

CITY OF LEWISTON

CITY COUNCIL

JANUARY 4, 2005

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, Connors, Paradis, Rousseau, City Administrator James Bennett and City Clerk Kathleen Montejo. Councilor Mendros arrived at 7:35pm.

Pledge of Allegiance to the Flag.
Moment of Silence.

VOTE (1-2005)

Motion by Councilor Paradis, seconded by Councilor Jean:

To dispense with the reading of the minutes of the December 7, 2004, meeting and to accept and place them on file as prepared by the City Clerk. Passed - Vote 6-0

BIENNIAL APPOINTMENT OF REGISTRAR OF VOTERS

VOTE (2-2005)

Motion by Councilor Jean, seconded by Councilor Paradis:

To appoint City Clerk Kathleen M. Montejo as the Registrar of Voters for a two-year term of January 1, 2005 to December 31, 2006. Passed - Vote 6-0.

**MUNICIPAL/STATE PROJECT AGREEMENT FOR
ALFRED A. PLOURDE PARKWAY**

VOTE (3-2005)

Motion by Councilor Jean, seconded by Councilor Paradis:

To authorize the City Administrator to enter into the Municipal/State Project Agreement with the Maine Department of Transportation regarding Phase II of the Alfred A. Plourde Parkway Project. Passed - Vote 6-0

AUTHORIZATION TO ACCEPT TRANSFER OF FORFEITURE FUNDS

VOTE (4-2005)

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 \$665.00, or

any portion thereof, in the case of the State of Maine vs. Barry Wright, CR-04-163 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

APPROVAL OF NAME OF PRIVATE ROAD AS PARENT LANE

VOTE (5-2005)

Motion by Councilor Jean, seconded by Councilor Paradis:

To approve the request to formally name the private right of way off of No Name Pond Road as “Parent Lane”. Passed - Vote 6-0

AMENDMENT TO TRAFFIC SCHEDULE FOR ORANGE STREET

VOTE (6-2005)

Motion by Councilor Jean, seconded by Councilor Paradis:

To approve the following amendments to the Traffic Schedule regarding parking regulations on Orange Street:

Section 31 - Parking Time Regulated, 2 Hours, 9:00am to 6:00pm

~~ORANGE STREET Even numbered side westerly side beginning at a point 25 feet from the intersection of Orange Street and Sabattus Street and extending southerly on Orange Street a distance of 355 feet.~~

ORANGE STREET Even numbered side, westerly side, beginning at a point 150 feet from the intersection of Orange Street and Sabattus Street and extending southerly on Orange Street for a distance of 205 feet.

Passed - Vote 6-0

AMENDMENT TO TRAFFIC SCHEDULE FOR WEBSTER STREET

Mayor Guay invited members of the public to comment. Mark Beaulé, 705 Webster Street, addressed the Council in support of these changes, noting that there have been issues with cars parking on the street and blocking driveways, also mentioning safety concerns with pedestrians. Denise Blanchette, 715 Webster Street, also spoke in support, stating that she owns the variety store and it is very difficult to get in and out of the parking lot with cars parked on both sides of the street, and also cited safety concerns.

VOTE (7-2005)

Motion by Councilor Jean, seconded by Councilor Paradis:

To adopt the following amendment to the Traffic Schedule to regulate parking on a portion of Webster Street:

Section 44 - Parking Restricted - No Parking Anytime - Hazardous or Congested Places

WEBSTER STREET

Both sides of Webster Street from the intersection of the Alfred Plourde Parkway to the intersection of Pond Road.

Both sides of Webster Street, from a point located at the northeast and southeast corners of the intersection of Pond Road and Webster Street extending easterly for a distance of 100 feet.

