

CITY OF LEWISTON

CITY COUNCIL

DECEMBER 7, 2004

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 was absent/excused.

Pledge of Allegiance to the Flag.

Moment of Silence.

MONTHLY REPORT FROM THE LEWISTON YOUTH ADVISORY COUNCIL

Rachel Spilecki updated the Council on their recent and upcoming activities, including assisting with the City’s Tree Lighting Ceremony tomorrow night and working with the Mayor regarding the Monthly Citation of Excellence recognitions.

**AMENDMENT TO THE TRAFFIC SCHEDULE TO ADD STOP SIGNS AT
MACADAMIA LANE, ALMOND AVENUE AND RADIO CIRCLE**

VOTE (371-2004)

Motion by Councilor Jean, seconded by Councilor Connors:

To approve amendments to the Traffic Schedule to add stop signs at Macadamia Lane, Almond Avenue and Radio Circle:

Section 38 - Stop Signs

<u>MACADAMIA LANE</u>	<u>1 sign at Randall Road</u>
<u>ALMOND AVENUE</u>	<u>1 sign at Macadamia Lane</u>
<u>ALMOND AVENUE</u>	<u>1 sign at Randall Road</u>
<u>RADIO CIRCLE</u>	<u>1 sign at East Avenue</u>

Passed - Vote 6-0

AMENDMENT TO THE TRAFFIC SCHEDULE FOR HOUSEKEEPING ITEMS

VOTE (372-2004)

Motion by Councilor Jean, seconded by Councilor Connors:

To approve amendments to the Traffic Schedule for housekeeping related updates and corrections:

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

MIDDLE STREET ~~4 parking spaces westerly side from the northwesterly corner of Pine Street proceeding northerly~~

~~8 parking spaces easterly side from the northeasterly corner of Pine Street proceeding northerly~~

Section 33 - Parking Time Regulated, 2 Hours, 9:00am to 9:00pm

MIDDLE STREET ~~Even numbered side, north side, beginning at a point 35' easterly of the northeast corner of Middle Street and Main Street and extending easterly on Middle Street a distance of 40' (2 spaces)~~

Section 38 - Stop Signs

RAILROAD ALLEY ~~1 sign at Lincoln Street~~

Section 35 - Parking Reserved - Handicapped

MIDDLE STREET ~~Even numbered side, northerly side, beginning at a point 72' 55' easterly from the northeast corner of Middle Street and Main Street and extending easterly on Middle Street a distance of 22' 40' (+ 2 spaces)~~

Passed - Vote 6-0

APPROVAL OF STATEMENT OF FINDINGS OF FACT FOR DENIAL OF A LIQUOR LICENSE FOR ROCK N' ROBINS, 855 LISBON STREET

VOTE (373-2004)

Motion by Councilor Jean, seconded by Councilor Connors:

To adopt the Statement of Findings of Fact for the denial of the application for a liquor license for Rock 'n Robins, 855 Lisbon Street, and to direct the City Clerk to forward copies of the Statement to the applicant and the State Bureau of Public Safety:

**FINDINGS OF FACT STATEMENT
DENIAL OF A LIQUOR LICENSE APPLICATION
ROCK 'N ROBINS, 855 LISBON STREET**

Decision of the Lewiston City Council denying the application for a Liquor License for Rock 'n Robins, 855 Lisbon Street:

Facts and Procedural History

This matter came before the Lewiston City Council for hearing and action on November 16, 2004 pursuant to an application filed on October 29, 2004 by Vincent A. Oden and Paul T.

Downing on behalf of Rock 'n Robins. The application, when reviewed by the Lewiston Police Department, was found to be lacking the following pertinent information required to approve or deny the application.

- When asked to list all previous addresses in the past five years, Mr. Oden failed to list a Massachusetts address. On April 11, 2002, he changed over his Massachusetts driver's license for a Maine driver's license.
- When asked if the applicant has ever been convicted of a crime, other than minor traffic violations, Mr. Oden stated that he had not. Through a state background investigation check, it was learned that he was charged with Assault on January 17, 1997 and on February 5, 1997 was found guilty and sentenced to 30 days in county jail, suspended and placed on probation for one year.
- Mr. Oden was charged as recently as June 27, 2004 with Assault and Refusing to Submit to Arrest or Detention. On July 28, 2004, the Assault charge was filed with court cost of \$100.00 and the Refusing to Submit to Arrest was also filed with \$100.00 court cost and the \$100.00 was suspended.
- The Lewiston City Code, Section 22-35 "Compliance with rules and regulations required; approval, disapproval by city official, council" states that a business application can be denied if "the applicant has knowingly furnished false or misleading information on his/her application", and Mr. Oden failed to disclose on his applications the items cited above.
- Mr. Oden has served as a bouncer and employee for Rock 'n Robins for the past several years. Over the past few years, there have been numerous problems and incidents at this establishment, and he, in his capacity as bouncer, was unable to prevent these problems from continuously occurring. Mr. Oden, who will be fifty-one percent owner of the new Rock 'n Robins establishment, has not demonstrated how he will be able to prevent these problems in the future.

