

# CITY OF LEWISTON

CITY COUNCIL

SEPTEMBER 6, 2016

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

THE HONORABLE ROBERT E. MACDONALD, MAYOR, PRESIDING.

PRESENT: Mayor Macdonald, Councilors Lysen, Lajoie, Bouchard, Cloutier, Beam and Lachance, City Administrator Edward Barrett and City Clerk Kathleen Montejo.

ABSENT/EXCUSED: Councilor Golden. Note – Under the City Charter, the Mayor may cast a vote in the absence of a City Councilor.

Pledge of Allegiance to the Flag.

Moment of Silence.

### RECOGNITION OF EAGLE SCOUT AWARD

The Mayor recognized Dale Brown who received this Eagle Scout designation one month ago. Dale's project was creating Foster Care Kid packages for children in the state foster care system. The Mayor and Council offered their congratulations for Dale for his achievement and thanked him for his service project to benefit local children in need.

### VOTE (224-2016)

Motion by Councilor Cloutier, seconded by Councilor Bouchard:

To dispense with the reading of the minutes of the meeting of the August 9, 2016 and to accept and place them on file as prepared by the City Clerk. Passed - Vote 7-0

### PUBLIC COMMENT PERIOD

Luke Jensen, 45 Sylvan Avenue – He advised the City to accept the County lawsuit settlement and noted the lawsuit against the County has wasted a lot of taxpayer money and staff time. He noted there are over \$200,000 in legal fees regarding a lawsuit involving \$194, 000 in county employee benefits.

Charles Soule, 135 Bartlett St – He suggested the City Council hire a police chief that is outside of the city department and not from within. He also suggested the hiring of a female chief. Mr. Soule then inquired if a decision has been made by the National Park Service regarding Rioux Field at the Middle School.

### ORDER AUTHORIZING EXECUTION OF A MUNICIPAL QUITCLAIM DEED FOR REAL ESTATE LOCATED AT 5 RIVERSIDE PLACE

### VOTE (225-2016)

Motion by Councilor Lajoie, seconded by Councilor Bouchard:

To approve the Order authorizing execution of a municipal quitclaim deed for real estate located

at 5 Riverside Place:

Whereas, the owner, Patricia A. Springer, failed to pay her utility bills on a timely basis for 5 Riverside Place (Tax Map 193, Lot 49, Parcel 00-004532); and

Whereas, a water lien was filed on March 2, 2012 (Book 8348 Page 139) and matured on September 1, 2013 in the amount of \$130.99; and

Whereas, a water lien was filed on December 21, 2012 (Book 8567 Page 250) and matured on June 22, 2014 in the amount of \$135.44; and

Whereas, a sewer lien was filed on March 2, 2012 (Book 8348 Page 213) and matured on September 1, 2013 in the amount of \$155.47; and

Whereas, a sewer lien was filed on December 21, 2012 (Book 8567 Page 318) and matured on June 22, 2014 in the amount of \$117.73; and

Whereas, a stormwater lien was filed on December 6, 2013 (Book 8830 Page 107) and matured on June 7, 2015 in the amount of \$104.27; and

Whereas, payment was received in full;

Now, Therefore, Be It Ordered by the City Council of the City of Lewiston, that a quitclaim deed is hereby authorized to release the City's interest in the property located at 5 Riverside Place to the owner.

Passed - Vote 7-0

**ORDER AUTHORIZING EXECUTION OF A MUNICIPAL QUITCLAIM DEED FOR  
REAL ESTATE LOCATED AT 55 HILLCREST AVENUE**

**VOTE (226-2016)**

Motion by Councilor Lajoie, seconded by Councilor Bouchard:

To approve the Order authorizing execution of a municipal quitclaim deed for real estate located at 55 Hillcrest Avenue:

Whereas, the owners, Tammy Churchill-Caouette and Steven D. Caouette, failed to pay their utility bills on a timely basis for 55 Hillcrest Avenue (Tax Map 149, Lot 203, Parcel 00-020014); and

Whereas, a water lien was filed on August 29, 2013 (Book 8760 Page 117) and matured on February 28, 2015 in the amount of \$173.54; and

Whereas, a water lien was filed on June 19, 2014 (Book 8936 Page 224) and matured on December 19, 2015 in the amount of \$198.52; and

Whereas, a sewer lien was filed on August 29, 2013 (Book 8760 Page 288) and matured on February 28, 2015 in the amount of \$147.54; and

Whereas, a sewer lien was filed on June 19, 2014 (Book 8936 Page 136) and matured on December 19, 2015 in the amount of \$161.26; and

Whereas, a stormwater lien was filed on December 6, 2013 (Book 8830 Page 170) and matured on June 7, 2015 in the amount of \$103.76; and

Whereas, payment was received in full;

Now, Therefore, Be It Ordered by the City Council of the City of Lewiston, that a quitclaim deed is hereby authorized to release the City's interest in the property located at 55 Hillcrest Avenue to the owner.

