

CITY OF LEWISTON

CITY COUNCIL

JULY 19, 2011

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

THE HONORABLE LAURENT F. GILBERT, SR., MAYOR, PRESIDING.

PRESENT: Mayor Gilbert, Councilors Butler, Bernier, Poulin, Jean, Cayer and Morgan, City Administrator Edward Barrett, and City Clerk Kathleen Montejo. Absent/Excused: Councilor O'Connell.

EXECUTIVE SESSION

VOTE (170-2011)

Motion by Councilor Morgan, seconded by Councilor Butler:

To enter into an Executive Session pursuant to MRSA Title 1, Section 405(6)(E) to discuss a legal matter with the City Attorney.

Passed - Vote 6-0 Session started at 6:02pm and ended at 6:53pm.

Regular meeting began at 7:00pm.

Pledge of Allegiance to the Flag.

Moment of Silence.

PRESENTATION OF INCOMING LEWISTON YOUTH ADVISORY COMMITTEE MEMBERS

The following students were presented as the 2011-2012 members of the Lewiston Youth Advisory Council and were presented with certificates by the Mayor: Nairus Abdullahi, Jake Bergeron, Courtney Costello, Stephanie Costello, Brendan Landry, Sabin Lavorgna, Kenzi Masselli, Nadifa Mohamed, Shuaib Naji, Amanda Swart, Marcus Talarico, and Marissa Zaroni. The projects and programs they will be working on for the new year include anti-bullying, recycling, texting while driving, safe driving, community engagement, health and litter awareness.

PUBLIC COMMENT PERIOD

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

APPROVAL OF AMENDMENT TO THE DOWNTOWN NEIGHBORHOOD ACTION COMMITTEE BYLAWS

Councilor Poulin asked the committee has a process to address issues such as lack of attendance from members.

VOTE (171-2011)

Motion by Councilor Butler, seconded by Councilor Bernier:

To approve the proposed amendment to Article II, Section VIII of the Downtown Neighborhood Action Committee’s Bylaws regarding the quorum requirements of the Committee.

Passed - Vote 6-0

**RESOLVE AUTHORIZING SUBMISSION OF AN ENTRY TO THE SHANE’S
INSPIRATION CONTEST FOR A TOGETHER WE PLAY UNIVERSALLY
ACCESSIBLE PLAYGROUND**

VOTE (172-2011)

Motion by Councilor Jean, seconded by Councilor Bernier:

To approve the Resolve authorizing submission of an entry to the Shane’s Inspiration Contest for a Together We Play universally accessible playground:

Whereas, a universally accessible playground in the City of Lewiston would be one of inclusion, safety, and acceptance for those living with & without disabilities; and

Whereas, such a playground would be a “playground of abilities” where all children could be part of the creativity and imagination of play; and

Whereas, several partners have stepped forward in support of this opportunity, including Sandcastle Clinical & Educational Services; Childhood Development Services – First Step; Healthy Androscoggin; Lewiston Public Schools; Head Start of Androscoggin County; The Margaret Murphy Center for Children; Lewiston Police Department; Lewiston’s Director of Buildings/ADA Coordinator; Ben & Erin Hayes who share a personal perspective; and Orientation & Mobility Specialist Lauren Goldsmith; and

Whereas, it is anticipated that this project’s community impact would be vast—a virtual eye opener supporting play equality and a “draw” for Lewiston residents, residents from surrounding areas, visitors, and tourists; and

Whereas, if the City of Lewiston is selected as the grand prize winner, it will receive \$100,000 in inclusive Landscape Structures playground equipment and \$50,000 in project development, design services, and comprehensive educational programming; if selected instead as one of five regional winners, the prize will be \$10,000 in inclusive equipment and \$50,000 for development, design, and educational programming; and

Whereas, the City of Lewiston would be asked to provide in-kind services for prep work at the selected location for the playground, three sites for which are currently being considered; and

Whereas, the universally accessible playground could also be the “first step” towards a playground that could eventually expand—through grants and donations—into a place where children and families could play year-round, enjoying Maine’s four seasons;

Now, Therefore, be It Resolved by the City Council of the City of Lewiston that the City Council supports the City’s contest entry in pursuit of a Together We Play universally accessible playground, a place where compassion, understanding, and fun would go hand-in-hand.

