

**CITY OF LEWISTON  
PLANNING BOARD MEETING  
MINUTES for November 10, 1998 - Page 1 of 10**

**I. ROLL CALL:**

This meeting was called to order at 7:02 P.M. and chaired by Harry Milliken

**Members in Attendance:** Tom Peters, Denis Theriault, Harry Milliken, Lewis Zidle, Mark Paradis, and Dennis Mason.

**Staff Present:** James Lysen, Dan Stevenson, and Doreen Asselin.

**Others Present:** James Andrews - Community Development Director, Gil Arsenault - Deputy Director of Development, and Chris Branch - Public Works Director

**II. READING OF THE MINUTES:**

*Minutes of October 13, 1998 and October 27, 1998*

**MOTION:** by **T. Peters**, seconded by **D. Mason** to table the Draft Minutes of October 13, 1998 and October 27, 1998 and submit changes to the Secretary to incorporate in them.

**VOTE:** 5-0-1 (Lew Zidle Abstained)

Also mentioned by **Harry Milliken**, was for Staff or people from the audience to raise their hand and acknowledge their name before speaking. Also, people need to speak into the microphone in order to get detailed minutes.

**D. Theriault** also stressed the need to have the Draft Minutes to him by the following Tuesday after the meeting for his review.

**III. CORRESPONDENCE:**

*Resignation Letter from Planning Board Member, Harold N. Skelton*

The following are comments made from the remaining Planning Board members.

- **H. Milliken** said that he accepts his resignation (regretfully), respected his comments, and wishes him the best in the future.
- **T. Peters** said that he will miss his input and he is sorry that he resigned.
- **D. Theriault** said that he wished that he had done this under different circumstances, but that he definitely did have a conflict of interest. He also said that he wished that he could have helped the Planning Board in correcting the process.
- **L. Zidle** said that he regrets him leaving.
- **M. Paradis** said that he will be missed greatly by all.

It was questioned whether Mayor Tara had been notified of Harold Skelton's resignation and, if so, has considered replacements for both **H. Skelton** and **D. Theriault** whose term expires in December 1998.

- **Gil Arsenault** responded that the Mayor does have a replacement for Harold Skelton, but that person's name has not been made public as of this date.
- **D. Theriault** said that with the CDBG coming up, somebody is needed soon.

*Correspondence dated November 5, 1998 from Robert O. Gauvin Addressed to the Lewiston Planning Board in Reference to the Central Maine Medical Center*

**MOTION:** by **L. Zidle**, seconded by **M. Paradis** to accept the above mentioned Gauvin's letter as Correspondence and place it on file.

**VOTED:** 6-0.

This item was the last item discussed at this meeting and is presented under Other Business. It was noted, however, that Staff did not receive this correspondence until this meeting. This letter is asking the Planning Board to reconsider the October 13, 1998 vote on the CMMC issue under Robert's Rules of Order.

#### IV. PUBLIC HEARING

*Proposal to Re-zone Property at 76-86 Pierce Street (Even Side Only), 107-124 Bartlett Street (Even Side Only), and 33-58 Walnut Street (Both Sides) from Neighborhood Conservation "B" District (NCB) to Community Business (CB) District*

- **Dennis Mason** mentioned that the re-zoning on Bartlett street should include both sides. **J. Lysen** responded that it was a typographical error, however, the abutters notices were written accurately.
- **J. Lysen** presented this item using a series of maps and slides.
- He said that there are five businesses included in the proposed re-zoning area. They are Del 'N Decks Grill; two (2) commercial uses at 37 and 43 Walnut Street; 45 Walnut Street, Moma Roses Pizza; and 40 Walnut Street, The Derby Athletic Club. The major concern was impact on the neighborhood with respect to a proliferation of adult amusement establishments in the CB, the locational criteria for adult amusement establishments is that only two (2) such types of businesses can locate near each other, with no other locating within 500 feet. Therefore, no other established adult amusement businesses could then be located in this area because of Del 'N Decks Grill and The Derby Athletic Club.

