

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

THE HONORABLE LIONEL C. GUAY, JR., MAYOR, PRESIDING.

PRESENT: Councilors Mendros, Jean, Connors, Paradis, Rousseau, City Administrator James Bennett, and City Clerk Kathleen Montejo. Excused/Absent: Councilors Bernier and O'Brien

Pledge of Allegiance to the Flag.
Moment of Silence.

PRESENTATION FOR MAINE CREATIVE ECONOMY PROCLAMATION

Mayor Guay announced that he issued a Proclamation in support of the upcoming Maine Creative Economy Conference which will be held in May at the Bates Mill complex.

AUTHORIZATION TO ACCEPT TRANSFER OF FORFEITURE FUNDS

VOTE (129-2004)

Motion by Councilor Jean , seconded by Councilor Paradis:

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 \$962.50, or any portion thereof, in the case of the State of Maine vs. Gerald Morrissette, CE-04-0023 Court Records and the transfer of twenty percent of the proceeds of the sale of a 1994 Jeep Grande Cherokee Laredo, or any portion thereof, in the case of the State of Maine vs. Angela J. Croteau, CE-03-0047 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 5-0

TRAFFIC SCHEDULE AMENDMENT FOR CHAPEL STREET

VOTE (130-2004)

Motion by Councilor Jean, seconded by Councilor Paradis:

To approve an amendment to the Traffic Schedule for Chapel Street to designate two handicapped parking spaces:

Section 35 - Parking Reserved - Handicapped, is hereby amended as follows:

CHAPEL STREET

Beginning at a point measured from the northern corner of the intersection of Main Street and Chapel Street, traveling westerly for a distance of 125' from that point extending westerly a distance of 45'. (2 spaces)

Passed - Vote 5-0

TRAFFIC SCHEDULE AMENDMENT FOR NORTH BARDWELL STREET

VOTE (131-2004)

Motion by Councilor Jean, seconded by Councilor Paradis:

To adopt the following amendments to the Traffic Schedule:

Section 50 - Parking Prohibited, All Times - Intersections (Tow Away Zone), is hereby adopted as follows:

NORTH BARDWELL STREET Odd numbered side, east side, beginning at a point 25' from the northeast corner of the intersection of Russell Street and North Bardwell Street and extending northerly on North Bardwell Street to a point 25' south of the intersection of North Bardwell Street and Pettingill Street.

Section 33 - Parking Time Regulated, 2 Hours, 9:00am to 9:00pm:

~~NORTH BARDWELL STREET~~ ~~Odd numbered side, east side, beginning at a point 75' from the northeast corner of Russell Street and North Bardwell Street a distance of 272' to its intersection with Pettingill Street.~~

Passed - Vote 5-0

TRAFFIC SCHEDULE AMENDMENT ON APPLE ROAD

VOTE (132A-2004)

Motion by Councilor Jean, seconded by Councilor Paradis:

To adopt the following amendments to the Traffic Schedule:

Section 37 - Speed Limits, is hereby amended as follows:

APPLE ROAD 35 mph on both sides of Apple Road starting at the intersection of the Alfred A. Ploude Parkway and Apple Road, traveling easterly along Apple Road to the intersection of Ferry Road and Apple Road, for a total distance of 0.62 miles.

Passed - Vote 5-0

POSTPONE ACTION ON RESOLUTION OF CONDEMNATION FOR PROPERTIES AT 95-109 MAIN STREET

VOTE (132B-2004)

Motion by Councilor Jean, seconded by Councilor Mendros:

To postpone action on the Resolution of Condemnation for the properties at 95-109 Main Street to the City Council meeting of May 4, 2004. Passed - Vote 5-0

TRAFFIC SCHEDULE AMENDMENT FOR PARKING IN FRONT OF DISTRICT COURT

Councilor Rousseau stated he appreciated having this item before Council, even though the Chief can approve this himself. Councilor Rousseau said this is in the downtown area, he feels it is important for Council to be aware of it. The Chief said he will speak with other Chiefs in surrounding towns and ask them to have their officers park in the parking lots if they will be at the Court house longer than 15 minutes per stop.

VOTE (133-2004)

Motion by Councilor Jean , seconded by Councilor Connors:

To approve the proposed amendment to the Traffic Schedule for 55 Lisbon Street to designate one police vehicle only parking space:

Section 34 - Parking Reserved City Officers & Employees - "Police Only", is hereby amended as follows:

LISBON STREET Beginning at a point on the southern side of Lisbon Street 488' from the southwest corner of the intersection of Lisbon Street and Ash Street and extending westerly for a distance of 22', ending at the beginning of the fire hydrant restriction area.

