

CITY OF LEWISTON

CITY COUNCIL

OCTOBER 6, 2009

REGULAR MEETING HELD IN THE COUNCIL ROOM AT 6:30 P.M.

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.

Council President Peters announced that the Mayor would be arriving later in the evening and that he would be presiding for the beginning of the meeting.

EXECUTIVE SESSIONS

VOTE (254-2009)

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

To enter into an Executive Session pursuant to MRSA Title 1, section 405 (6) (A) to discuss a personnel matter regarding applicants for the City Administrator position. Passed - Vote 7-0

Session began at 6:35pm and ended at 6:59pm.

VOTE (255-2009)

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

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 7-0

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

PUBLIC COMMENT PERIOD

Councilor Theriault thanked everyone who was involved with the Dempsey Challenge and stated all city departments who were involved with the efforts did a tremendous job with this event.

Auburn resident Dick Gleason and Ron Jean of 27 Cram Avenue distributed L/A Riverwalk t-shirts to the Councilors and encouraged everyone to use the Riverwalk, noting it is an unrecognized asset of the twin cities.

VOTE (256-2009)

Motion by Councilor Theriault, seconded by Councilor Reed:

To add items 11, 12 and 16 to the Consent Agenda. Passed - Vote 7-0

AUTHORIZATION TO ACCEPT TRANSFER OF FORFEITURE FUNDS

VOTE (257-2009)

Motion by Councilor Reed, seconded by Councilor Theriault:

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 \$930.00, or any portion thereof, in the case of the State of Maine vs. Lamont Palmer, CR-09-941 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 People's Heritage Bank. Passed - Vote 7-0

**APPROVAL OF ELECTION WARRANT FOR THE NOVEMBER 3
MUNICIPAL ELECTION**

VOTE (258 -2009)

Motion by Councilor Reed, seconded by Councilor Theriault:

Be It Ordered by the City Council that the Election Warrant be issued for the Municipal Election to be held on Tuesday, November 3, 2009 for the purposes of voting for the offices of Mayor, City Council and School Committee; and

To approve the following recommendation from the City Clerk/Registrar of Voters on actions necessary to conduct the Municipal Candidate & State Referendum Election to be held on Tuesday, November 3, 2009:

A. That the hours for acceptance of registrations in person only, prior to the November 3rd election, as required by MRSA Title 21A, sec. 122, 6A(2), be set at 8:00am to 4:30pm, October 14 through November 2, 2009; and additional hours of 9:00am to 12 noon on Saturday, October 31, 2009.

B. That the names of those persons who register during the closed session for registration shall be recorded in accordance with MRSA Title 21A, sec. 122, subsec. 7B, except the day prior to the election when they shall be recorded in accordance with subsec. 7A.

C. Pursuant to Title 21A, sec 759(7), absentee ballots will be processed at the central polling place at 7:00am, 4:00pm, 7:00pm and any and all remaining shall be processed at 8:00pm, if necessary.

Passed - Vote 7-0

ACQUISITION OF PROPERTY AT 85 LINCOLN STREET

VOTE (259-2009)

Motion by Councilor Reed, seconded by Councilor Theriault:

To authorize the Acting City Administrator to purchase the property at 85 Lincoln Street for the purchase price of \$40,000, to approve the acquisition of the property as defined in the Real Estate Purchase and Sale Agreement, and that the Acting City Administrator be and hereby is authorized to make, execute and deliver such deeds and other documents as he, in his discretion, may deem necessary or convenient to the accomplishment of such transaction.

Passed - Vote 7-0

**REQUEST FROM THE NEW BEGINNINGS ORGANIZATION FOR
A WAIVER OF FEES**

VOTE (260-2009)

Motion by Councilor Reed, seconded by Councilor Theriault:

To grant the request from the New Beginnings organization for a waiver of fees in the amount of \$424.20 for the Public Works set up costs for their September 13 fundraising event.

Passed - Vote 7-0

**REQUEST FROM THE ABUSED WOMEN'S ADVOCACY PROJECT FOR
A WAIVER OF FEES**

VOTE (261-2009)

Motion by Councilor Reed, seconded by Councilor Theriault:

To grant the request from the Abused Women's Advocacy Project organization for a waiver of electricity fees in the amount of \$27 for the light display in recognition of Domestic Violence Awareness Month. Passed - Vote 7-0

**REQUEST FROM THE ENERGY SAVINGS COMMITTEE TO HOLD AN EVENT
IN KENNEDY PARK**

VOTE (262-2009)

Motion by Councilor Reed, seconded by Councilor Theriault:

To authorize the request from the Energy Saving Committee to hold an event in Kennedy Park on October 24 in recognition of International Day of Climate Action, contingent upon completion of application with the Recreation Department. Passed - Vote 7-0

**PUBLIC HEARING FOR A SPECIAL AMUSEMENT PERMIT FOR
FRIENDS LODGE, INC.**

Council President Peters opened the public hearing to receive citizen input and comment. No members of the public spoke for or against this item. Council President Peters then closed the hearing.

