

CITY OF LEWISTON

CITY COUNCIL

NOVEMBER 17, 2009

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

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

PRESENT: Mayor Gilbert, Councilors T. Peters, N. Peters, Poulin, Theriault, O'Connell (formerly Bailey), Dube, Reed, Acting City Administrator Phil Nadeau and City Clerk Kathleen Montejo.

Pledge of Allegiance to the Flag.

Moment of Silence.

EXECUTIVE SESSION REGARDING REAL ESTATE NEGOTIATIONS

VOTE (290-2009)

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

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 6:05pm and ended at 7:20pm.

The Council then took a brief recess and the regular meeting began at 7:26pm.

UPDATE FROM THE LEWISTON YOUTH ADVISORY COUNCIL

Holly Lavogna, vice-chairperson of LYAC reported on September 27 the group conducted their second tour of the City to prepare for their DVD – Lewiston through the eyes of youth. They are planning another tour to include the Basilica, hospitals and Davis Mountain. They are working on the Youth Summit to be held in April 2010 and four members attended the Maine Youth Action Network earlier this month.

PUBLIC COMMENT PERIOD

No members of the public addressed the Council at this time.

AUTHORIZATION TO ACCEPT TRANSFER OF FORFEITURE FUNDS

VOTE (291-2009)

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

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 follows, less administrative fees or any portion thereof, in the case of US Department of Justice

Drug Enforcement Administration vs the following:

Sean McKoy	8% of \$114,900
George Lavoie	5% of \$50,000
Gary Greco	16% from the sale of 2003 Nissan Murano
Gary Greco	16% of \$31,100
Gary Greco	16% of \$2,375
Samuel Morrill	7% of the sale of a 1999 Custom Harley Davidson motorcycle
Samuel Morrill	7% from the sale of a 1994 Harley Davidson motorcycle
Samuel Morrill	7% from the sale of a 1973 Ford Mustang Convertible
Samuel Morrill	7% of \$18,468
Jennifer Lewis	7% from the sale of a 1969 Pontiac Lemans
Jennifer Lewis	7% from the sale of 9 one-ounce gold coins
Dennis Taylor	7% of \$5,566
Ronald Waterman	7% of \$11,515
Sherwood Jordan	15% from the sale of property at 42 Lovejoy Mountain Road, Albany Township, ME
Jason Crowell	\$235
Cory MacDonald	13.34% from sale of 2007 Yamaha YZF-R6 Motorcycle, 2003 Chevy Silverado 1550 truck and 1984 Chevrolet Corvett
Chantha Kim	20% of \$2,100
Chantha Kim	20% of \$9,700

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 CHANGES TO THE SIDEWALK SNOW PLOWING ROUTE TO REMOVE THE AREA AROUND THE PETTINGILL SCHOOL PROPERTY

VOTE (292-2009)

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

To eliminate the sidewalk snow plowing routes on Little Street between College Street and Googin Street as well as the pathway between Central Avenue and Wellman Street, located directly across from Brault Street. Passed - Vote 7-0

At this time, item 10 was taken out of order and addressed at this time.

AMENDMENTS TO THE POLICY MANUAL REGARDING THE LEWISTON YOUTH ADVISORY COUNCIL

Councilor Theriault spoke in favor of this issue, saying that members of the LYAC should be allowed to participate in the meetings and offer the youth perspective on city issues. Acting City Administrator Phil Nadeau said members would be participating in regular meetings and not special meetings or workshop sessions. Councilor T. Peters acknowledged the LYAC does good

work on youth projects and said he was not sure that all future Councils would want this addition to the meetings, and suggested each Council at the beginning of the two year term could determine the participation level from LYAC members. He cautioned the meetings always run quite late, so it is not fair to the students and their involvement would mean one more person asking questions on issues and it could delay the meetings even more.

VOTE (293-2009)

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

To postpone action on this item until the January 2010 Council meeting for the incoming City Council to review. Passed - Vote 4-3 (Councilors Dube, N. Peters and Poulin opposed)

PUBLIC HEARING ON A NEW LIQUOR LICENSE APPLICATION AND SPECIAL AMUSEMENT PERMIT FOR THE RAMADA CONFERENCE CENTER

Mayor Gilbert opened the public hearing to receive citizen input and comment. No members of the public spoke for or against this item. Mayor Gilbert then closed the hearing. Acting City Administrator Phil Nadeau mentioned the business is being sold and Gary Adams is leaving the business and George Gendron is taking over the facility.

