

CITY OF LEWISTON

CITY COUNCIL

MARCH 2, 2010

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

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

PRESENT: Mayor Gilbert, Councilors Butler, Bernier, Poulin, Jean, O'Connell, Cayer and Morgan, City Administrator Edward Barrett, and City Clerk Kathleen Montejo.

EXECUTIVE SESSION

VOTE (75-2010)

Motion by Councilor Cayer, seconded by Councilor Butler:

To enter into an executive session pursuant to MRSA Title 1, section 405(6)(E) to discuss a legal matter with the City Attorney. Passed - Vote 7-0

Executive Session began at 6:11pm and ended at 7:25pm.

At this point, the Mayor began the regular meeting.

Pledge of Allegiance to the Flag.

Moment of Silence.

UPDATE FROM THE LEWISTON YOUTH ADVISORY COUNCIL

Jama Ahmed reported the members are working on the upcoming youth summit program and are lining up the workshop speakers. He also noted many members have done a ride-along with a police officer during a shift and this has been a great learning experience.

VOTE (76-2010)

Motion by Councilor Morgan, seconded by Councilor Jean:

To dispense with the reading of the minutes of the meetings of January 26, February 9, 16 and 23, 2010 and to accept and place them on file as prepared by the City Clerk. Passed - Vote 7-0

PUBLIC COMMENT PERIOD

Gabrielle Russell of Tampa Street spoke out against the demolition of the Bates Mill number five building, suggesting the building could be renovated into condominiums and other uses. She encouraged the Council to let the citizens decide on the demolition of the building with a referendum vote. Jonathan LaBonte of Auburn also spoke in support of retaining the building, noting the City lost the mills at Island Point. He urged the Council to hold off on demolishing the building until a clear vision and firmly articulated vision for the downtown area can be established, perhaps one covering a ten, twenty and thirty year schedule. Mr. Labonte stated from his observation, the City has a habit of making decisions on one property at a time rather

than looking at the entire downtown area as whole. Kaileigh Tara spoke in support of keeping the Bates Mill 5 building and said the building is a gift that the City has and it needs to treat it as such. She also encouraged the Council to create a plan and a vision for the downtown and suggested the voters should decide the fate of the building.

RESOLUTION TO RENEW THE HOME INVESTMENT PARTNERSHIP CONSORTIUM WITH THE CITY OF AUBURN AND AUTHORIZATION TO ENTER INTO A RENEWED MUTUAL COOPERATION AGREEMENT

VOTE (77-2010)

Motion by Councilor Poulin, seconded by Councilor Cayer:

To adopt the Resolution to renew the Home Investment Partnership Consortium with the City of Auburn and to authorize the City Administrator to execute the Mutual Consortium Agreement and any other documents necessary to effectively renew the Consortium:

WHEREAS The City of Lewiston is committed to providing high quality, affordable and mixed income housing throughout the City; and

WHEREAS HOME Investment Partnerships Program funds from the U.S. Department of Housing and Urban Development are specifically targeted for the provision of quality affordable housing; and

WHEREAS While desiring to access these funds, neither Lewiston nor Auburn qualify to receive their own allocation of these funds;

NOW, THEREFORE, Be It Resolved by the City Council of the City of Lewiston, that the City Council authorizes the City Administrator to sign the Mutual Cooperation Agreement to renew a Consortium between the City of Lewiston and the City of Auburn in order to access funds under the HOME Investment Partnerships Program as administered by the U.S. Department of Housing and Urban Development.

Passed - Vote 7-0

ADOPTION OF A NEW CITY POLICY REGARDING THE MUNICIPAL VOLUNTEER PROGRAM

VOTE (78-2010)

Motion by Councilor Poulin, seconded by Councilor Cayer:

To establish and adopt a Municipal Volunteer Program policy, Policy Manual Number 88, as recommended by the City Administrator. Passed - Vote 7-0

ORDER – ACCEPTING THE STAFF RECOMMENDATION ON STREET LIGHTS TO BE DISCONTINUED AND SHORTENING THE TRIAL PERIOD FOR FUTURE STREET LIGHT REMOVAL FROM 45 DAYS TO 30 DAYS

VOTE (79-2010)

Motion by Councilor Poulin, seconded by Councilor Cayer:

