

CITY OF LEWISTON

CITY COUNCIL

DECEMBER 6, 2005

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.

MONTHLY REPORT FROM THE LEWISTON YOUTH ADVISORY COUNCIL

Kelin Sevitt informed the Council that the LYAC members are busy working on the All American City award application which is due March 9, 2006. The top thirty finalists will be announced on April 14. He said the group met with Dick Martin of the Franco-American Heritage Center to brainstorm for ideas. LYAC sent a letter to Governor Baldacci asking how they can assist the victims of the Katrina Hurricane. The Governor's Office put them in touch with a school in New Orleans that will re-open in January. Representatives of LYAC are attending a January meeting of the Rotary to seek a donation for the electronic message board. The City of Belfast has expressed interest in establishing a Youth Council.

VOTE (347-2005)

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

To dispense with the reading of the minutes of the November 15, 2005, meeting and to accept and place them on file as prepared by the City Clerk. Passed - Vote 7-0

PUBLIC HEARING AND FIRST PASSAGE FOR LAND USE CODE AMENDMENT TO ALLOW CHANGEABLE MESSAGE 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 (348-2005)

Motion by Councilor Jean, second by Councilor Connors:

That the proposed amendment to Appendix A, Article XII "Performance Standards", Section 2, "Definitions" and Section 16, "Signs", of the City Zoning and Land Use Code, concerning requirements for changeable message signs, receive first passage by a roll call vote and that the public hearing on said ordinance be continued to the meeting of December 20, 2005 for final passage. Passed - Vote 7-0

**PUBLIC HEARING AND FIRST PASSAGE FOR LAND USE CODE
AMENDMENTS REGARDING VEHICULAR SIGHT DISTANCE STANDARDS**

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

VOTE (349-2005)

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

That the proposed amendment to Appendix A, Article XIII "Development Review and Standards", Section 4, "Approval Criteria", of the City Zoning and Land Use Code, regarding the vehicular sight distance standards, receive first passage by a roll call vote and that the public hearing on said ordinance be continued to the meeting of December 20, 2005 for final passage. Passed - Vote 7-0

**PUBLIC HEARING AND FIRST PASSAGE FOR AN AMENDMENT TO THE
CONDITIONAL REZONING AGREEMENT FOR 539 WEBSTER STREET/315
SCRIBNER BOULEVARD**

Mayor Guay opened the public hearing. No members of the public spoke for or against this item. Mayor Guay then closed the hearing. Michael Blais, applicant, discussed his plans for his business in this area and the need for the zoning change.

VOTE (350-2005)

Motion by Councilor Jean, second by Councilor Connors:

To approve first passage for the amendment to the conditional rezoning agreement for 539 Webster Street/315 Scribner Boulevard, to conditionally rezone the property, subject to the conditions defined in the rezoning agreement and that the public hearing on said ordinance be continued to the meeting of December 20, 2005 for final passage. Passed - Vote 7-0

**GRANTING OF A SPECIAL AMUSEMENT PERMIT FOR
THAT'S A WRAP DELI & PUB**

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

VOTE (351-2005)

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

To grant a Special Amusement Permit for Dancing & Entertainment to That's A Wrap Deli & Pub, 30 Lowell Street. Passed - Vote 7-0

GRANTING OF A SPECIAL AMUSEMENT PERMIT FOR THE RAMADA

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

VOTE (352-2005)

Motion by Councilor Connors, second by Councilor Jean:

To grant a Special Amusement Permit for Dancing & Entertainment for the Ramada, 490 Pleasant Street. Passed - Vote 7-0

**GRANTING OF A SPECIAL AMUSEMENT PERMIT FOR THE
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 (353-2005)

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

To grant a Special Amusement Permit for Dancing & Entertainment to the Sportsman's Athletic Club, 2 Bates Street. Passed - Vote 7-0

**GRANTING OF A SPECIAL AMUSEMENT PERMIT FOR THE
SOUTH END SOCIAL 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 (354-2005)

