

CITY OF LEWISTON

CITY COUNCIL

SEPTEMBER 22, 2009

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

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

PRESENT: Mayor Gilbert, Councilors T. Peters, N. Peters, Poulin, Theriault, Bailey, Dube, Reed, Acting City Administrator Phil Nadeau, and City Clerk Kathleen Montejo.

Pledge of Allegiance to the Flag.
Moment of Silence.

REPORT FROM THE LEWISTON YOUTH ADVISORY COUNCIL

Councilor Theriault noted that none of the students were able to attend the Council meeting due to other commitments with school or work. Councilor Theriault offered the LYAC update: 1) In August, the LYAC orientation and leadership training was held; 2) the group is creating a DVD "from the eyes of Lewiston youth"; 3) next week, they will be taking photos around Lewiston for the DVD; 4) they are working on creating a youth summit; 5) the \$1,000 donation from the firefighters will be used for the summit; 6) several members will be attending the Maine Youth Action Network Peer Leadership Conference; 7) the group will elect officers at their September 30 meeting and 8) members will be assisting with the Farwell Pumpkin Festival

PUBLIC COMMENT PERIOD

No public comment was offered at this time.

AUTHORIZATION FOR THE LEWISTON YOUTH ADVISORY COUNCIL TO ACCEPT A MONETARY DONATION FROM THE LEWISTON FIREFIGHTERS ASSOCIATION

Rick Callier, president of the Lewiston Firefighters Association, presented a check to the LYAC for \$1,000. Mr. Callier said their Community Benefit Fund has contributed over \$30,000 to local organizations since it was created in 1996. The Mayor and Council thanked the firefighters for their generosity.

VOTE (234-2009)

Motion by Councilor Theriault, seconded by Councilor Reed:

To authorize the Lewiston Youth Advisory Council to accept a monetary donation from the Lewiston Firefighters in the amount of \$1,000. Passed - Vote 7-0

**AMENDMENTS TO THE CITY POLICY MANUAL REGARDING THE HOUSING
REHABILITATION LOAN PROGRAM POLICY**

Councilor T. Peters recused himself from this item due to a conflict of interest.

VOTE (235-2009)

Motion by Councilor Bailey, seconded by Councilor Reed:

To approve the proposed amendments to the Housing Rehabilitation Loan Program Guidelines, Policy Manual Number 40, as recommended by the Director of Economic & Community Development. Passed - Vote 6-0

**AMENDMENTS TO THE CITY POLICY MANUAL REGARDING THE
PROMOTIONS PROCESS FOR THE POLICE DEPARTMENT AND
FIRE DEPARTMENT**

VOTE (236-2009)

Motion by Councilor Bailey, seconded by Councilor Reed:

To approve the amendments to the City Policy Manual - Policy Number 44, Appointment and Promotion in the Police Department and Policy Number 29 - Appointment and Promotion in the Fire Department, as recommended by the Human Resources Director. Passed - Vote 7-0

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

VOTE (237-2009)

Motion by Councilor Bailey, seconded by Councilor Reed:

To confirm the Mayor's nomination of Paul Samson of 143 Webster Street and to appoint Mr. Samson as a member of the Board of Commissioners of the Lewiston Housing Authority for a five year term, said term to expire September 17, 2014. Passed - Vote 7-0

**PUBLIC HEARING FOR A JUNKYARD PERMIT FOR GARY ST. LAURENT/MAINE
HEAVY EQUIPMENT**

Mayor Gilbert opened the public hearing. No members of the public spoke for or against this item. Mayor Gilbert then closed the hearing.

VOTE (238-2009)

Motion by Councilor Dube, seconded by Councilor Reed:

To grant an Automobile Graveyard/Junkyard permit to Gary St. Laurent/Maine Heavy Equipment, 1445 Sabattus Street. Passed - Vote 7-0

PUBLIC HEARING FOR A JUNKYARD PERMIT FOR GRIMMEL'S INDUSTRIES

Mayor Gilbert opened the public hearing. No members of the public spoke for or against this item. Mayor Gilbert then closed the hearing.

VOTE (239-2009)

Motion by Councilor Reed, seconded by Councilor Theriault:

To grant an Automobile Graveyard/Junkyard permit to Grimmel's Industries, 50 River Road, subject to the following conditions:

- 1) The hours of operation shall be limited to 7:00am to 5:00pm, Monday through Saturday
- 2) Maintain screening from the Maine Turnpike.