Section 9 - Parking Prohibited - All Times - Fire Lanes

~~WEBSTER STREET~~

~~Even numbered side northeasterly side between Mitchell Street and Pond Road.~~

~~Odd numbered side southwesterly side beginning at a point 175 feet from a point directly across from the northeasterly corner of Webster Street and Pond Road and extending westerly on Webster Street a distance of 270 feet.~~

Passed - Vote 6-0

PUBLIC HEARING & FINAL PASSAGE FOR BUSINESS LICENSE ORDINANCE AMENDMENT REGARDING AUTOMOBILE GRAVEYARDS

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

VOTE (8-2005)

Motion by Councilor Jean, seconded by Councilor Connors:

That the proposed amendment to the City Code of Ordinances, Chapter 22 “Businesses”, Article III “Automobile Graveyards and Junkyards”, Section 22-73 “Definitions” receive final passage by a roll call vote. Passed - Vote 6-0

PUBLIC HEARING & FINAL PASSAGE FOR LAND USE CODE AMENDMENT REGARDING AUTOMOBILE GRAVEYARDS

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

VOTE (9-2005)

Motion by Councilor Jean, seconded by Councilor Connors:

That the proposed amendment to Appendix A, Article II “Definitions”, Section 2, “Definitions”, of the City Zoning and Land Use Code, concerning automobile graveyards, receive final passage by a roll call vote. Passed - Vote 6-0

**PUBLIC HEARING & FINAL PASSAGE FOR LAND USE CODE AMENDMENT
REGARDING FRONTAGE IN SUBDIVISIONS**

Mayor Guay opened the public hearing to receive citizen input and comment. No members of the public spoke for or against this item. Mayor Guay then closed the hearing. City Planner David Hediger reviewed various subdivisions on a map as an example to illustrate the proposed changes.

VOTE (10-2005)

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

That the proposed amendment to Appendix A, Article II "Definitions", Section 2, "Definitions", of the City Zoning and Land Use Code, concerning required frontage for right of ways within subdivisions, receive final passage by a roll call vote.

Passed - Vote 5-1 (Councilor Bernier opposed)

**PUBLIC HEARING REGARDING ADOPTION OF BOND RESOLUTION FOR
FOSS ROAD LLC/EMERGENCY VEHICLES OF MAINE PROJECT**

Mayor Guay opened the public hearing to receive citizen input and comment. Mr. Pollard, owner of the company, stated their business manufactures fire apparatus and has been in business since January 1996. Mayor Guay then closed the hearing. Finance Director Richard Metivier explained that for this bond, the City will act as the issuer to serve as a vehicle for the tax exempt status, but the City is not responsible for the bond should anything negative happen with this project. The City Administrator stated it is tax exempt for purposes of debt interest payments only, but not for property tax purposes or any other taxes.

VOTE (11-2005)

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

That the Bond Resolution of the Municipal Officers of the City of Lewiston, Maine, authorizing the issuance of \$1,400,000 in Revenue Obligation Securities, (Foss Road LLC/Emergency Vehicles of Maine project) and authorizing and approving the bond documents, be adopted:

**FINDINGS OF FACT AND BOND RESOLUTION OF THE MUNICIPAL OFFICERS OF
THE CITY OF LEWISTON, MAINE, AUTHORIZING THE ISSUANCE OF \$1,400,000 IN
REVENUE OBLIGATION SECURITIES, (2005 FOSS ROAD, LLC PROJECT) AND
AUTHORIZING AND APPROVING THE BOND DOCUMENTS**

WHEREAS, the Finance Authority of Maine Act, 10 Maine Revised Statutes Annotated, Ch. 110, §§ 961 et seq. (the "Act"), authorizes and empowers the City of Lewiston, Maine (the "Municipality") to acquire, construct, reconstruct, renew and replace or provide financing for eligible projects within the corporate limits of the Municipality, to acquire or enable a user to acquire and dispose of such projects and to make and enter into all financing documents and contracts necessary or convenient to carry out each such power; and

WHEREAS, the Act authorizes and empowers the Municipality to issue its revenue obligation securities to pay the cost of or provide financing for acquiring, construction, reconstructing, renewing and replacing eligible projects; and

WHEREAS, the Act authorizes the municipal officers of the Municipality to provide, by a resolution adopted by the vote of said municipal officers, for the issuance of the Municipality's revenue obligation securities upon receipt of the Certificate of Approval issued by the Finance Authority of Maine; and

WHEREAS, a Certificate of Approval has been or is soon expected to be issued by the Finance Authority of Maine; and