Passed - Vote 6-0

ORDER AUTHORIZING THE CITY ADMINISTRATOR TO NEGOTIATE AND EXECUTE AN ACCESS ROAD EASEMENT AND A LAY-DOWN AREA LEASE WITH CENTRAL MAINE POWER ON THE CITY’S RANDALL ROAD BALL FIELD PROPERTY AT 381 RANDALL ROAD REAR

VOTE (173-2011)

Motion by Councilor Jean, seconded by Councilor Bernier:

To approve the Order authorizing the City Administrator to negotiate and execute an access road easement and a lay-down area lease with Central Maine Power on the City’s Randall Road ball field property at 381 Randall Road rear:

Whereas, the City owns property at 381 Randall Rd (rear); and

Whereas, as part of their Maine Power Reliability Program (MPRP), CMP is upgrading its electrical transmission line that crosses property adjacent to this City property; and

Whereas, CMP approached the City requesting an access easement and a temporary (during the construction) lay-down area lease for a 60 by 110 foot area to assist in their project; and

Whereas, CMP worked with City staff to identify compensation for the easement and lay-down area, including “Bouldering” the access road to prevent motorized vehicles direct access to the ball fields and expanding and improving the small existing gravel parking area for the fields; and

Whereas, this easement and temporary lease would benefit both the City and CMP;

Now, Therefore, Be It Ordered by the City Council of the City of Lewiston that the City Administrator is authorized to negotiate, approve, and execute an access road easement and a lay-down area lease for a portion of City-owned property located at 381 Randall Road (Rear) with Central Maine Power in support of the Maine Power Reliability Project.

Passed - Vote 6-0

RESOLVE AUTHORIZING THE INSTALLATION OF A KOREAN WAR ERA JEEP MONUMENT IN VETERANS MEMORIAL PARK

VOTE (174-2011)

Motion by Councilor Jean, seconded by Councilor Bernier:

To approve the Resolve authorizing the installation of a Korean War era Jeep monument in

Veterans Memorial Park:

Whereas, Veterans Park is a cooperative venture between the Lewiston Auburn Veterans Council and the City of Lewiston; and

Whereas, in accordance with a memorandum of understanding between the parties, the Veterans Council has requested permission to install a Korean War Era Jeep in Veterans Park; and

Whereas, the Jeep will be placed on an above ground pedestal; and

Whereas, this installation will be done by the Veterans Council at no cost to the City of Lewiston; and

Whereas, the proposed location of this installation has been reviewed and approved by City staff;

Now, therefore, be it Resolved by the City Council of the City of Lewiston that The Lewiston Auburn Veterans Council is hereby authorized to install a Korean War Era Jeep in Veterans Memorial Park at a location approved by the City Administrator.

Passed - Vote 6-0

AMENDMENT TO THE CITY POLICY MANUAL REGARDING THE ELEVATOR GRANT PROGRAM

VOTE (175-2011)

Motion by Councilor Jean, seconded by Councilor Bernier:

To amend the 50/50 Commercial Rehabilitation Loan Program policy, Policy Manual Number 27, regarding the elevator grant program, as recommended by the City Administrator and Interim Director of Economic and Community Development. Passed - Vote 6-0

APPOINTMENT TO THE LAKE AUBURN WATERSHED PROTECTION COMMISSION BOARD OF DIRECTORS

VOTE (176-2011)

Motion by Councilor Jean, seconded by Councilor Butler:

To appoint Public Works Director David Jones to the Lake Auburn Watershed Protection Commission Board of Directors for a three year term, said term to expire July 2013.

Passed - Vote 6-0

ORDER AUTHORIZING THE CITY CLERK TO CAST THE CITY'S BALLOT FOR THE MAINE MUNICIPAL ASSOCIATION'S EXECUTIVE COMMITTEE AND VICE-PRESIDENT

VOTE (177-2011)

Motion by Councilor Jean, seconded by Councilor Bernier:

To approve the slate of candidates as presented on the Maine Municipal Association's ballot and to authorize the City Clerk to cast the City's ballot for the Maine Municipal Association's Executive Committee and Vice-President. Passed - Vote 6-0

PUBLIC HEARING ON A NEW APPLICATION FOR A SPECIAL AMUSEMENT PERMIT FOR LIVE ENTERTAINMENT FOR THE POP SHOPPE DINER, 413 MAIN STREET

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

VOTE (178-2011)

Motion by Councilor Cayer, seconded by Councilor Morgan:

To grant a Special Amusement Permit for live entertainment to the Pop Shoppe Diner, 413 Main Street. Passed - Vote 6-0

PUBLIC HEARING ON A RENEWAL APPLICATION FOR A SPECIAL AMUSEMENT PERMIT FOR LIVE ENTERTAINMENT FOR THE ANDROSCOGGIN BANK COLISEE, 190 BIRCH STREET

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

VOTE (179-2011)

Motion by Councilor Cayer, seconded by Councilor Morgan:

