

CITY OF LEWISTON

CITY COUNCIL

MARCH 2, 2004

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, City Administrator James Bennett, and City Clerk Kathleen Montejo

Pledge of Allegiance to the Flag.

Moment of Silence.

COMMITTEE APPOINTMENTS

Mayor Guay announced the appointment of John T. Butler, Jr. of 20 Ware Street as a full member of the Planning Board, term to expire January 6, 2009, and the appointment of Thomas P. Peters II of 937 Main Street as an alternate member of the Planning Board, term to expire January 6, 2009.

VOTE (71-2004)

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

To dispense with the reading of the minutes of the February 17, 2004, meeting and to accept and place them on file as prepared by the City Clerk. Passed - Vote 7-0

FUNDING OF CULTURAL LEARNING CENTER PROJECT AT THE LIBRARY

Motion by Councilor Jean, second by Councilor Connors:

ORDERED, to authorize an additional appropriation of \$265,000 to be financed through the issuance of a future bond issue in order to provide additional funds necessary for the completion of the Library's Cultural Learning Center Project.

The City Administrator and Library Director Rick Speer provided background information on this item, stating that on January 29, the City opened bids for the construction of the Library's Cultural Learning Center project. Unfortunately, the bids for the project came in at an amount over what is currently available to fund the construction. The Library Building Committee, the Library Board of Trustees and the Library Director are requesting that the Council authorize additional funding in the amount of \$268,505 in this year's capital bond issue to fund the remaining portions of this project. They outlined the important needs of the City that the Cultural Learning Center will address such as complete exterior and interior renovation of the Pilsbury Building, increased pedestrian traffic in the downtown during

daytime and evening hours, archives space to house historical documents such as the Bates Manufacturing papers, Libbey Mill papers and many others, as well as offer a function room for 150 people and economic development in the downtown. Mr. Speer also discussed the financial information regarding the establishment of the Cultural Learning Center, noting that the City has already committed \$1,700,000 to the project, and the Board of Trustees and the Friends of LPL have received or raised over \$1,200,000 from various sources and they have a commitment to raise an additional \$200,000 to furnish and equip the new facility.

The City Administrator mentioned that this project has been in the works for several years and the bids came in higher than expected and therefore the additional funds are needed. Mr. Speer stated the two main objectives for the Learning Center are to develop cultural awareness and to preserve local historical records, with goals to improve space needs for community groups, integrate well with the downtown, be tastefully preserved and be a cost effective project.

Jan Phillips spoke on behalf of the Trustees, stating this project will be transformative and will help enrich the understanding of cultural heritage, and will increase access to performing arts in the area for the entire family, and will anchor and strengthen the downtown economic development work. There will be many evening and weekend events, bringing people into the downtown, creating cultural tourism and historic appeal. The Library is planning many events for youth and seniors, and hopes the Center can be up and running within the year. Mr. Speer reviewed the sources of funds already collected which have been many grants from area foundations.

Councilor Bernier asked if the group has done a campaign to raise funds from local businesses and citizens. It was noted there are many other capital campaigns in the City that are competing already, such as the Public Theater, two hospitals, L/A Arts, Franco American Center at St. Mary, the City Hall Clock and others.

Councilor Rousseau said that it is a gorgeous building and he does not want to cut anything and feels the renovated building will enhance the downtown, but he does not feel the Board is setting the bar high enough and feels they need to set it at two million, three million or even five million dollars. Councilor Rousseau said that every dollar on the tax roll is a dollar less to spend on something else, and he is wondering if the Library Board can raise additional funds through foundations, etc. Councilor Rousseau stated that he supports the Library project, but not with additional tax dollars. He suggested that businesses that have received TIFs recently from the City could contribute funds. It was noted that the deadline to accept or reject the current construction bid price is March 12.

Councilor Paradis said that he echos Councilors Bernier and Rousseau regarding seeking additional private funding, stating that he personally does not get hysterical over historical. He said that he supports the overall project but can not see to use additional tax dollars to fund it, stating the City can not afford it. He asked if community groups will be charged a fee to use the function room, and Mr. Speer stated that under the City's Facility Use Policy, outside groups will pay a room use fee.

The City Administrator stated that the money, if approved, would not be bonded until next May or June, over a year from now, and someone can raise funds to off set that. Councilor Bernier stated that Lewiston is a place we can all be proud of, that learning is a life-long process and that the Library is a commitment for all of us as a community. She suggested that the Council support half of the request and that the other half be raised by a major fundraising effort by the Trustees.