Passed - Vote 5-0

TRAFFIC SCHEDULE AMENDMENT FOR LISBON STREET

VOTE (134-2004)

Motion by Councilor Jean, seconded by Councilor Rousseau:

To adopt the proposed amendments to the Traffic Schedule regarding the regulation of parking times for a portion of Lisbon Street:

Section 26 - Parking Time Regulated, 1 Hour - 9:00am to 6:00pm

LISBON STREET Both sides between Main Street and ~~Birch Street~~ Maple Street

LISBON STREET ~~Odd numbered side westerly side beginning at the northwesterly corner of Maple Street and Lisbon Street and extending in a northerly~~

~~direction to a point 480' from the southwesterly corner of Cedar Street and Lisbon Street~~

~~Even numbered side easterly side from the southern line of Birch Street to the northerly line of Maple Street (except for th 15 minute parking zone described in section 113 (a))~~

~~Odd numbered side westerly side beginning at a point 177' south of the southwesterly corner of Cedar Street and Lisbon Street and extending southerly on Lisbon Street a distance of 95'~~

Passed - Vote 5-0

PUBLIC HEARING AND FINAL PASSAGE REGARDING THE BUSINESS LICENSING ORDINANCE

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

VOTE (135-2004)

Motion by Councilor Jean, seconded by Councilor Paradis:

That the proposed amendment to the City Code of Ordinances, Chapter 22 "Businesses", Article IX "Peddlers", Section 22-260 "Special Events License", receive final passage by a roll call vote. Passed - Vote 5-0

PUBLIC HEARING AND FIRST PASSAGE REGARDING AN AMENDMENT TO THE BUSINESS LICENSING ORDINANCE

Mayor Guay opened the hearing. No members of the public spoke for or against this item. Mayor Guay then closed the hearing. The City Administrator stated this is one of the steps needed to bring a farmer's market back to Lewiston.

VOTE (136-2004)

Motion by Councilor Jean, seconded by Councilor Connors:

That the proposed amendment to the City Code of Ordinances, Chapter 22 "Businesses", Article VI "Food Service Establishments", Section 22-169 "Pushcarts, roving diners in streets and public places", receive first passage by a roll call vote and that the public hearing on said ordinance be continued to the meeting of May 4, 2004 for final passage.

Passed - Vote 5-0

**HEARING REGARDING POSSIBLE SUSPENSION OR REVOCATION OF
SPECIAL AMUSEMENT PERMIT FOR BOONDOGGLES, 37 PARK STREET**

Mayor Guay stated that the Council will be conducting a hearing regarding the Liquor License and Special Amusement permit for Boondoggles, 37 Park Street, in order to receive public comment on the possibility of revoking, suspending or amending the business licenses and permits, and to take final action as the City Council may deem appropriate. City Attorney David Bertoni informed the Council that the owner of Boondoggles, a licensed liquor establishment in Lewiston, received a summons from the Police Department for a violation of the City's adult-oriented live entertainment ordinance. Mr. Bertoni stated that the City Code prohibits a holder of a special amusement permit from having adult oriented live entertainment in the licensed establishment. He said that the Council had the following options to consider:

- a. ____ Revoke the Business's special amusement permit on the grounds that the entertainment provided on the premises violates municipal ordinance 10-82.
- b. ____ Suspend the Business's special amusement permit for a period of ____ days on the grounds that the entertainment provided on the premises violates municipal ordinance 10-82.
- c. ____ Take no action at this time, but without prejudice to its taking further action based upon the evidence presented at this public hearing and such further evidence as may be properly presented to it in the future.

Mr. Bertoni presented background material on this item, stating the police officers summonsed the business owner for the Code violation when they observed topless female employees working at the bar. The female employees appeared to have blue or green colored paint covering their nipples and no clothing above the waist. Mr. Bertoni reviewed for the Council the police reports and related documents for this issue. Mr. Bertoni asked the police officers who prepared the reports to address the Council and state what they observed at Boondoggles. The Chief of Police also spoke and stated he spoke with Mr. Russo several times before the event which caused the summons, and clarified for him what the boundaries are of the City's Code.

