

CITY OF LEWISTON

CITY COUNCIL

NOVEMBER 14, 2006

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

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

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

Pledge of Allegiance to the Flag.

Moment of Silence.

UPDATE FROM THE LEWISTON YOUTH ADVISORY COUNCIL

Allison Beaucage stated the LYAC will be taking on the issue of underage drinking as a project for the new year and they will be working with the Middle School regarding program initiatives.

AUTHORIZATION TO ACCEPT TRANSFER OF FORFEITURE FUNDS

VOTE (260-2006)

Motion by Councilor Jean, seconded by Councilor Samson:

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 cash/currency in lieu of 68 Lake Street, Sabattus, Maine, or any portion thereof, in the case of US Department of Justice Drug Enforcement Administration vs. Angela Sargent, CE-05-0021, 06-DEA-471613; the transfer of \$713 or any portion thereof, in the case of US Department of Justice Drug Enforcement Administration vs. Leon Devon Payne, CR-06-202; the transfer of \$6,156.00 or any portion thereof, in the case of the State of Maine vs. Vodie Goodman, CR-06-998; the transfer of \$528.00 or any portion thereof, in the case of the State of Maine vs. Jeffery Lee Mosley, CR-06-1100; the transfer of \$1,445.00 or any portion thereof, in the case of the State of Maine vs. Deandre Debose, CR-06-635; and the transfer of \$2,945.00 or any portion thereof, in the case of the State of Maine vs. Duriel L. Shanks, CR-06-634. 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

APPROVAL OF NAME OF PRIVATE WAY AS BIG DEN'S WAY

VOTE (261-2006)

Motion by Councilor Jean, seconded by Councilor Samson:

To approve the request to formally name the private road off of 180 Dyer Road as “Big Den’s Way”. Passed - Vote 6-0

RESOLUTION TO VOTE THE SHARES OF THE CITY OF LEWISTON TO ADOPT, APPROVE AND ENTER INTO THE BYLAWS OF THE LEWISTON AND AUBURN RAILROAD COMPANY

VOTE (262-2006)

Motion by Councilor Jean, seconded by Councilor Samson:

To adopt the Resolution to vote the shares of the City of Lewiston to adopt, approve and enter into the Bylaws of the Lewiston and Auburn Railroad Company:

Whereas the Lewiston and Auburn Railroad Company (the “Railroad”) is a body corporate and politic originally organized pursuant to Chapter 88 of the Private and Special Laws of 1872 (the “Charter”);

Whereas the Charter was amended by the Legislature by Chapter 30 of the Private and Special Laws of 2006 to provide for the efficient management of the Railroad and to enhance its ability to foster economic development;

Whereas the Cities of Auburn and Lewiston (collectively the “Shareholders”) are the holders of all of the issued and outstanding shares of the Railroad;

Whereas the Charter vests the power to adopt bylaws of the Railroad in the Shareholders; and

Whereas the Shareholders have the requisite authority under the Charter and Section 743 of Title 13-C of the Maine Revised Statutes to enter into a shareholders’ agreement with respect to corporate governance;

Now Therefore Be It Resolved That:

The City of Lewiston shall, and hereby does vote the shares of the City of Lewiston to adopt, approve and enter into the Bylaws of the Lewiston and Auburn Railroad Company with Incorporated Shareholder Agreement, in the form attached hereto as Exhibit 1.

The City Administrator shall be and hereby is authorized and directed to execute the Unanimous Consent Resolution of the Shareholders adopting the Bylaws of the Lewiston and Auburn Railroad Company with Incorporated Shareholder Agreement in the form attached hereto as Exhibit 1.

Passed - Vote 6-0

**DISCUSSION REGARDING IMPACT OF PROPOSED COUNTY BUDGET AND
PROPOSED REDUCTION IN COUNTY SERVICES**

City Administrator James Bennett provided some background information regarding the proposed eleven percent increase in the county taxes this year. He also noted that the County Commissioners have proposed eliminating the transportation of prisoners but several municipal attorneys representing towns within the county disagree with the opinion from the Attorney General stating it is not the county's legal responsibility to provide this service. A written legal opinion from the municipal attorneys will be prepared in a few days.

Councilor O'Brien stated the county budget is not finalized yet, but that Lewiston and Auburn pay the largest percentage of the taxes. Councilor Paradis noted the City has maintained the level of taxes or decreased taxes due to hard work, eliminating personnel and budget and program cuts. Mr. Bennett reminded the Council that a lot of the services that the county provided must be provided per state law.

County Commissioner Patience Johnston read a prepared statement regarding the county budget process. She noted that spending has only increased by 2.92% and that the county employees are not receiving raises or step increases in this budget. She also noted the employees will be required to take 5 furlough days in the coming year.