Passed - Vote 7-0

PUBLIC HEARING FOR A JUNKYARD PERMIT FOR DANA'S GARAGE

Mayor Gilbert opened the public hearing. No members of the public spoke for or against this item. Mayor Gilbert then closed the hearing.

VOTE (240-2009)

Motion by Councilor Poulin, seconded by Councilor Dube:

To grant an Automobile Graveyard/Junkyard permit to Dana's Garage, 193 Crowley Road, subject to the condition that no more than 1,000 tires may be stored on the property.

Passed - Vote 7-0

**PUBLIC HEARING FOR A JUNKYARD PERMIT FOR LEWISTON
PUBLIC WORKS DEPARTMENT**

Mayor Gilbert opened the public hearing. No members of the public spoke for or against this item. Mayor Gilbert then closed the hearing.

VOTE (241-2009)

Motion by Councilor Reed, seconded by Councilor Bailey:

To grant an Automobile Graveyard/Junkyard permit to the Lewiston Public Works Department, 424-482 River Road. Passed - Vote 7-0

PUBLIC HEARING FOR A JUNKYARD PERMIT FOR KTI BIO FUELS, LP

Mayor Gilbert opened the public hearing. Manager Ronald Ozdarski noted that he is retiring from KTI and he introduced the new manager, Dan Emerson. Mayor Gilbert then closed the hearing.

VOTE (242-2009)

Motion by Councilor Reed, seconded by Councilor Theriault:

To grant an Automobile Graveyard/Junkyard permit to K.T.I. Bio Fuels, Inc., 38 Alfred A. Plourde Parkway, subject to the following conditions:

1. Permit is granted for storage of wood waste and oversized bulky waste (OBW). OBW will consist of furniture, rugs, plastics, and any other large burnable household goods. Unacceptable OBW consists of sheetrock, roofing materials (unless wood), aggregate products, dirt and sand, fiberglass insulation, and no hazardous materials such as asbestos.
2. All wood waste and OBW which is to be placed in storage shall be piled no higher than 30'.
3. The width and length of the piles will be sized as indicated on the plan view of the back yard, but shall be no wider than 90' and no longer than 150'.
4. There shall be no more than nine (9) piles of wood waste and OBW at any time. OBW will not exceed two (2) piles.
5. Access rows or fire lanes shall be maintained between piles with a minimum distance of 30' between piles.
6. The main entrance roadway must be kept at a minimum of 24' of travel way at all times.
7. An additional access road or fire lane shall be maintained from Alfred A. Plourde Parkway at a minimum width of 20' to the storage area at all times..
8. All roads and fire lanes on the facility shall be of all weather surface adequately constructed to support fire apparatus likely to be operated on site at all times.
9. All storage pile locations shall be properly identified by the placement of a pole at the corner of the pile. A mark shall be placed at a height of 30' on the pole.
10. The site shall be designated no smoking throughout except office areas and control room. A no smoking sign shall be placed at the entrance to the facility.
11. Training of employees shall be provided on the use of fire protection equipment and fire reporting procedures on an annual basis.
12. KTI shall conduct a self-inspection of their activities and inspections shall be conducted on a weekly basis. Records of inspections shall be kept on site for Fire Prevention Bureau review when requested.
13. Pine trees shall be planted along the perimeter to provide a buffer and dead and/or missing trees shall be replaced promptly.
14. That the processing of pressure treated wood be done in full compliance with the EPA & DEP regulations.

Passed - Vote 7-0

PUBLIC HEARING AND FINAL PASSAGE REGARDING AN AMENDMENT TO THE CITY CODE PERTAINING TO BOND ISSUE LIMITATIONS

Mayor Gilbert opened the public hearing. No members of the public spoke for or against this item. Mayor Gilbert then closed the hearing.

VOTE (243-2009)

Motion by Councilor Poulin, seconded by Councilor Reed:

That the proposed amendments to the City Code of Ordinances, Chapter 2 “Administration”, Sections 2-34 and 2-35, regarding bond issue authorization, receive final passage by a roll call vote. Passed - Vote 5-2 (Councilors T. Peters and N. Peters opposed)

PUBLIC HEARING AND FINAL PASSAGE FOR RE-ZONING OF THE PROPERTY AT 176 EAST

Mayor Gilbert opened the public hearing. No members of the public spoke for or against this item. Mayor Gilbert then closed the hearing.

