

**CITY OF LEWISTON**

**CITY COUNCIL**

**APRIL 5, 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, O'Connell, Cayer and Morgan, City Administrator Edward Barrett, and City Clerk Kathleen Montejo.

**EXECUTIVE SESSION**

**VOTE (72-2011)**

Motion by Councilor Morgan, seconded by Councilor Cayer:

To enter into an Executive Session pursuant to MRSA Title 1, Section 405(A) to discuss a personnel matter. Passed - Vote 7-0

Session began at 6:05pm and ended at 6:45pm

Pledge of Allegiance to the Flag.  
Moment of Silence.

**VOTE (73-2011)**

Motion by Councilor Jean, seconded by Councilor Morgan:

To dispense with the reading of the minutes of the meeting of November 23, 2010 and to accept and place them on file as prepared by the Deputy City Clerk. Passed - Vote 7-0

**PUBLIC COMMENT PERIOD**

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

**AUTHORIZATION TO ACCEPT TRANSFER OF FORFEITURE FUNDS**

**VOTE (74-2011)**

Motion by Councilor Cayer, seconded by Councilor Jean:

That pursuant to Title 15, Maine Revised Statutes Annotated, Section 5824(3) and Section 5822(4)(A), the City Council hereby acknowledges and approves of the transfer of \$19,000.00, or any portion thereof, in the case of the State of Maine vs. Kenneth Kularski, CR-10-5410 Court Records. Being funds forfeited pursuant to court process. It is further acknowledged that these funds shall be credited to the >City of Lewiston Drug Enforcement Program= account.  
Passed - Vote 7-0

**AMENDMENTS TO THE ALFRED A. PLOURDE MEMORIAL**

**SCHOLARSHIP POLICY**

**VOTE (75-2011)**

Motion by Councilor Cayer, seconded by Councilor Jean:

To approve the proposed amendments to the Alfred A. Plourde Memorial Scholarship, Policy Manual Number 50, as recommended by City Administration. Passed - Vote 7-0

**RESOLVE – TO ACCEPT THE DRAFT FISCAL YEAR 2011 COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) ACTION PLAN BUDGET FOR CONSIDERATION AND TO SET THE PUBLIC HEARING DATE FOR THE CDBG BUDGET APPROVAL**

**VOTE (76-2011)**

Motion by Councilor Cayer, seconded by Councilor Jean:

To approve the Resolve to accept the draft Fiscal Year 2011 Community Development Block Grant (CDBG) Action Plan Budget for consideration and to set the public hearing regarding the CDBG budget for the regular City Council meeting of Tuesday, May 3, 2011:

Whereas, in accordance with applicable sections of 24 CFR Parts 91 and 570, the City of Lewiston, as part of its requirements to receive CDBG funding from the U.S. Department of Housing and Urban Development (HUD), must provide citizens with adequate notice and opportunity to review and comment on its annual Action Plan budget; and

Whereas, the City is especially interested in having citizens of low and moderate-income levels, and organizations that serve the needs of this population, participate in the process since this is the demographic group to which CDBG funds are targeted; and

Whereas, the City's Citizen Participation Plan, adopted by the City Council on January 4, 2011, indicates that the City Council is scheduled to take action on the acceptance of the Consolidated Plan and Action Plan no later than May 3, 2011 during a regularly scheduled City Council Meeting, which will be considered as a public hearing;

Now, therefore, be it Resolved By the City Council of the City of Lewiston that the draft FY2011 Community Development Block Grant (CDBG) Action Plan Budget is hereby accepted for consideration and a public hearing to discuss comments received on these documents and to approve them for submission to HUD will be held on May 3, 2011 at 7 PM in the Lewiston City Council Chambers.

Passed - Vote 7-0

**AMENDMENTS TO THE TRAFFIC SCHEDULE REGARDING SIGNAGE ON HAMMOND STREET AND HIGH STREET**

**VOTE (77-2011)**

Motion by Councilor Cayer, seconded by Councilor Jean:

To approve amendments to the Traffic Schedule regarding parking regulations on Hammond Street and High Street. Passed - Vote 7-0

**PUBLIC HEARING ON THE RENEWAL APPLICATION FOR A SPECIAL AMUSEMENT PERMIT FOR LIVE ENTERTAINMENT FOR DAVINCI'S, 150 MILL STREET**

Mayor Gilbert opened the 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 (78-2011)**

Motion by Councilor Jean, seconded by Councilor Cayer:

To grant a Special Amusement permit for live entertainment to Davinci's, 150 Mill Street. Passed - Vote 7-0

**PUBLIC HEARING ON A BOND ISSUE TO ISSUE REFUNDING BONDS IN THE AMOUNT OF \$10,050,000 FOR THE CITY'S PENSION OBLIGATION BONDS, DATED DECEMBER 15, 2001**

Mayor Gilbert opened the hearing to receive citizen input and comment. No members of the public spoke for or against this issue. Mayor Gilbert then closed the hearing. Councilor Poulin noted the Finance Committee is in favor of bringing down the debt, but not for extending the terms of the loans. The City Administrator noted there will be a negative impact on the budget if this is not approved. The Finance Director noted this item is to achieve a lower interest rate, yet it is for a longer period of time.

