

CITY OF LEWISTON

CITY COUNCIL

APRIL 5, 2005

**EXECUTIVE SESSION HELD IN THE
EXECUTIVE CONFERENCE ROOM AT 6:00 P.M.**

THE HONORABLE LIONEL C. GUAY, MAYOR, PRESIDING.

PRESENT: Councilors Mendros, Bernier, O'Brien, Jean, Connors, Paradis, Rousseau, Assistant City Administrator Phil Nadeau, and City Clerk Kathleen Montejo.

The City Council meeting was called to order by Mayor Guay at 6:00 pm in a public session.

VOTE (104-2005)

Motion by Councilor Connors, seconded by Councilor Paradis:

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

Passed - Vote 7-0

Executive Session began at 6:03pm and ended at 6:55pm.

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

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

PRESENT: Councilors Mendros, Bernier, O'Brien, Jean, Connors, Paradis, Rousseau, Assistant City Administrator Phil Nadeau, and City Clerk Kathleen Montejo

Pledge of Allegiance to the Flag.

Moment of Silence.

MONTHLY REPORT FROM THE LEWISTON YOUTH ADVISORY COUNCIL

Two representatives from LYAC addressed the Council and stated they are working hard to raise funds for two electronic informational boards that will be posted at both entrances to the high school on East Avenue. They said they have applied to receive a youth grant from the LIBRA Future Fund. Applications to apply for membership in LYAC are currently available and are due in May. They will be participating in the March of Dimes walk-a-thon.

VOTE (105-2005)

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

To dispense with the reading of the minutes of the November 16, 2004 and January 4, 2005 meetings and to accept and place them on file as prepared by the City Clerk.

Passed - Vote 7-0

AUTHORIZATION TO ACCEPT TRANSFER OF FORFEITURE FUNDS

VOTE (106-2005)

Motion by Councilor Jean, second 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 \$4,253.70, or any portion thereof, in the case of the State of Maine vs. Joseph Darling, CE-03-0010-2-1 Court Records; the transfer of \$1,326.30, or any portion thereof, in the case of the State of Maine vs. Larry Maher, CE-04-0035 and 04-DEA-439444 Court Records; the transfer of \$778.00, or any portion thereof, in the case of the State of Maine vs. Charles St. Pierre, CE-05-0012 and 05-DEA-448183 Court Records; and the transfer of twenty percent of the proceeds from the sale of a 1996 Ford Mustang GT Convertible, or any portion thereof, in the case of the State of Maine vs. Louise Patnaude, CE-04-0023 and 05-DEA-448175 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 7-0

AMENDMENTS TO THE PERSONNEL POLICY REGARDING THE APPOINTMENT AND PROMOTIONS PROCESS IN THE FIRE DEPARTMENT

VOTE (107-2005)

Motion by Councilor Jean, second by Councilor Rousseau:

To approve the amendment to the Personnel Policies regarding the appointment and promotions process in the Fire Department, to be effective as of February 24, 2005, as recommended by the Personnel Board and the Human Resources Director.

Passed - Vote 7-0

RESOLUTION FOR SUPPORT FOR THE CONTINUATION OF THE COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM

VOTE (108-2005)

Motion by Councilor Jean, second by Councilor Rousseau:

To adopt the Resolution entitled Support for the Continuation of the Community Development Block Grant Program:

LET IT BE KNOWN TO ALL PERSONS that the President's FY06 budget is proposing to eliminate the Community Development Block Grant (CDBG) Program as currently established under the United States Department of Housing and Urban Development (HUD). Restoring 50% of this funding through a new program under the United States Department

of Commerce will have a detrimental effect on our community. Therefore, the City Council of the City of Lewiston hereby passes the following Resolution:

BE IT RESOLVED that the Community Development Block Grant program exists to assist communities such as ours in meeting three national objectives: (1) benefit to low-to-moderate-income persons; (2) elimination of slum-blight conditions; and (3) urgent needs. These important objectives are a fundamental part of our society. The development of viable communities by providing decent housing and a suitable living environment and expanding economic opportunities, particularly for persons of low and moderate income, is a priority for the City of Lewiston.

BE IT FURTHER RESOLVED that the City of Lewiston shall publicize this resolution and submit written communication to it's state and federal delegations regarding the negative impact the loss of Community Development Block Grant funds will have on our community. Since 1974, the City of Lewiston has received funding as an Entitlement Community through the CDBG Program for projects ranging from downtown revitalization and planning to housing rehabilitation and business incubation, totaling over \$30 million. Without this program, future community and economic development projects in our community would be challenged at best, forfeited at worst.