To grant a Special Amusement Permit for live entertainment to Androscoggin Bank Colisee, 190 Birch Street. Passed - Vote 6-0

PUBLIC HEARING ON THE RENEWAL APPLICATION FOR A SPECIAL AMUSEMENT PERMIT FOR LIVE ENTERTAINMENT FOR ACME SOCIAL CLUB, 255 PARK STREET

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

VOTE (180-2011)

Motion by Councilor Poulin, seconded by Councilor Butler:

To grant a Special Amusement Permit for live entertainment to Acme Social Club, 255 Park Street. Passed - Vote 6-0

**PUBLIC HEARING ON THE RENEWAL OF A SPECIAL AMUSEMENT PERMIT FOR
LIVE ENTERTAINMENT FOR SHE DOESN'T LIKE GUTHRIES,
115 MIDDLE STREET**

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

VOTE (181-2011)

Motion by Councilor Butler, seconded by Councilor Jean:

To grant a Special Amusement Permit for live entertainment to She Doesn't Like Guthries, 115 Middle Street.

Passed - Vote 6-0

**PUBLIC HEARING FOR APPROVAL OF AN OUTDOOR ENTERTAINMENT
PERMIT FOR THE BRIDGE CONCERT**

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

VOTE (182-2011)

Motion by Councilor Jean, seconded by Councilor Butler:

To conduct a public hearing on an application for an outdoor entertainment event for The Bridge, 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 Bridge for an outdoor music concert to be held at Kennedy Park on August 27, 2011, 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

VOTE (183-2011)

Motion by Councilor Butler, seconded by Councilor Jean:

To approve their request for a waiver of the permitting fees in the amount of \$52.

Passed - Vote 5-1 (Councilor Bernier opposed)

**PUBLIC HEARING AND FINAL PASSAGE REGARDING AN AMENDMENT TO THE
CITY CODE TO REFLECT NEW PROCEDURES REGARDING THE USE OF THE
CITY'S UNASSIGNED FUND BALANCE**

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

VOTE (184-2011)

Motion by Councilor Cayer, seconded by Councilor Poulin:

That the proposed amendments to the City Code of Ordinances, Chapter 2, “Administration”, Section 2-36 – 38, pertaining to Unassigned Fund Balance, receive final passage by a roll call vote. Passed - Vote 5-1 (Councilor Bernier opposed)

PUBLIC HEARING AND FINAL PASSAGE REGARDING AN AMENDMENT TO THE BUSINESS LICENSING ORDINANCE REGARDING SECOND HAND DEALERS

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

VOTE (185-2011)

Motion by Councilor Butler, seconded by Councilor Jean:

That the proposed amendment to the City Code of Ordinances, Chapter 22, “Businesses”, Article VII “Junk Collectors, Pawnbrokers and Second Hand Dealers”, Sections 22-191, 195 and 197 receive final passage by a roll call vote. Passed - Vote 6-0

PUBLIC HEARING AND FINAL PASSAGE FOR LAND USE CODE AMENDMENTS REGARDING THE CREATION OF A NEW ZONING DISTRICT CALLED BUSINESS TRANSITION - 1

Mayor Gilbert opened the public hearing to receive citizen input and comment. No members of the public spoke for or against this item. Mayor Gilbert then closed the hearing. Citing a conflict of interest since he is the realtor that represents the petitioner, Councilor Morgan recused himself from this item and sat in the audience.

VOTE (186-2011)

Motion by Councilor Butler, seconded by Councilor Bernier:

That the proposed amendment to Appendix A, Article IV “Establishment of Districts”, and Article XI “District Regulations”, of the City Zoning and Land Use Code, concerning the creation of the Business Transition – 1 Zoning District, receive final passage by a roll call vote. Did Not Pass - Vote 3-2 (Councilors Bernier, Cayer and Butler in favor; Councilors Poulin and Jean opposed).

(Note – Per the City Charter, motions must receive a minimum of four affirmative votes in order to pass.)

PUBLIC HEARING AND FIRST PASSAGE REGARDING AN AMENDMENT TO THE BUILDINGS AND BUILDING REGULATIONS ORDINANCE REGARDING THE PROPERTY MAINTENANCE CODE

Mayor Gilbert opened the public hearing to receive citizen input and comment. No members of the public spoke for or against this item. Mayor Gilbert then closed the hearing. Councilor Butler noted that he wants to see the weeds and overgrowth on properties in the downtown controlled since it adds to the look of blight. Planning and Code Enforcement Director Gil Arsenault said if they receive complaints, they will act upon them.