- **J. Lysen** then referenced Item No. 4 in the Ordinance Pertaining to Zoning Boundaries. He explained that **Jeff Baril** wants to improve the property, stabilize his business, and add parking. The concern of adult entertainment in the zone is not a problem. There would be, however, more commercialization along Walnut Street. The proximity to Kennedy Park and the St. Dom's area was questioned. **H. Milliken** questioned, "If this plan moves forward, can any of these establishments be within so many feet of a school district?" **Gil Arsenault** responded that they cannot be within a Church establishment. There are limitations on Churches, but he was not sure if there were limitations on schools. **Gil Arsenault** also commented on **T. Peters** above re-zoning change. He feels that it would not be appropriate to re-zone this area. He then referenced CB. This certainly does not fit CB. This area is not much different than the majority of the NCB.
- **Jeff Baril**, a resident and local business owner, would like to invest his money in the community. He said he will keep the business open whether or not the zoning change goes in his favor or not. He went on to say that this project would be good for the neighborhood. He will be tearing down seven (7) rental units and adding 20 parking spaces. There is very little direction in this neighborhood and he feels that this would make the neighborhood change for the better.
- **Robert & Irene Soucy**, 373 Pinewoods Road. They own property on Horton Street near Del 'N Decks Grill. They have no problems and no objections to this project. Their only concern was that the CB zoning will bring in other establishments of similar type. **J. Lysen** reiterated that no additional adult amusement establishments can locate in the proposed re-zoning area, due to the two (2) existing establishments.
- **T. Peters** stated that this could be in conformance with the Comprehensive Plan. It is making it better and that it fits with the Comprehensive Plan. He said this seems to make sense to re-zone. He will vote for this project.
- **J. Lysen** then stated that he agrees with **Gil Arsenault** that the CB zone may not be the perfect zone for this project. This is more vehicle related than this type of use. However, he mentioned that because of the existing uses in that area, maybe take a look at Walnut Street and include the corner on Bartlett Street, where there is a commercial use, as well. Go with a smaller area along Walnut Street and just re-zone that area and then that would not impact any of the properties along Bartlett, Pine, and Pierce Streets. This is not spot-zoning. You could make a case either way, but he would like the re-zoning of reducing the area to include just Walnut Street, Albert's Variety, and between Pierce and Bartlett Streets.
- **Dennis Mason** said that he would prefer a smaller zone and not include Walnut and Pine Streets. He feels this would be more appropriate.

- **D. Theriault** questioned if spot zoning was an issue. **J. Lysen** responded that you have to look at the consideration and consistency for zoning. **T. Peters** responded that spot zoning is when you re-zone for one petitioner and that the purpose for zoning is to help the City move in a direction. It is very clear to me why we are re-zoning this area. You take it one step at a time.
- **D. Theriault** responded that he is in support of this project, however, he favors a smaller zone. He suggested making a favorable recommendation to the City Council.

The following motions were taken:

**MOTION:** by **T. Peters**, seconded by **D. Theriault** to send a favorable recommendation to the City Council to re-zone the area in accordance with the November 6, 1998 memo to the Planning Board.

**VOTED:** 6-0.

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**MOTION:** by **Dennis Mason**, seconded by **T. Peters** to amend the motion to limit the re-zoning to those properties between 33-58 Walnut Street (both sides, including all the properties on Walnut Street between Pierce and Bartlett Streets) as well as the two (2) corner properties at 49 Walnut Street and 122 Bartlett Street (see revised map - Exhibit A).

**VOTED:** 6-0.

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**MOTION:** by **Dennis Mason**, seconded by **T. Peters** to recommend to the City Council that they consider first and second readings on the re-zoning proposal at their meeting of December 15, 1998.

**VOTED:** 6-0.

**V. OTHER BUSINESS:****A. New Business:**

Item No. 2 was presented first, since Chris Branch was not completely ready to present his presentation at this time due to technical difficulties.

2. *Schedule Community Development Block Grant (CDBG) Public Hearings - Process FY2000 CDBG Funding Request*

This Item was presented by **Jim Andrews**. He is asking the Planning Board to put a positive recommendation to the City Council to adopt the community participation plan and schedule, with one minor adjustment on the schedule. The minor adjustment is instead of the December 1, 1998 meeting of the council, he would like to take forward to their November 17, 1998 meeting. He prefers this earlier date, since he would like to get his packets out earlier in December instead of waiting for the December 15, 1998 meeting.

Discussion followed regarding future Planning Board participation on the CDBG Review Committee. It was decided that the Chairman should appoint Committee Members. There were three (3) meetings last year. This is **H. Milliken's** last year and he feels he should be on this Committee, however, he would like participation from two (2) other members.