WHEREAS, the Act provides that the revenue obligation securities of the Municipality shall not constitute any debt or liability of the State of Maine or any municipality therein or any political subdivision thereof or a pledge of the faith and credit of the State of Maine or of any such municipality or political subdivision, but shall be payable solely from revenues of the project for which they are issued, and that the issuance of such securities shall not directly or indirectly or contingently obligate the State of Maine or any municipality or political subdivision thereof to levy or to pledge any form of taxation whatsoever therefore or to make any appropriation for their payment; and

WHEREAS, Foss Road, LLC, a Maine limited liability company (the "Borrower") desires to finance the building of an approximately 17,508 square foot manufacturing facility and the acquisition and installation of certain manufacturing machinery and equipment all located at or about lot 7-A in the Foss Road Business Park, 23 Foss Road, Lewiston, Maine and all to be leased to Emergency Vehicles of Maine, Inc., a Maine corporation, for the manufacture of emergency vehicles (the "Project"); and

WHEREAS, the Borrower wishes the Municipality to issue the Municipality's revenue obligation security or securities, to be designated "City of Lewiston, Maine Revenue Obligation Security, (2005 Foss Road, LLC Project)" in an aggregate principal amount not to exceed \$1,400,000 (the "Bonds") to finance the construction of the facility and the acquisition and installation of the machinery, equipment, furniture and fixtures of the Project; and

WHEREAS, the Borrower wishes to finance the Project by borrowing from the Municipality; and

WHEREAS, the City Council acting as the "applicable elected representative" of the City has held a public hearing at 7:00 p.m. on January 4, 2005 after reasonable public notice published on or before December 20, 2004 in the Lewiston Sun Journal which paper is of general circulation in the City, about the proposed issue of the Bonds for the Project as required by the Internal Revenue Code of 1986, as amended, 26 U.S.C. §147(f)(2), and regulations thereunder;

NOW, THEREFORE, AFTER PUBLIC HEARING BE IT RESOLVED BY THE MUNICIPAL OFFICERS OF THE CITY OF LEWISTON, MAINE AS FOLLOWS:

Section 1. The Municipal Officers hereby find and determine that:

(a) The Municipality is a duly organized municipality of the State of Maine and the Municipal Officers are the duly elected municipal officers of the Municipality; and

(b) The Act authorizes and empowers the Municipality to finance the construction of the facility and acquisition and installation of machinery, equipment, furniture and fixtures of the Project, and to issue the Bonds to finance the Project; and

(c) The Act authorizes the Municipality to enter into financing documents including security agreements, mortgages, contracts and trust agreements, including, without limitation, a certain Loan Agreement, and all other contracts and agreements which are necessary or convenient to the exercise of its powers under the Act (the "Bond Documents"); and

(d) A Certificate of Approval has been or is soon expected to be issued to and received by the Municipality as required by the Act, which Certificate authorizes the Municipality to proceed to issue the Bonds to finance the Project; and

(e) The proceeds of the Bonds in an aggregate principal amount not to exceed \$1,400,000 will be required and will be sufficient to pay the estimated cost of the Project.

Section 2. Pursuant to the Act, the issuance by the Municipality of the Bonds in the principal amount of \$1,400,000 is hereby authorized. The Bonds shall be designated "City of Lewiston, Maine Revenue Obligation Security, (2005 Foss Road, LLC Project)." The proceeds of the Bonds shall be used to finance the construction of the facility and the acquisition and installation of machinery, equipment, furniture and fixtures of the Project. The proceeds of the Bonds, if and when issued by the Municipality, shall be loaned to the Borrower to finance the Project. Nothing herein shall obligate the Municipality to issue the Bonds, which shall be issued in the sole discretion of the Municipality.

Section 3. The Municipal Officers of the Municipality hereby authorize and approve the execution, acknowledgment and delivery by the Finance Director of the Bond Documents in connection with the Project, in such form as he may approve by his execution thereof. The Municipal Clerk is hereby authorized and directed to attest to the Municipality's execution of the Bond Documents as necessary and to affix the official seal of the Municipality thereto as necessary.