VOTE (187-2011)

Motion by Councilor Cayer, seconded by Councilor Jean:

To repeal Sections 18-51 and 18-52 of the current City Code, and that the proposed amendment to the City Code of Ordinances, Chapter 18 “Buildings and Building Regulations”, Article III, “Property Maintenance Code”, Section 18-51 “Adoption of International Property Maintenance Code” and Section 18-52 “Amendments to the International Property Maintenance Code”, receive first passage by a roll call vote and the public hearing be continued to the next regular City Council meeting for final passage. Passed - Vote 5-1 (Councilor Poulin opposed)

PUBLIC HEARING AND FIRST PASSAGE REGARDING AN AMENDMENT TO THE STREETS AND SIDEWALKS ORDINANCE REGARDING THE USE OF TABLES AND CHAIRS ON CITY SIDEWALKS

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

VOTE (188-2011)

Motion by Councilor Jean, seconded by Councilor Butler:

That the proposed amendments to the City Code of Ordinances, Chapter 66 “Streets and Sidewalks”, Article II “Tables, chairs and benches on sidewalks or public ways”, receive first passage by a roll call vote, and that the public hearing on said ordinance be continued to the next regular City Council meeting for final passage. Passed - Vote 6-0

At this time, the Council took a 10 minute recess.

RESOLVE AUTHORIZING MUSEUM L/A TO USE THE LINCOLN STREET PARKING GARAGE FOR A FUND-RAISING EVENT

Councilor Cayer expressed a concern regarding the potential of intoxicated people on the top level of the garage. It was noted the event organizers will have volunteers monitoring all patrons.

VOTE (189-2011)

Motion by Councilor Jean, seconded by Councilor Butler:

To approve the Resolve authorizing Museum L/A to use the Lincoln Street Parking Garage for a fund-raising event:

Whereas, Museum L/A has requested to use the top floor of the Lincoln Street Parking Garage for a fund raising dance and event; and

Whereas, City staff has worked with representatives of Museum L/A to determine the requirements that must be met for such an event; and

Whereas, Museum L/A has agreed to meet all such requirements;

Now, Therefore, Be It Resolved by the City Council of the City of Lewiston that Museum L/A is hereby authorized to use the top floor of the Lincoln Street Parking Garage for a dance/fund raising event to be held on Saturday, August 13, 2011 with a rain date of Sunday, August 14, 2011, subject to execution of the attached release of liability, conforming to all requirements established by City staff, and obtaining an outdoor entertainment permit.

Passed - Vote 5-1 (Councilor Poulin opposed)

PUBLIC HEARING FOR APPROVAL OF AN OUTDOOR ENTERTAINMENT PERMIT FOR THE DANCE UNDER THE STARS EVENT TO BE HELD AT THE LINCOLN STREET PARKING GARAGE AND REQUEST FOR USE OF CITY SERVICES FOR THE EVENT

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

VOTE (190-2011)

Motion by Councilor Morgan, seconded by Councilor Cayer:

To conduct a public hearing on an application for an outdoor entertainment event for the Dance Under The Stars event, 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 Museum L/A for outdoor music concert to be held at the Lincoln Street Parking Garage on August 13, 2011, with a rain date of August 14, 2011 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 5-1 (Councilor Poulin opposed)

VOTE (191-2011)

Motion by Councilor Butler, seconded by Councilor Jean:

To approve the request for the use of city services for the Dance Under the Stars event: eight 50 gallon trash barrels from the Recreation Department; A-frame style signage from Public Works Department to direct patrons to parking options; and barriers from the Public Works Department to prevent vehicles from driving into the garage. Passed - Vote 5-1 (Councilor Poulin opposed)

ORDER AUTHORIZING THE CITY ADMINSTRATOR TO EXECUTE A MEMORANDUM OF UNDERSTANDING FOR THE JOINT CITY-SCHOOL HUMAN RESOURCE PILOT PROJECT

VOTE (192-2011)

Motion by Councilor Cayer, seconded by Councilor Poulin:

To approve the Order authorizing the City Administrator to execute a Memorandum of Understanding for the Joint City-School Human Resources Pilot Project:

Whereas, the City has pursued and supported a number of joint-service efforts to provide programming to residents and employees of the city; and

Whereas, the City and School Department have worked collaboratively on an informal basis for several decades; and

Whereas, the human resources needs for city and school employees will continue to be confronted with an increasing level of regulation and complexity; and

Whereas, the proposed Memorandum of Understanding will allow for a thorough examination of the human resource and risk management needs of both the City and the School Department without binding either organization to any specific long-term arrangements at this time;

Now, Therefore, Be It Resolved by the City Council of the City of Lewiston that the City Administrator is hereby authorized to sign a Memorandum of Understanding (MOU), a copy of which is attached hereto, with the Lewiston School Department for the Joint Human Resources Pilot Project and to approve any non-substantive amendments to the MOU as needed.