The above findings meet the criteria contained in 28-A M.R.S.A. §654 (1) (A) for denying the issuance of a liquor license.

In addition, Mr. Downing, co-owner with Mr. Oden, attended the public hearing to represent the applicants, and he stated that he did not have a purchase and sales agreement for the intended location and did not have a lease agreement with the current building owner.

Decision

Based on the above findings and for the reasons stated above, we hereby decide to deny the Restaurant/Lounge liquor license for Rock 'n Robins. Because that license is critical to obtaining the Special Amusement Permit sought by the applicant pursuant to 28-A M.R.S.A. §1054, we see no reason to consider or decide that application.

Passed - Vote 6-0

**RESOLUTION REGARDING AUTHORIZATION TO APPLY FOR A \$200,000
GRANT FROM THE STATE OF MAINE MUNICIPAL INVESTMENT TRUST
FUND PROGRAM**

VOTE (374-2004)

Motion by Councilor Jean, seconded by Councilor Connors:

To adopt the Resolution authorizing the City to apply to the State of Maine Municipal Investment Trust Fund Program for a \$200,000 grant:

Resolution to apply for a Grant from the State of Maine Municipal
Investment Trust Fund Program

WHEREAS, the City of Lewiston has applied to the Department of Economic and Community Development for Municipal Investment Trust Fund assistance to carry out a community development program; and

WHEREAS, the planning process required by Maine Law has been complied with and the community has conducted at least one duly advertised public hearing.

NOW, THEREFORE BE IT RESOLVED by the City Council of the City of Lewiston that the City Administrator:

- 1) Is authorized and directed to submit an application for the following project and dollar amount within the State of Maine's MITF Program:

MITF Project: Southern Gateway Project Amount: \$200,000

To the Department of Economic and Community Development on behalf of the Community of the City of Lewiston, substantially in the form presented to this Council;

- 2) Is authorized to make assurances on behalf of the Community of the City of Lewiston, required as part of such applications, and
- 3) Is authorized and directed, upon acceptance of said funds, to carry out the duties and responsibilities for implementing said program(s), consistent with the Charter of the Community of the City of Lewiston and the laws and regulations governing planning and implementation of the community development programs in the State of Maine.

Passed - Vote 6-0

JANUARY COUNCIL WORKSHOP FOR PROPOSED CODE CHANGES

VOTE (375-2004)

Motion by Councilor Jean, seconded by Councilor Connors:

To set a Council workshop for 6:00pm on Tuesday, January 11, 2005 to review and discuss upcoming proposed Code changes. Passed - Vote 6-0

AMENDMENT TO THE TRAFFIC SCHEDULE REGARDING PARKING REGULATIONS ON A PORTION OF WEBSTER STREET

Motion by Councilor Connors, seconded by Councilor Jean:

To adopt the proposed amendments 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 A. 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' 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'.~~

Councilor Paradis expressed concern regarding this item and noted that it is a dramatic change from the on-street parking that is now allowed in the area. He asked if the Police Department has considered allowing parking on one side of the street, rather than banning it on both sides. He also inquired about the response from the neighbors regarding the proposed change. Councilor Paradis requested that this item be postponed to the next Council meeting so a representative of the Police Department can be present to discuss their recommendations. Councilor Rousseau stated there are two businesses in this area and only five homes. He noted this is a very dangerous stretch of road and there is a blind spot within this section. He said that he did speak with neighbors who are in favor of the changes. Councilor Bernier concurred with Councilor Rousseau, noting that snow banks add to the problem.

VOTE (376-2004)

Motion by Councilor Paradis, seconded by Councilor Rousseau:

To postpone this item to the January 4, 2005 Council meeting to allow time for additional information to be gathered. Passed - Vote 5-1 (Councilor Jean opposed.)

**PUBLIC HEARING AND FINAL PASSAGE ON AMENDMENTS TO THE
SOLID WASTE ORDINANCE**

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

VOTE (377-2004)

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

That the proposed amendment to the City Code of Ordinances, Chapter 62 "Solid Waste", Section 62-13 "Municipal collection of solid waste and recyclable materials" and Section 62-16 "Penalties and enforcement", receive final passage by a roll call vote.