VOTE (294-2009)

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

To authorize the City Clerk's Office to approve a new liquor license application and special amusement permit for the Ramada Conference Center, 490 Pleasant Street.
Passed - Vote 7-0

PUBLIC HEARING ON THE RENEWAL APPLICATION FOR A SPECIAL AMUSEMENT PERMIT FOR TRAVELODGE/CLUB ZERO

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

VOTE (295-2009)

Motion by Councilor Reed, seconded by Councilor Theriault:

To grant a special amusement permit for live entertainment to Travelodge/Club Zero, 1243 Lisbon Street. Passed - Vote 7-0

PUBLIC HEARING AND FIRST PASSAGE REGARDING AN AMENDMENT TO THE ADMINISTRATIVE ORDINANCE REGARDING BOARD OF APPEALS

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

VOTE (296-2009)

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

That the proposed amendment to the City Code of Ordinances, Chapter 2 “Administration”, Division 2 “Board of Appeals”, Section 2-166, receive first passage by a roll call vote and that the public hearing on this ordinance be continued to the next regular City Council meeting.

Passed - Vote 7-0

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

Mayor Gilbert opened the public hearing to receive citizen input and comment. No members of the public spoke for or against this item. Mayor Gilbert then closed the hearing. Councilor Theriault noted the Council sent the matter back to the Planning Board and it was returned with no additional changes. Councilor T. Peters said he had a concern with the five year recertification requirement and he was also concerned with the cost to the taxpayer, saying it is overkill each year and another expense to the taxpayers. Councilor Theriault said he felt this was an unfunded mandate and the City is being told they must do this and do not have a choice. City Planner David Hediger introduced David Ladd of the DEP. Mr. Ladd explained the background on this issue and the legal requirements for the City to adopt, noted that most applicable towns in the state have already adopted this ordinance and noted the City has already been provided a one year extension/grace period on the required adoption date. Mr. Hediger discussed retention ponds, annual maintenance and issues with sediment, trees and roots. He noted this ordinance will hold people accountable for upkeep of the ponds and systems.

VOTE (297-2009)

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

That the proposed amendment to Appendix A, Article XIII “Development Review and Standards”, Section 15 “Post-construction Stormwater Management Standards”, of the City Zoning and Land Use Code, receive first passage by a roll call vote and that the public hearing on said ordinance be continued to the next regular City Council meeting for final passage, with the caveat that additional language be added for guarantee bonding if a failure occurs and that the ordinance only be effective for the applicable areas, and not citywide.

Passed - Vote 5-2 (Councilors Dube and Poulin opposed)

PUBLIC HEARING AND FIRST PASSAGE FOR LAND USE CODE AMENDMENTS CONCERNING PERMITTED SIGNS

Mayor Gilbert recused himself from this issue citing a conflict of interest. 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. Councilor T. Peters expressed concerns about future signs of this size and said the City needs to develop some design standards to address future applications.

VOTE (298-2009)

Motion by Councilor Reed, seconded by Councilor Theriault:

That the proposed amendment to Appendix A, Article XII “Performance Standards”, Section 16, “Signs”, of the City Zoning and Land Use Code, concerning requirements for signs in the Riverfront District, receive first passage by a roll call vote and that the public hearing on this ordinance amendment be continued to the next regular City Council meeting.
Passed - Vote 6-1 (Councilor N. Peters opposed)

**PUBLIC HEARING AND FIRST PASSAGE FOR LAND USE CODE AMENDMENTS
CONCERNING SPACE AND BULK REQUIREMENTS FOR HOSPITALS, NURSING
HOMES AND MEDICAL OFFICES**

Councilors Reed and Theriault recused themselves citing conflict of interest and they removed themselves from the dais. Mayor Gilbert opened the public hearing to receive citizen input and comment. No members of the public spoke for or against this item. Mayor Gilbert then closed the hearing.

VOTE (299-2009)

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

That the proposed amendment to Appendix A, Article XI “District Regulations”, Section 10, “Institutional Office”, of the City Zoning and Land Use Code, concerning regulations for space and bulk requirements in this district, receive first passage by a roll call vote and that the public hearing on this ordinance amendment be continued to the next regular City Council meeting.
Passed - Vote 5-0

**RECOMMENDATION ON THE CITY’S PROCEDURES FOR THE
CONDEMNATION OF PROPERTIES**

Councilor Theriault asked staff how they would handle a condemnation in a condominium unit. Councilor T. Peters noted there will be some properties that the City will not want to own and said the Council needs to address the issue of condemned buildings located on land that another party owns.