Passed - Vote 7-0

PUBLIC HEARING AND FINAL PASSAGE FOR RE-ZONING 338 EAST AVENUE

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

VOTE (109-2005)

Motion by Councilor Jean, second by Councilor Paradis:

That the proposed amendment to re-zone the property at 338 East Avenue from the Neighborhood Conservation "A" (NCA) District to the Office Residential (OR) District, receive final passage by a roll call vote.

Passed - Vote 5-2 (Councilors Bernier and O'Brien opposed.)

**PUBLIC HEARING AND FIRST PASSAGE FOR AN AMENDMENT TO THE
CONDITIONAL REZONING AGREEMENT FOR 1046 MAIN STREET**

Mayor Guay opened the public hearing to receive citizen input and comment. No members of the public spoke for or against this issue. Mayor Guay then closed the hearing. Councilor Paradis asked if any citizens spoke at the Planning Board public hearing regarding this matter. City Planner David Hediger stated that one neighbor spoke and expressed concerns regarding potential increased noise and lighting. The new owner stated these will not be a problem and will limit these nuisance items.

VOTE (110-2005)

Motion by Councilor Jean, second by Councilor Rousseau:

To approve first passage for the amendment to the conditional rezoning agreement for 1046 Main Street, to conditionally rezone the property to allow new and used automobile dealers as a permitted use, subject to the conditions defined in the rezoning agreement.

Passed - Vote 7-0

**PUBLIC HEARING ON A LIQUOR LICENSE FOR KORN-HAUS-KELLER,
1472 LISBON STREET**

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

VOTE (111-2005)

Motion by Councilor Connors, second by Councilor Mendros:

To authorize the City Clerk's Office to approve a liquor license application for Korn-Haus-Keller, 1472 Lisbon Street. Passed - Vote 7-0

**PUBLIC HEARING FOR LIQUOR LICENSE AND SPECIAL AMUSEMENT
PERMIT FOR CONFETTI'S RESTAURANT & LOUNGE, 855 LISBON STREET**

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

Councilor Paradis noted that there have been issues in the past with businesses that Mr. Fournier has been involved with, yet he recognizes that Mr. Fournier had a business partner during these business ventures and he will not be operating with the same business partner in the future. Councilor Paradis stated he will be voting to approve this license based upon the recommendation of the Police Chief. He asked the City Clerk to read into the record the following excerpt from the Chief's letter regarding the business license for Confetti's:

"...the majority of the issues (from the previous business) occurred after midnight and were mainly due to very large crowds and alcohol consumption. It has been our experience when dealing with Mr. Fournier that he is responsive to our concerns. When there were problems that he could control he made efforts to do such as hiring police officers and additional private security to deal with crowd control.

Mr. Fournier was spoken to about these issues and he states that he is aware of past problems and believes that this new venue, Confetti's Restaurant and Lounge, is much different than the previous establishments and will be geared towards food service and entertainment such as comedy shows.

He has made significant renovations at 855 Lisbon Street to disassociate Confetti's Restaurant and Lounge from the previous business, Rock n' Robins. He feels that there is a

need for another restaurant in the area and his goal is to attract a more family oriented customer base.”

Councilor O’Brien inquired about the hours of operation. Matt Fournier stated they will be open seven days a week from 11am to closing, and that closing time will vary between 11pm and 1am, depending upon the crowd. Councilor Mendros asked about the entertainment and Mr. Fournier said they are planning to hold a comedy night each Friday night in addition to having live events twice a week such as a pianist and vocalist, and he will also be installing wireless internet technology for customers. Mr. Fournier said he is planning to have the atmosphere to be similar to Gipper’s Sports Pub, and to serve food such as hamburgers, club sandwiches and appetizers.

VOTE (112-2005)

Motion by Councilor O’Brien, second by Councilor Jean:

To authorize the City Clerk’s Office to approve a new liquor license application and special amusement permit for Confetti’s Restaurant & Lounge, 855 Lisbon Street.