Passed - Vote 6-0

**PUBLIC HEARING AND FIRST PASSAGE FOR AN AMENDMENT TO
THE BUSINESS LICENSING ORDINANCE REGARDING
AUTOMOBILE GRAVEYARDS**

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

VOTE (378-2004)

Motion by Councilor Connors, seconded by Councilor Jean:

That the proposed amendment to the City Code of Ordinances, Chapter 22 "Businesses", Article III "Automobile Graveyards and Junkyards", Section 22-73 "Definitions" receive first passage by a roll call vote and that the public hearing on said ordinance be continued to the meeting of January 4, 2005 for final passage. Passed - Vote 6-0

**PUBLIC HEARING AND FIRST PASSAGE FOR LAND USE CODE
AMENDMENTS CONCERNING THE DEFINITION OF FRONTAGE**

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

VOTE (379-2004)

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 required frontage for right of ways within subdivisions, receive first passage by a roll call vote and that the public hearing on said ordinance be continued to the meeting of January 4, 2005 for final passage.

Passed - Vote 6-0

**PUBLIC HEARING AND FIRST PASSAGE FOR LAND USE CODE
AMENDMENTS CONCERNING THE DEFINITION OF
AUTOMOBILE GRAVEYARDS**

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

VOTE (380-2004)

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

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 first passage by a roll call vote and that the public hearing on said ordinance be continued to the meeting of January 4, 2005 for final passage. Passed - Vote 6-0

**PUBLIC HEARING AND FIRST PASSAGE FOR LAND USE CODE
AMENDMENTS REGARDING THE POWERS AND DUTIES OF THE
PLANNING BOARD**

Motion by Councilor Jean, seconded by Councilor Paradis:

That the proposed amendment to Appendix A, Article VII "Planning Board", Section 4, "Powers and Duties", of the City Zoning and Land Use Code, receive first passage by a roll call vote and that the public hearing on said ordinance be continued to the meeting of January 4, 2005 for final passage.

Councilor Paradis said there are questions regarding the role of the Planning Board. The City Administrator stated that land use planning is typically the role of the Planning Board and the policy role of economic development is a Council role, not usually a Planning Board role. It was noted that the Council will be scheduling a workshop with the Planning Board this winter to review and discuss citywide zoning issues, and perhaps this item could be postponed and discussed at the joint workshop.

VOTE (381-2004)

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

To postpone this item until a joint workshop is held with the Planning Board to review the issue. Passed - Vote 6-0

**PUBLIC HEARING FOR APPROVAL OF AN OUTDOOR MUSIC CONCERT AT
COURTHOUSE PLAZA FOR THE CITY 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 (382-2004)

Motion by Councilor Jean, seconded by Councilor Connors:

To conduct a public hearing on an application for an outdoor music concert to be held at Courthouse Plaza on December 8, 2004 at 6:00pm, 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 Lewiston Holiday Tree Lighting 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

PUBLIC HEARING ON A NEW LIQUOR LICENSE APPLICATION AND SPECIAL AMUSEMENT PERMIT FOR OASIS, 347 & 351 LISBON STREET

Mayor Guay opened the public hearing. Frank Berenyi introduced himself as the business applicant and stated he is looking forward to working with Lewiston officials. The City Administrator asked if Mr. Berenyi is associated with the other bars named Oasis in Old Orchard Beach and Portland. Mr. Berenyi stated that he has managed the Portland bar for four years and wanted to own his own club, and received permission from the owner to use the same name. Mr. Bennett noted that the Old Orchard bar is more of an all day restaurant and has a steady day time business with tourists, and the Old Port bar caters to a younger crowd ages 21 - 28. Mr. Berenyi stated he is hoping to make his location more of a dance club atmosphere, and maybe a sports bar. He said he is planning to keep the martini bar section. Mr. Bennett asked Mr. Berenyi if he intended this new establishment to be a biker bar or one that would promote group colors. Mr. Berenyi stated that gang-related apparel such as bandanas and certain colors will be banned and that this bar will have a dress code requirement. Mr. Bennett informed Mr. Berenyi that the City Council has been aggressive in the past few years with bars that do not take care of themselves and their patrons. Mr. Berenyi stated that he is working with the Police Department to design certain areas such as entrances and exits, and he will have outside cameras as well to monitor patrons activity outside.

Mayor Guay then closed the hearing.

VOTE (383-2004)

Motion by Councilor Jean, seconded by Councilor Rousseau:

To authorize the City Clerk's Office to approve a new liquor license application and special amusement permit for Oasis, 347 & 351 Lisbon Street. Passed - Vote 6-0

**SPECIAL AMUSEMENT PERMIT FOR 33 SABATTUS STREET, INC.,
33 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. Councilor O'Brien stated that she has received a few comments from residents at 10 Oak Street about noise and outside smoking, and asked that the Police Department keep an eye on this.

