
320 BATES STREET**

Mayor Macdonald opened the public hearing to receive citizen input and comment. Gil Arsenault, Director of Planning and Code Enforcement, and Tom Maynard, Code Enforcement Officer, provided their professional background credentials regarding their working knowledge of building codes and building safety. Mr. Arsenault and Mr. Maynard then reviewed the City's efforts to communicate with the building owners and to work with them to resolve the numerous outstanding safety violations. They then outlined the condition of the building noting it is unsafe for habitation and is a danger to the neighborhood. They also showed photographs documenting the code violations and safety concerns. Mayor Macdonald then closed the hearing.

**VOTE (230-2012)**

Motion by Councilor Cayer, seconded by Councilor D'Auteuil:

With regard to the property at 320 Bates Street, to adopt the Findings of Fact, Conclusions of Law and Order of Demolition proposed by the City Planning and Code Enforcement Department, which Order establishes the corrective action to be taken by the property owner and the time frame for taking such action, and which authorizes the City Administrator to take such corrective action if the property owner fails to do so, and to recoup the City's costs through a special tax or collective action. Passed - Vote 6-0

**CONDEMNATION HEARING FOR THE BUILDING LOCATED AT  
87 BIRCH STREET**

Mayor Macdonald opened the public hearing to receive citizen input and comment. Gil

Arsenault, Director of Planning and Code Enforcement, and Tom Maynard, Code Enforcement Officer, provided their professional background credentials regarding their working knowledge of building codes and building safety. Mr. Arsenault and Mr. Maynard then reviewed the City's efforts to communicate with the building owners and to work with them to resolve the numerous outstanding safety violations. They then outlined the condition of the building noting it is unsafe for habitation and is a danger to the neighborhood. They also showed photographs documenting the code violations and safety concerns. Mayor Macdonald then closed the hearing.

**VOTE (231-2012)**

Motion by Councilor Saddlemire, seconded by Councilor Christ:

With regard to the property at 87 Birch Street, to adopt the Findings of Fact, Conclusions of Law and Order of Demolition proposed by the City Planning and Code Enforcement Department, which Order establishes the corrective action to be taken by the property owner and the time frame for taking such action, and which authorizes the City Administrator to take such corrective action if the property owner fails to do so, and to recoup the City's costs through a special tax or collective action. Passed - Vote 6-0

**PUBLIC HEARING AND FIRST PASSAGE ON AMENDMENTS TO TRAFFIC AND VEHICLES ORDINANCE REGARDING WINTER NIGHTTIME PARKING**

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

**VOTE (232-2012)**

Motion by Councilor Saddlemire, seconded by Councilor Libby:

That the proposed amendment to the City Code of Ordinances, Chapter 70 "Traffic and Vehicles", Section 70-2 "Emergency or temporary regulations", Section 70-158 "Parking time limited on streets; winter nighttime parking" and Section 70-178 "Interference with snow removal", receive first passage by a roll call vote and the public hearing on said ordinance be continued to the next regular City Council meeting. Passed - Vote 6-0

**ORDER AUTHORIZING THE CITY ADMINISTRATOR TO ENTER INTO LEASE NEGOTIATIONS WITH CASELLA WASTE SYSTEMS FOR THE PURPOSE OF ESTABLISHING A ZERO-SORT MATERIALS RECOVERY FACILITY AT THE CITY'S SOLID WASTE FACILITY**

**VOTE (233-2012)**

Motion by Councilor D'Auteuil, seconded by Councilor Cayer:

To approve the Order authorizing the City Administrator to enter into lease negotiations with Casella Waste Systems for the purpose of establishing a Zero-Sort Materials Recovery Facility at the City's Solid Waste Facility:

Whereas, Casella Resource Solutions has approached the City with a proposal to establish a Zero-Sort materials recovery facility at the City's solid waste facility; and

Whereas, this would involve an investment of \$4 million to retrofit and add a 15,000 square foot expansion to the existing transfer station; and

Whereas, the proposal presents a number of potential advantages to the City including enhanced use of the currently underutilized transfer station, additional employment, new real and personal property taxes, annual lease payments, reduced costs associated with our own recycling program, and the potential growth and expansion of recycling programs in Lewiston and throughout the region; and

Whereas, this proposal would not affect the City's landfill which will continue to be owned and operated directly by the City;

Now, therefore, be It Ordered by the City Council of the City of Lewiston that the City Administrator is authorized to enter into lease negotiations with Casella Waste Systems for the Purpose of Establishing a Zero-Sort Materials Recovery Facility at the City's Solid Waste Facility, such lease to be subject to final review and approval by the City Council.

Passed - Vote 5-1 (Councilor Saddle mire opposed)

**TO INITIATE A REQUEST TO THE PLANNING BOARD TO REVIEW AND STUDY  
THE PROPOSED ZONING DISTRICT REGARDING PARKS AND OPEN SPACE**

**VOTE (234-2012)**

Motion by Councilor Cayer, seconded by Councilor Libby:

To initiate a request to the Planning Board to review and study the proposed zoning district regarding Parks and Open Space and to make a recommendation back to the City Council regarding an amendment to the Land Use Code for this new proposed district.

