

CITY OF LEWISTON

CITY COUNCIL

MARCH 3, 2020

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

THE HONORABLE MARK A. CAYER, MAYOR, PRESIDING.

PRESENT: Mayor Cayer, Councilors Khalid, Pettengill, Rea, Lajoie, Jensen, Clement and Gelinas, and City Administrator Edward Barrett.

EXECUTIVE SESSION

VOTE (71-2020)

Motion by Councilor Khalid, seconded by Councilor Rea:

To enter into an Executive Session pursuant to MRSA Title 1, Section 405 (6) (C) to discuss an Economic Development issue of which the premature disclosure of the information would prejudice the competitive bargaining position of the City. Passed - Vote 7-0

Executive Session began at 6:00pm and ended at 6:14pm.

VOTE (72-2020)

Motion by Councilor Lajoie, seconded by Councilor Khalid:

To enter into an Executive Session pursuant to MRSA Title 1, Section 405 (6) (C) to discuss a Disposition of Property, of which the premature disclosure of the information would prejudice the competitive bargaining position of the City. Passed - Vote 7-0

Executive Session began at 6:14pm and ended at 6:32pm.

VOTE (73-2020)

Motion by Councilor Clement, seconded by Councilor Lajoie:

To enter into an Executive Session pursuant to MRSA Title 1, Section 405 (6) (A) to discuss a personnel matter. Passed - Vote 7-0

Executive Session began at 6:32pm and ended at 6:55pm.

THE HONORABLE MARK A. CAYER, MAYOR, PRESIDING.

PRESENT: Mayor Cayer, Councilors Khalid, Pettengill, Rea, Lajoie, Jensen, Clement and Gelinas, City Administrator Edward Barrett and City Clerk Kathleen Montejo.

Pledge of Allegiance to the Flag.

PUBLIC COMMENT PERIOD

Craig Cook of Ridgewood Road inquired about the paving schedule timeline for his road.

PUBLIC HEARING ON A NEW APPLICATION FOR A NEW LIQUOR LICENSE FOR STATION GRILL, 103 LINCOLN STREET

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

VOTE (74-2020)

Motion by Councilor Rea, seconded by Councilor Lajoie:

To authorize the City Clerk’s Office to approve a new liquor license application for Station Grill, 103 Lincoln Street. Passed - Vote 7-0

ORDER APPROVING THE ESTABLISHMENT OF THE 197/199 LISBON STREET – SCRUTON BLOCK TAX INCREMENT FINANCING DISTRICT AND PROGRAM, AND APPROVAL OF A DESIGNATION OF A TAX INCREMENT FINANCING DISTRICT AND CREDIT ENHANCEMENT AGREEMENT

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

VOTE (75-2020)

Motion by Councilor Lajoie, seconded by Councilor Gelinias:

To approve the establishment of the 197/199 Lisbon Street – Scruton Block Tax Increment Financing District and Program and Approve a Designation of a Tax Increment Financing District and Credit Enhancement Agreement:

Whereas, in order receive the required statutory approval and to give legislative force to the approval of the 197/199 Lisbon Street – Scruton Block Tax Increment Financing District and Development Program, a public hearing must be held to solicit public comment regarding the establishment of the TIF District and Development Program at which citizens are given the opportunity to comment on whether the district and development program will contribute to removal of blight, expansion of the tax base, betterment of the health, safety and welfare of city residents; and to provide an opportunity for any claim by a party that the district or program will be detrimental to that party’s property interests and for which substantial evidence of that detriment is produced; and

Whereas, If such claim is made, the City Council shall determine whether any claimed adverse impact is outweighed by the provision of blight removal, tax base expansion, and the creation of 12 units of new market rate housing and one commercial unit, and the improvement of sidewalks in the vicinity of the project as specified in the development program; and

Whereas, the required 10 day public notice for the March 3, 2020 City Council Public hearing

was published in the Sun Journal on February 21, 2020; and

Whereas, maps of the proposed district are attached and were presented at the public meeting; and

Whereas, the TIF District will be for a term of 17 Years beginning in Fiscal Year 2020 but the Development Program reimbursement of a portion of the new tax revenues generated for approved project costs will be for a term of 15 years starting when the project has been completed; and

Whereas, the TIF Program will return 40% of the new taxes generated within the district for a term of 15 years to the developer to be used to assist with financing and operational costs; and, in addition, 60% of the new taxes generated in the district during the last 15 years of the Development Program will be used by the City for economic development programs related to downtown and other uses as permissible per 30-A M.R.S.A. Chapter 206 §5225. The proforma attached and presented estimates that, over the 15 year term of the Development Program, the developer will receive an estimated \$100,000 in TIF revenues and the City will receive an estimated \$148,766 of TIF revenues; and

