

CITY OF LEWISTON

CITY COUNCIL

JANUARY 23, 2007

REGULAR MEETING HELD IN THE COUNCIL ROOM AT 7:15 P.M.

COUNCIL PRESIDENT PRO-TEM, RONALD JEAN, PRESIDING.

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

Meeting was called to order by the City Clerk. Nominations for the position of Council President Pro-Tem were conducted and Councilor Jean was nominated.

ELECTION OF COUNCIL PRESIDENT PRO-TEM

VOTE (15-2007)

Motion by Councilor O'Brien, seconded by Councilor Mendros:

To elect Councilor Jean to serve as Council President Pro-tem for this meeting.

Passed - Vote 5-0-1 (Councilor Jean abstained.)

Pledge of Allegiance to the Flag.

Moment of Silence.

VOTE (16-2007)

Motion by Councilor O'Brien, seconded by Councilor Mendros:

To dispense with the reading of the minutes of the January 9, 2007, meeting and to accept and place them on file as prepared by the City Clerk. Passed - Vote 5-0-1 (Councilor Paradis abstained.)

PRESENTATION OF THE FINAL REPORT BY THE SOLID WASTE TASK FORCE

Task Force Committee member Robert Reed and Director of Public Works Paul Boudreau made a presentation to the Council regarding the final report of the Solid Waste Task Force. The Task Force has been meeting for nine months and have about 500 hours worth of research and study into the topic of solid waste. Mr. Reed complimented the work of Mr. Boudreau and Solid Waste Facility Superintendent Rob Stalford, noting both were excellent resources and facilitators for the group. Councilors thanked the committee for their extensive work on this project. A workshop will be held in the future to review the full details of the task force's recommendations. The report will be posted on the city's website for public review.

APPROVAL OF ELECTION WARRANT FOR THE SPECIAL MUNICIPAL ELECTION ON FEBRUARY 27, 2007 FOR THE OFFICE OF MAYOR AND A SCHOOL CONSTRUCTION REFERENDUM

VOTE (17-2007)

Motion by Councilor Paradis, seconded by Councilor Rousseau:

Be It Ordered by the City Council that the Election Warrant be issued for the Special Municipal Election to be held on Tuesday, February 27, 2007 for the purpose of voting for the Office of Mayor and the Pettingill School Construction Referendum, and to approve the following recommendations from the City Clerk/Registrar of Voters on actions necessary to conduct the Special Municipal Election

- A. That the hours for acceptance of registrations in person only, prior to the Feb. 27th election, as required by MRSA Title 21A, sec. 122, 6A(2), be set at 8:00am to 4:30pm, Feb. 7 through Feb. 26, 2007.
- 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.
- C. Pursuant to Title 21A, sec 759(7), absentee ballots will be processed at the polling place at 7:00am, 6:00pm and any and all remaining shall be processed at 8:00pm, if necessary.
- D. To appoint the City Clerk as the City's Election Warden and the Deputy Registrar of Voters as the City's Ward Clerk, for the Feb. 27 election.

Passed - Vote 6-0

AUTHORIZATION TO ACCEPT TRANSFER OF FORFEITURE FUNDS

VOTE (18-2007)

Motion by Councilor Paradis, seconded by Councilor Rousseau:

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 twenty (20%) percent of \$10,245, less administrative fee or any portion thereof, in the case of US Department of Justice Drug Enforcement Administration vs. Kenneth Durgin, CE-04-0014, 07-DEA-476974; twenty (20%) percent of the proceeds from the sale of a 1998 Audi A4, less administrative fees, or any portion thereof, in the case of US Department of Justice Drug Enforcement Administration vs. Wilkins Rodriguez, CE-04-0021, 07-DEA-477243; and the transfer of seven and one half (7.5%) percent of \$13,400, less administrative fee, or any portion thereof, in the case of US Department of Justice Drug Enforcement Administration vs. Adam Dagenais, CE-07-0005, 07-DEA-477227 and the transfer of \$3,200 or any portion thereof, in the case of the State of Maine vs. Andrew T. Willigar CR-06-1362 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 6-0

AMENDMENTS TO THE PARKING FEE POLICY

VOTE (19-2007)

Motion by Councilor Paradis, seconded by Councilor Rousseau:

To approve the proposed amendments to the Parking Fees Policy, Policy Manual Number 42, as recommended by the Chief of Police. Passed - Vote 6-0

AMENDMENTS TO THE TRAFFIC SCHEDULE

VOTE (20-2007)

Motion by Councilor Paradis, seconded by Councilor Rousseau:

To adopt the proposed amendments to the Traffic Schedule regarding the regulation of parking times for Mill 5 Lower Lot, as outlined on the vote sheet. Passed - Vote 6-0

**PUBLIC HEARING AND FIRST PASSAGE FOR LAND USE CODE
AMENDMENTS CONCERNING FRONTAGE, RIGHT OF WAY PROVISIONS
AND CREATION OF BACK LOTS**

Council President Pro-tem opened the public hearing for citizen input and comment. No members of the public spoke for or against this item. Council President Pro-tem Jean then closed the hearing. City Planner David Hediger reviewed the proposal for the Council and noted this creates an opportunity to allow another lot to be created on existing lots.