Motion by Councilor Jean, second by Councilor Mendros:

To grant a Special Amusement Permit for Dancing & Entertainment to the South End Social Club, 315 Lisbon Street. Passed - Vote 7-0

**PUBLIC HEARING FOR APPROVAL OF AN OUTDOOR MUSIC CONCERT FOR
THE HOLIDAY TREE LIGHTING CEREMONY**

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

VOTE (355-2005)

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

To conduct a public hearing on an application for an outdoor music concert to be held at Courthouse Plaza on December 8, 2005 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 7-0.

INDUCEMENT RESOLUTION FOR FORRESTAL DEVELOPMENT LLC FOR THE 25 FORRESTAL STREET PROJECT

VOTE (356-2005)

Motion by Councilor Jean, second by Councilor Connors:

That the City Council hereby approves the Inducement Resolution for the Order authorizing the Finance Director to execute an Inducement Agreement between the City of Lewiston and Forrestal Development LLC, for the 25 Forrestal Street project, pertaining to the City's Revenue Obligation Securities in the Aggregate Principal of \$3,000,000.00 and authorizing the Finance Director to prepare and submit an application to the Finance Authority of Maine seeking approval for the issuance of such Revenue Obligation Securities:

INDUCEMENT RESOLUTION OF THE CITY OF LEWISTON DECLARING ITS OFFICIAL INTENT WITH RESPECT TO ISSUANCE OF ITS REVENUE OBLIGATION SECURITIES TO FUND THE 25 FORRESTAL STREET PROJECT AND AUTHORIZING THE CITY ADMINISTRATOR TO APPLY TO THE FINANCE AUTHORITY OF MAINE FOR APPROVAL OF THE ISSUANCE OF THOSE REVENUE OBLIGATION SECURITIES

WHEREAS, Forrestal Development LLC or its nominee (the "Company") desires to acquire, construct, and equip a manufacturing plant to house manufacturing operations which qualify for tax exempt financing at 25 Forrestal Street, Lewiston, Maine, (the "Project"); and

WHEREAS, the Company intends to finance a portion of the costs of the Project with the proceeds of Revenue Obligation Securities (the "Securities") issued by the City of Lewiston (the "City") as authorized under Title 10 of the Maine Revised Statutes; and

WHEREAS, certain costs of the Project have been or may be paid by the Company prior to the issuance of the Securities; and

WHEREAS, the City and the Company desire that, in the event the City issues Securities, a portion of the proceeds will be applied to reimburse the Company for such prior Project expenditures; and

WHEREAS, Treasury Regulations "1.142-4 and 1.150-2 require that the City declare its Official Intent to reimburse qualified expenditures with proceeds of the Securities;

NOW, THEREFORE, BE IT RESOLVED THAT:

1. The Company and the City anticipate that the Project will make a contribution to the economic growth of the City and to the betterment of the welfare of the inhabitants of the City, and

2. The City, acting through its City Council, hereby states its present intent to issue the Securities in an amount not to exceed \$3,000,000, subject to the conditions set forth and subject to the approval of the Finance Authority of Maine, the proceeds of the Securities to be loaned to the Company to finance costs of the Project; and

3. The City Finance Director be and hereby is authorized to apply to the Finance Authority of Maine for approval of issuance of the Securities, and to take all such other steps as the City Administrator may deem necessary, appropriate or convenient in order to obtain a Certificate of Approval from the Finance Authority of Maine pursuant to Section 1063 of Title 10 of the Maine Revised Statutes, and

4. The City and the Company reasonably expect to reimburse expenditures made on the Project with the proceeds of the Securities to be issued by the City which Securities, if issued, shall be issued in the maximum, aggregate, principal amount of \$3,000,000.

5. This Inducement Resolution is intended to evidence the City's present intent to issue the Securities and its initial, official action with respect thereto and the City will issue the Securities upon further approval of the Securities and the Project by the City Council as required by applicable law.