To adopt the Order authorizing the permanent disconnection of street lights that are listed for removal in the February 23, 2010 Budgeted Streetlight Reduction Process memorandum and also authorizing shortening the trial period for future street light removal from 45 days to 30 days:

Whereas, during the FY2010 budget process, the City Council set a goal of achieving \$25,000 in savings through disconnecting selected street lights; and

Whereas, subsequently the Council reviewed various options and directed staff to implement one of them on a test basis; and

Whereas, the initial results of the test have been received and recommendations on which lights to permanently remove have been presented; and

Whereas, in addition, staff recommends that the 45 day test period be shortened to 30 days in the future;

Now, therefore, be it Ordered By the City Council of the City of Lewiston that staff is authorized to permanently disconnect those street lights listed for removal in the attached February 23, 2010 Budgeted Streetlight Reduction Process memo. Further, the 45 day test period for street light removal is shortened to 30 days.

Passed - Vote 7-0

**ADOPTION OF A CITY POLICY REGARDING A SEWER CLAIMS APPEALS
PROCESS FOR WHITE-BARDWELL-NEWMAN STREETS NEIGHBORHOOD
PROPERTY OWNERS**

Councilor Bernier inquired if the existing issues have been resolved yet. Mr. Barrett said that Public Services and Public Works have addressed the issues and it was a lack of capacity issue. A gentleman addressed the Council and thanked Mayor Gilbert and Mr. Nadeau for visiting his home to see the damage. He stated there are noticeable improvements in the water distribution flow since the clean up work has been done.

VOTE (80-2010)

Motion by Councilor Bernier, seconded by Councilor Butler:

To establish and adopt the city policy regarding Sewer Claims Appeal Process for White-Bardwell-Newman Streets Neighborhood property owners, as recommended by the Deputy City Administrator, said policy to expire December 31, 2010 unless sooner repealed by the City Council. Passed - Vote 7-0

**PRESENTATION FROM REPRESENTATIVES OF THE US CENSUS BUREAU AND
ADOPTION OF RESOLUTION TO SUPPORT THE WORK OF THE
CENSUS BUREAU**

Gail Driscoll, area representative of the Census Bureau, complimented the City in being proactive with publicity about the Census and stated she appreciates the enthusiasm of city staff to

help get the word out about the importance of completing and returning the census forms. She elaborated on the significance of the forms and that a high response of returned forms translates into higher federal financial support for the City.

VOTE (81-2010)

Motion by Councilor Cayer, seconded by Councilor Butler:

To adopt a Resolution in support of the work of the US Census Bureau and to encourage Lewiston residents to return the census forms in a timely manner:

WHEREAS: People count in Lewiston, Maine! Here in the All-America City of Lewiston, we are proud to be home to a diverse group of individuals; and

WHEREAS: Each person is valued within our community, and their presence—as will be evidenced in documented Census data—also contributes towards our enhanced quality of life; and

WHEREAS: Census 2010, an official counting of all who reside in the United States, will indeed result in much more than just numbers; and

WHEREAS: The results of a Census count impacts the number of seats each state occupies in the U.S. House of Representatives, and the findings are also used to advocate for research markets, grant allocations, new housing developments, and more; and

WHEREAS: Census data also assists in determining where billions of Federal dollars are spent annually on infrastructure and projects & services to include hospitals; job training centers; schools; senior centers; emergency services; and roads, bridges and other public works projects; and

WHEREAS: Census data is also used to sponsor environmental legislation and consumer advocacy; and

WHEREAS: US Census Bureau Director Robert M. Groves has stated: “The country doesn’t function well without an updated Census to distribute funds to areas that most need them and to support community decisions about their own future,” and, in response, Lewiston surely wants to speak loudly on behalf of its residents; and

WHEREAS: The Census, therefore, can be viewed as Lewiston’s up-to-date “community voice in government;” and

WHEREAS: Upon receipt of the Census 2010 form this spring, Lewiston residents are encouraged to promptly and thoroughly answer & return the ten (10) questions;

NOW, THEREFORE, BE IT RESOLVED that the Mayor and City Council of the All-America City of Lewiston, Maine fully endorse the efforts of Census 2010 and will strongly advocate to our community the benefits that we will all receive through actively participating in this important undertaking.

Passed - Vote 7-0

At this point, the Mayor took agenda item eleven out of order and addressed it at this time.