Passed - Vote 6-0

ORDER AUTHORIZING THE CITY ADMINISTRATOR TO EXECUTE A JOINT DEVELOPMENT AGREEMENT WITH ERIC AGREN OF 43 LISBON STREET

VOTE (193-2011)

Motion by Councilor Cayer, seconded by Councilor Bernier:

To continue this item to a special City Council meeting in Tuesday, August 2, 2011.

Passed - Vote 6-0

RESOLVE REQUESTING THE PLANNING BOARD CONSIDER A REPEAL OF THE ADDITIONAL STANDARD FOR LARGE SCALE COMMERCIAL DEVELOPMENT – ARTICLE XIII SECTION 14 OF THE LAND DEVELOPMENT CODE

VOTE (194-2011)

Motion by Councilor Jean, seconded by Councilor Cayer:

To approve the Resolve requesting the Planning Board consider a repeal of the additional standard for large scale commercial development – Article XIII Section 14 of the Land Development Code:

Whereas, the Informed Growth Act (30-A MRSA Chapter 187, Sub-Chapter 3-A) was adopted by the State Legislature and added additional development review criteria (the evaluation of economic impact) to the review and permitting of large scale retail development; and

Whereas, subsection 4371 of the Act exempted municipalities that “adopted economic and community impact review criteria that apply to large scale-scale retail development land use permit applications and that require a study of the comprehensive economic and community

impacts of the proposed large scale retail development for consideration among other evidence in applying the review criteria to the application;” and

Whereas, the City opposed the Informed Growth Act prior to its adoption and subsequently adopted its own ordinance in an effort to mitigate its impacts; and

Whereas, during the last session, the legislature amended this Act to allow municipalities discretion as to adopting or not adopting it; and

Whereas, since Lewiston originally chose to become exempt from this Act by adopting its own ordinance, that ordinance will remain in effect even with this change in state law; and

Whereas, given that significant large scale commercial development has already occurred in the Lewiston Auburn area, there is no local benefit to maintaining a policy that makes such development more difficult;

Now, Therefore, Be It Resolved by the City Council of the City of Lewiston that we hereby request that the Planning Board review Article XIII Section 14 of the City’s Land Development Code and forward a recommendation as to its repeal.

Passed - Vote 6-0

**RESOLVE – WAIVING TAX LIEN FORECLOSURE ON CERTAIN
DISTRESSED PROPERTIES**

VOTE (195-2011)

Motion by Councilor Jean, seconded by Councilor Cayer:

To approve the Resolve Waiving Tax Lien Foreclosure on Certain Distressed Properties:

Whereas, the City has a long and successful history of working with property owners who have difficulty meeting their property tax obligations; and

Whereas, tax liens automatically mature on property on which taxes have not been paid eighteen months after the City files liens against them; and

Whereas, once liens mature, the City becomes the technical owner of these properties; and

Whereas, this process is established by State law to ensure that the City is paid the taxes owed, at which time the property is normally returned to its prior owner; and

Whereas, in certain instances, especially where structures are located on leased land, the City may be unable to recover back taxes and demolition or other costs associated with such properties; and

Whereas, in such instances, it may be in the best interest of the City to waive foreclosure while alternatives are sought to address these problem properties; and

Whereas, a number of properties located on leased land on which liens may mature on August 1, 2011 have been identified; and

Whereas, it is in the best interest of the City that foreclosure on these properties be waived;

Now, therefore, be It Resolved by the City Council of the City of Lewiston that Lien foreclosure is hereby waived on the following distressed properties located on leased land:

390 Lincoln St – Structure Owner: Wayne J. Ivy, Parcel Number 7854

229 Lincoln St – Structure Owner: Jeff Higgins, Parcel Number 7213

Passed - Vote 6-0

REPORTS AND UPDATES

Councilor Butler noted that the new single stream recycling program and guidelines for the city is very easy to follow and he encouraged all residents to participate in the program.

OTHER BUSINESS

Councilor Morgan noted that he joined Mayor Gilbert and Mayor Gleason of Auburn on a recent fishing trip in the Androscoggin River and it was excellent fishing and outstanding views, and he would encourage all residents to take advantage of this great resource right in the heart of the twin cities.

VOTE (196-2011)

Motion by Councilor Morgan, second by Councilor Bernier:

To adjourn at 9:20P.M. Passed - Vote 6-0

A true record, Attest:

Kathleen M. Montejo, MMC
City Clerk
Lewiston, Maine