**VOTE (79-2011)**

Motion by Councilor Butler, seconded by Councilor Cayer:

To conduct a Public Hearing to receive citizen input, and to approve the Order authorizing the issuance of refunding bonds in the amount of \$10,050,000 for the purpose of refunding the City's Pension Obligation Bonds, dated December 15, 2001:

Be It Ordered by the City Council of the City of Lewiston that the Mayor and City Treasurer are authorized to issue refunding bonds in a principal amount not to exceed \$10,050,000 in order to refund all or a part of the principal of and interest on the City's Pension Obligation Bonds dated December 15, 2001 (the "Refunding Bonds") and to pay any redemption premium thereon and costs of issuance;

Be It Further Ordered, that the amount of \$2,000,000 shall be transferred from the undesignated, unreserved fund balance to the escrow fund for the refunding of the Refunded Bonds;

Be It Further Ordered, that the City Council instruct the Finance Director to advertise for bids for the Bonds or negotiate the sale of the Bonds with any qualified purchaser; to award the loan; and

to employ Edwards Angell Palmer & Dodge LLP to furnish the legal opinion for the same;

Be It Further Ordered, that the bonds shall be signed by the City Treasurer and Mayor;

Be It Further Ordered, that the date, maturities, denominations, interest rate or rates, place or places of payment, form or other details of the bonds and of the provisions for the sale thereof shall be determined by the Finance Director;

Be It Further Ordered, that bonds hereunder may be subject to call for redemption on such terms as may be determined by the Finance Director.

Passed - Vote 6-1 (Councilor Poulin opposed)

**PUBLIC HEARING AND FIRST PASSAGE FOR AN AMENDMENT TO  
THE BUSINESS LICENSING ORDINANCE REGARDING  
SPECIAL AMUSEMENT PERMITS**

Mayor Gilbert opened the 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 (80-2011)**

Motion by Councilor Cayer, seconded by Councilor Jean:

That the proposed amendment to the City Code of Ordinances, Chapter 10 “Amusements and Entertainments”, Article III “Special Amusement Permit”, Section 10-76 “Required” and Section 10-86 “Additional Criteria - Special Amusement Permit Class E”, 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 7-0

**PUBLIC HEARING ON AN APPLICATION FOR A BUSINESS LICENSE FOR  
MERRIMACK RIVER MEDICAL SERVICES, INC., FOR AN OUTPATIENT  
ADDICTION TREATMENT CLINIC AT 18 MOLLISON WAY**

Councilor Bernier recused herself due to a conflict of interest. Director of Planning & Code Enforcement Gil Arsenault provided a summary of the application from Merrimack and reviewed items raised during the previous public hearing. The City Attorney reviewed the purpose section of the ordinance. Mayor Gilbert opened the hearing to receive citizen input and comment. Mike Gotto, a consultant for Merrimack, reviewed questions raised during the last meeting such as the distance from this facility to Pediatric Associates, as well as the access door from the bowling center and ownership of the right of way. He noted the signage will not state the hours of operation or the word “methadone”.

Andy Cloutier of Sparetime Recreation stated there are several youth leagues at the bowling center and he was concerned with interaction between his customers and the clinic’s patients. He also noted a methadone clinic in Waterville was closed due to problems with its operations and clients such as theft, damage, assaults and so forth. He said the clinic will serve patients from a wide geographic area and many people will be coming into Lewiston on a daily basis.

Mr. Cloutier did not see any upside or benefit to Sparetime from this facility, only downsides. He commented on traffic, public nuisances and dangers.

Linda Glass of Pediatric Associates at 33 Mollison Way inquired about the medical networks and connections the facility has lined up with area psychiatric services and lab services. She also asked about their medicine distribution procedures and related safety practices.

James Day, developer of the Fairgrounds industrial park, said he opposes the establishment of this facility in the complex and urged the Council to uphold the purpose of the ordinance regarding the protection of public safety. Bruce Pelletier also spoke against establishing a methadone clinic at this location, given the proximity to children at the pediatric office and daycare center.