Passed - Vote 7-0

**ORDER AUTHORIZING EXECUTION FOR A MUNICIPAL QUITCLAIM DEED FOR REAL ESTATE LOCATED AT 5 ORLEANS STREET**

**VOTE (227-2016)**

Motion by Councilor Lajoie, seconded by Councilor Bouchard:

To approve the Order authorizing execution of a municipal quitclaim deed for real estate located at 5 Orleans Street:

Whereas, the owners, Randy Gervais and Penata N. Pringle, failed to pay their utility bills on a timely basis for 5 Orleans Street (Tax Map 148, Lot 137, Parcel 00-011543); and

Whereas, a water lien was filed on June 19, 2014 (Book 8936 Page 223) and matured on December 19, 2015 in the amount of \$127.74; and

Whereas, a sewer lien was filed on June 19, 2014 (Book 8936 Page 134) and matured on December 19, 2015 in the amount of \$146.79; and

Whereas, payment was received in full;

Now, Therefore, Be It Ordered by the City Council of the City of Lewiston, that a quitclaim deed is hereby authorized to release the City's interest in the property located at 5 Orleans Street to the owner.

Passed - Vote 7-0

**AUTHORIZATION TO ACCEPT TRANSFER OF FORFEITURE FUNDS**

**VOTE (228-2016)**

Motion by Councilor Lajoie, seconded by Councilor Bouchard:

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 items as outlined on the attached listing, less administrative fees or any portion thereof, in the cases of US Department of Justice Drug Enforcement Administration vs the cases outlined on the attached listing. 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

**ORDER AUTHORIZING THE CITY ADMINISTRATOR TO EXECUTE A STANDARD EASEMENT WITH QUIT CLAIMS AND CONSTRUCTION ACCESS LICENSE TO THE CENTRAL MAINE POWER COMPANY FOR A NEW ELECTRICAL EASEMENT NEAR MAIN STREET WATER PUMP STATION**

**VOTE (229-2016)**

Motion by Councilor Lajoie, seconded by Councilor Bouchard:

To approve the Order authorizing the City Administrator to execute a Standard Easement with quit claims and construction access license to the Central Maine Power Company for a new electrical easement near Main Street water pump station:

Whereas, the City of Lewiston originally acquired easement rights from W. S. Libby Company in 1987; and

Whereas, said easement was acquired for a new water pump station and 24 inch diameter water pipe for the City Water Division at the corner of Main Street and Mill Street; and

Whereas, the proposed easement to Central Maine Power Company (CMP) is to expand an existing electrical pad easement; and

Whereas, proposed easement is a 16 ft. by 16 ft. area for new electrical gear to benefit the City and the Main Street pump station; and

Whereas, the proposed easement includes a 15 ft. wide easement from Mill Street to the proposed easement pad, centered over a new underground electrical service line to benefit the City and the Main Street pump station; and

Whereas, the proposed easement has been reviewed by staff and will not interfere with the City's water utility operations; and

Whereas, Central Maine Power Company has planned improvements on this proposed easement as part of their upgrades to the Lewiston Lower Substation; and

Whereas, Central Maine Power Company shall compensate the City of Lewiston up to \$2,500 for landscaping replacement around the new pad and transformer;

Now, therefore, be it Ordered By the City Council of the City of Lewiston that the City Administrator is authorized to execute a Quit Claim Deed and construction access license to the Central Maine Power Company for a 16 ft. by 16 ft. easement on the Main Street water pump station parcel at Mill Street.