Councilor Mendros stated this project is exactly what the City needs to bring more life into the downtown. He said he likes Councilor Paradis' idea about charging a use fee to community groups that use the Library. He would like to see a dollar for dollar match from the Trustees for the additional City bond money. He volunteered to assist the Library with fundraising. Councilor O'Brien said this is a public project and a public library and as elected officials, they are stepping up to the plate with tax money and hopes other groups from the public will also contribute funds.

VOTE (72-2004)

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

To amend the motion to include the following statement: "with the understanding that approximately \$135,000 of this amount is to be raised by the Friends of the Library Association."

Did Not Pass - Vote 3-4 (Councilors Rousseau, Mendros and Bernier in favor; Councilors Jean, Connors, Paradis and O'Brien opposed.)

The Mayor invited members of the public to speak:

Arthur Turley - Urged the Council to provide full funding through the bond issue, stating he will be happy to pay his share of the increase knowing it is supporting the Library project.

Steve Hochstadt - He reminded the Council of the economic development impact the Cultural Learning Center will have, noting that history can mean money.

Kathleen Demers - Commented on the need for increased arts and humanities programs in the downtown as well as the many teen programs that could be available and said the Center will be a great community benefit.

Dennis Mason - Spoke about not wanting to nickel and dime the project, saying that the full additional amount if bonded will only mean pennies to the taxpayers and not a significant cost, and reminded the Council the Trustees have already raised a lot of money in the past for the Library, reminding the Council it is a CITY library.

Lori O'Higgins - Mentioned that her family uses the children's section regularly and this is a wonderful community resource with a knowledgeable staff. Questioned what message a positive vote on the amendment would send to residents - "we don't care about you". She encouraged sending a strong message of support by fully funding this project.

Chris Beam - Has worked with the Bates Mill and Libbey Mill papers - Lewiston's history is a manufacturing city and the preservation and research of these papers will be invaluable to the City's rich history, noting that genealogists and researchers from around New England and Canada will travel here to study the old mill records.

Harry Hirshler - Mentioned the programs available to senior citizens will be great - computer use, cultural performances and so forth, and he encouraged the Council for full support.

Elliot Epstein - Historic preservation and archives are most important for a community's heritage. He urged the Council not to be short sighted and said this Center will offer a big payback in the future.

Mary Hughes Greer - Served as the archivist for the Bates Mill papers to catalog them and said these are the most complete set of records of this type she has seen, and rivals those at Harvard University library. She urged support of this program and said that all Lewiston residents can go in and study the history of the community and their relatives.

Lizette Leveille - Asked Council to please fund entire amount noting this project is small compared to others, noting the importance of access to the records and the cultural and humanities offerings of the new Center.

Jane Weed - As a taxpayer is happy to have taxes used for full funding, noting that libraries are the last, best, great equalizer.

Cindy LaRock - Introduced herself as a member of the building committee and involved with arts education such as dance, theater, and so forth. She said that many kids do not have a place to go in town and the Center will offer after school and weekend programs. She said that the cultural and humanities offerings will be great and no other facility in the area provides these programs, noting it will benefit youth, teens, elderly and families.

Larry Raymond - Spoke as a representative of the Callahan estate which donated one million dollars for the renovations and said that Mr. Callahan would want it to be a first class facility.

Christine Bradley - Said it is a disservice to the residents not to fully fund the project and said it is a multi-generational program offering events for young and old alike.

Mayor Guay stated that everyone is working to keep Lewiston as a first class City. Councilor Connors stated he will be voting against the amendment to require the Trustees and Friends group raise additional funds. Councilor Rousseau said that the reason he got involved with the clock tower fundraising project was that he wanted it to be a first class display of museum quality, noting that history is important and needs to be preserved, saying he does not want the project to be "nickel and dimed", but of quality. He did suggest looking at other funding sources such as grants from large corporations.

Councilor Bernier stated the project can be first class with the City paying half of the additional cost and other donations covering the other half of the additional costs, saying the amendment can guarantee the full amount and the City can have half of it paid back from donations. Councilor Mendros noted the City is still on the hook for the full amount if funds are not raised.

VOTE (73-2004)

Motion by Councilor Jean, second by Councilor Connors:

ORDERED, to authorize an additional appropriation of \$265,000 to be financed through the issuance of a future bond issue in order to provide additional funds necessary for the completion of the Library's Cultural Learning Center Project.

Passed - Vote 5-2 (Councilors Paradis and Rousseau opposed.)

At this point, Senator Rotundo addressed the Council and stated that Lewiston's state delegation is working together to find additional state money to help off set the project.

**PUBLIC HEARING AND FINAL PASSAGE FOR CODE AMENDMENTS
REGARDING VEHICLE NOISE**

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

VOTE (74-2004)

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

That the proposed amendment to the City Code of Ordinances, Chapter 50 "Offenses and Miscellaneous Provisions", Article VI. "Operation of Noise-Creating Devices upon the Public Right of Ways", receive final passage by a roll call vote. Passed - Vote 5-2 (Councilors Mendros and Bernier opposed.)