Mayor Gilbert then closed the hearing. Councilors posed questions to the City Attorney regarding the application and the criteria. Councilors asked the Police Chief about the clinic in Waterville and he noted it was operated by a different company other than Merrimack. The Chief said he visited with the Portland Police Chief regarding the clinic in Portland run by Merrimack and they have not seen any problems at this location. Mr. Arsenault stated that Merrimack meets all eleven criteria outlined in the ordinance.

**VOTE (81-2011)**

Motion by Councilor Butler, seconded by Councilor Cayer:

That the Findings of Fact have been satisfied and to adopt the Findings of Fact and Approval of License for an Outpatient Addiction Treatment Clinic for Merrimack River Medical Services, Inc. to operate a Clinic at 18 Mollison Way, Lewiston. Passed - Vote 4-3-1 (Councilors Jean, O’Connell, and Butler in favor; Councilors Poulin, Cayer and Morgan opposed; Mayor voting in the affirmative to break the tie; Councilor Bernier recused herself.)

**VOTE (82-2011)**

Motion by Councilor Butler, seconded by Councilor Cayer:

To adopt the Conditions of the license as outlined in Section B of the Finding of Fact document, items A-H. Passed - Vote 6-0-1 (Councilor Bernier recused herself.)

**REPORT TO THE CITY COUNCIL REGARDING THE DENIAL OF A BUSINESS LICENSE FOR DA BLOCK, 18 PARK STREET**

**VOTE (83-2011)**

Motion by Councilor Jean, seconded by Councilor Butler:

To receive the report from the City Clerk regarding the denial of the business license for Da Block, 18 Park Street. Passed - Vote 7-0

**ORDER – AUTHORIZING THE CITY ADMINISTRATOR TO TAKE THE NECESSARY STEPS TOWARD EFFECTING TEMPORARY RIGHTS TO THE SO-CALLED “BEECH STREET BRIDGE”**

**VOTE (84-2011)**

Motion by Councilor Cayer, seconded by Councilor Butler:

To approve the Order authorizing the City Administrator to take the necessary steps toward effecting temporary repairs to the so-called "Beech Street Bridge":

Whereas, a bridge located at the end of Beech Street provides the only vehicle access to the properties located between the Lower Canal and the Androscoggin River; and

Whereas, the City owns two (2) of the five (5) properties that use this sole vehicle access bridge; and

Whereas, the City-owned Simard-Payne Police Memorial Park (formerly Railroad Park) is frequently used by large and important community events including the "Balloon Festival," the "Dempsey Challenge," the 4<sup>th</sup> of July "Liberty Festival," and others; and

Whereas, the City has only accepted the section of Beech St between Lincoln and Oxford Streets and does not own the bridge or the portion of road on the island side of the bridge; however, the City has right of access across the bridge; and

Whereas, a February 2011 structural inspection of the bridge resulted in reducing the bridge's Gross Vehicle Weight (GVW) limit from 20 tons (40,000 lbs) to 2 tons (4,000 lbs); and

Whereas, this 2 ton GVW limit severely restricts the types of vehicles allowed to use the bridge such that most Public Works vehicles needed to operate and maintain the City's park facilities no longer have access to the Park; and

Whereas, this limit also restricts access by emergency vehicles, including fire apparatus and ambulances, to the area; and

Whereas, it severely limits the types of vehicles allowed to use the bridge such that most vehicles used to support community events do not have access to the Park, potentially forcing certain events to either cancel or relocate if repairs are not quickly performed; and

Whereas, a design has been completed that will provide temporary repairs to the bridge that would increase the GVW limit from 2 tons to 15 tons (30,000 lbs) at an estimated cost of between \$20,000 and \$25,000 and would require an inspection every 6 months at an estimated cost of approximately \$1,000 per inspection until permanent repairs are completed; and

Whereas, the City Council has expressed a desire that others who benefit from the presence and use of this bridge be approached with a request that they participate in the cost of the temporary repairs;

Now, therefore, be it Ordered by the City Council of the City of Lewiston that the City Administrator is authorized to take the necessary steps toward effecting temporary repairs to the Beech Street Bridge to include the preparation and issuance of bid documents and approaching other benefited parties to seek financial support for the project, subject to final Council approval

of the project once the total cost and the willingness of other benefited parties to participate is determined.

Passed - Vote 7-0

**REPORTS AND UPDATES**

No reports or updates were presented at this time.

**OTHER BUSINESS**

Councilor Bernier inquired about the impact of the federal government budget deadlock on Lewiston. The City Administrator noted funding for CDBG is in flux as a result.

**VOTE (85-2011)**

Motion by Councilor Morgan, second by Councilor Jean:

To adjourn at 9:17 P.M. Passed - Vote 7-0

A true record, Attest:

Kathleen M. Montejo, MMC  
City Clerk  
Lewiston, Maine