VOTE (244-2009)

Motion by Councilor T. Peters, seconded by Councilor Reed:

That the proposed amendment to re-zone the property at 176 East Avenue from the Neighborhood Conservation “A” (NCA) District to the Office Residential (OR) District, receive final passage by a roll call vote. Passed - Vote 7-0

PUBLIC HEARING REGARDING AN ADOPTION OF BOND RESOLUTION FOR THE ACQUISITION AND DEMOLITION OF PROPERTY ON LINCOLN STREET

Mayor Gilbert opened the public hearing. No members of the public spoke for or against this item. Mayor Gilbert then closed the hearing. Councilor Reed inquired about the ownership of the property under the buildings. Mr. Metivier noted the City owns this land. Councilor T. Peters noted the City is spending \$200,000 on demolition, so if a future City Council wants to sell the property, they should recoup the costs of the demolition.

VOTE (245-2009)

Motion by Councilor Theriault, seconded by Councilor Bailey:

Be It Ordered that the Bond Resolution of the Municipal Officers for the City of Lewiston, Maine, regarding the authorization to issue bonds in the amount of \$200,000 for the acquisition and demolition of properties at 75 and 87 Lincoln Street, and authorizing and approving the bond documents, be adopted:

Ordered, That the Mayor and City Treasurer are authorized to issue bonds in the amount of \$200,000 in order to finance the Acquisition and Demolition of property on Lincoln Street;

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 an qualified purchaser; to award the loan; and to employ Edwards Angell Palmer & Dodge LLP to furnish the legal opinion for the same;

Further Ordered, That the bonds shall be signed by the City Treasurer and Mayor;

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;

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 7-0

PUBLIC HEARING ON A BOND ISSUE TO ISSUE REFUNDING BONDS FOR ALL OR PART OF THE CITY'S 1996 AND 1999 PUBLIC IMPROVEMENT BONDS

Mayor Gilbert opened the public hearing. No members of the public spoke for or against this item. Mayor Gilbert then closed the hearing. Councilor Dube had questions about the projected true interest rate and Finance Director Richard Metivier explained the background on this issue.

VOTE (246-2009)

Motion by Councilor T. Peters, seconded by Councilor Bailey:

To conduct a Public Hearing to receive citizen input, and to approve the following Order to finance the refunding bonds for the City's 1996 and 1999 Public Improvement Bonds, through a bond issue in an amount not to exceed \$2,635,000:

Ordered, That the Mayor and City Treasurer are authorized to issue refunding bonds in a principal amount not to exceed \$2,635,000 in order to refund all or a part of the principal of and interest on the City's Public Improvement Bonds, Series A dated February 15, 1996 and Public Improvement Bonds, Series A dated May 15, 1999, and to pay any redemption premium thereon and costs of issuance;

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 an qualified purchaser; to award the loan; and to employ Edwards Angell Palmer & Dodge LLP to furnish the legal opinion for the same;

Further Ordered, That the bonds shall be signed by the City Treasurer and Mayor;

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;

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 7-0

**REQUEST TO RECONFIGURE THE RIGHT OF WAY FOR THE PROPERTY AT
8 JOLIN AVENUE**

Councilor Theriault recused himself from this issue due to a conflict of interest. Public Works Director Paul Boudreau noted that a turnaround area was proposed for snow plow trucks, but it was never built. He stated he has no concerns with this reverting back to the property owners as long as the crews can stack snow in the area.

VOTE (247-2009)

Motion by Councilor T. Peters, seconded by Councilor Dube:

To authorize the Acting City Administrator to execute a Quit-Claim Deed without Covenant releasing to the property owners, Rex and Ann Eaton, whatever right, title and interest the City of Lewiston may have in that portion of the Turnaround lying southeasterly of a line having as its point of commencement the northwesterly corner of the Eaton parcel and running southwesterly to a point being the southwesterly corner of the Eaton parcel; and to authorize the Acting City Administrator to execute a Quit Claim Deed without Covenant releasing to Monique and Albert Russell that portion of the Turnaround lying northwesterly of a line having as its point of commencement the northeasterly corner of the Russell parcel and running southwesterly to a point being the southeasterly corner of the Russell parcel. Passed - Vote 6-0