Councilor Rousseau thanked Commissioner Johnson for speaking this evening. He said that the cost to the city to pay to transport prisoners would be very high. He suggested another review of the county budget for cuts in other areas. He noted that all towns have had to make cuts to their budget due to use issues as the proposed Palesky tax cap and TABOR. Councilor Jean asked what the budget increases are in other counties.

Councilor O'Brien questioned the time line of the county's budget process, noting the budget was completed on a Friday and the public hearing on the budget was held the following Monday. She noted it was a very short window of time for citizens to review the budget and ask questions.

Councilor Bernier said she is one of the three city representatives to the county budget committee, and she noted the meetings have been very tough and the committee has needed to make some very difficult decisions. She called the budget process brutal and sad. She noted the Commissioners presented a budget with staff cuts and furlough days built into it. She has concerns with employee safety. Councilor Bernier noted the City Council uses guiding principals when preparing their budget, one of which is public safety, making sure the public is safe. She said the Sheriff is scheduled to make his budget presentation to the budget committee tomorrow and it will include \$175,000 in cuts. She said the county needs to have professional staff to make decisions. Councilor Bernier said that she has requested that copies of the county budget be presented to all city councilors for their review.

Councilor Rousseau suggested the Commissioners must accept offers of help with the budget process and need the assistance of professional staff to advise them. She noted that elected officials should never close dialog or communication opportunities. Councilor Paradis said the county is in a mess right now and asked who is in charge of the count.

Councilor Bernier said there are serious problems at the county. She asked the Commissioners to take the budget back to review and rewrite and suggested again that professional staff is needed in the Commissioner's office.

AMENDMENTS TO THE STORM WATER UTILITY FEE SCHEDULE AND CREDIT POLICY

Councilor Paradis inquired about the bills for mobile homes located in parks and asked if the home owner or park owner would be receiving the bill. Mr. Bennett stated that each mobile home owner will receive the bill. Councilor Paradis also stated he does not believe the petition will gather 1000 signatures and suggested lifting the spending freeze and moving projects along. Councilor O'Brien said that the city should not be moving projects forward that involve expenditure of funds, noting the petition is valid and the signatures could be collected. Councilor Bernier noted it is a valid petition but it should not hold the city projects hostage. She suggested lifting the hiring freeze and spending on winter projects. Councilor Bernier suggested if the organizers would like to have a vote on the issue to have the Council put the item on the November 2007 ballot and instruct the City Administrator to operate as business as usual.

Resident Larry Poulin of 394 Sabattus St asked about the stormwater fee applying to empty lots in mobile home parks, noting it seemed unfair since there isn't a mobile home on the lot. The City Administrator explained how the program works, noting it is for impervious surfaces such as pavement and driveways that create runoff, as well as rooftops on buildings.

VOTE (263-2006)

Motion by Councilor Jean, seconded by Councilor Samson:

To approve the proposed amendments to the Storm Water Utility Fee Schedule and Credit Policy as recommended by the Director of Public Services and City Administration.

Passed - Vote 6-0

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

PUBLIC HEARING FORA LIQUOR LICENSE FOR THE VAULT

Mayor Guay opened the public hearing. No members of the public spoke for or against this item. Mayor Guay then closed the hearing. Councilor Paradis asked the Police Chief about the problems with the previous bar located at this site. The Chief said there were problems and he met with the owner on a weekly basis. The City Administrator suggested the new owner meet with the Chief before opening.

VOTE (264-2006)

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

To authorize the City Clerk' Office to approve a new liquor license application and special amusement permit for The Vault, 347 Lisbon Street. Passed - Vote 6-0

**PUBLIC HEARING FOR A LIQUOR LICENSE FOR THE GRIDION
RESTAURANT AND SPORTS BAR**

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

VOTE (265-2006)

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

To authorize the City Clerk's Office to approve a new liquor license application for the Gridiron Restaurant & Sports Bar, 1567 Lisbon Street. Passed - Vote 6-0

**PUBLIC HEARING FOR A LIQUOR LICENSE FOR MULLIGAN'S
INDOOR GOLF**

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

VOTE (266-2006)

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

To authorize the City Clerk's Office to approve a liquor license application for Mulligan's Indoor Gold, 1035 Lisbon Street. Passed - Vote 6-0

SPECIAL AMUSEMENT PERMIT FOR FISHBONES AMERICAN GRILL

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

VOTE (267-2006)

Motion by Councilor Samson, seconded by Councilor Paradis:

To grant a special amusement permit for dancing and entertainment to Fish Bones American Grill, 70 Lincoln Street. Passed - Vote 6-0

**PUBLIC HEARING FOR SPECIAL AMUSEMENT PERMIT FOR
SPORTSMAN'S ATHLETIC CLUB**

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

VOTE (268-2006)

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

To grant a special amusement permit for dancing and entertainment to Sportsman's Athletic Club, Inc., 2 Bates Street. Passed - Vote 6-0