**T. Peters** suggested the following questions/concerns, which are addressed by Jim Andrews during his presentation and are listed, as follows:

1. **T. Peters** had a question on the needs assessment area (slum/blight areas). Do we have areas in Lewiston considered slum/blight areas? **Jim Andrews** listed the areas as being the census track as 201, 203, and 204. **T. Peters** brought up this question, because he felt the money may need to be focused on certain areas in need. Seventy percent (70%) of the money goes to this area.
2. **T. Peters** questioned, "Does input only come from low/moderate income persons?" **T. Peters** then asked, "Why not input from all residents?" **Jim Andrews** responded that HUD wants input from the target population, but will receive input from any citizen.

3. **T. Peters** was concerned about lobbying issues and mentioned that there cannot be any lobbying of persons/businesses receiving funds. He added that he would like to see copies of the advertisement. This is a requirement of Section C. **Jim Andrews** said that he does keep a close eye on that. **T. Peters** also referenced to Section E, which says that there may be no conflict between a City employee or Staff that are on board that may receive these funds.
4. **T. Peters** also asked, "What other agencies within our geographic area are providing the same or similar services and how do they coordinate with the services of other agencies?" **Jim Andrews** said that he would add this question to the packet.
5. Also, **T. Peters** said he was having a problem with the grid on the page after the calender (included in packet - schedule of the plan). He questioned, "Does this include low income residents?" **Jim Andrews** responded that 70 percent would be low income. **Jim Andrews** said that there are reporting requirements included in the packet. **T. Peters** said that this should focus on minorities (Section 15), which includes women. **Jim Andrews** responded that it is not on the point criteria. **T. Peters** then asked, "Are we required that a certain percentage of funds goes to minorities?" **Jim Andrews** response was, "No - is has to be low income". **T. Peters** then asked, "Do we really gather information from women and minorities. **Jim Andrews** response was, "Yes".

The following motion was then made:

**MOTION:** by **D. Theriault**, seconded by **D. Mason** to send a favorable recommendation to the City Council in regards to this years presentation of the CDBG with the change of date on this schedule to November 17, 1998 with the changes noted by **Jim Andrews**.

**VOTED:** 6-0.

1. *A Presentation Concerning Transportation Issues by Public Works Director Chris Branch.*

This presentation was presented using Power point by Chris Branch of the Public Works Department. This presentation included a periodic update on traffic projects. Funding on these projects comes from LACTS, the Capital Improvement Program (LCIP - City budgets), and CDBG.

His presentation included projects currently in/approved (funded FY98-99), projects submitted to LACTS for inclusion in year 2000-2001 (FY00-01), projects included in LACTS (resurfacing/intermodel projects included - FY00-06), and other projects not tied into the DOT (FY2000).

- **H. Milliken** responded that this was a very well done presentation.

*J. Lysen then mentioned to the Planning Board that the Final Parking Study prepared by LACTS will be completed before the November 24, 1998 Planning Board meeting.*

3. *Update on a Plan(s) for Guiding Recommendations for City Acquisition/Disposition/Development of Municipal Property.*

- **J. Lysen** summarized the memo dated November 6, 1998. He said that there are a number of existing plans, polices, and principles that guide the City in dealing with issues relating to acquisition/disposition/development of municipal property. He is developing a procedure for the City and the Land Committee. There are a number of existing plans also listed in this memo for acquisition/disposition/development of municipal property. Input is needed from various City departments and boards and the public to make recommendations and decisions on acquisition/disposition/development of municipal properties.
- **H. Milliken** said that he has had discussions with **Bob Mulready**, **Denis Theriault**, and **Greg Mitchell** in regards to developing a procedure that is consistent with both the Land Committee and the Planning Board. The Committee needs a checklist developed and provided.

This discussion continued regarding the process and issues for acquisition/disposition/development of municipal properties.

- **T. Peters** said they need something that fits into a plan. He wants Staff to show him the pros and cons of the proposals.
- **H. Milliken** asked is there a way that Item No. 6 on this agenda (Land Committee Recommendation Referencing the List of Tax-Acquired Property) can be tied into this checklist? **J. Lysen** responded that some of these do not need a recommendation. This list will be brought forward.

**MOTION:** by **Dennis Mason**, seconded by **M. Paradis** to schedule for a Public Hearing on November 24, 1998.

**VOTED:** 6-0.

5. *Discussion of Planning Board Meeting Schedule for the Remaining Meetings in 1998.*

LCIP Schedule. **J. Lysen** stated that the LCIP submittals are due on Friday, November 13, 1998. The Committee Hearings are being scheduled for the first week of December 1998. **J. Lysen** also stated that for ease of information sharing, the information is being transferred by either diskette or e-mail. **H. Milliken** then turned to the Board and asked if there is anybody willing to participate and when? **J. Lysen** stated that 13-14 hours of time are needed to complete. **M. Paradis** was the only Board Member who may be able to give some time. He will get back to **J. Lysen** as to any time that he would be available.