VOTE (21-2007)

Motion by Councilor Paradis, seconded by Councilor O'Brien:

That the proposed amendment to Appendix A, Article II "Definitions", Section 2, "Definitions", Article XII "Performance Standards", Section 10 "Frontage Right-Of-Way Provisions" and Article XIII. "Development Review and Standards", Section 2 "Applicability" 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 meeting of the City Council. Passed - Vote 6-0

**PUBLIC HEARING AND FIRST PASSAGE REGARDING AMENDMENTS TO THE
STREETS AND SIDEWALKS ORDINANCE AND LAND USE CODE CONCERNING
STREET DESIGN AND CONSTRUCTION STANDARDS**

City Administrator James Bennett informed the Council that this agenda item is for first passage to amend the language in the Code to move the language to a new policy regarding streets and sidewalks construction. He noted, if this item passed, final passage will be at the next meeting.

Also at the next meeting will be the approval of the new Policy. He advised the Council that the new proposed Policy does make allowances for private roads within the city to be constructed at lower standards than public roads, and he spoke against this recommendation. Several Councilors agreed with the Administrator. City Planner David Hediger stated the Planning Board did discuss this issue at length and noted the private roads would be limited to ten lots for less traffic.

Council President Pro-tem opened the public hearing for citizen input and comment. Lou Russell introduced himself as a local developer who is currently working with the Planning Board on a small development with a private road. He noted that one set of standards do not apply to every situation and the Council should make some allowances for private roads which meet certain conditions. Council President Pro-tem Jean then closed the hearing.

VOTE (22-2007)

Motion by Councilor O'Brien, seconded by Councilor Samson:

That the proposed amendments to the City Code of Ordinances, Chapter 66 Streets and Sidewalks, Article IV "Design and Improvements" and Appendix A, Article II "Definitions", Article X "Conditional Uses", Article XII "Performance Standards", and Article XIII. "Development Review and Standards", of the City Zoning and Land Use Code, receive first passage by a roll call vote and that the public hearing on said ordinances be continued to the next regular meeting of the City Council. Passed - Vote 4-2 (Councilors O'Brien and Samson opposed)

SPECIAL AMUSEMENT PERMIT FOR THAT'S A WRAP DELI & PUB

Council President Pro-tem opened the public hearing for citizen input and comment. No members of the public spoke for or against this item. Council President Pro-tem Jean then closed the hearing.

VOTE (23-2007)

Motion by Councilor Mendros, seconded by Councilor Samson:

To grant a special amusement permit for dancing and entertainment to That's A Wrap Deli & Pub, 30 Lowell Street. Passed - Vote 6-0

SPECIAL AMUSEMENT PERMIT FOR LEWISTON ELK'S LODGE

Council President Pro-tem opened the public hearing for citizen input and comment. No members of the public spoke for or against this item. Council President Pro-tem Jean then closed the hearing.

VOTE (24-2007)

Motion by Councilor O'Brien, seconded by Councilor Mendros:

To grant a special amusement permit for dancing and entertainment to the Lewiston Elks Lodge, 1675 Lisbon Street. Passed - Vote 6-0

At this point, the Council took a ten minute recess.

PLANNING BOARD'S RECOMMENDATION PERTAINING TO DRINKING ESTABLISHMENTS ON PARK STREET

The Council received and discussed the recommendations from the Planning Board pertaining to drinking establishments and related issues on Park Street. The Chief of Police addressed issues such as enforcement and noted there have been on going issues regarding downtown bars for about thirty years. He also noted due to the parking distance from the establishments to the parking lot, the patrons need to walk past the Oak Park housing units and there are on going issues such as noise and so forth.