RECEIPT OF CITY CLERK'S REPORT REGARDING VALID SIGNATURES FOR THE CITIZEN INITIATIVE PETITION ENTITLED GREAT FALLS INITIATIVE AND REVIEW OF CITY ADMINISTRATOR'S RECOMMENDATION TO REJECT THE PETITION BASED UPON THE OPINION OF THE CITY ATTORNEY

City Administrator Barrett explained that part of the property that is listed in the citizen petition, Railroad Alley, is not owned by the City, but owned by Franklin Company instead. He noted this property was not identified as such on the tax maps or on GIS and the City recently discovered this by doing the deed research.

VOTE (82-2010)

Motion by Councilor Butler, seconded by Councilor Morgan:

To adopt the Order Acknowledging Receipt of Report of Verified Casino Petition Signatures and Rejecting Placing the Question on the June Ballot:

Whereas, an initiative petition authorizing the City of Lewiston to enter into an option to sell the Bates Mill #5 site for the purpose of building a casino has been circulated for signatures of registered voters in the City of Lewiston; and

Whereas, the City Clerk has verified that sufficient valid signatures have been gathered to place the question before the voters of the City; and

Whereas, this initiative would require that the City sell, if the option is exercised, the Bates Mill #5 site including the so-called Railroad Alley, a strip of land which the City currently does not own, to Great Falls LLC for the purpose of constructing a casino; and

Whereas, the City Attorney has provided a legal opinion indicating that such an initiative cannot legally require the City to take an action that is not in its power as of the date the petition was closed for signatures and that the City is within its legal rights to reject it; and

Whereas, the City and Great Falls LLC have also been in direct negotiations regarding an option to develop a casino on this property; and

Whereas, as a result of these negotiations, the City Council has taken action to place a measure on the June ballot seeking voter approval of the sale of the Bates Mill #5 site to Great Falls for the purpose of building a casino; and

Whereas, this measure does not include a requirement that the City sell any portion of the site which it does not own; and

Whereas, Great Falls had indicated that it intends to support and vigorously campaign for the

compromise language developed through good faith negotiations with the City; and

Whereas, while this measure would achieve the results sought by Great Falls and those who supported this initiative effort, it also includes terms and conditions that are more advantageous to the City of Lewiston; and

Whereas, Great Falls has also indicated that it intends to formally relinquish the option included in its initiated language, rendering the option as described in the initiated language moot so that, even if the initiative were placed before the voters and even if passed, it would require the City to enter into an agreement with another party on terms that the other party has indicated it is unwilling to do;

Now, therefore, be it Ordered By the City Council of the City of Lewiston that the initiative seeking to place a question on the June ballot that would require the Bates Mill #5 site to be sold to Great Falls LLC is hereby rejected since it would require the City to sell a portion of this site which the City currently does not own and on the basis of Great Falls' intention to formally relinquish the option included in the language of its initiated petition.

Passed - Vote 7-0

PUBLIC HEARING ON THE RENEWAL APPLICATION FOR A SPECIAL AMUSEMENT PERMIT FOR LIVE ENTERTAINMENT FOR THE CARLTON CLUB, 25 SABATTUS STREET

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

VOTE (83-2010)

Motion by Councilor Butler, seconded by Councilor Morgan:

To grant a special amusement permit for live entertainment to the Carlton Club, 25 Sabattus Street. Passed - Vote 7-0

PUBLIC HEARING AND FIRST PASSAGE FOR LAND USE CODE AMENDMENTS CONCERNING SIGNIFICANT BUILDINGS AND DISTRICTS

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

VOTE (84-2010)

Motion by Councilor Jean, seconded by Councilor Cayer:

That the proposed amendments to Appendix A, Article XV "Significant Buildings and Districts", Sections 1 and 6 - 10, of the City Zoning and Land Use Code, concerning the historic buildings and structures, 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.