Section 4. The Bonds shall be in substantially the form submitted to the Municipality for approval and shall contain such other terms and provisions not inconsistent therewith as may be approved by the Finance Director by execution thereof. The Municipal Clerk is hereby authorized and directed to attest to the Municipality's execution of the Bonds and to affix the official seal of the Municipality thereto.

Section 5. The Bonds shall be and shall contain on their face a statement to the effect that the Bonds are a limited obligation of the Municipality and shall not constitute any debt or liability of the State of Maine or any municipality therein or any political subdivision thereof or a pledge of the faith and credit of the State of Maine or of any such municipality or political subdivision, but shall be payable solely from revenues of the project for which it is issued; and the issuance of the Bonds shall not directly or indirectly or contingently obligate the State of Maine or any municipality or political subdivision thereof to levy or to pledge any form of taxation whatever therefor or to make any appropriation for their payment.

Section 6. If any of the officers or officials of the Municipality who have signed or sealed the Bonds shall cease to be such officers or officials before the Bonds so signed and sealed shall have been actually authenticated or delivered by the Municipality, the Bonds nevertheless may be authenticated, issued and delivered with the same force and effect as though the person or persons who signed or sealed the Bonds had not ceased to be such officer or official; and also the Bonds may be signed and sealed on behalf of the Municipality by those persons who, at the actual date of the execution of the Bonds, shall be the proper officers and officials of the Municipality, although at the nominal date of the Bonds any such person shall not have been such officer or official.

Section 7. That the Borrower shall pay expenses incurred by the City with respect to the issuance of the Bonds as more particularly described in the Inducement Order earlier enacted. The Borrower shall further agree to release and indemnify the City as more particularly described in the Inducement Order.

Section 8. The Municipality reserves the right, but does not hereby obligate itself, to issue additional bonds for the purposes and upon the conditions set forth in the Bond Documents.

Section 9. The Finance Director is hereby authorized and empowered to do all such acts and things, and to negotiate execute, deliver, file and record all such financing documents, contracts, deeds, assignments, certificates, memoranda, abstracts and other documents as may be necessary or advisable, with the advice of counsel for the Municipality, to carry out the provisions of the resolution heretofore adopted at this meeting in connection with the Project, the execution, sale and delivery by the Municipality of the Bonds and the execution and delivery of the Bond Documents.

Section 10. The Finance Director be and hereby is authorized to covenant, certify, and agree, on behalf of the City for the benefit of the holders of such Bonds, that the City, at the expense of the Borrower and if requested in writing by the Borrower, will file any required report and take any other action that may be necessary to insure that interest on the notes will remain exempt from federal income taxation, and that the City will refrain from any action that would cause interest on the notes to be subject to federal income taxation.

Section 11. The Municipal Clerk is hereby authorized and directed to cause a true copy of the form of Notice of Intent to Issue Revenue Obligation Securities, City of Lewiston, Maine, which is before the Council at this meeting and attached hereto and incorporated

herein, and a copy of the Certificate of Approval of the Finance Authority of Maine, to be published no later than fourteen (14) days after the date hereof in the Lewiston Sun Journal, a newspaper of general circulation in the Municipality, and in the Kennebec Journal, the state newspaper of the State of Maine. Such publications shall constitute the notice of intent to issue the Bonds required by the Act.

Passed - Vote 6-0

SPECIAL AMUSEMENT PERMIT FOR LEGENDS, 1567 LISBON STREET

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

VOTE (12-2005)

Motion by Councilor Jean, seconded by Councilor Connors:

To grant a special amusement permit for dancing and entertainment to Legends, 1567 Lisbon Street. Passed - Vote 6-0

**SPECIAL AMUSEMENT PERMIT FOR FRATERNAL ORDER OF EAGLES,
1327 SABATTUS STREET**

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

VOTE (13-2005)

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

To grant a special amusement permit for dancing and entertainment to the Fraternal Order of Eagles, 1327 Sabattus Street. Passed - Vote 6-0

Councilor Mendros arrived at this time.