Passed - Vote 7-0

**PUBLIC HEARING FOR SPECIAL AMUSEMENT PERMIT FOR WARDEN’S
BAR & GRILL, 703 SABATTUS STREET**

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

VOTE (113-2005)

Motion by Councilor Jean, second by Councilor Mendros:

To grant a special amusement permit for dancing and entertainment to the Warden’s Bar & Grill, 703 Sabattus Street. Passed - Vote 7-0

**EXCHANGE OF EASEMENTS WITH FRANKLIN PROPERTY TRUST IN
SUPPORT OF THE NORTHEAST BANK OFFICE BUILDING**

VOTE (114-2005)

Motion by Councilor Connors, second by Councilor Jean:

To approve the exchange of easements between the City of Lewiston and Franklin Property Four, Inc., to authorize the City Administrator to execute the necessary documents to grant and accept the easements in form substantially similar to what has been presented, and that the City Administrator be and hereby is authorized to make, execute and deliver other such documents as he, in his discretion, may deem necessary or convenient to the accomplishment of such transaction. Passed - Vote 7-0

REVIEW OF REQUESTS FOR PROPOSAL REGARDING DISPOSITION OF CITY OWNED PROPERTIES AND POTENTIAL DISPOSITION OF PROPERTIES

568 OLD GREENE ROAD

Councilor Rousseau stated that he researched the issues regarding the property at Old Greene Road after the previous Council meeting. He said that a statement was made by Mr. Arel at the last Council meeting that this parcel of land is the only way the City can access some back property that is a wetland area, and this statement was not completely accurate after reviewing the property maps. Councilor Paradis noted that Mr. Arel contacted each Councilor requesting an opportunity to address them at the meeting, and Mr. Arel was invited to do so at this time. Mr. Arel stated that he has submitted a bid of \$10,000 for the Old Greene Road property and that he can not afford to offer anymore, noting the land is only valued at \$10,000. He said he knows the city needs this property to access the back wetland and he needs this property to serve as an access road for his land. He said he has 328 acres that could be developed into 150-200 house lots, and this land would serve as an access point. He reminded Councilors what happened yesterday when Old Farm Road washed out and caused a few residential properties and two businesses to be isolated from access into town.

VOTE (115-2005)

Motion by Councilor Rousseau, second by Councilor Jean:

To approve the staff recommendation to accept the offer by Atlantic Holdings LLC for the purchase of property at 568 Old Greene Road in the amount of \$41,000 and to authorize the City Administrator to execute the appropriate purchase and sales agreement.

Passed - Vote 5-2 (Councilors Bernier and O'Brien opposed.)

At this time, Councilor Bernier inquired about reverter clauses and if any reverter clauses will be included in the purchase and sale agreements. Assistant City Administrator Phil Nadeau stated that these were not included. Councilor Bernier felt it was important to have Council authorize a statement that any outstanding payments owed to the City by the purchaser of any of these properties be settled prior to the purchase of these parcels.

VOTE (116-2005)

Motion by Councilor Bernier, second by Councilor Paradis:

To require that any outstanding debts owed to the City by the purchasers of these parcels be settled prior to the execution of the purchase and sale agreements for these properties.

Passed - Vote 7-0

27A MARTIN DRIVE

Abutters Mr. Fortier and Mr. Payne inquired about the nature of the easements and drainage issues from the property at 27A Martin Drive. Assistant City Administrator Phil Nadeau asked them to contact his office and he in turn will put them in touch with Public Works to look into the drainage problems.

VOTE (117-2005)

Motion by Councilor Mendros, second by Councilor Paradis:

To approve the staff recommendation to retain ownership of the parcel at 27A Martin Drive, and to authorize city staff to prepare easements to the abutting property owners for this parcel and to approve said easement agreements. Passed - Vote 7-0

11 TALL PINES DRIVE

The staff recommendation for this property is to accept the offer by Atlantic Holdings LLC for the purchase of property at 11 Tall Pines Drive in the amount of \$51,250 and to authorize the City Administrator to execute the appropriate purchase and sales agreement.

Councilor O'Brien stated the City is growing and it can not sell every undeveloped parcel and must retain some land for future development of recreational space. She noted this property is unique since it is along the shores of the Androscoggin River and she suggested that the City keep this property and explore future uses such as recreational. Councilor Mendros stated he feels it should be sold to the highest bidder who is planning to construct condominium developments on this land and noted the desirability of riverfront condos.