VOTE (263-2009)

Motion by Councilor N. Peters, seconded by Councilor Theriault:

To grant a special amusement permit for live entertainment to Friends Lodge, Inc. 724 Main Street. Passed - Vote 7-0

PUBLIC HEARING FOR A LIQUOR LICENSE AND SPECIAL AMUSEMENT PERMIT FOR THE LEWISTON SOCIAL CLUB, 347 LISBON STREET

Council President Peters opened the public hearing to receive citizen input and comment. No members of the public spoke for or against this item. Council President Peters then closed the hearing.

VOTE (264-2009)

Motion by Councilor Reed, seconded by Councilor Dube:

To authorize the City Clerk's Office to approve an on-premise liquor license transfer application and special amusement permit for live entertainment for the Lewiston Social Club, 347 Lisbon Street. Passed - Vote 7-0

PUBLIC HEARING AND FIRST PASSAGE REGARDING ADOPTION OF AN ORDINANCE FOR POST CONSTRUCTION STORMWATER MANAGEMENT STANDARDS

Council President Peters opened the public hearing to receive citizen input and comment. No members of the public spoke for or against this item. Council President Peters then closed the hearing. Jan Patterson, an engineer with the Public Services Department, and City Planner David Hediger, reviewed the requirements for this ordinance and noted it is related to the federal Clean Water Act. Councilor Reed said a definition of a "qualified stormwater inspector" is needed. Ms. Patterson said the City received eight applications in the past three years that would qualify to need to go through this process as defined in the new ordinance, so there are not a lot of projects that would qualify. She noted mostly new subdivisions and commercial developments. Bruce Damon spoke in favor of the City conducting these inspections rather than third party inspectors, noting there is no state licensing provision and therefore no consistency or accountability. Councilor Poulin said he cannot see a reason to have this local ordinance since it is already a state law and having a local ordinance would just add another layer of review and there are some unintended consequences.

VOTE (265-2009)

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

To send the proposed ordinance back to the Planning Board for additional review and to present it to the City Council with Planning Board recommendations when it is ready to be brought back for consideration. Passed - Vote 7-0

The Mayor arrived at 8:25pm and presided during the remainder of the meeting.

**REVIEW OF RECOMMENDATIONS FOR SAFETY IMPROVEMENTS AT THE
SOLID WASTE FACILITY**

Acting City Administrator reviewed the recommendations regarding the barriers at the facility that he recommended at the previous meeting and noted the insurance company was not in support of the waiver proposal.

VOTE (266-2009)

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

To not implement the recommendations from the Acting City Administrator about changes at the Solid Waste facility and to remove the barriers. Passed - Vote 7-0

REVIEW OF ROAD REHABILITATION COST PROJECTIONS

Councilors reviewed the list of roads to be repaired as presented by the Public Works Director. Councilor Theriault suggested creating a four to five year repair plan and to have the work paid for with a bond issue, in order to get the work completed in a timely manner. He noted the longer the work is delayed, the roads will fail to a greater degree if not repaired, and he recommended preventative maintenance.

VOTE (267-2009)

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

To continue the review of this item and to carry this item forward for a workshop session. Passed - Vote 7-0

UNAUTHORIZED PARKING ON VACANT CITY OWNED LOTS

Councilor Bailey expressed concerns about abandoned junk cars on these lots. Councilor N. Peters said it will be the responsibility of the person leasing the lot to keep it clean and free of litter.

VOTE (268-2009)

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

To have the Planning and Code Enforcement Department contact the abutters to the lots to see if anyone is interesting in leasing the property for parking and to bring back a draft lease agreement for Council's review. Passed - Vote 7-0

**APPROVAL OF A LEASE AGREEMENT BETWEEN MARINER TOWER AND
THE CITY OF LEWISTON REGARDING A LAND LEASE AT THE FORMER
MONTELLO RESERVIOR SITE**

Finance Director Richard Metivier said the Council authorized staff a few months ago to negotiate a lease agreement for the 180 foot tower structure. He stated this is a five year lease for \$1,100 a month and the company will pay property taxes on the structure. Councilor T. Peters noted the 911 communications will be located on the tower and asked if the City could have first priority to making repairs if there are problems. The company owner stated he has no problem adding this language to the agreement.