VOTE (25-2007)

Motion by Councilor Rousseau, seconded by Councilor Mendros:

To postpone this matter to a workshop to be held with the Planning Board at a later date. Passed - Vote 6-0

APPOINTMENTS TO THE CITIZENS COMMISSION ON LEWISTON-AUBURN COOPERATION

The Council reviewed and discussed appointments to the Citizen's Commission on Lewiston-Auburn Cooperation. Larry Gilbert of 39 Cote Street addressed the Council and expressed his concern regarding the Council's authority to make these appointments and urged the Council not to make the appointments, but to hold the appointments for the new Mayor to make, once elected. Councilors noted this commission was created via the Interlocal Agreement with Auburn and they are authorized to make the appointments and want to have the process move forward.

VOTE (26-2007)

Motion by Councilor Mendros, seconded by Councilor Jean:

For each Councilor to submit five names, from the list of applicants as their recommendations for appointment, to the City Clerk for tallying. Passed - Vote - 6-0.

Councilors submitted the following names as their recommendations for appointment to the Commission:

Councilor Mendros: Ronald Bissonnette, Jere Clifford, Michael Cary, Tony Ferguson and Adilah Muhammad

Councilor O'Brien: Anthony Ferguson, Bette Swett-Thibeault, Ron Farris , Vicki Roy and Mark Carrier

Councilor Jean: Jere Clifford, Ronald Bissonnette, Michael Cary, Mark Carrier and Ron Farris

Councilor Samson: Ron Farris, Jeffery Gosselin, Bette Swett-Thibeault, Anthony Ferguson and Vicki Roy

Councilor Paradis: Ron Farris, Jeff Gosselin, Vicki Roy, Bette Swett-Thibeault and Anthony Ferguson

Councilor Rousseau: Ronald Bissonnette, Mark Carrier, Jere Clifford, Jeff Gosselin and Anthony Ferguson

Total Tally: Anthony Ferguson (5 votes) and Ron Farris (4 votes) each received the highest votes, so they were appointed to the two, three year terms.

The following all received three votes each: Ronald Bissonnette, Mark Carrier, Jere Clifford, Jeffery Gosselin, Vicki Roy and Bette Swett-Thibeault.

The Councilors then submitted three names each from the list above to the City Clerk for tallying:

Councilor Mendros: Bissonnette, Clifford and Carrier

Councilor O'Brien: Swett-Thibeault, Carrier and Roy

Councilor Jean: Swett-Thibeault, Carrier and Bissonnette

Councilor Samson: Swett-Thibeault, Gossein and Bissonnette

Councilor Paradis: Gosselin, Swett-Thibeault and Bissonnette

Councilor Rousseau: Carrier, Clifford and Gosselin

The following each received four votes: Bette Swett-Thibeault, Mark Carrier and Ronald Bissonnette.

VOTE (27-2007)

Motion by Councilor Samson, seconded by Councilor O'Brien:

To appoint Ronald Bissonnette to serve the one year term on the Commission.

Passed - Vote 6-0

Bette Swett-Thibeault and Mark Carrier were assigned to the two, two year positions on the Commission.

REPORTS AND UPDATES

No reports or updates were presented at this time.

OTHER BUSINESS

City Administrator James Bennett informed the Council about the notice of lawsuit that was filed against the City Council today by Councilor Mendros and resident David Hughes, in regards to the City's elections ordinance and the public distribution of petitions. Councilor Mendros stated his name was listed in error and he has already contacted the attorney who filed this notice asking him to file an amended copy in the morning to remove Councilor Mendros' name as a plaintiff in the suit. He said that he supports the concept of the lawsuit whereby the city should permit the public circulation of petitions, as required by state statutes, but that he has no intention of personally suing the Council or the city.

Councilor O'Brien asked to have a request for funds from the Stanton Bird Club to be added to a future agenda. Councilor Mendros requested that the issue of wireless internet connections for the city be added to a future workshop agenda.

Larry Gilbert, 39 Cote Street, spoke and stated he applauds Councilor Mendros for exploring the idea of wireless internet for the community, noting the City of Manchester, NH has done this and it is very business friendly. He also stated he does not agree with the lawsuit that has been filed.

At this time, the Council adjourned to workshop regarding the citizen initiative and petition process. The City Administrator noted that additional research has been conducted by city staff and that, per the state constitution, any amendments to municipal ordinances regarding citizen initiatives and people's vetoes require a public vote. He reviewed sections of the state constitution, state statutes, city charter and city code with the Council. He noted this issue will be discussed again after the budget process and that a vote might be scheduled for the November election.

VOTE (28-2007)

Motion by Councilor O'Brien, second by Councilor Samson:

To adjourn at 10:35 P.M. Passed - Vote 6-0

A true record, Attest:

Kathleen M. Montejo, CMC
City Clerk
Lewiston, Maine