

**CITY OF LEWISTON**

**CITY COUNCIL**

**DECEMBER 7, 2010**

**EXECUTIVE SESSION HELD IN THE  
ADMINISTRATIVE CONFERENCE ROOM AT 6:15 P.M.**

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

PRESENT: Councilors Butler, Bernier, Poulin, Jean, O'Connell, Cayer, City Administrator Ed Barrett, and Deputy City Clerk Kelly Mercier. Absent/Excused: Councilor Morgan

The Council workshop regarding the 2010 Homeland Security Grant Award began at 6:00pm and ended at 6:15pm. Councilor Bernier had another meeting to attend and was excused at this time. At this point, the City Council meeting was called to order by Mayor Gilbert at 6:15pm in a public session.

**EXECUTIVE SESSION**

**VOTE (332 -2010)**

Motion by Councilor Butler, seconded by Councilor Jean:

To enter into an Executive Session, pursuant to MRSA Title 1, section 405(6)©), to discuss Real Estate negotiations, of which the premature disclosure of the information would prejudice the competitive bargaining position of the City. Passed - Vote 5-0

Executive Session began at 6:15pm and ended at 6:43pm.

**REGULAR MEETING HELD IN THE COUNCIL ROOM AT 7:00PM**

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

PRESENT: Councilors Butler, Poulin, Jean, O'Connell, Cayer, City Administrator Ed Barrett, and Deputy City Clerk Kelly Mercier. Absent/Excused: Councilors Bernier and Morgan

Pledge of Allegiance to the Flag.  
Moment of Silence.

**PUBLIC COMMENT PERIOD**

No public comment was offered at this time.

**AUTHORIZATION TO ACCEPT TRANSFER OF FORFEITURE FUNDS**

**VOTE (333 -2010)**

Motion by Councilor Butler, seconded by Councilor Cayer:

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 \$1,309.00, or any portion thereof, in the case of the State of Maine vs. Anthony Guerriero, CR-10-990 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', funds to be deposited in Account No. 590-3514050 at TD Bank. Passed - Vote 5-0

**AMENDMENTS TO THE TRAFFIC SCHEDULE TO ADD STOP SIGNS ON  
MILL STREET AND RAILROAD ALLEY**

**VOTE (334 -2010)**

Motion by Councilor Butler, seconded by Councilor Cayer:

To adopt the following amendments to the traffic schedule to add stop signs on Mill Street and Railroad Alley:

Section 38 – Stop Signs

MILL STREET                    1 sign at Main St (northwest corner)  
    1 sign at Main St (southeast corner)  
    2 signs at Railroad Alley (double lane one way approach)

RAILROAD ALLEY            1 sign at Lincoln St (northeast corner)

Passed - Vote 5-0

**APPOINTMENT TO THE LEWISTON HOUSING AUTHORITY  
BOARD OF COMMISSIONERS**

**VOTE (335 -2010)**

Motion by Councilor Butler, seconded by Councilor Cayer:

To confirm the Mayor's nomination and to appoint Cecile Mathieu of 10 Seville Place as members of the Board of Commissioners of the Lewiston Housing Authority.

Passed - Vote 5-0

**RESOLVE - AUTHORIZING PAYMENT OF SEWER BACK-UP CLAIM**

**VOTE (336 -2010)**

Motion by Councilor Butler, seconded by Councilor Cayer:

To approve the Resolve authorizing payment for the sewer back-up claim:

WHEREAS, the City received a number of claims for damages relating to sewer back-ups in the Bardwell, White, and Newman Street areas resulting from storm events that occurred between July 2, 2009 and July 1, 2010; and

WHEREAS, while the City is not legally liable for these claims, the City Council approved a Sewer Claims Appeal Process on March 2, 2010 in view of the extraordinary circumstances surrounding these storms and claims; and

WHEREAS, a number of claimants have met the applicant eligibility criteria set forth in the policy including denial of the claim by both the City’s and applicant’s insurers; and