VOTE (118-2005)

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

To reject all bids submitted for the property at 11 Tall Pines Drive and to retain ownership of this parcel. Passed - Vote 6-1 (Councilor Mendros opposed)

11 JACK COURT

VOTE (119-2005)

Motion by Councilor Paradis, second by Councilor Rousseau:

To approve the staff recommendation to accept the offer by Eric Purington for the purchase of property at 11 Jack Court, for the sole purpose of parking space, in the amount of \$3,500, and to authorize the City Administrator to execute the appropriate deed documents and that the deed include an easement for the City to gain access to the site for maintenance of the combined sewer line. Passed - Vote 7-0

36 BLAKE STREET

VOTE (120-2005)

Motion by Councilor Connors, second by Councilor Paradis:

To approve the staff recommendation to accept the offer by Sultan Corporation for the purchase of property at 36 Blake Street, for the sole purpose of parking space, in the amount of \$2,000, and to authorize the City Administrator to execute the appropriate deed documents and that the deed include an easement to allow for maintenance of the 12 inch combined sewer line. Passed - Vote 7-0

At this time, the Council took a ten minute recess and the meeting reconvened at 8:15pm.

**ACQUISITION OF PROPERTIES AT 343, 355 AND 359 LISBON STREET AND
142 CANAL STREET ALLEY**

Councilor Rousseau recused himself from this item, citing a conflict of interest regarding this issue. James Andrews, Director of Community and Economic Development, stated that the location of these parcels fits into the overall development of Lisbon Street. Assistant City Administrator Greg Mitchell said these properties represent new investment opportunities in the downtown, that these parcels are vacant land with no demolition costs and are in a high traveled and high profile part of the City and it would make good sense to have these properties under City ownership.

VOTE (121-2005)

Motion by Councilor Jean, second by Councilor Paradis:

To authorize the City Administrator to purchase the properties at 343, 355 and 359 Lisbon Street and 142 Canal Street Alley for the purchase arrangement as outlined in the Agreement, to approve the acquisition of the property as defined in the Real Estate Purchase and Sale Agreement, 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 6-0-1 (Councilor Rousseau abstained.)

ACQUISITION OF PROPERTY AT 308 LISBON STREET

Assistant City Administrator Phil Nadeau stated the City was approached by the owner of the building who wanted to sell it, and that the City does not have any immediate plans for the property but felt it was an important location in the overall development of Lisbon Street. Councilor Paradis inquired about the management of the building since there are currently occupied apartment units and a business located in the building. The City's Development Department will oversee management of the building for the time being. Mr. Andrews stated the tenants have been notified of the City's intent to purchase the property. Mr. Reagan, fiancé to the owner of the business in this building, complimented the City's handling of the notification and stated the City has been helpful regarding information and they will welcome the change if it will benefit the residents.

VOTE (122-2005)

Motion by Councilor Jean, second by Councilor Mendros:

To authorize the City Administrator to purchase the property at 308 Lisbon Street for the purchase price of \$315,000; to approve the acquisition of the property as defined in the Real Estate Purchase and Sale Agreement; to authorize funding of the acquisition through the issuance of a future bond issue 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

Councilor Rousseau stated that he does not feel the City should rent any apartment units that are currently available or that become available while the City owns the building. Other Councilors concurred.

VOTE (123-2005)

Motion by Councilor Rousseau, second by Councilor Mendros:

The City shall not rent any current or future available rooms or business space as they become vacant in this building. Passed - Vote 7-0

REPORTS AND UPDATES

The Council held a discussion regarding the upcoming dates for budget workshops. It was noted that the budget workshop scheduled for Tuesday, April 12 will conflict with another event and it was suggested that the workshop start at an earlier time.

VOTE (124-2005)

Motion by Councilor Jean, second by Councilor Mendros:

To begin the April 12 budget workshop at 5:30pm. Passed - Vote 6-1 (Councilor Bernier opposed)

OTHER BUSINESS

Councilor Paradis requested that at a future workshop the Council review and discuss the location of parking meters in the downtown area, specifically in the Canal Street, Pine Street and Chestnut Street area.

EXECUTIVE SESSION

VOTE (125-2005)

Motion by Councilor Connors, second by Councilor Jean:

To enter into an executive session to discuss a personnel issue regarding the Annual Performance Evaluation of the City Administrator. Passed - Vote 7-0

Session began at 8:55pm and ended at 9:10pm.

VOTE (126-2005)

Motion by Councilor Jean, second by Councilor Paradis:

To adjourn at 9:11P.M. Passed - Vote 7-0

A true record, Attest:

Kathleen M. Montejo, CMC
City Clerk
Lewiston, Maine