Passed - Vote 7-0

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

Mayor Macdonald opened the 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 (230-2016)**

Motion by Councilor Lachance, seconded by Councilor Lysen:

To grant a Special Amusement permit for live entertainment to The Androscoggin Bank Colisee, 190 Birch Street. Passed – Vote 7-0

**PUBLIC HEARING FOR APPROVAL OF AN OUTDOOR ENTERTAINMENT PERMIT FOR A MUSICAL CONCERT IN KENNEDY PARK**

Mayor Macdonald opened the 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 (231-2016)**

Motion by Councilor Bouchard, seconded by Councilor Lajoie:

To conduct a public hearing on an application for an outdoor entertainment event in Kennedy Park, 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, for an outdoor music concert to be held at Kennedy Park on Saturday, September 17, contingent upon positive recommendations from the Police Department, Fire Department, Code/Health Officer and Land Use Inspector regarding compliance with all regulations and compliance with all City ordinances. Passed - Vote 7-0

**PUBLIC HEARING FOR APPROVAL OF AN OUTDOOR ENTERTAINMENT PERMIT FOR THE DEMPSEY CHALLENGE**

Mayor Macdonald opened the 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 (232-2016)**

Motion by Councilor Bouchard, seconded by Councilor Cloutier:

To conduct a public hearing on an application from The Dempsey Challenge Committee for outdoor musical concerts to be held at Simard-Payne Memorial Park on October 1<sup>st</sup> and 2<sup>nd</sup>, as

part of The Dempsey Challenge, and to authorize a permit for an Outdoor Entertainment Event, as required by the City Code of Ordinances, Chapter 10, Article 1, Section 10-3, to the organizing committee for the outdoor music concerts, contingent upon positive recommendations from the Police Department, Fire Department, Code/Land Use Officer and Code/Health Officer regarding compliance with all regulations, and compliance with all City ordinances.

Passed - Vote 7-0

**TO POSTPONE INDEFINITELY THE FINAL PASSAGE ON THE MAY 3, 2016  
VERSION OF AN AMENDMENT TO THE ANIMALS AND ANIMAL CONTROL  
ORDINANCE AND AN AMENDMENT TO THE LAND USE CODE REGARDING THE  
KEEPING OF CHICKENS IN RESIDENTIAL ZONING DISTRICTS**

**VOTE (233-2016)**

Motion by Councilor Cloutier, seconded by Councilor Lajoie:

To Postpone Indefinitely final passage of the proposed amendment to the City Code of Ordinances, Chapter 14 "Animals", Article. VII "Keeping of Non-Domestic Animals", Division 4 "Keeping of Chickens on Lots Developed with Single Family Detached Dwellings Including Mobile Homes on Individual Lots" and Appendix A "Zoning and Land Use Code", Article V "Administration and Enforcement" that received first passage at the May 3, 2016 City Council meeting. Passed - Vote 7-0

**PUBLIC HEARING AND FINAL PASSAGE FOR LAND USE CODE AMENDMENTS  
REGARDING THE KEEPING OF CHICKENS ON RESIDENTIAL LOTS OF NO LESS  
THAN 30,000 SQUARE FEET**

Mayor Macdonald opened the 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 (234-2016)**

Motion by Councilor Cloutier, seconded by Councilor Bouchard:

To incorporate the recommendations from the Planning Board into the Code amendment.  
Passed - Vote 6-1 (Councilor Lysen opposed)

**VOTE (235-2016)**

Motion by Councilor Lachance, seconded by Councilor Bouchard:

That the proposed amendments to Appendix A, Zoning and Land Use Code, Article V, "Administration and Enforcement", Section 3 "General Provisions", of the City Zoning and Land Use Code, receive final passage by a roll call vote.

Passed - Vote 4-3 (Mayor Macdonald, Councilors Lysen and Lajoie opposed)

**PUBLIC HEARING AND FINAL PASSAGE REGARDING AN AMENDMENT TO THE  
ANIMAL ORDINANCE REGARDING THE KEEPING OF CHICKENS**

Mayor Macdonald opened the 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 (236-2016)**

Motion by Councilor Bouchard, seconded by Councilor Lachance:

That the proposed amendment to the City Code of Ordinances, Chapter 14, “Animals”, Articles VII “Keeping of Non-Domestic Animals”, receive final passage by a roll call vote.