WHEREAS, the claims have been evaluated by a claims adjuster who has verified actual damages to real property and estimated the actual cash value of damage to personal property, including depreciation; and

WHEREAS, the adopted policy limits the maximum award to eligible applicants to \$15,000; and

WHEREAS, this is the final claim that will be processed under the Sewer Claims Appeal Process, which has been repealed as to any claims not timely filed; and

WHEREAS, authorizing these payments shall not be deemed an admission of liability on the part of the City;

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

The following payments are authorized to the listed claimant in Settlement of the Sewer Back-up Claims of Claimant, which payments shall be made pursuant to a settlement agreement in form and substance satisfactory to the City Attorney and provided, however, that authorizing the payment and offer and entering into any settlement agreement shall not be deemed (I) an admission of liability, which the City specifically denies, for these particular claims and/or for any other claims against the City, (ii) a policy or practice with regard to sewer claims; and (iii) not be admissible in any subsequent court proceeding as such authorization and offer is for settlement purposes only of a doubtful claim.

<b>Claimant</b>	<b>Authorized Payment</b>
Emily Garland	\$1,741.00

Passed - Vote 5-0

**PUBLIC HEARING AND FINAL PASSAGE FOR LAND USE CODE AMENDMENTS  
CONCERNING MEDICAL MARIJUANA DISPENSARIES AND REGISTERED  
PRIMARY CAREGIVERS**

Mayor Gilbert opened the hearing to receive citizen input and comment. Mayor Gilbert read a letter received by the city from the Maine Civil Liberties Union encouraging the city not to adopt the ordinances regulating medical marijuana citing that the state law already regulates the

operations of primary caregivers. Mayor Gilbert then read a letter from the city stating the reasons behind the proposed ordinances.

Alysia Melnick, public counsel for the Maine Civil Liberties Union, stated that the state rules regulating sellers of medical marijuana are more than adequate and that they are doubly concerned about municipalities adding more regulations on primary caregivers.

Gil Arsenault, Director of Code Enforcement and Planning, explained that the previous state laws covering the cultivation of medical marijuana used to be more strict and that the new law opens access.

Under the proposed ordinances registered primary caregivers engaged in the cultivation of medical marijuana for two to five patients would be permitted in the following districts: Highway Business, Office Service, Industrial, and the Urban Enterprise. State Law has no location requirements with respect to where primary caregivers can cultivate medical marijuana. Primary caregivers engaged in the cultivation of medical marijuana for two to five patients would be subject to licensing by the City Clerk and would have to meet certain fire safety, building and code rules. The cultivation of marijuana by a registered primary caregiver for two to five patients would not be allowed within 500 feet of the property line of a preexisting public or private school. This is not a requirement of State Law.

Deneka Clark who is a medical marijuana patient voiced concerns about the proposed ordinance because she was told that her primary caregiver would have to give up his operation under the regulations outlined in the ordinance.

Councilor Cayer stated that given the housing stock, the city has a duty to regulate these operations. After several Councilors stated their concerns Mayor Gilbert closed the hearing.

### **VOTE (337-2010)**

Motion by Councilor Poulin, seconded by Councilor Jean:

That the proposed amendment to Appendix A, Article II "Definitions", Section 2, "Definitions", Article V "Administration and Enforcement", Section 3, "General provisions", Article XI "District Regulations", Section 12, "Highway business district", Section 14 "Office service", Section 15 "Industrial district", and Section 16 "Urban enterprise district", of the City Zoning and Land Use Code, receive final passage by a roll call vote. Passed - Vote 5-0

### **PUBLIC HEARING AND FINAL PASSAGE FOR AN AMENDMENT TO THE BUSINESSES ORDINANCE REGARDING MEDICAL MARIJUANA DISTRIBUTION AND CULTIVATION**

Mayor Gilbert opened the hearing to receive citizen input and comment. Alysia Melnick, public counsel for the Maine Civil Liberties Union, reiterated her views concerning the adoption of the proposed ordinances. Mayor Gilbert then closed the hearing.