Passed - Vote 7-0

**RECEIPT OF RECOMMENDATION FROM THE FINANCE COMMITTEE AND
THE PLANNING BOARD ON THE FY2011 LEWISTON CAPITAL
IMPROVEMENT PLAN BUDGET**

VOTE (85-2010)

Motion by Councilor Jean, seconded by Councilor Butler:

To receive the recommendations from the Finance Committee and the Planning Board regarding the FY11 Lewiston Capital Improvement Plan. Passed - Vote 7-0

**PUBLIC HEARING AND ADOPTION OF THE FISCAL YEAR 2011 CAPITAL
IMPROVEMENT PROGRAM**

Mayor Gilbert opened the public hearing to receive citizen input and comment. No members of the public spoke for or against this issue. Mayor Gilbert then closed the hearing. Councilor Butler identified six areas that he was wondering could be put on hold and not included for funding – demolition of buildings, \$100,000 for UPS system server, \$200,000 for Gendron Business Park, replacement of old pump drivers, \$65,000 for light circuit for Lisbon Street and upgrades to the GPS system. Mr. Barrett explained that the LCIP is a planning document only and each item in the plan would need to be added to the budget and at that time the Council will decide if it is a funding priority or not.

VOTE (86-2010)

Motion by Councilor Jean, seconded by Councilor Bernier:

That pursuant to Article VI, Section 6.07(d) of the City Charter, the City Council hereby approves the Order adopting the Fiscal Year 2011 Capital Improvement Program, as prepared by the City Administrator:

Whereas, the City Administrator has prepared and presented the FY 2011 Lewiston Capital Improvement Program to the City Council, the Planning Board, and the Finance Committee; and

Whereas, the Finance Committee and the Planning Board have reviewed the proposed plan and recommended its approval to the City Council subject to various comments and concerns raised by these groups during their discussions;

Now, therefore, be it Ordered By the City Council of the City of Lewiston that the FY2011 Lewiston Capital Improvement Program is hereby adopted.

Passed - Vote 7-0

**APPROVAL OF WAIVER OF BOND ISSUE LIMIT FOR THE LINCOLN STREET
PARKING GARAGE PROJECT**

Councilor Poulin inquired about the city's debt service for this item, and noted this ordinance requirement for a five vote minimum to override the bonded debt limit of the ordinance is in place for good reason, and he said he feels the city borrows too much money. He suggested this

could wait until the next fiscal year. Mr. Barrett stated the construction of the approved Lincoln Street parking garage cannot move forward without the waiver, since the construction does exceed the limit.

VOTE (87-2010)

Motion by Councilor Jean, seconded by Councilor Cayer:

Pursuant to Section 2-35 of the Revised Code of Ordinances, the City Council deems it necessary to waive the provisions of Section 2-34 of the Code in order to proceed with the authorization of bonds in the amount of \$4,965,000 for the Lincoln Street Parking Garage project.

Did Not Pass - Vote 4-3 (Councilors Morgan, Bernier and Poulin opposed)

(Note – Per the City Code, this waiver would require a minimum of five votes to be approved.)

City Attorney Eisenstein reminded the City Council in 2004 the city entered into a contract with Platz Associates for the redevelopment of the Bates Mill properties and under the obligations of the contract, the City needs to construct a parking garage, and if it is not done, the developer could say we are in default of the contract. Councilor Butler noted the Council approved building the garage, but is not approving the final funding and felt the Council is opening itself up to a lawsuit by not following through. Councilor Bernier stated that new information has come to the surface recently about the area developments. Councilor Morgan concurred, stating many new issues have arisen in the past few weeks. The Mayor said he does not like the selected location, but understands the contract needs.

VOTE (88-2010)

Motion by Councilor Butler, seconded by Councilor Cayer:

To reconsider the City Council’s action on the previous item regarding the wavier of the bonded debt limit for the Lincoln Street parking garage. Passed - Vote 5-2 (Councilors Bernier and Poulin opposed)

The motion regarding the waiver of the bonded debt limit is now automatically back on the floor for consideration: Pursuant to Section 2-35 of the Revised Code of Ordinances, the City Council deems it necessary to waive the provisions of Section 2-34 of the Code in order to proceed with the authorization of bonds in the amount of \$4,965,000 for the Lincoln Street Parking Garage project.

VOTE (89-2010)

Motion by Councilor Bernier, seconded by Councilor Morgan:

To enter into executive session to discuss a legal matter with the City Attorney.

Passed - Vote 7-0

Executive Session began at 9:15pm and ended at 10:15pm.

VOTE (90-2010)

Pursuant to Section 2-35 of the Revised Code of Ordinances, the City Council deems it

necessary to waive the provisions of Section 2-34 of the Code in order to proceed with the authorization of bonds in the amount of \$4,965,000 for the Lincoln Street Parking Garage project.

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

VOTE (91-2010)

Motion by Councilor Morgan, seconded by Councilor Poulin:

To suspend the City Council Rules and to add an item to the agenda at this time.