VOTE (300-2009)

Motion by Councilor Theriault, seconded by Councilor Bailey:

To establish the following procedures regarding the condemnation and demolition of properties:

- 1) In a situation when the property owner is not complying with an order to demolish the property or if there is an immediate public safety need to demolish, the Council will review the facts of the case at a regular or special meeting and vote to authorize staff to pursue demolition;
- 2) The Council may be called to convene an emergency special meeting in instances where there is an immediate threat to public safety and demolition is required immediately;
- 3) In all cases where demolition is ordered by the Council, Superior Court action will be pursued as a court issued order to demolish is non-appealable and avoids needless additional appeals

costs to the City.

Passed - Vote 6-1 (Councilor Reed opposed)

DISPOSITION OF A PORTION OF CITY-OWNED PROPERTY AT 61 KNOX STREET

Councilor Reed said the land is owned by Lots to Gardens, but it is not used and the owner has been parking there for quite a while.

VOTE (301-2009)

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

Be It Resolved by the City Council that the Acting City Administrator be and hereby is authorized to dispose of a twenty foot section of city owned property at 61 Knox Street to Daniel Doherty of 57 Knox Street for \$2,700 (\$500 sale price and \$2,200 for construction costs), to authorize easements to Lots to Gardens for the property at 61 Knox Street guaranteeing their authority to use the property in the same manner it has been used to date, for Mr. Doherty to have all necessary documents for this transaction prepared at his expense, that the Acting City Administrator be and hereby is authorized to execute and deliver such deeds and other documents as he, in his discretion, may deem necessary or convenient to the accomplishment of such transaction, and for the above conditions to be contingent upon approval from both the Planning Board and Board of Appeals. Passed - Vote 7-0

ADOPTION OF THE TEN-YEAR PLAN TO ELIMINATE HOMELESSNESS IN LEWISTON AND AUBURN

Councilor T. Peters asked about the cost to the City to implement the process. Social Services Director Sue Charron said the City is partnering with social service agencies for this effort. Councilor Poulin said he liked the job opportunity options.

VOTE (302-2009)

Motion by Councilor Poulin, seconded by Councilor Reed:

To adopt the Ten-Year Plan to Eliminate Homelessness in Lewiston and Auburn, as presented by the Director of Social Services and the Economic and Community Development Director and anytime components of the Plan are enacted, an update should be provided to the City Council along with a complete annual review of the Plan's progress.

Passed - Vote 6-1 (Councilor N. Peters opposed)

AUTHORIZATION FOR DECLARATION OF OFFICIAL INTENT FOR THE QUALIFIED SCHOOL CONSTRUCTION BONDS FOR THE MCMAHON ELEMENTARY SCHOOL RENOVATION PROJECT

VOTE (303-2009)

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

To authorize the Finance Director to execute the Declaration of Official Intent regarding the Qualified School Construction Bonds to be used for the McMahon Elementary School renovation project. Passed - Vote 7-0

RECEIVE THE EVALUATION REPORT FROM THE FIRE CHIEF REGARDING ENGINE 5 AND DETERMINE A COURSE OF ACTION

Fire Chief LeClair said the City purchased this truck new in 1993 and it was a stock item and not a specific designed truck by the Department. Councilor T. Peters asked why the trucks are driven when they are not going to a fire scene, especially in bad weather. He suggested the exposure to road salt adds to the rust and corrosion of the frame. Councilor Theriault said he is concerned with the condition of the frame and the weight it needs to carry. The Chief said the truck is still road worthy and not at a point to be taken off of the road. He acknowledged it will need an inspection every two to three months and suggested not doing any preventative maintenance on the truck since it is scheduled to be replaced in the LCIP. Scott Lake of the company that did the recent inspection provided information on the truck and its condition. Councilor Theriault said he personally inspected the underneath of the vehicle as well and had strong reservations about the quality of the frame.

VOTE (304-2009)

Motion by Councilor Reed, seconded by Councilor Dube:

To receive the report and to place it on file, and to request the Fire Chief to move forward with future funding requests in the LCIP for the replacement of this vehicle.