**PUBLIC HEARING FOR AN OUTDOOR MUSIC CONCERT FOR THE HOLIDAY
TREE LIGHTING CELEBRATION**

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

VOTE (269-2006)

Motion by Councilor Jean, seconded by Councilor Samson:

To conduct a public hearing on an application for an outdoor music concert to be held at Courthouse Plaza on December 7, 2006 at 5:30pm, and to authorize a permit for an Outdoor Entertainment Event, as required by the City Code of Ordinances, Chapter 10, Article 1, Section 10-3, to the Downtown Holiday Celebration Committee for an outdoor music concert, contingent upon positive recommendations from the Police Department, Fire Department, Code/Land Use Officer and Code/Health Officer regarding compliance with all regulations, and compliance with all City ordinances. Passed - Vote 6-0

**FORMAL REQUEST TO PLANNING BOARD TO INITIATE AMENDMENTS TO
THE LAND USE CODE REGARDING ZONING REGULATIONS FOR CLASS A
LOUNGES AND DRINKING ESTABLISHMENTS ON PARK STREET**

Councilor O'Brien stated she requested that this item be placed on the agenda to allow for a review of the situation on Park Street. She noted that the bar owners have not taken significant responsibility for their patrons after they leave their establishments and there have been problems for the residents of Oak Park. Councilor Paradis suggested imposing an 11pm closing time on the bars until the Planning Board can make their review. Councilor O'Brien spoke against this, saying she would prefer that the Planning Board review this issue with the two bar owners and she wants to see the bar owners responsible. The Police Chief said that he and his officers do meet with the bar owners on a regular basis and he suggested that residents of Oak Park need to call the police if there are problems with noise, loitering, vandalism and so forth. The Chief said there are issues in this area every Thursday, Friday and Saturday nights for three to four hours and it ties up officers. Councilor Jean said it is unwise for the Planning Board to review this item and that the police department needs to work with the bar owners to resolve the issues.

Councilor Rousseau said that these issues come up all of the time, and the problem is the need for balance. He noted that people have made investments in the buildings yet it can not create a problem for the elderly. He noted that part of the problem is the growth of the community in this area.

Aja Stevens-Bell, owner of The Blue Elephant, said that he has been meeting with officers for the past eight to ten weeks and has made a lot of changes and improvements in that time. He said a major improvement is moving the outside smoking area from the front to the back which has helped with noise, loitering, etc. Carmine Cartonio, owner of Club Adrenaline, said that he researched the area before opening up the club at this site. He stated that his bouncers frequently walk patrons to their cars to ensure they are not disruptive as they are leaving. He noted there has only been one fight at the club and no problems with guns.

Douglas Pappas of 98 Pine Street said the problem is the elderly housing is located near two clubs and suggested waiting to see if the problem is fixed with the Planning Board. Jonathan LaBonte of Auburn stated that prohibiting the bars will not solve the problem and the Council needs to look at the bigger picture and have a discussion of the entire Park Street area with the stakeholders such as residents of Oak Park, the business owners, etc. Steve Sobel, owner of 37 Park Street, mentioned that the police department commended the Blue Elephant on its operation of the bar and that he will be meeting with resident of Oak Park and the police to work to find a solution.

VOTE (270-2006)

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

To request that the Planning Board review and consider changes to the Land Use Code regarding zoning regulations for Class A Lounges and drinking establishments on Park Street. Passed - Vote 4-2 (Councilors Jean and Rousseau opposed)

DISCUSSION REGARDING FUTURE MEETING WITH THE LEWISTON LEGISLATIVE DELEGATION

The City Administrator reminded the Council that the Lewiston state legislative delegation has been invited to attend a workshop next Tuesday to review the list of five proposed legislative initiatives regarding property tax issues. Councilor Rousseau suggested inviting the Auburn City Council and Auburn delegation as well.

REPORTS AND UPDATES

No reports or updates were presented at this time.

OTHER BUSINESS

The Council was reminded of the November 20 joint workshop with Auburn where they will discuss the county dispatch issue and the county budget.

Resident David Hughes of 34 Howe Street said that he has concerns regarding comments made at the previous Council meeting that the stormwater petition he and nine other residents started was just for politics and political attention. He stated this was not the case, and when it became clear the Council had no plan to deal with issues if the petition did gather the required signatures, his group discouraged people from coming in to sign it.

EXECUTIVE SESSIONS

VOTE (271-2006)

Motion by Councilor Paradis, seconded by Councilor Jean:

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 6-0

VOTE (272-2006)

Motion by Councilor Paradis, seconded by Councilor Bernier:

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 6-0

VOTE (273-2006)

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

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 6-0

VOTE (274-2006)

Motion by Councilor Bernier, second by Councilor Jean:

To adjourn at 10:45 P.M. Passed - Vote 6-0

A true record, Attest:

Kathleen M. Montejo, CMC
City Clerk
Lewiston, Maine