**PUBLIC HEARING REGARDING ADOPTION OF BOND RESOLUTION FOR THE
WHITE AND BARDWELL STREETS AREA SEWER SEPARATION PROJECT**

Acting City Administrator Phil Nadeau, Public Services Director David Jones and Deputy Public Services Director Kevin Gagne all provided background information on this item. It was noted that the past two summers have been extremely wet summers with an extraordinary amount of rain water. The Mayor noted that development in this area has grown and when the systems were built, they were adequate. Councilor Poulin commented on the Franklin Street area and the increase in parking lots in the area for Bates College and St. Mary's Hospital. Mr. Jones stated there were large root balls in the sewer lines on Newman Street that have been removed. He noted this was not the case with White and Bardwell Streets. Mr. Nadeau noted this City has been conducting ongoing maintenance of the lines. Councilor T. Peters noted some residents in the area have seen on going problems for years, noting the sewers are older, and also the heavy rains have been causing sink holes. Mr. Nadeau said the City does have a regular maintenance schedule, but it is also an aging system. Councilor Theriault noted the City could build a top system and at peak load with heavy storms, it still couldn't hold. He suggested the City look into developing a tax incentive for developers to work with pavement that can absorb water, noting that Portland does this.

Mayor Gilbert opened the public hearing. Carolyn McElfresh of 101 Bardwell Street read a statement about sewer backups at their property on July 30, 2008 and July 2, 2009, noting they have \$15,000 in damages. Michael Reidy of 34 White Street spoke of two significant sewer backups at his home. He noted on June 19, 2009, there was more rain fall than on July 2, 2009, yet there wasn't a backup in his basement since there had not been several days of rain at that point, and he said this shows the problem is with a maintenance issue. He said on August 11, 2009, there was another storm back up. Mr. Reidy said there is a difference in the city's definition of "proper maintenance" and the property owners' definition of the same term. He identified street sweeping and catch basin clean out should be done immediately after snow melt to prevent clogged catch basins and also noted the catch basins are clogged with vegetation.

Gerard Greiner of 23 Newman Street stated there have been several years of on-going problems. Gabriel Guguerre of 39 White Street commented with the storm on July 2, 2009, someone could have used a canoe on the road to get around, noting the water was waist high and had a strong odor, and said this didn't happen in other parts of the city, showing it is a drain maintenance issue and not an act of God. Louis Roy of 33 White Street stated he lived at this address for thirty three years and the water was so high, it was over his car tires and he could not back the car out of the driveway. Ron Croteau of 20 Newman Street said he has experienced two sewer backups into his basement during the past ten years. He noted he hired professional engineers to look at everything at his property to try to prevent this problem in the future.

Linda Girardin of 25 Newman Street passed around photos of the recent sewer backup in her basement. She said she had a backup with the August 11, 2009 storm which was after the root balls were removed from the lines, showing the problem is more than just a root problem. She noted she has a back flow preventer. Jeremy McElfresh of 101 Bardwell Street stated that Kevin Gagne has been good about responding to the issues and is doing a great job for the City. Philip Lapierre of 94 Bardwell Street stated that the Bates parking lots floods and overflows.

Mayor Gilbert then closed the hearing. Councilor Poulin noted that he will be adding the Newman Street area to the motion for impacted area as well. Councilor Theriault questioned why the back flow preventors are failing and if more restricters needed to be added up-line. Mr. Gagne noted the age of the system is a great problem. Councilor Poulin asked if the new system will be able to address and handle the problems. Mr. Nadeau said the Public Works crews will investigate the issues in the Newman Street area and will report back to Council.

VOTE (248-2009)

Motion by Councilor Poulin, seconded by Councilor T. Peters:

Be It Ordered that the Bond Resolution of the Municipal Officers for the City of Lewiston, Maine, regarding the authorization to issue bonds in the amount of \$545,000 for the White, Bardwell and Newman Streets area sewer separation project, and authorizing and approving the bond documents, be adopted:

Ordered, That the Mayor and City Treasurer are authorized to issue bonds in the amount of \$545,000 in order to finance the White/Bardwell Street area sewer separation project;

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 an qualified purchaser; to award the loan; and to employ Edwards Angell Palmer & Dodge LLP to furnish the legal opinion for the same;

Further Ordered, That the bonds shall be signed by the City Treasurer and Mayor;

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;

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 7-0

**TRANSFER OF FUNDS FOR THE WHITE AND BARDWELL STREETS AREA
SEWER SEPARATION PROJECT**

Councilor Dube asked when the work on the Jepson Brook project would be done. Mr. Jones stated they are hoping to get to it next year.