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

VOTE (305-2009)

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

To extend the meeting time for an additional twenty minutes. Passed - Vote 7-0

ADOPTION OF RESOLUTION IN SUPPORT OF THE STATE OF MAINE RAILROAD INVESTMENT PLAN

VOTE (306-2009)

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

To adopt the Resolution in support of The State of Maine Railroad Investment Plan:

Whereas, the State of Maine Department of Transportation (MDOT) is engaged in creating a Maine State Rail Plan; and,

Whereas, the Cities of Auburn and Lewiston have built their economic development strategies on the transportation logistical advantages found in our area; and,

Whereas, the Cities of Auburn and Lewiston own a railroad line and have invested in improvements into the infrastructure; and,

Whereas, the City of Auburn, in partnership with the St. Lawrence and Atlantic Railroad, Canadian National Railroad and the federal and state governments have already invested in creating an Auburn intermodal facility that has grown to be the largest dry goods inland-port in Maine; and,

Whereas, the City of Auburn intermodal facility serves as a regional demarcation point for Maine products to the rest of the world and a regional distribution center for inbound products throughout New England; and,

Whereas, the Cities of Auburn and Lewiston are a nexus point for both major railroad companies serving Maine customers and represent the second largest population center in Maine with 527,353 persons living within 30 miles of the twin cities; and,

Whereas, a federal designation of a high-speed rail corridor has been secured from the Portland waterfront northerly, to the City of Auburn; and,

Whereas, United States Customs clearance has already been secured for the Port of Auburn and Auburn has the only activated Foreign Trade Zone in central and southern Maine; and,

Whereas, the State of Maine has already completed a passenger Intermodal study and design of facilities to accommodate multi-modal passenger exchange at the Auburn/Lewiston Municipal Airport;

Now therefore be it resolved, the Lewiston City Council requests the State of Maine Department of Transportation to focus attention on the opportunities represented by the unique rail infrastructure assets within the Auburn/ Lewiston area and its connection to the international rail and seaport network; and,

Be it further resolved, that the recommendations of the Maine State Rail Plan be measured against an economic model based upon 1.) The most economic benefit for the greatest number of people, 2.) The greatest opportunity to leverage public assets on private assets and 3.) Long-term sustainability; and,

Be it further resolved that the determination of priorities for the allocation of federal and state resources be measured against a cost-benefit analysis; and,

Be it further resolved that the recommendations contained in the communication from the Androscoggin Transportation Resource Center (copy attached) be incorporated into the analysis and funding priority determinations of the Maine State Rail Plan.

Be it finally resolved, that the Lewiston City Council urges the State of Maine, and its Department of Transportation to value the existing infrastructure assets and rail designations already established in the Auburn and Lewiston area as having the greatest public benefit resulting from any current and future rail infrastructure investments as it relates to the Maine

State Rail Plan.

Passed - Vote 6-1 (Councilor Reed opposed)

**APPROVAL OF THE INTERLOCAL AGREEMENT WITH THE CITY OF AUBURN
FOR THE JOINT PURCHASE OF THE ENERGOV COMPUTER
SOFTWARE PACKAGE**

VOTE (307-2009)

Motion by Councilor Theriault, seconded by Councilor Reed:

To approve the Interlocal Agreement with the City of Auburn for the joint purchase of the EnerGov computer software package and to authorize the Acting City Administrator to enter into this Agreement. Passed - Vote 7-0

VOTE (308-2009)

Motion by Councilor Reed, seconded by Councilor Poulin:

To grant authorization to finance the acquisition of the hardware and software associated with the purchase of the EnerGov computer software package, in an amount not to exceed \$178,000, through a lease/purchase arrangement with a financing company selected after the solicitation of competitive bids. Passed - Vote 7-0

**UPDATE ON UNAUTHORIZED USE OF VACANT CITY OWNED
LOTS FOR PARKING**

VOTE (309-2009)

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

To authorize the city staff to proceed with the lease arrangements as presented.
Passed - Vote 7-0

**UPDATE REGARDING PROPERTIES IDENTIFIED FOR DEMOLITION AND A
REPORT ON PROPERTIES THAT ARE COMING UP FOR FORECLOSURE**

Acting City Administrator Phil Nadeau reviewed his memorandum on this issue and said more information will be presented at the December 1 Council meeting. Councilor T. Peters said the Council needs a policy on this issue before it can accept the properties for foreclosure of taxes.

VOTE (310-2009)

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

To postpone action on this issue until a policy is created. Passed - Vote 7-0

REPORTS AND UPDATES

CITY COUNCIL

NOVEMBER 17, 2009

Councilor Dube reported the recycling rate for the month of October was 7%.

OTHER BUSINESS

Councilor Theriault requested two items on the December 1 meeting agenda – a no idling policy with strict enforcement and penalties and a policy regarding personal use of city vehicles.

VOTE (311-2009)

Motion by Councilor Reed, second by Councilor Dube:

To adjourn at 10:15 P.M. Passed - Vote 7-0

A true record, Attest:

Kathleen M. Montejo, MMC
City Clerk
Lewiston, Maine