Passed - Vote 7-0

Peter Robinson of East Avenue questioned if there is enough available space to build the parking garage at this location with the Bates Mill 5 building still present, he asked about traffic concerns in the area. Bruce Damon of Buttonwood Lane noted that the issue of the fate of the Bates Mill Five building has been on the table for many years and the issue has been fully vetted, and the determination was to demolish the building. He stated he was concerned that this motion is being brought forth with no public notice and suggested the Council table this item to allow the public a chance to address it, especially after the Council is coming out of a long executive session. Administrator Barrett said the city has a contract to demolish the building and the contractor has been mobilizing equipment on site to begin the demolition on Monday. He reminded the Council if it is their intent to stop the demolition and if no action is taken, the demolition will move forward in six days.

VOTE (92-2010)

Motion by Councilor Morgan, seconded by Councilor Poulin:

To adopt the Order to Suspend Demolition of Bates Mill Building Number Five:

Whereas, Bates Mill #5 is currently scheduled for demolition; and

Whereas, subsequent to the decision to demolish the mill, questions arose as to whether the City has clear title to the property, as to which the City is in discussions with Bates Mill LLC, the holder of the mortgage to the property; and

Whereas, in addition, the proposed developers of a casino on the Bates Mill #5 site have expressed an interest in using the Mill building as the location for a casino; and

Whereas, recently improved state historic tax credits, when coupled with similar credits at the federal level, can cover up to 45% of the costs of restoring and reusing historic properties; and

Whereas, as the economy improves, such credits may provide an incentive for redevelopment of the mill either as a casino or for other purposes; and

Whereas, in recent discussions involving its Parking Agreement with the City, representatives of Bates Mill LLC have expressed support for retaining Mill #5; and

Whereas, Bates Mill LLC has also expressed a willingness to continue discussions with the City regarding the provision of appropriate and cost-effective parking resources on the

Bates Mill 5 property designed to support the overall redevelopment of the Bates Mill Complex;

Now, therefore, be it Ordered By the City Council of the City of Lewiston that demolition of Bates Mill #5 is hereby suspended and City staff is directed to take the necessary steps to implement this decision.

Passed - Vote 6-1 (Councilor Jean opposed)

APPROVAL OF DISPOSITION OF 84 LISBON STREET AND APPROVAL OF A JOINT DEVELOPMENT AGREEMENT WITH JULES R. PATRY AND THE CITY OF LEWISTON REGARDING THE PROPERTY AT 84 LISBON STREET

VOTE (93-2010)

Motion by Councilor Jean, seconded by Councilor Butler:

Be It Ordered by the City Council that the City Administrator be and hereby is authorized to dispose of the city owned property at 84 Lisbon Street, and to transfer the property at 84 Lisbon Street to Jules R. Patry according to the terms outlined in the Purchase and Sale Agreement, and to authorize the City Administrator to execute the Purchase and Sale Agreement and to enter into a Joint Development Agreement between Jules R. Patry and the City of Lewiston, and that the 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

CREATION OF A GRANTS ACCOUNTANT POSITION WITHIN THE ECONOMIC AND COMMUNITY DEVELOPMENT DEPARTMENT AND AUTHORIZATION TO USE COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM FUNDS FOR THE NEW EMPLOYEE POSITION

VOTE (94-2010)

Motion by Councilor Jean, seconded by Councilor Butler:

To authorize the creation of a Grants Accountant position within the Economic and Community Development Department, to authorize the City Administrator to hire for this position immediately, and to approve the use of Community Development Block Grant funds for this position. Passed - Vote 7-0

REPORTS AND UPDATES

Councilor Poulin stated the School Committee is busy with the budget preparation process and is currently reviewing plans for the replacement of the Superintendent due to his upcoming retirement.

OTHER BUSINESS

No other business was presented at this time.

EXECUTIVE SESSION

VOTE (95-2010)

Motion by Councilor Cayer, seconded by Councilor Morgan:

To enter into 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

Executive session began at 10:45pm and ended at 11:20pm

VOTE (96-2010)

Motion by Councilor Morgan, second by Councilor Butler:

To adjourn at 11:20P.M. Passed - Vote 7-0

A true record, Attest:

Kathleen M. Montejo, MMC
City Clerk
Lewiston, Maine