

CITY OF LEWISTON

CITY COUNCIL

MARCH 1, 2011

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

COUNCIL PRESIDENT STEPHEN A. MORGAN, PRESIDING.

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

EXECUTIVE SESSION

VOTE (44-2011)

Motion by Councilor Butler, seconded by Councilor Cayer:

To enter into an Executive Session pursuant to MRSA Title 1, section 405 (6) (D) to discuss Labor Negotiations regarding the city's six employee unions - International Association of Firefighters, Local 785; Maine State Employees Association, Local 1989; Maine Association of Police; Lewiston Police Supervisory Command Unit; Lewiston Professional Technical Unit, Local 3855 and Lewiston Public Works Unit, Local 1458. Passed - Vote 6-0

Session began at 6:05pm and ended at 6:48pm.

Pledge of Allegiance to the Flag.

Moment of Silence.

Council President Morgan announced the Mayor was absent from the meeting due to his current mission trip to Haiti.

VOTE (45-2011)

Motion by Councilor Butler, seconded by Councilor Cayer:

To dispense with the reading of the minutes of the meetings of January 18 and February 15, 2011 and to accept and place them on file as prepared by the Deputy City Clerk and City Clerk, respectively. Passed - Vote 6-0

PUBLIC COMMENT PERIOD

Shawn Moody commended the Mayor for his work in Haiti, noting that his sister is a nurse at Maine Medical Center and she recently returned from a medical mission trip there, and said there was a lot of hope among the Haitian people and she found them to be jubilant in spite of their great hardships.

AMENDMENT TO THE TRAFFIC SCHEDULE REGARDING A CHANGE OF

PARKING REGULATIONS FOR A PORTION OF MIDDLE STREET

VOTE (46-2011)

Motion by Councilor Jean, seconded by Councilor Cayer:

To adopt the proposed amendment to the Traffic Schedule regarding the elimination of the loading zone designation for a portion of Middle Street and the creation of a two hour parking time regulation for this section of the street. Passed - Vote 6-0

AMENDMENTS TO THE PLUMBING PERMIT FEES POLICY AND THE BUILDING PERMIT FEE POLICY REGARDING STATE FEE ADJUSTMENTS AND REIMBURSEMENT OF FEES

VOTE (47-2011)

Motion by Councilor Jean, seconded by Councilor Cayer:

To approve the proposed amendments to the Plumbing Permit Fees Policy, Policy Manual Number 43, and to the Building Permit Fee Schedule Policy, Policy Manual Number 4, as recommended by the Director Planning and Code Enforcement and the City Administrator. Passed - Vote 6-0

AMENDMENTS TO THE PARKING FEES POLICY REGARDING INTERFERENCE WITH SNOW REMOVAL, SWEEPING, PAVING AND ROAD REPAIRS

VOTE (48-2011)

Motion by Councilor Jean, seconded by Councilor Cayer:

To approve the proposed amendments to the Parking Fees Policy, Policy Manual Number 42, as recommended by the Chief of Police and the City Administrator. Passed - Vote 6-0

ANNUAL APPOINTMENT FOR THE LEWISTON-AUBURN RAILROAD COMPANY BOARD OF DIRECTORS

VOTE (49-2011)

Motion by Councilor Jean, seconded by Councilor Cayer:

To accept the nominations from the Lewiston Auburn Railroad Board of Directors and to elect the following residents to serve on the Lewiston Auburn Railroad Board of Directors: Eric Agren to a three year term and Gerald Berube to a three year term. Passed - Vote 6-0

PUBLIC HEARING ON A NEW LIQUOR LICENSE APPLICATION FOR NIKY'S BREAKFAST, LUNCH & CATERING

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

VOTE (50-2011)

Motion by Councilor Butler, seconded by Councilor Jean:

To authorize the City Clerk's Office to approve a new liquor license application for Niky's Breakfast, Lunch & Catering, 30 Lowell Street. Passed - Vote 6-0

PUBLIC HEARING ON A RENEWAL APPLICATION FOR A SPECIAL AMUSEMENT PERMIT FOR THE CARLTON CLUB

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

VOTE (51-2011)

Motion by Councilor Cayer, seconded by Councilor Poulin:

To grant a special amusement permit for live entertainment to The Carlton Club, Inc., 25 Sabattus Street. Passed - Vote 6-0

PUBLIC HEARING ON A RENEWAL APPLICATION FOR A SPECIAL AMUSEMENT PERMIT FOR BARNIE'S BAR & GRILL

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

VOTE (52-2011)

Motion by Councilor Jean, seconded by Councilor Butler:

To grant a special amusement permit for live entertainment to Bernie's Bar & Grill, 1065 Sabattus Street. Passed - Vote 6-0

PUBLIC HEARING ON A RENWALL APPLICATION FOR A SPECIAL AMUSEMENT PERMIT FOR THE CAGE

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

VOTE (53-2011)

Motion by Councilor Butler, seconded by Councilor Poulin:

To grant a special amusement permit for live entertainment to The Cage, 97-99 Ash Street. Passed - Vote 6-0

PUBLIC HEARING AND FIRST PASSAGE ON AMENDMENTS TO THE TRAFFIC AND VEHICLES ORDINANCE

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

VOTE (54-2011)

Motion by Councilor Butler, seconded by Councilor Jean:

That the proposed amendment to the City Code of Ordinances, Chapter 70 “Traffic and Vehicles”, Section 70-158 “Parking time limited on streets; winter nighttime parking”, 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. Passed - Vote 6-0

**AMENDMENTS TO THE CITY BUSINESS LICENSE FEE SCHEDULE POLICY
REGARDING THE FEES FOR GARAGE SALE PERMITS**

VOTE (55-2011)

Motion by Councilor Butler, seconded by Councilor Jean:

To approve the proposed amendments to the City Business Licensing Fee Schedule Policy, Policy Manual Number 7, as recommended by the City Clerk and the City Administrator. Passed - Vote 6-0

DISCONTINUANCE OF WHITTUM AVENUE

Councilor Cayer inquired about water and sewer lines under the roadway. Public Works Director David Jones said the Department has reviewed the request to discontinue the street and does not have any concerns.