6. The Securities, if, as, and when issued, shall not constitute any debt or liability of the City, or a pledge of the faith and credit of the City, and shall not directly or indirectly obligate the City to levy or to pledge any form of taxation whatsoever therefor, or to make any appropriation for their payment, and, but shall be payable solely from revenues of the Project. Furthermore, the Company shall be obligated to pay to the City such sums as shall be sufficient to pay the principal, premium, if any, and interest on the Securities as and when the same shall become due and payable, pursuant to financing documents and agreements that contain such provisions as may be required by law and shall be mutually acceptable to the City and the Company, and

7. The City Finance Director is authorized to enter into the Inducement Agreement with the Company in substantially the form attached hereto as Appendix A.

8. The Company is hereby authorized to prepare, publish and distribute marketing material, including a preliminary official statement and final official statement with respect to the Securities.

9. The agents and employees of the Issuer are hereby authorized to cooperate with the Company and others to prepare, for submission to the Issuer, all documents necessary to effect the authorization, issuance and sale of the Securities.

10. The appropriate officers of the City are hereby authorized to distribute copies of this Resolution to the Company and to do such further things or perform such acts as may be necessary or convenient to implement the provisions of this Resolution.

11. The financial documents executed and delivered in connection with the issuance of the Securities shall provide, in accordance with the Act, that, among other things, the Issuer shall not incur pecuniary liability in connection with the issuance of the Securities and the Company shall pay or reimburse the Issuer for all fees and expenses in connection with the issuance of the Securities including, without limitation, fees of the City Attorney and Bond Counsel, whether or not the Securities are issued.

12. Pursuant to the request of the Company, the firm of Skelton, Taintor & Abbott is hereby appointed to serve as bond counsel with respect to the Securities.

13. The provisions of the Resolution shall take effect immediately.

Passed - Vote 7-0

STREET ACCEPTANCE OF STONE LEDGE DRIVE

Councilor Bernier said there have been issues with this roadway regarding ledge problems. Public Services Director David Jones spoke and said the road was inspected on a regular basis during development and the contractor did a good job with the work. He said that the road meets all of the city specifications for acceptance.

VOTE (357-2005)

Motion by Councilor Jean, second by Councilor Connors:

Ordered, that Stone Ledge Drive, 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 TO AUTHORIZE THE ESTABLISHMENT OF A RETIREMENT HEALTH SAVING PLAN PROGRAM

The City Administrator noted that the firefighters union contract is still under negotiation and has not been settled to date. Therefore, the firefighters need to be removed as a group of covered employees from this program at this time, and when the contract is approved, if this item is in their contract, it will be a separate Council vote to add the firefighters to this program.

VOTE (358-2005)

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

To remove Firefighters from the group of covered employees. Passed - Vote 7-0

VOTE (359-2005)

Motion by Councilor Jean , second by Councilor Connors:

To adopt the Resolution authorizing the establishment of a Retirement Health Savings Plan program in the form of the ICMA Retirement Corporation's VantageCare Retirement Health Savings program and the City of Lewiston Retiree Medical and Dental Expense Reimbursement Plan:

**CITY OF LEWISTON RESOLUTION FOR ADOPTION OF THE
VANTAGECARE RETIREMENT HEALTH SAVINGS (RHS) PROGRAM**

WHEREAS, the Employer has employees rendering valuable services; and

WHEREAS, the establishment of a retiree health savings plan for such employees serves the interests of the Employer by enabling it to provide reasonable security regarding such employee's health needs during retirement, by providing increased flexibility in its personnel management system, and by assisting in the attraction and retention of competent personnel; and

WHEREAS, the Employer has determined that the establishment of the retiree health savings plan (the "Plan") serves the above objectives;

NOW, THEREFORE BE IT RESOLVED, that the Employer hereby adopts the Plan in the form of the ICMA Retirement Corporation's VantageCare Retirement Health Savings program and the City of Lewiston Retiree Medical and Dental Expense Reimbursement Plan.