The business owner, Augustine Russo, Jr., and his attorney, Justin Leary, also addressed the Council and stated that they do not believe the topless female employees of the bar were violating the City's Code, and stated the Code defines adult oriented live entertainment as entertainment conducted by performers, and the employees were serving as waitresses and bartenders, not dancers or other entertainment. Mr. Leary stated the employees were wearing liquid latex over their nipples, which covered their nipples, was not see-through, and did not expose that portion of the skin or breast to full view. Mr. Leary also compared the Lewiston Code to the Portland Code, noting the Portland Code prohibits all nudity in any public place or licensed establishment, and the Lewiston Code does not go this far, only prohibiting nude entertainment.

Mr. Russo addressed the Council stating he opened the business five years ago after moving up from Massachusetts and he has a strong background in the management of restaurants, hotels and nightclubs. He stated that liquid latex is considered a new form of clothing in

nightclubs. He said he instructed the topless female employees not to dance or do any sort of entertainment, but to do their job of waitress and bartender which involved taking orders, bringing food and drinks to patrons, collecting money for the bill and so forth. He noted the bartender was behind the bar washing glasses when the officers arrived. He said that for the past several years, the Council has renewed his liquor license and special amusement permit without any concerns or problems, noting he runs a clean establishment. He said the idea of female employees wearing the liquid latex was done as a means to attract patrons and as something different and unique for his business to offer, noting that within the past few years, many similar type bars/nightclubs have opened in town and he was looking for something to set his apart to attract additional business.

The Mayor invited members of the public to speak on this issue. Five citizens spoke in favor of the business owner keeping the special amusement permit, stating the business is a well run establishment. Two of the citizens who spoke are current or former employees of Boondoggles, stating the owner always runs the business well, follows the law strictly and complies with state laws regarding liquor service, noting that all patrons must even show ID before entering. The three others are patrons of Boondoggles stating it is a clean, upscale establishment, it is an asset to the local business community and many local business owners patronize the bar.

The City's Attorney, David Bertoni, stated that earlier Mr. Russo stated he has not had any problems in the past with the City or with the police. Mr. Bertoni and the Police Chief cited problems in August 2001 with underage drinking, as documented in a State Liquor Enforcement report, as well as in 2002 in serving entertainers and not having food for sale which was required with the state liquor license. It was also noted that on February 27, 2004, there were again issues regarding underage drinking, an altercation occurred and a pornographic movie was playing on the screen. Mr. Russo stated that he had an employment issue with a disgruntled employee who was serving as a doorman, and allowed underaged patrons into the bar, when he should have been carding at the door. He also said that a few of the Bates College students may have had fake identification which would also create a problem.

The Councilors discussed this entire issue at length and reviewed all of the documents presented and asked questions of the City Attorney, the applicant and the Police Chief.

VOTE (137-2004)

Motion by Councilor Connors, seconded by Councilor Jean:

To select Option A: To revoke the Business's special amusement permit on the grounds that the entertainment provided on the premises violates municipal ordinance 10-82.

Did Not Pass - Vote 3-2 (Councilors Jean, Connors and Paradis in favor; Councilors

Mendros and Rousseau opposed) Note - Per the City Charter, Section 2.10d, all votes of the Council must be approved by at least four Councilors to be in the affirmative.

VOTE (138-2004)

Motion by Councilor Rousseau, seconded by Councilor Paradis:

To select Option B: To suspend the Business's special amusement permit for 90 days on the grounds that the entertainment provided on the premises violates municipal ordinance 10-82.

Did Not Pass - Vote 2-3 (Councilors Mendros and Rousseau in favor; Councilors Jean, Connors and Paradis opposed)

Councilor Rousseau stated he would like to reconsider his vote on Option A.

VOTE (139-2004)

Motion by Councilor Rousseau, seconded by Councilor Paradis:

To Reconsider the vote for Option A. Passed - Vote 5-0

The motion to reconsider action on Option A is now back on the floor for discussion and action.

VOTE (140-2004)

Motion by Councilor Connors, seconded by Councilor Jean:

To select Option A to revoke the special amusement permit and to approve the full Order of Suspension or Revocation:

ORDER OF SUSPENSION OR REVOCATION

Pursuant to its authority under 28-A M.R.S.A. Section 1054 and City Ordinance 10-81, the City Council of the City of Lewiston (the "City") finds as follows:

(1) No More Lawns, Inc. dba Boondoggles (the "Business"), 37 Park Street, Lewiston, Maine 04240 holds a special amusement permit issued by the City as well as a liquor license issued by the State of Maine.