**REQUEST FROM THE FESTIVAL DE JOIE COMMITTEE FOR FINANCIAL
SUPPORT AND USE OF CITY SERVICES**

Mayor Guay recused himself from the item due to a conflict of interest and Council President Bernier lead the meeting for this issue. Councilors discussed the issue of festival goers paying for use of the parking garages and the donation structure, noting there have been issues in the past with other festivals. Assistant City Administrator Phil Nadeau reminded the Council that the City now has a policy in place to address this issue, and that festival organizers must submit applications for the use of these facilities, along with the guidelines that their group will be using for the collection of parking fees.

VOTE (14-2005)

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

To approve the request from the Festival de Joie Committee for the use of city services for the Festival to be held August 5, 6 and 7, 2005 at Railroad Park, Oxford Street, including a downtown prelude on August 3, 2005, and to pledge to include \$4,000.00 in the upcoming 2005-2006 fiscal year budget in support of the Prelude:

The City Council authorizes the City Administrator to work with the Festival de Joie Committee to ensure the City's support of the Festival de Joie and to coordinate with the Festival organizers the following City services, subject to any limitations that may be challenging due to physical or financial limitations:

- 1) Use of Railroad Park, subject to availability and completion of appropriate forms with the Rec Dept.
- 2) Fencing around Festival area including food tent and main tent.
- 3) Dumpster for trash and waiver of tipping fees.
- 4) Tables and chairs from the Multi-Purpose Center and the Armory, to be delivered to Railroad Park.
- 5) Police security for the Prelude and Festival, available at the discretion of the Chief of Police.
- 6) Installation and removal of dance floors, installation of stage main tent, and portable stages at Prelude.
- 7) Traffic barricades and signs, to be installed at the discretion of the Police Department and Public Works Department.
- 8) Use of the City's cherry picker to install electrical wiring between tents.
- 9) Transportation of two 40 foot box trailers to and from festival grounds.
- 10) Prelude 2005, closing of Lisbon Street from Main Street to Chestnut Street, and all adjoining streets, between the hours of 5:00pm - 10:30pm, August 3, 2005, subject to the discretion of the Chief of Police for public safety issues.
- 11) Use of Kennedy Park and Courthouse Plaza, if necessary, subject to availability and completion of appropriate forms with the Recreation Dept.
- 12) The City Council supports the request from the Festival de Joie Committee to ask for the participation of the Lewiston High School Band for the Prelude parade and encourages the Lewiston School Committee to support these requests from the Festival organizers.
- 13) City Councilors serving at the Bean Supper on Saturday, August 6, 2005 from 4:30pm to 5:30pm.
- 14) Use of electricity and city electrician during Prelude 2005.
- 15) Posting streets for no parking during Prelude, subject to the discretion of the Chief of Police and Director of Public Works.
- 16) Cleaning Lisbon Street including sidewalks and supplying trash receptacles.
- 17) The establishment of a buffer zone for vendors. All vendors will need Festival approval to participate in the Festival and Prelude. A description and map of the buffer zone shall be provided to the City Clerk's Office no later than six weeks prior to the Prelude.
- 18) Fire, Police and Public Works department vehicle participation in the Prelude parade.
- 19) Financial support for the Prelude in the amount of \$4,000.00, subject to final budget adoption.

- 20) Free use of City owned parking areas along Lincoln Street and adjacent streets, including the Chestnut Street parking garage, such use of the parking areas shall be done in accordance with the Facilities Use Policy.
- 21) Waiver of license fees for non-profit vendors.

Passed - Vote 7-0

The Mayor rejoined the Council at this time and lead the meeting.

REPORTS AND UPDATES

Councilor Bernier reminded Councilors that the county budget is currently being prepared and there is a budget hearing on Thursday night. The City Administrator reviewed with the Council the list of upcoming meetings and events over the next few weeks.

OTHER BUSINESS

No other business was presented at this time.

VOTE (15-2005)

Motion by Councilor Jean, second by Councilor Connors:

To adjourn at 8:25 P.M. Passed - Vote 7-0

A true record, Attest:

Kathleen M. Montejo, CMC
City Clerk
Lewiston, Maine