### **VOTE (338-2010)**

Motion by Councilor Butler, seconded by Councilor Jean:

That the proposed amendment to the City Code of Ordinances, Chapter 22 “Businesses”, Article XV. “Medical Marijuana - Distribution and Cultivation”, Sections 22-420 through 22-443, to create a new article regarding medical marijuana distribution and cultivation, receive final passage by a roll call vote. Passed - Vote 5-0

**AMENDMENTS TO THE TRAFFIC SCHEDULE TO PARKING TIME REGULATED, PARKING RESERVED FOR CITY OFFICERS AND EMPLOYEES AND PARKING METERS**

**VOTE (339-2010)**

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

To adopt the following amendments to the Traffic Schedule for Park Street and Spruce Street:

Section 27 - Parking Time Regulated, Monday Through Friday,  
1 Hour, 9:00 am to 6:00 pm

PARK STREET      (16 delineated perpendicular parking spaces / including 2 designated handicap spaces sharing additional space between) easterly side beginning at a point approximately 156’ from the northwesterly line of Chestnut St and extending northerly on Park St a distance of approximately 158’.

Section 34 - Parking Reserved  
City Officers & Employees

PARK STREET      ~~37 spaces easterly side beginning at the southeasterly line of Chestnut St and extending southerly to Spruce St (except in front of pool gate) Reserved for City employees~~  
  
(36 delineated perpendicular parking spaces / including 2 designated handicap spaces sharing additional space between) easterly side beginning at a point at the southeasterly line of Chestnut St and extending southerly on Park St (to Spruce St) a distance of approximately 342’: Designated as reserved for permitted City employees.

~~22 spaces easterly side beginning at a point approximately 178’ from the southeasterly corner of Park St & Pine St and extending southerly on Park St a distance of approximately 207’ Reserved for City employees~~

(13 delineated perpendicular parking spaces) easterly side beginning at a point at the northwesterly line of Chestnut St and extending northerly on Park St 120’: Designated as reserved for permitted City employees.

~~4 spaces easterly side beginning at a point approximately 142’ from the southeasterly corner of Park St & Pine St and extending southerly on Park~~

~~St as distance of approximately 36' – Reserved for Mayor, Two City Councilors and the Administrator.~~

(4 delineated perpendicular parking spaces) easterly side beginning at a point approximately 120' from the northwesterly line of Chestnut St and extending 36': Designated as reserved for "Mayor", (2) reserved for "City Councilors", and reserved for the "City Administrator".

SPRUCE STREET (7 delineated parallel parking spaces) southerly side beginning at a point approximately 34' easterly of the southeastern corner of Spruce St & Lisbon St and extending easterly on Spruce St a distance of 152': Designated as for "Police Vehicles Only".

Section 8 – Parking Meters, Time Limitations  
2 Hours

~~SPRUCE STREET 7 Parking spaces on the southerly side between Lisbon Street and Park Street.~~

Passed - Vote 5-0

**RESOLVE SUPPORTING THE MAINE TURNPIKE AUTHORITY PROPOSED EXIT 80 IMPROVEMENTS**

**VOTE (340-2010)**

Motion by Councilor Poulin, seconded by Councilor Butler:

To approve the Resolve, Supporting the Maine Turnpike Authority Proposed Exit 80 Improvements:

Whereas, the Maine Department of Transportation (MDOT) and the Maine Turnpike Authority (MTA) completed the Phase II Lewiston-Auburn Downtown Connector/Interchange Study and held Public Information Meetings on October 4<sup>th</sup> and 5<sup>th</sup>, 2010; and

Whereas, the study identified several improvements required to support the continued development in the South Lewiston Growth Area (SLGA) located near Exit 80; and

Whereas, the key elements of these improvements include:

- addressing the need for geometric and capacity improvements at Exit 80 and the adjacent Plourde Parkway/Lisbon St interchange,
- maintaining high quality access to the Maine Turnpike to accommodate existing and planned development,
- addressing existing and long recognized design and/or operational deficiencies at these locations, and