VOTE (56-2011)

Motion by Councilor Jean, seconded by Councilor Butler:

That the Order vacating and discontinuing Whittum Avenue be adopted; and that the discontinuance be conditional upon Real Estate Holdings, LLC/Moody’s Collision Center, Inc., obtaining development review approval from the City and that the existing residential structures with access from Whittum Avenue be demolished. Passed - Vote 6-0

ULTRAVIOLET TREATMENT FACILITY – PHASE II CONTRACT

The City Administrator provided background on this issue noting the Finance Committee voted to instruct city staff to rebid the project. He did state that the Auburn Water District has approved this bid and it is shared bid for the joint project. City staff is appealing that decision to the City Council as defined in the City Charter. The Council was asked to determine if they could entertain the appeal. Councilor Butler said the City issued RFPs in accordance with policy, received one bid which was an official bid and should follow the process and issue it accordingly. Councilor Poulin stated the Finance Committee gave instructions to staff to rebid the project and he was wondering why this was not done. The City Administrator referenced his memorandum regarding the concerns of a higher cost. Councilor Jean said that as a member of the Finance Committee he was in the minority on the issue but feels the current bid should be awarded, noting the city followed the protocol and he has faith in the Public Works Director and Purchasing Agent for having done their job correctly.

Finance Committee member Stavros Mendros of 135 Hogan Road reported that at the January 24 Finance Committee meeting, he asked if there was a timeline for the project and was told there

was no rush on the bids. He also noted the one bid received was ten percent over budget and the RFP was issued between Thanksgiving and Christmas. He mentioned this was the first bid since the 1990s that was not digitalized and one of the highest, at three million dollars, without multiple bids submitted. He also questioned the timeframe of the appeal, noting the Charter states appeals must be made within 7 days.

Public Works Director David Jones made a powerpoint presentation outlining the process for this project and noting it could cost the city more money if it is rebid.

VOTE (57-2011)

Motion by Councilor Cayer, seconded by Councilor O’Connell:

To confirm the appeal of the Finance Committee’s vote to reject bids received for Phase II of the Ultraviolet Treatment Facility project was made by the appropriate party and in a timely manner, and to entertain an appeal of their decision. Passed - Vote 5-1 (Councilor Poulin opposed)

VOTE (58-2011)

Motion by Councilor Butler, seconded by Councilor Cayer:

To approve the Order authorizing the City Administrator to award of contract L/A 2010-03 UV Treatment Facility Phase II/III:

Whereas, a UV Treatment Facility is required in order to maintain compliance with Federal and State regulatory requirements under the Safe Drinking Water Act; and

Whereas, Phase I of this Joint Auburn Water District (AWD) – Lewiston Water Division (LWD) Facility was designed to meet LEED requirements to obtain ~\$2.3 million in ARRA grant funding, and its construction is nearing completion; and

Whereas, Phase II/III of the Joint Facility was also designed to meet LEED requirements to follow through with the commitment made as part of the ARRA funding; and

Whereas, the contract was advertised for a period of 42 days in November/December 2010; while a number of contractors participated in the pre-bid meeting and discussions, only 1 bid was received; and

Whereas, the engineering and procurement staffs of AWD, Lewiston, and the design firm fully analyzed the single bid received and negotiated a reduced scope and cost for the project with the contractor which was determined to be reasonable and within the provisions of the City’s Purchasing Policy; and

Whereas, the FY2011 LCIP included this project and sufficient funding to support the negotiated contract costs has been authorized by the City Council; and

Whereas, the Trustees of the Auburn Water District have approved the award of the negotiated contract and their 50% share of project costs; and

Whereas, the Lewiston Finance Committee has voted to reject the single bid and directed that the contract be repackaged and resolicited; and

Whereas, the engineering and procurement staffs of AWD, Lewiston, and the design firm have addressed all Finance Committee concerns and are convinced that repackaging, redesign, and resolicitation of the contract will result in an overall increased cost to the water rate payers; and

Whereas, The Auburn Water District has indicated that it is satisfied with the negotiated contract price and that the additional costs associated with redesign of project should be borne by the Lewiston Water Division, as should the risk of any additional construction costs resulting from new bids;

Now, therefore, be it Ordered by the City Council of the City of Lewiston that the City Administrator is Authorized to award contract L/A 2010-03 UV Treatment Facility Phase II/III in the amount of \$3,134,258 to T-Buck Construction of Auburn, Maine with City of Lewiston Water Division's 50% share being \$1,567,129.

Passed - Vote 5-1 (Councilor Poulin opposed)

REPORTS AND UPDATES

Deputy City Administrator Phil Nadeau stated he testified before the Legislature's Appropriations Committee this week regarding municipal revenue sharing. He also stated the Maine Power Reliability Project was denied a Certificate of Necessity by the PUC.

OTHER BUSINESS

No other business was presented at this time.

VOTE (59-2011)

Motion by Councilor Jean, second by Councilor O'Connell:

To adjourn at 8:48P.M. Passed - Vote 6-0

A true record, Attest:

Kathleen M. Montejo, MMC
City Clerk
Lewiston, Maine