Passed - Vote 6-0

**RESOLVE CALLING UPON THE MAINE DEPARTMENT OF TRANSPORTATION  
TO PERFORM MAINTENANCE AND REPAIRS ON THE WISEMAN BRIDGE**

**VOTE (235-2012)**

Motion by Councilor Cayer, seconded by Councilor Christ:

To approve the Resolve calling upon the Maine Department of Transportation to perform maintenance and repairs on the Wiseman Bridge:

Whereas, the Wiseman Bridge was constructed in 1927 to carry vehicle and pedestrian traffic over the Lewiston Canal system adjacent to the Bates and Hill Mills; and

Whereas, the Bates Mill Complex and associated canal system were placed on the National Register of Historic Places in 2010; and

Whereas, the unique construction and appearance of the Wiseman bridge contributes to the historic character of the City's mill district; and

Whereas, the bridge is visibly deteriorating as shown by spalling concrete, exposed and rusting rebar, and curb and sidewalk deficiencies; and

Whereas, these conditions have been repeatedly brought to the attention of the Maine Department of Transportation, the entity responsible for maintaining this bridge; and

Whereas, while we have been assured that the bridge remains structurally sound, the Department's failure to address these maintenance issues is likely, over time, to negatively impact the future of this structure; and

Whereas, the bridge's appearance detracts from the efforts of the City and private developers to renovate and reuse the adjacent historic mill structures; and

Whereas, its appearance also detracts from the City's efforts to implement the recently adopted Riverfront Island Master Plan;

Now, therefore, be It Resolved by the City Council of the City of Lewiston that we call upon the Maine Department of Transportation to undertake maintenance activities on the Wiseman Bridge that will improve its appearance and extend the useful life of this historic and icon structure.

Passed - Vote 6-0

**RESOLVE SUPPORTING THE LEWISTON-AUBURN TRANSIT COMMITTEE'S  
(LATC) INTERCITY TRANSIT**

**VOTE (236-2012)**

Motion by Councilor Saddlemire, seconded by Councilor Libby:

To approve the Resolve supporting the Lewiston-Auburn Transit Committee's Intercity Transit:

Whereas, an interlocal agreement between the cities of Lewiston and Auburn has designated the LATC to oversee and manage fixed public transit in the Lewiston-Auburn area; and

Whereas, the LATC believes that this vital intercity service could be enhanced with an affordable fixed public commuter service that would connect residents with more opportunities to work and travel to communities outside of Lewiston and Auburn; and

Whereas, the LATC also recognizes that any short or long term planning for extending fixed commuter service must involve the transportation planning organizations of the Androscoggin Transportation Resource Center and the Metropolitan Planning Organization; and

Whereas, the LATC understands that any proposal to extend fixed transit operations beyond Lewiston-Auburn must be supported by the City Councils of Lewiston and Auburn;

Now, therefore, be It Resolved by the City Council of the City of Lewiston that the City supports the resolution approved by the Lewiston-Auburn Transit Committee which reads as follows:

The Lewiston-Auburn Transit Committee hereby supports transit planning efforts conducted by the Androscoggin Transportation Resource Center and other such planning agencies, to improve transit services into and out of the Lewiston-Auburn area, and will incorporate new services that are feasible and financially viable into the Lewiston-Auburn Transit Committee's public transit system.

Passed - Vote 5-1 (Councilor Cayer opposed)

**REPORTS AND UPDATES**

No reports or updates were presented at this time.

**OTHER BUSINESS**

**VOTE (237-2012)**

Motion by Councilor Cayer, second by Councilor D'Auteuil:

To suspend the Rules and to add an item to the agenda regarding authorization to submit a bid for a firetruck. Passed - Vote 6-0

**VOTE (238-2012)**

Motion by Councilor D'Auteuil, second by Councilor Christ:

To authorize City staff to submit bids on a Prince Fire Pumper vehicle from the Brunswick Naval Air Station, amount not to exceed dollar value outlined in the memorandum (note – amount not disclosed for bidding privacy purposes). Passed - Vote 6-0

**EXECUTIVE SESSION**

**VOTE (239-2012)**

Motion by Councilor Christ, second by Councilor Cayer:

To enter into an Executive Session, pursuant to MRSA Title 1, section 405(6)(c), to discuss Real Estate Negotiations, of which the premature disclosure of the information would prejudice the competitive bargaining position of the City. Passed - Vote 6-0

Session began at 9:16pm and ended at 9:36pm

**VOTE (240-2012)**

Motion by Councilor Libby, second by Councilor Christ:

To adjourn at 9:37P.M. Passed - Vote 6-0

A true record, Attest:

Kathleen M. Montejo, MMC  
City Clerk  
Lewiston, Maine