- retaining the potential for further development adjacent to the Exit 80 interchange; and

Whereas, the MTA developed three alternative improvement proposals and presented them for staff review on Nov 10<sup>th</sup>, 2010, to the Lewiston Planning Board on Nov 22<sup>nd</sup>, 2010 and to the Public on Dec 1<sup>st</sup>, 2010; and

Whereas, the three concepts included:

- Modifying the existing Loop and Slip Ramps,
- A diamond Interchange, and
- A Single Point Urban Interchange (SPUI); and

Whereas, the SPUI concept best satisfied all the considerations regarding improved traffic operations, least impact to private property, least natural resource impacts, and least cost.;

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

The City of Lewiston supports the MTA plan to address the required Exit 80 improvements using a SPUI design concept and phased construction beginning in 2011-2012. The City of Lewiston further supports and encourages the MTA and MDOT to closely coordinate efforts with the MDOT's planned improvements to Alfred A. Plourde Parkway and the Lisbon St (Route 196) ramps. The City encourages the projects to be diligently pursued such that construction is completed in a timely fashion in order to support development throughout the South Lewiston Growth Area.

Passed - Vote 5-0

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

**VOTE (341-2010)**

Motion by Councilor Butler, seconded by Councilor Cayer:

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, if a property on which a lien has matured is abandoned by its prior owner for a period of 60 days, the City may become liable for costs associated with the demolition and removal of distressed structures and/or any claims for damages that might arise as a result of the condition of or hazards posed by the property; 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, including working with property and leased-land owners; and

WHEREAS, a number of distressed properties located on leased land on which liens may mature on December 17, 2010 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:

1. 233 Lincoln Street – Structure Owner: William & April Pratt, Acct. No. 09A00010179
2. 249 Lincoln Street – Structure Owner: Richard McWilliams & Sandy Foley, Acct. No. 09A00006568

Be it Further Resolved, that

Lien foreclosure is hereby waived on the following properties conditioned upon the owners entering into a payment agreement with the City of Lewiston prior to the date of lien foreclosure:

1. 586 Pleasant Street, Lot 14 – Structure Owner: Michael Sirois, Acct. No. 09A90020099
2. 586 Pleasant Street, Lot 15 – Structure Owner: John Williams, Acct. No. 09A90000323

Passed - Vote 5-0

### **REPORTS AND UPDATE**

LYAC member Holly Lavorgna informed the council that on November 17 the Lewiston Youth Advisory Council hosted a World Peace Day candlelight walk across the Bernard Lown Peace Bridge & followed with a program at the Franco-American Heritage Center. Mayor Gilbert joined in the evening events. Dr. Lown was unable, however, he e-mailed a encouraging note which read “Thanks for sharing such an inspiring event deserving wide emulation. Lewiston youth are giving peace a chance. There is no greater act of civic responsibility.”



The LYAC set their next goal of “Encouraging Better Attitudes About School & Raising Aspirations” at their December 1 meeting.

Holly also mentioned that the Lewiston Firefighters Association will be donating \$1,500 to the Lewiston Youth Advisory Council.

**OTHER BUSINESS**

No other business was presented at this time.

**EXECUTIVE SESSION**

**VOTE (342-2010)**

Motion by Councilor Butler, seconded by Councilor Poulin:

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 5-0

Executive Session began at 7:55pm and ended at 8:00pm.

**VOTE (343-2010)**

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

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 5-0

Executive Session began at 8:00pm and ended at 8:10pm.

Councilor Bernier arrived at 8:10pm.

**VOTE (344-2010)**

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

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

Executive Session began at 8:10pm and ended at 8:16pm.

**VOTE (345-2010)**

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

To adjourn at 8:16 P.M. Passed - Vote 6-0

A true record, Attest:

Kelly J. Mercier, CMC  
Deputy City Clerk  
Lewiston, Maine