Whereas, creation of the 197/199 Lisbon Street – Scruton Block TIF District and Program is estimated to result in the City receiving \$5,663 annually in Tax sheltering benefits by reducing the amount of County Taxes that the City would have paid and preserving the level of State Aid for Education and Revenue Sharing the City would have lost if the 197/199- Scruton Block project is developed without an approved TIF District or Program in place; and

Whereas, a draft of the Maine Department of Economic and Community Development (DECD) Tax Increment Financing Application is attached and was included in the Council Agenda Packet which was available to the public four days before the Public Hearing. The application more thoroughly details the TIF District and Program and included all of the required attachments, but for those that can only be created after the Public Hearing;

Now, therefore, be it Ordered by the City Council of the City of Lewiston that 197/199 Lisbon Street – Scruton Block Development District and Program is hereby approved in a form substantially similar to the attached, City staff is directed to finish the application reflecting comments received at the Public Hearing, and the City Administrator is hereby authorized to execute the *Designation of a Tax Increment Financing District and Credit Enhancement Agreement* in form and substance similar to that included in the council agenda packet and to submit the complete application and supporting documentation to DECD for approval. Furthermore, the City Administrator and/or Economic and Community Development Director are authorized to make technical revisions to each in order to facilitate DECD approval, so long as the basic structure and intent of the development program are maintained.

Passed - Vote 7-0

ORDER APPROVING THE ESTABLISHMENT OF THE VALLEY BEVERAGE TAX INCREMENT FINANCING DISTRICT AND PROGRAM, AND APPROVAL OF A DESIGNATION OF A TAX INCREMENT FINANCING DISTRICT AND CREDIT ENHANCEMENT AGREEMENT

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

VOTE (76-2020)

Motion by Councilor Clement, seconded by Councilor Gelinas:

To approve the Establishment of the Valley Beverage Tax Increment Financing District and Program and Approve Designation of a Tax Increment Financing District and Credit Enhancement Agreement:

Whereas, in order receive the required statutory approval and to give legislative force to the approval of the Valley Beverage Tax Increment Financing District and Development Program, a public hearing must be held to solicit public comment regarding the establishment of the TIF District and Development Program at which citizens are given the opportunity to comment on whether the district and development program will contribute to removal of blight, expansion of the tax base, betterment of the health, safety and welfare of city residents, and to provide an opportunity for any claim by a party that the district or program will be detrimental to that party's property interests and for which substantial evidence of that detriment is produced; and

Whereas, If such claim is made, the City Council shall determine whether any claimed adverse impact is outweighed by the provision of blight removal, tax base expansion, and the addition of 24 jobs to the community; and

Whereas, the required 10 day public notice for the March 3, 2020 City Council Public hearing was published in the Sun Journal on February 21, 2020; and

Whereas, maps of the proposed district are attached and were presented at the public meeting; and

Whereas, the TIF District will be for a term of 18 Years beginning in Fiscal Year 2020 but the Development Program reimbursement of a portion of the new tax revenues generated for approved project costs will be for a term of 15 years starting when the project has been completed; and

Whereas, the TIF Program will return 40% of the new taxes generated within the district for a term of 15 years to the developer to be used to assist with financing and operational costs; and, in addition, 60% of the new taxes generated in the district during the the Development Program will be paid into Lewiston's General Fund. The proforma attached and presented estimates that, over the 15 year term of the Development Program, the developer will receive an estimated \$396,308 in TIF revenues and the City's General Fund will receive an estimated \$594,461; and

Whereas, creation of the Valley Beverage TIF District and Program is estimated to result in the City receiving \$9,051 annually in Tax sheltering benefits by reducing the amount of County Taxes that the City would have paid and preserving the level of State Aid for Education and Revenue Sharing the City would have lost if the Valley Beverage project is developed without an

approved TIF District or Program in place; and

Whereas, a draft of the Maine Department of Economic and Community Development (DECD) Tax Increment Financing Application is attached and was included in the Council Agenda Packet which was available to the public four days before the Public Hearing. The application more thoroughly details the TIF District and Program and included all of the required attachments, but for those that can only be created after the Public Hearing;

Now, therefore, be it Ordered by the City Council of the City of Lewiston that the Valley Beverage Development District and Program is hereby approved in a form substantially similar to the attached, City staff is directed to finish the application reflecting comments received at the Public Hearing, and the City Administrator is hereby authorized to execute the *Designation of a Tax Increment Financing District and Credit Enhancement Agreement* in form and substance similar to that included in the council agenda packet and to submit the complete application and supporting documentation to DECD for approval. Furthermore, the City Administrator and/or Economic and Community Development Director are authorized to make technical revisions to each in order to facilitate DECD approval, so long as the basic structure and intent of the development program are maintained.