BE IT FURTHER RESOLVED, that the assets of the Plan shall be held in trust, with the Employer serving as trustee, for the exclusive benefit of Plan participants and their beneficiaries, and the assets of the Plan shall not be diverted to any other purpose prior to the satisfaction of liabilities of the Plan. The Employer has executed the Declaration of Trust of the City of Lewiston Integral Part Trust in the form of the model trust made available by the ICMA Retirement Corporation.

BE IT FURTHER RESOLVED, that the benefits under the plan shall be as set forth in Attachment A to the RHS Plan Adoption Agreement for the following groups of employees: Police Officer Patrol, Police Supervisory, Public Works, Professional Technical, General Government and Non-Union.

BE IT FURTHER RESOLVED, that the Director of Human Resources shall be the coordinator and contact for the Plan and shall receive necessary reports, notices, etc.

Passed - Vote 7-0

**REQUEST FROM THE SAINTS PETER AND PAUL PARISH COUNCIL TO
OBTAIN THE CORNER STONE MONUMENT FROM THE OLD ST. PETERS
SCHOOL/ST. DOMINIC HIGH SCHOOL BUILDING**

Some Councilors expressed concerns about the future storage, use and condition of the corner stone monument and wanted to ensure that if the parish council took possession of the stone, that it would be visible for members of the public to view and would be cared for and preserved. Gerry Raymond, president of the Parish Council, and Robert Gilbert both addressed the Council and spoke in support of having the Parish Council hold the monument in their possession.

VOTE (360-2005)

Motion by Councilor Connors, second by Councilor Paradis:

That, the City Council shall retain possession of the cornerstone monument forever, but that the monument shall be placed under the care of the St. Peter and Paul Parish Council and that Mayor Guay and Councilor Rousseau shall work with Parish Council to determine a suitable location for the proper and appropriate display of said monument.

Passed - Vote 6-1 (Councilor Mendros opposed)

AUTHORIZATION TO ACCEPT THE TRANSFER OF FORFEITURE FUNDS

VOTE (361-2005)

Motion by Councilor Jean, second by Councilor Connors:

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 twenty percent of the proceeds from the sale of a 1998 Nissan Maxima or any portion thereof, in the case of US Department of Justice Drug Enforcement Administration vs. Jessie Wall, CE-03-0016 and 04-DEA-436974; and the transfer of sixteen percent of the proceeds from the sale of a 1999 Mitsubishi Diamante or any portion thereof, in the case of US Department of Justice Drug Enforcement Administration vs. Moises Galarza, CE-05-0020 and 05-DEA-451499. 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

The City Administrator stated that the Council Rules of Procedure are being reviewed by staff for any recommended updates and changes to reflect current practice. The draft version of the update will be distributed to Council for review before the January vote to adopt. Mr. Bennett also informed Council that Assistant City Administrator Greg Mitchell has submitted his resignation and his last day will be at the end of the month. He said a workshop will be held in January or February to discuss the All American Cities Award application. Mr. Bennett also credited Councilor Bernier with bringing the issue of saving

the corner stone monument from St. Peter's School to the forefront to ensure the monument was preserved rather than destroyed in the demolition of the building.

OTHER BUSINESS

Councilor O'Brien reminded owners of buildings that it is their responsibility to shovel the snow from the sidewalks in front of their buildings and encouraged them to keep the area clear for pedestrian safety. Councilor Bernier mentioned the invitation to all Councilors to participate in the Walk for Homeless Awareness and said she would get them the information.

VOTE (362-2005)

Motion by Councilor Paradis, second by Councilor Jean:

To adjourn at 8:17 P.M. Passed - Vote 7-0

A true record, Attest:

Kathleen M. Montejo, CMC
City Clerk
Lewiston, Maine