**PUBLIC HEARING AND FINAL PASSAGE REGARDING AMENDMENTS FOR
SPECIAL AMUSEMENT PERMITS**

Mayor Guay opened the public hearing. No members of the public spoke for or against this item. Mayor Guay then closed the hearing. Councilor Connors stated that he did not feel that the new license categories were clear and that the other proposed changes were not clear.

VOTE (75-2004)

Motion by Councilor Jean, second by Councilor Paradis:

That the proposed amendment to the City Code of Ordinances, Chapter 10 "Amusements and Entertainments", Article III. "Special Amusement Permit", Section 10-76, "Permit required" and Section 10-77, "Public Hearing", receive final passage by a roll call vote.

Did Not Pass - Vote 3-4 (Councilors O'Brien, Jean and Paradis in favor; Councilors Mendros, Bernier, Connors and Rousseau opposed.)

The City Administrator stated that the next four agenda items pertained to the passage of this item, and the proposed Code amendments were related to the new license categories.

VOTE (76-2004)

Motion by Councilor Rousseau, second by Councilor Mendros:

To reconsider action on the previous item. Passed - Vote 7-0

The Mayor announced that the original main motion was now back on the floor for consideration.

VOTE (77-2004)

Motion by Councilor Rousseau, second by Councilor Jean:

That the proposed amendment to the City Code of Ordinances, Chapter 10 "Amusements and Entertainments", Article III. "Special Amusement Permit", Section 10-76, "Permit required" and Section 10-77, "Public Hearing", receive final passage by a roll call vote. Passed - Vote 5-2 (Councilor Connors and Bernier opposed.)

PUBLIC HEARING AND FIRST PASSAGE FOR CODE AMENDMENTS REGARDING DEFINITIONS OF ADULT BUSINESS ESTABLISHMENTS AND EATING & DRINKING ESTABLISHMENTS

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

VOTE (78-2004)

Motion by Councilor Connors, second by Councilor Jean:

That the proposed amendment to Appendix A, Article II "Definitions", of the City Zoning and Land Use Code, concerning definitions of adult business establishments and eating and drinking establishments, receive first passage by a roll call vote and that the public hearing for said ordinance be continued to the meeting of March 16, 2004 for final passage. Passed - Vote 7-0

PUBLIC HEARING AND FIRST PASSAGE FOR CODE AMENDMENTS TO PROHIBIT ADULT BUSINESS AND ADULT AMUSEMENT ESTABLISHMENTS IN CERTAIN ZONES

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

VOTE (79-2004)

Motion by Councilor Jean, second by Councilor Paradis:

That the proposed amendments to Appendix A, Article XI "District Regulations", Section 13, "Centreville District" and Section 16. "Urban Enterprise District", of the City Zoning and Land Use Code, concerning the prohibition of adult business establishments and adult amusement establishments, receive first passage by a roll call vote and that the public hearing for said ordinance be continued to the meeting of March 16, 2004 for final passage. Passed - Vote 6-1 (Councilor Mendros opposed.)

**PUBLIC HEARING AND FIRST PASSAGE FOR CODE AMENDMENTS TO THE
LOCATIONAL CRITERIA FOR ADULT BUSINESS ESTABLISHMENTS**

Mayor Guay opened the public hearing. No members of the public spoke for or against this item. Mayor Guay then closed the hearing. Councilor Mendros expressed concern about this amendment saying that it is creating more restrictions and not helping the problem. He said that changing the distance requirements from 300 ft to 200 ft might help to encourage additional businesses and lowering the size from 5000 square feet to 2000 square feet might also help to encourage businesses for evening entertainment - similar to an Old Port style area.

Motion by Councilor Jean, second by Councilor Paradis:

That the proposed amendments to Appendix A, Article XII "Performance Standards", Section 9, "Adult amusement and business establishments", of the City Zoning and Land Use Code, concerning the locational criteria of adult business establishments in the Centreville district, receive first passage by a roll call vote and that the public hearing for said ordinance be continued to the meeting of March 16, 2004 for final passage.

VOTE (80-2004)

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

To postpone this item to March 16, 2004 Council meeting. Passed - Vote 7-0

At this point, Mayor Guay took several items out of order to address them since several members of the audience were waiting for various agenda items to be discussed.