VOTE (384-2004)

Motion by Councilor Jean, seconded by Councilor Connors:

To grant a special amusement permit for dancing and entertainment to 33 Sabattus Street, Inc., 33 Sabattus Street. Passed - Vote 6-0

SPECIAL AMUSEMENT PERMIT FOR THE RAMADA, 490 PLEASANT 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 (385-2004)

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

To grant a special amusement permit for dancing and entertainment to The Ramada, 490 Pleasant Street. Passed - Vote 6-0

**SPECIAL AMUSEMENT PERMIT FOR SOUTH END SOCIAL CLUB,
315 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 (386-2004)

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

To grant a special amusement permit for dancing and entertainment to the South End Social Club, 315 Lisbon Street. Passed - Vote 6-0

**SPECIAL AMUSEMENT PERMIT FOR SPORTSMAN'S ATHLETIC CLUB, INC.,
2 BATES 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 (387-2004)

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

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

**AMENDMENTS TO THE PERSONNEL POLICY REGARDING
THE DEATH OF AN EMPLOYEE**

VOTE (388-2004)

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

To approve the amendment to the Personnel Policies regarding the addition of a new section for death of an employee, to be effective July 1, 2004, as recommended by the City Administrator and the Human Resources Director. Passed - Vote 6-0

AMENDMENTS TO THE PERSONNEL POLICY REGARDING HOLIDAYS

VOTE (389-2004)

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

To approve the amendment to the Personnel Policies concerning the Christmas Eve holiday, as recommended by the City Administrator. Passed - Vote 6-0

RESOLUTION REGARDING SUPPORT FOR THE DOWNTOWN CONNECTOR/MAINE TURNPIKE INTERCHANGE FEASIBILITY STUDY

Assistant City Administrator Greg Mitchell and Don Craig, transportation planner for Androscoggin Valley Council of Governments (AVCOG) made a presentation to Council regarding the feasibility study. They noted the study was part of a two year public planning process which involved the Cities of Lewiston and Auburn, AVCOG, Maine Department of Transportation, Maine Turnpike Authority and the Androscoggin Resource Transportation Committee. Councilor Bernier questioned whether this study was part of, or separate from, the East Side Corridor/Route 126 Study. Phil Nadeau, Assistant City Administrator, stated they were separate and this effort is for a new interchange and is coordinated by the Turnpike Authority.

VOTE (390-2004)

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

To adopt the Resolution supporting the Downtown Connector/Maine Turnpike Interchange Feasibility Study:

Resolution Supporting the Downtown Connector/Maine Turnpike Interchange Feasibility Study

WHEREAS, the downtowns of Lewiston and Auburn have demonstrated that they are the fastest growing economic centers in the State; and

WHEREAS, the Maine Turnpike is the major lifeline in the area; and

WHEREAS, the continued economic growth of both of the downtowns is dependent on the highway network and good connections to that network; and

WHEREAS, in order to work with future developers, an expectation of better connections to the Turnpike is essential; and

WHEREAS, the Cities need to plan road network improvements and connections based on the outcome of the feasibility study and Environmental Assessment; and

WHEREAS, this feasibility study will provide both the Maine Department of Transportation and The Maine Turnpike Authority with sufficient justification to proceed with the remainder of the Environmental Assessment that will lead to a new interchange or interchanges in the Lewiston-Auburn area; and

WHEREAS, it would be expected that any construction of interchanges or bridges in relationship to this study would be a phased process as funding is available;

NOW, THEREFORE BE IT RESOLVED by the City Council of the City of Lewiston that the City Council hereby endorses the Downtown Connector/Maine Turnpike Interchange Feasibility Study, and that following the completion of the study, urges the Maine Turnpike Authority and the Maine Department of Transportation to proceed in an expeditious manner to complete the Environmental Assessment and commit to the resulting preferred alternative.

Passed - Vote 6-0

REPORTS AND UPDATES

Mayor Guay shared information about the recent National League of Cities conference which was held in Indianapolis. He said the theme of the conference was Cities Working Together.

OTHER BUSINESS

No other business was brought forth at this time.

EXECUTIVE SESSION TO DISCUSSION LABOR NEGOTIATIONS

VOTE (391-2004)

Motion by Councilor Connors, seconded by Councilor Jean:

To enter into an executive session to discuss labor negotiations. Passed - Vote 6-0

Executive session began at 8:19pm and ended at 9:24pm.

VOTE (392-2004)

Motion by Councilor Connors, second by Councilor Paradis:

To adjourn at 9:25 P.M. Passed - Vote 6-0

A true record, Attest:

Kathleen M. Montejo, CMC
City Clerk
Lewiston, Maine