VOTE (249-2009)

Motion by Councilor T. Peters, seconded by Councilor Reed:

ORDERED, That upon recommendation of the City Administrator and Finance Director, the City Council hereby approves a transfer of funds for the White/Bardwell Street Area Sewer Project as follows: \$100,000 from the 2010 Bond Issue, Sewer Department, Jepson Brook Drainage project account into the 2010 Bond Issue, Sewer Department, White/Bardwell Area Sewer account and \$100,000 from the 2010 Bond Issue, Stormwater Department, Jepson Brook Drainage project account into the 2010 Bond Issue, Stormwater Department White/Bardwell Area Sewer account.

Passed - Vote 7-0

REQUEST FROM THE SCHOOL COMMITTEE TO PROCEED WITH AN INTEREST-FREE QUALIFIED SCHOOL CONSTRUCTION BOND FOR EXPANSION AND RENOVATION AT THE MCMAHON ELEMENTARY SCHOOL

School Superintendent Leon Levesque noted the school can structure the project to be able to do the work without adding to the debt service. It was noted the McMahan school building was constructed in 1968. Councilor T. Peters stated this is a worthy project, yet hearing the problems for next year's budget and not needing to add to the debt service for this project since the City is retiring other school debt, makes him wonder if the project could be postponed a few years so the City can capture that savings to help off set next year's budget. Mr. Levesque said he is not submitting anything for the 2010 LCIP to help off set the budget. Councilor Reed asked how long the school could function with the renovations and how long without the work. Councilor

Poulin noted the upkeep of school buildings is critical and the City needs to look to the future for space needs. Councilor Theriault stated he supports the work to be done now, saying it is a great time for construction work due to anticipated low bids.

VOTE (250-2009)

Motion by Councilor Poulin, seconded by Councilor Theriault:

To authorize the School Committee to proceed with an interest-free Qualified School Construction Bond for expansion and renovation at the McMahon Elementary School.

Passed - Vote 7-0

AUTHORIZATION TO USE FEDERAL HOME FUNDS TOWARD THE DEVELOPMENT OF HOUSING UNITS TO BE CONSTRUCTED IN PARTNERSHIP WITH TEDFORD HOUSING

Tedford Housing Director Don Kniseley and Deputy Director of Economic and Community Development Mark McComas presented the program to the Council. Douglas Stone of 8 Bridge Street asked if this will be a non-profit venture with no property tax payments. Mr. Kniseley stated they will be doing PILOT payments to the City. Councilor Theriault asked what other projects the funds can be used for. Mr. McComas said due to federal program regulations, the funds can only be used for affordable housing projects only.

VOTE (251-2009)

Motion by Councilor Reed, seconded by Councilor Dube:

To authorize the use of \$130,000 of Housing and Urban Development HOME Funds allocated to the City of Lewiston for use towards the development of the Blake Street Family Apartments project with Tedford Housing and to further authorize the acceptance and expenditure of \$130,000 in HUD HOME funds allocated to the City of Auburn for the same purpose.

Passed - Vote 5-2 (Councilors N. Peters and Theriault opposed)

Due to the late hour of the meeting, Mayor Gilbert announced that agenda items 16, 19, 20, 21, 23, 24 and 25 would be carried forward to the next meeting agenda and would not be addressed this evening.

REPORTS AND UPDATE

No reports or updates were presented at this time.

OTHER BUSINESS

Mayor Gilbert recognized Jonathan Ouellette, a junior at Lewiston High School, who has been attending Council meetings for the past several months. Mr. Ouellette said he is interested in the proceedings of Lewiston city government.

EXECUTIVE SESSION

VOTE (252-2009)

Motion by Councilor T. Peters, seconded by Councilor Reed:

To enter into an executive session pursuant to MRSA Title 1, section 405(6)(E) to discuss legal matters with the City Attorney. Passed - Vote 7-0

Session began at 10:15pm and ended at 10:46pm.

VOTE (253-2009)

Motion by Councilor T. Peters, second by Councilor Reed:

To adjourn at 10:47 P.M. Passed - Vote 7-0

A true record, Attest:

Kathleen M. Montejo, MMC
City Clerk
Lewiston, Maine