Passed - Vote 5-2 (Councilors Lysen and Lajoie opposed)

**PUBLIC HEARING AND FINAL PASSAGE FOR LAND USE AMENDMENTS  
REGARDING CHANGES TO THE NET LOT AREA PER DWELLING  
UNIT CALCULATION**

Mayor Macdonald opened the 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 (237-2016)**

Motion by Councilor Cloutier, seconded by Councilor Lysen:

That the proposed amendment to Appendix A, Article XI “District Regulations”, of the City Zoning and Land Use Code, concerning changes to the net lot area per dwelling unit calculation, receive final passage by a roll call vote. Passed - Vote 7-0

**PUBLIC HEARING AND FIRST PASSAGE FOR THE CONDITIONAL REZONING OF  
THE PROPERTY AT 117 WEBSTER STREET FROM NEIGHBORHOOD  
CONSERVATION “A” (NCA) DISTRICT TO THE DOWNTOWN  
RESIDENTIAL (DR) DISTRICT**

Mayor Macdonald opened the 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 (238-2016)**

Motion by Councilor Cloutier, seconded by Councilor Bouchard:

To approve First Passage of the amendment to the Zoning and Land Use Code and Map to conditionally rezone the property at 117 Webster Street from the Neighborhood Conservation “A” (NCA) District to the Downtown Residential (DR) District, subject to a conditional agreement, and to continue the public hearing to the next regularly scheduled City Council meeting. Passed - Vote 7-0

**CONDEMNATION HEARING FOR THE BUILDING LOCATED AT  
24 LEMONT AVENUE**

Mayor Macdonald opened the hearing to receive citizen input and comment. An attorney representing the mortgage holder stated there is a potential buyer for the property and he is present this evening. Mr. Estes stated he is exploring the option of purchasing the property and

requested additional time to work out the details with the bank. The Mayor then closed the hearing.

**VOTE (239-2016)**

Motion by Councilor Lysen, seconded by Councilor Lajoie:

To continue the Hearing to the September 20, 2016 City Council meeting. Passed - Vote 7-0

**ORDER APPROVING CHANGES TO THE SOLID WASTE FEE SCHEDULE AND AUTHORIZING USE OF \$6,000 FOR THE SOLID WASTE REPAIRS TO BUILDING ACCOUNT TO IMPLEMENT CHANGES IN THE SCALE MANAGEMENT SOFTWARE TO SUPPORT THE FEE SCHEDULE CHANGES**

**VOTE (240-2016)**

Motion by Councilor Lachance, seconded by Councilor Bouchard:

To approve the Order approving changes to the Solid Waste Fee Schedule and authorizing use of \$6,000 from the Solid Waste Repairs to Building Account to Implement Changes in the Scale Management Software to support the fee schedule changes:

Whereas, the Public Works Committee recommended simplifying the Solid Waste fee system by eliminating individual commodity fees and going to a straight fee per weight system, with a recommended fee of \$93.00/ton of waste; and

Whereas, the Public Works Department identified changes needed to the Solid Waste Fee Schedule to implement this recommended change; and

Whereas, the Public Works Department has obtained a budget estimate of \$6,000 to adjust the Scale Management software to implement this change;

Now, Therefore, Be It Ordered that the attached Solid Waste Fee Schedule changes are approved and the use of \$6,000 from the Solid Waste Repairs to Building Account to implement the changes in the Scale Management Software needed to support the Fee Schedule changes is authorized.

Passed - Vote 7-0

**RESOLVE RESCINDING THE CURRENT WORKER'S COMPENSATION SAFETY INCENTIVE PROGRAM**

**VOTE (241-2016)**

Motion by Councilor Lysen, seconded by Councilor Bouchard:

To approve the Resolve rescinding the current Worker's Compensation Safety Incentive Program:

Whereas, beginning in 2003, the City has offered a Workers Compensation Safety Incentive



Program under which all employees were eligible for awards; and

Whereas, if a department operated for a set period of time without a lost time accident, all of the employees of that department were eligible for a cash payment (or gift card) in recognition of their safety record, with the length of time and the amount of the award varying by department; and

Whereas, staff has recently been reviewing this program due to a number of issues including the administrative burden it places on Human Resources and Finance in tracking the program and that it rewards Part-time employees who, basically, have no impact on lost time; and

Whereas, in addition, questions exist whether the system is fair in that some groups, such as City Hall, regularly receive these awards given staffs working environment while other departments, with greater hazards, do not; and

Whereas, staff intends to convene a group of employees to evaluate how best to structure a safety incentive program for the future, recognizing the issues identified with the current program.