(2) On April 14, 2004, the Business was duly and lawfully served with a summons for violation of City Ordinance 10-82, which provides that, "No entertainment regulated as adult-oriented live entertainment by the provisions of Article IV shall be provided by or on behalf of, or at the licensed premises of, the holder of a special amusement permit or of an FSE-Class E license."

(3) That the Business and all interested persons have been duly and lawfully notified of the public hearing to be held on April 20, 2004 before the City Council on the matter of (i) the suspension of the Business's special amusement permit and (ii) the issue of whether to

recommend to the State of Maine the revocation or suspension of the Business's liquor license.

(4) Upon the completion of the public hearing in this matter, in conformity with all state and local law, the City Council has decided to revoke the Business's special amusement permit on the grounds that the entertainment provided on the premises violates municipal ordinance 10-82.

(5) The City Council hereby authorizes the appropriate City officials to take all steps necessary to put into effect this order.

Passed - Vote 4-1 (Councilors Jean, Connors, Paradis and Rousseau in favor; Councilor Mendros opposed)

At this time, the Council then considered possible action to ask the State to suspend or revoke the business's liquor license.

VOTE (141-2004)

Motion by Councilor Jean, seconded by Councilor Connors:

To approve the Order to suspend or revoke the Liquor License.

Did Not Pass - Vote 3-2 (Councilors Jean, Connors and Paradis in favor; Councilors Mendros and Rousseau opposed) Note - Per the City Charter, Section 2.10d, all votes of the Council must be approved by at least four Councilors to be in the affirmative.

AMENDMENTS TO THE CITY POLICY MANUAL REGARDING BUSINESS LICENSE FEE SCHEDULE

VOTE (142-2004)

Motion by Councilor Jean, seconded by Councilor Paradis:

To approve the proposed amendment to the City Policy Manual, Policy Number 7 City Business License Applications Policy, as recommended by the City Clerk's Department.

Passed - Vote 5-0

FUNDING RECOMMENDATIONS FOR THE FISCAL YEAR 2005 COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM BUDGET

Economic and Community Development Director Jim Andrews stated that the Review Committee put into policy a year or two ago that applications and requests from new agencies would not be considered, due to limited funding. Councilor Rousseau stated that during a recent National League of Cities meeting, Councilors were told that federal CDBG funds would be cut, and therefore the City needs to work to reduce the allocations to all non-profit agencies, since there may not be any funds in the future.

VOTE (143-2004)

Motion by Councilor Jean, seconded by Councilor Mendros:

To receive the recommendation from the CDBG Review Committee for the allocation of the Community Development Block Grant program funds for the City's 30th year (2004-2005), and further that the schedule be published for a public hearing to be held at the regular City Council meeting of Tuesday, May 4, 2004. Passed - Vote 5-0

ADMINISTRATIVE CONSENT AGREEMENT WITH MAINE DEPARTMENT OF ENVIRONMENTAL PROTECTION REGARDING OPERATION OF THE CITY'S SOLID WASTE & RECYCLING FACILITY

The City Administrator provided background on this item, stating that a contractor took material to the landfill and did not fully disclose the contents of the material. The City processed the material based upon what they were told were the contents, when the material was different and therefore needed to be treated differently. This agreement represents a long negotiation with DEP and is a very fair agreement for the City, per Mr. Bennett.

VOTE (144-2004)

Motion by Councilor Connors, seconded by Councilor Jean:

To authorize the City Administrator to complete negotiations with the Maine Department of Environmental Protection and the Maine Attorney General's Office, and to execute the final version of the proposed Administrative Consent Agreement, including negotiating and executing a Supplemental Environmental Project (SEP) agreement, and that the 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 5-0

REPORTS & UPDATES

Councilor Mendros stated he will provide an update from the recent National League of Cities conference when there is more time during a meeting.

OTHER BUSINESS

Rachel Rodrigue, a resident of 3 Donnelly Street, complained about increase traffic in her area and was concerned since there is a daycare center in the neighborhood. The City Administrator stated he would call her tomorrow for additional information. Councilor Paradis noted that Clean-Up Week is going well and he noticed that there is less debris out on the sidewalks than in the past, and is hoping the punch-card system is working well.

Mayor Guay announced that due to the late hour, the scheduled Executive Session to discuss Personnel Matter would be postponed to the next Council meeting.

VOTE (145-2004)

Motion by Councilor Jean, second by Councilor Mendros:

To adjourn at 10:15P.M. Passed - Vote 5-0

A true record, Attest:

Kathleen M. Montejo, CMC
City Clerk
Lewiston, Maine