VOTE (269-2009)

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

To authorize the Acting City Administrator to enter into a Lease Agreement between Mariner Tower and the City of Lewiston, regarding land at the former Montello Reservoir site, substantially in the form as presented, and that the Acting City Administrator be and hereby is authorized to make, execute and deliver other such documents as he, in his discretion, may deem necessary or convenient to the accomplishment of such transaction. Passed - Vote 7-0

REVIEW OF PROPOSED RESOLUTIONS IN OPPOSITION TO QUESTIONS 2 AND 4 ON THE NOVEMBER STATE REFERENDUM BALLOT

Judy Head, president of the Library Board of Trustees, urged the Council to oppose Questions 2 and 4 on the November ballot. She stated those who support the referendum questions do not understand the harm which will be caused to libraries and schools if this passes. Dan Gregoire of 19 Mitchell Street urged the Council to oppose these same ballot measures. Councilor Poulin said it is irrelevant what the Council thinks of these issues and the voters will act on them. Councilor Reed said that he agreed with Council Poulin and noted that government cannot be all things to all people. Mayor Gilbert said he supports the Resolution to oppose these items. Councilor T. Peters said the Council should not be taking positions on state issues and telling people how to vote.

VOTE (270-2009)

Motion by Councilor Dube, seconded by Councilor Bailey:

To approve the Resolutions in opposition of Question 2 and Question 4 on the November 3 state referendum ballot. Did Not Pass - Vote 2 – 4 (Councilors Dube and Bailey in favor; others opposed; Councilor N. Peter abstained)

**APPROVAL OF REVISED NEIGHBORHOOD STABLIZATION PROGRAM
WORKPLAN BUDGET AND APPROVAL OF A DEVELOPER CONTRACT WITH
COMMUNITY CONCEPTS INC FOR ADMINISTRATION OF THE NEIGHBORHOOD
STABILIZATION PROGRAM**

Denis Lajoie of CCI and Deputy Director of Economic and Community Development Mark McComas made a presentation to the Council on this issue.

VOTE (271-2009)

Motion by Councilor Reed, seconded by Councilor Dube:

To approve the revised Neighborhood Stabilization Program workplan budget, and to authorize the Acting City Administrator, or his designee, to enter into a contract, in the form substantially as presented, with Community Concepts, Inc. for the administration of certain activities set out in the Neighborhood Stabilization Program workplan. Passed - Vote 4-1-2 (Councilor N. Peters opposed; Councilors Theriault and T. Peters abstained)

AUTHORIZATION TO PROCEED WITH CONTRUCTION OF THE KENNEDY PARK POOL HOUSE AND AUTHORIZATION TO PROCEED WITH THE PLANS FOR THE KENENDY PARK GAZBO AND PROPOSED ENTERTAINMENT PLATFORM

Acting City Administrator Phil Nadeau said the staff was asked by Council what is the smallest building that could be built for the pool house while still providing all of the required features such as bathrooms, changing rooms, etc. Mr. Nadeau said he is bringing a very basic design for the building for a cost of \$100,000. Councilor Poulin asked if it could be done for \$80,000 instead. Mr. Nadeau said the Council is at the point to either decide to do the pool house for \$100,000 which is a basic unit or to shut down the pool operations.

VOTE (272-2009)

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

To authorize the city staff to proceed with the construction of the Kennedy Park pool house building. Passed - Vote 6-1 (Councilor N. Peters opposed)

RECOMMENDATION ON THE CITY'S PROCEDURES FOR THE CONDEMNATION OF PROPERTIES

VOTE (273-2009)

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

To continue this item to the October 20 Council meeting. Passed - Vote 7-0

CANCELLATION OF THE NOVEMBER 3RD CITY COUNCIL MEETING AND ADOPTION OF WORKSHOP SCHEDULE FOR THE MONTHS OF OCTOBER, NOVEMBER AND DECEMBER

VOTE (274-2009)

Motion by Councilor Poulin, seconded by Councilor Reed:

To suspend Section 1 (a) of the Rules Governing the City Council and to hold one regular meeting during the month of November to be held on Tuesday, November 17.
Passed - Vote 7-0

VOTE (275-2009)

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

To approve the schedule of City Council workshops for the month of October, except to move

CITY COUNCIL

OCTOBER 6, 2009

the October 27 workshop topic to November and to cancel the October 13 workshop.
Passed - Vote 7-0

VOTE (276-2009)

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

To hold the Energov presentation as a workshop on October 20. Passed - Vote 7-0

REPORTS AND UPDATES

No reports or updates were offered at this time.

OTHER BUSINESS

VOTE (277-2009)

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

To add two additional names to the list of City Administrator candidates and for the Human Resources Director to notify the selection committee if they are interested to attend interviews for the purposes of listing to the interviews. Passed - Vote 7-0

VOTE (278-2009)

Motion by Councilor Dube, second by Councilor Bailey:

To adjourn at 10:30P.M. Passed - Vote 7-0

A true record, Attest:

Kathleen M. Montejo, MMC
City Clerk
Lewiston, Maine