Passed - Vote 7-0

ORDER AUTHORIZING THE CITY ADMINISTRATOR TO EXECUTE AN AMENDMENT TO THE OPTION AGREEMENT BETWEEN THE CITY OF LEWISTON AND BATES MILL, LLC

A member of the public asked why the City needs to retain ownership of the property during the clean up period. The City Administrator stated it was a requirement of the federal grant.

VOTE (77-2020)

Motion by Councilor Rea, seconded by Councilor Lajoie:

To approve the Order, Authorizing the City Administrator to Execute an Amendment to the Option Agreement between the City of Lewiston and Bates Mill, LLC:

Whereas, the City of Lewiston entered into a three-year option agreement to sell Bates Mill 5 to Bates Mill, LLC on February 21, 2018; and

Whereas, Bates Mill, LLC has expressed an interest in exercising its option; and

Whereas, should the option be exercised, the sale of the property must close within 60 days; and

Whereas, the City has received a significant federal grant to assist in the necessary environmental remediation of the Mill; however, that grant can only be used if the City remains the owner of the property; and

Whereas, if the option is not exercised, the option agreement allows for the City to enter into a

Development Agreement with a third party that provides evidence of financing, tenant commitments, and a level of investment that are reasonably acceptable to the City, so long as the project proposed is not based in any part on the participation of the tenants in negotiations to be a part of the Bates Mill, LLC project; and

Whereas, the current agreement also specifies that the parties will negotiate a Joint Development Agreement that would become effective in the event Bates Mill, LLC exercises its option; and

Whereas, while negotiations toward such a Development Agreement are underway, it has not yet been finalized, impacting the ability of the option to be exercised; and

Whereas, given these considerations, the City and Bates Mill, LLC have concluded that it is in the interest of both parties that the Option Agreement be modified to delay the required closing date to the later of the 60th day following the day on which the notice of exercise of option is received or the 30th day following the City's receipt of a Certificate of Completion from the Maine Department of Environmental Protection indicating the environmental remediation of the property has been completed; and

Whereas, given that the parties have not yet finalized a Development Agreement for the project, the parties have also agreed to amend the Option Agreement to require that such Development Agreement be effective prior to the closing on the transfer of the property;

Now, therefore, be it ordered by the City Council of the City of Lewiston that Section 6 of the Option Agreement between the City of Lewiston and Bates Mill, LLC: Closing, is hereby amended as follows:

Section 6: Closing. The Closing, whether on a Lot or on all or the remainder of the Real Estate, shall take place at Buyer's election but not later than the later of five o'clock (5:00) p.m., prevailing time, at 10:00 am on the 60th day following the day upon which the notice of exercise of the option is received or on the 30th day following the City satisfying the requirements of the Brownfield grant as documented by a Certificate of Completion issued by the Maine Department of Environmental Protection upon its final approval of the Site Closure Report, such closing to occur at the offices of Brann & Isaacson, 184 Main Street, Lewiston, Maine. If the specified closing 60th day is not a business day, then the closing shall take place on the next business day thereafter.

Section 10.1. Joint Development Agreement: is hereby amended as follows:

10.1. Joint Development Agreement: ~~During the term of this Option~~ Prior to the closing, the parties will use good faith efforts to negotiate a Joint Development Agreement that defines the rights and obligations of each party and which would be effective ~~prior to in the event~~ prior to in the event the Buyer and City closing on the transfer of the property exercise its Option.

Passed - Vote 7-0

REPORTS AND UPDATES

No reports or updated were presented at this time.

OTHER BUSINESS

No other business was presented at this time.

EXECUTIVE SESSION

VOTE (78-2020)

Motion by Councilor Khalid, seconded by Councilor Rea:

To enter into an Executive Session pursuant to MRSA Title 1, Section 405 (6) (E) to discuss a legal matter. Passed - Vote 7-0

Executive Session began at 7:15pm and ended at 8:00pm.

VOTE (79-2020)

Motion by Councilor Pettengill, seconded by Councilor Jensen:

To adjourn at 8:00P.M. Passed - Vote 7-0

A true record, Attest:

Edward A. Barrett
City Administrator
Lewiston, Maine