STREET ACCEPTANCE FOR RADIO CIRCLE

VOTE (81-2004)

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

ORDERED, That Radio Circle, with the boundaries and measurements of the same, as laid out and reported by the legal description, be hereby accepted, allowed and established as a public street or public way for the use of the City of Lewiston. Passed - Vote 7-0

RESOLUTION ON CONDEMNATION OF 500 CANAL STREET

Motion by Councilor Jean, second by Councilor Connors:

To approve the Resolution of Condemnation for the property at 500 Canal Street, and to authorize the City Administrator to make, execute and deliver such related documents as he, in his discretion, may deem necessary or convenient to the accomplishment of such transaction.

Councilor Paradis announced that he will be abstaining from the item due to conflict of interest and a personal issue. The City Administrator and the City Attorney outlined for the Council the procedures for an order of condemnation within an established development district, noting this process is different from a straight eminent domain taking. They reviewed the background information regarding this property noting the business and property owner recently passed away and the estate is currently in the probate process. The City has been negotiating with the heirs of the property and recently the heirs have hired attorneys to negotiate on their behalf. Attorneys representing the heirs addressed the Council and asked for a two week extension of this item, saying that they feel an agreement can be reached between the City and the heirs, and hoped to avoid a condemnation order. Information is currently being reviewed by the attorneys regarding assessment values for the property in which to determine a fair price for both the City and the heirs.

VOTE (82-2004)

Motion by Councilor Rousseau, second by Councilor Bernier:

To postpone this item to the March 16, 2004 Council meeting. Passed - Vote 6-0-1 (Councilor Paradis abstained.)

PUBLIC HEARING ON LIQUOR LICENSE FOR APPLE VALLEY GOLF COURSE

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

VOTE (83-2004)

Motion by Councilor Paradis, second by Councilor Jean:

To authorize the City Clerk's Office to approve the liquor license application for the Apple Valley Golf Course, Inc., 316 Pinewoods Road.

Passed - Vote 6-0 (Councilor Jean was out of the room during this vote.)

PUBLIC HEARING AND FIRST PASSAGE FOR CONDITIONAL REZONING OF 121 EAST AVENUE AND 6 AND 8 MALO STREET

Lincoln Jeffers, Deputy Director for Economic and Community Development, offered background information on this item, stating it is a request for rezoning of a property to

allow a hotel in this zoning district. The details of a hotel plan are currently being prepared by the property owners, and the first step is to allow the zone to permit hotels in this district. This rezoning request has been reviewed by the Planning Board during two public hearings and passage is recommended. The Mayor opened up the floor for public input. Kenneth Wagner of 21 Pearl Street stated that he was recently made aware of this meeting and he knows many neighbors are opposed to the project. He noted the neighbors attended the Planning Board hearings and spoke against the project and they would have attended this meeting if they were aware of it. He spoke against the project, saying he does not want East Avenue to turn into Center Street in Auburn, and said a hotel would have a negative impact on the neighborhood. Dan Marquis spoke in favor of the project, saying that more commercial development is helpful to the residential taxpayers. Dennis Mason spoke and urged the Council to review zoning citywide, noting that the City has recently approved a high number of conditional rezoning requests. Mayor Guay then closed the hearing.

VOTE (84-2004)

Motion by Councilor Mendros, second by Councilor Jean:

To approve first passage of the amendment to the Zoning and Land Use Code and Map to conditionally rezone the properties at 121 East Avenue and 6 and 8 Malo Street, from the Office Residential (OR) District and Neighborhood Conservation "A" (NCA) to the Community Business (CB) District, subject to a conditional agreement, and that the public hearing on said amendment be continued to the meeting of March 16, 2004 for final passage. Passed - Vote 7-0

**PUBLIC HEARING AND FIRST PASSAGE FOR CODE AMENDMENT
REGARDING GROUND SIGNS**

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

VOTE (85-2004)

Motion by Councilor Jean, second by Councilor Paradis:

That the proposed amendments to Appendix A, Article XII "Performance Standards", Section 16, "Signs", of the City Zoning and Land Use Code, to allow ground signs on an adjacent, off-premise easement, receive first passage by a roll call vote and that the public hearing on said ordinance be continued to the meeting of March 16, 2004 for final passage. Passed - Vote 7-0

AUTHORIZATION TO ACCEPT TRANSFER OF FORFEITURE FUNDS

VOTE (86-2004)

Motion by Councilor Rousseau, second 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 \$360.00,

or any portion thereof, in the case of the State of Maine vs. Tyrone Davis, CR-00-696 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

REPORTS AND UPDATES

No reports were presented at this time.

OTHER BUSINESS

No other business was presented at this time.

VOTE (87-2004)

Motion by Councilor Paradis, second by Councilor Jean:

To adjourn at 11:10P.M. Passed - Vote 7-0

A true record, Attest:

Kathleen M. Montejo, CMC
City Clerk
Lewiston, Maine