Now, therefore, be it resolved by the City Council of the City of Lewiston that the current Workers Compensation Safety Incentive Program is hereby rescinded and staff is authorized to convene a group of employees to design a replacement program for the future.

Passed - Vote 7-0

**RESOLVE TO APPROVE THE NEW AUBURN-LEWISTON ADVISORY CABLE TV COMMITTEE BYLAWS**

**VOTE (242-2016)**

Motion by Councilor Cloutier, seconded by Councilor Bouchard:

To approve the Resolve to approve the new Auburn-Lewiston Advisory Cable TV Committee Bylaws:

Whereas, the Auburn-Lewiston Advisory Cable TV Committee Interlocal Agreement was approved by both City Councils in 2015 and required that new By Laws be proposed by the Committee and submitted to both Auburn and Lewiston City Councils for approval; and

Whereas, the new Auburn-Lewiston Advisory Cable TV Committee unanimously approved the proposed By-Laws at their August 4, 2016 meeting; and

Whereas, the new By Laws reflect all stated requirements of the Auburn-Lewiston Advisory Cable TV Committee Interlocal Agreement;

Now, therefore, be it resolved by the City Council of the City of Lewiston that the attached new Auburn-Lewiston Advisory Cable TV Committee By Laws be approved.

Passed - Vote 7-0

**ORDER AUTHORIZING THE CITY ADMINISTRATOR TO EXECUTE A COLLECTIVE BARGAINING AGREEMENT BETWEEN THE CITY OF LEWISTON AND THE AMERICAN FEDERATION OF STATE, COUNTY AND MUNICIPAL EMPLOYEES (AFSCME COUNCIL #93) LOCAL 3855-00 ON BEHALF OF THE LEWISTON PROFESSIONAL TECHNICAL UNIT**

**VOTE (243-2016)**

Motion by Councilor Lajoie, seconded by Councilor Lysen:

To approve the Order authorizing the City Administrator to Execute a Collective Bargaining Agreement between the City of Lewiston and the American Federation of State, County and Municipal Employees (AFSCME Council #93) on behalf of the Lewiston Professional Technical Unit:

Whereas, the City has been working for the last twenty-two months with the Unit negotiating team to reach agreement on a new collective bargaining agreement; and

Whereas, the negotiated agreement has been approved by the Unit membership; and

Whereas, the terms and conditions of the proposed agreement falls within the negotiating guidelines provided by the City Council;

Now, therefore, be it Ordered by the City Council of the City of Lewiston that the City Administrator is hereby authorized to execute the collective bargaining agreement for FY2015-16-17 for the AFSCME Professional Technical Unit in accordance with the terms and conditions outlined on the enclosed memorandum from Deputy City Administrator Phil Nadeau.

Passed - Vote 7-0

**UPDATE FROM THE SCHOOL COMMITTEE**

Councilor Cloutier stated the School Committee had discussions on starting a Chinese language program at the high school, that federal and state assessments are going to be starting soon and the Committee approved several Policy Manual updates at their recent meeting. She noted they are also reviewing the Teacher Evaluation Handbook and the Professional Growth Handbook.

**REPORTS AND UPDATES**

No reports or updates were presented at this time.

**OTHER BUSINESS**

No other business was presented at this time.

**EXECUTIVE SESSIONS**

**VOTE (244-2016)**

Motion by Councilor Lysen, seconded by Councilor Cloutier:

To enter into an Executive Session pursuant to MRSA Title 1, Section 405 (6) (D) to discuss Labor Negotiations regarding the International Association of Firefighters, Local 785.  
Passed - Vote 7-0

Executive Session began at 8:20pm and ended at 8:49pm.

**VOTE (245-2016)**

Motion by Councilor Lysen, seconded by Councilor Lajoie:

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 8:50pm and ended at 9:13pm.

**VOTE (246-2016)**

Motion by Councilor Lysen, seconded by Councilor Lachance:

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 9:13 pm and ended at 9:27pm.

**VOTE (247-2016)**

Motion by Councilor Lachance, seconded by Councilor Lajoie:

To adjourn at 9:27P.M. Passed - Vote 7-0

A true record, Attest:

Kathleen M. Montejo, MMC  
City Clerk  
Lewiston, Maine