Planning Board. The Planning Board meeting scheduled date for December is December 8, 1998. Another meeting will be scheduled, if necessary.

6. *Land Committee Recommendation Referencing the List of Tax-Acquired Property.*

This item was briefly mentioned previously under Item No. 3.

7. *Draft Amendments to the Zoning and Land Use Code Concerning Performance Standards and Permitted/Accessory Use Determination Submitted by City Attorney Robert S. Hark.*

This item was not in proper form, but will be prepared for the next meeting.

Other Topics Discussed

*Correspondence dated November 5, 1998 from Robert O. Gauvin Addressed to the Lewiston Planning board in Reference to Central Maine Medical Center*

This correspondence is a request, in writing, from Robert O. Gauvin, in reference to the CMMC issue to reconsider the vote taken by the Lewiston Planning Board on October 13, 1998.

There was a brief discussion on recinding a vote, the time-frame to, and references to the Robert's Rule's of Order. The City has issued a permit. **L. Zidle** mentioned that if no action has been taken, then there is a need to do something quickly. **Dave Gauvin** then stated that the Board did not follow APA procedures and that they were not fulfilling an interest at that time. **H. Milliken** said that a motion to reconsider and reverse cannot apply. However, the appropriate recourse would be the 80B Rule. **Dennis Mason** asked, "Since no vote was taken at the October 27, 1998 meeting to adjourn, is this a continuation of that meeting?" Since **T. Peters** chaired that meeting, he performed a reconsideration. He asked, "Anybody want to move to reconsider?"

**MOTION:** by **L. Zidle** to reconsider the action taken on the October 27, 1998 meeting. Nobody seconded this motion, therefore, this motion died from lack of a second.

The following members abstained from voting: Tom Peters, Denis Theriault, Harry Milliken, Mark Paradis, and Dennis Mason.

Procedures/Process

**Tom Peters, Harry Milliken, Gregory Mitchell, and Gil Arsenaault** have already met and discussed this topic. A separate workshop needs to be set up with Staff on procedures/process on how to coordinate between Planning Board members and Staff in doing the job.

**D. Theriault** agreed that rules need to be made as to the correct procedures to follow. **H. Milliken** then said that they need to be completed and accepted as new by-laws. The Chairman should be involved as to more input on the agenda items. There is a need for more effective time to deal with the items. This separate workshop is being scheduled for Thursday, November 19, 1998 to begin at 7:00 p.m. in City Council Chambers.

After this item of discussion there was a statement by **D. Theriault** as to the placement of a temporary, illegal helipad currently in operation at CMMC located on Holland Street. The helicopter has been landing at CMMC and not where the new site is actually going to be. It is landing right behind parking and buildings on Holland Street. They have even put up a chain-link fence designating the area off. **D. Theriault** then asked **G. Arsenaault** to fill him in on this, since obviously they are taking a whole lot for granted here. **G. Arsenaault** responded that the only knowledge he had of this was in a brief conversation and by actually driving by. He agreed that this looked like a helicopter landing site to him. He said he was pretty disappointed that that kind of information did not come up during the workshop as to request for a demonstration. The answer at that time was that they could not do a demonstration because of the way that the area is, it would kick up too much dust, etc. **D. Theriault** said - look where they are landing right now! **G. Arsenaault** mentioned that he did call the hospital last Friday, November 6, 1998 and said he left a specific message for a specific person to call him and he said he has not received a call back. He said he is very disappointed. **D. Theriault** said this is like a slap in the face to the Board, Code Enforcement, and Staff that we have another heliport that nobody discussed, which is right behind apartment buildings. He concluded by saying that these guys are taking a lot for granted.

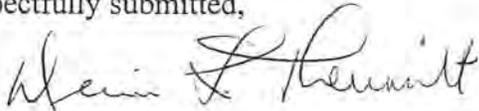
#### VI. ADJOURNMENT:

This meeting adjourned at 11:00 p.m. The following motion took place.

**MOTION:** by **D. Theriault**, seconded by **Dennis Mason** to adjourn this meeting at 11:00 p.m. and schedule the next regular Planning Board meeting to be held on Tuesday, November 24, 1998 at 6:00 P.M., due to the number of agenda items.

**VOTED:** 6-0.

Respectfully submitted,



Denis Theriault  
Secretary

DMA:dma

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