

CITY OF LEWISTON

CITY COUNCIL

JANUARY 2, 2001

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

THE HONORABLE KAILEIGH A. TARA, MAYOR, PRESIDING.

PRESENT: Councilors Carignan, Jean, Samson, Bilodeau, Adams, City Administrator Bogdan Vitas, Jr., Assistant City Administrator Phil Nadeau, Finance Director Richard Metivier and City Clerk Kathleen Montejo. Also present was City Attorney Robert Hark.

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

VOTE (1)

Motion by Councilor Bilodeau, seconded by Councilor Samson to enter into executive session to discuss real estate negotiations of which the premature disclosure of the information would prejudice the competitive bargaining position of the City and to meet with the City Attorney to discuss pending litigation Passed - Vote 5-0.

Executive Session began at 6:00 pm and ended at 6:50 pm. Councilor Gousse arrived at 6:20 pm.

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

THE HONORABLE KAILEIGH A. TARA, MAYOR, PRESIDING.

PRESENT: Councilors Gousse, Carignan, Jean, Samson, Bilodeau, Adams, City Administrator Bogdan Vitas Jr., Assistant City Administrator Phil Nadeau, City Clerk Kathleen Montejo and Student Representative Karen Gagnon.

Mayor Tara called the meeting back to order at 7:00pm.

Pledge of Allegiance to the Flag.

Moment of Silence. The Mayor asked that Frank Kelly be remembered in everyone's thoughts. Mr. Kelly passed away on December 23 and was the immediate past president of the Council and served for six years as the Councilor from Ward Two.

BOARD AND COMMITTEE APPOINTMENTS

Council President Bilodeau made the following appointments to the Council sub-committees:

Economic Development - Councilors Adams and Bernier
Housing - Councilors Carignan and Bernier
Transportation - Councilors Bilodeau and Samson

Mayor Tara made the following appointments:

Board of Appeals:

Robert Bruder, 53 Webster Road, to a five year term as a full member, said term to expire January 3, 2006.

Norman Prevost, 36 Barron Avenue, to a five year term as an associate member, said term to expire January 3, 2006

Finance Committee:

Jason Allen, 143 Montello Street, to a three year term, said term to expire January 6, 2004

Historic Preservation Review Board:

Gracia Eisemann, 7 Webster Street, to a three year term, said term to expire January 6, 2004

William Clifford, Jr., 4 Benson Street, to a three year term, said term to expire January 6, 2004

Personnel Board:

Elaine Fenderson, 29 Simard Avenue, to a five year term, said term to expire January 3, 2006

The Mayor nominated the following people to serve on the following boards and committees:

VOTE (2)

Motion by Councilor Samson, seconded by Councilor Jean:

To confirm the Mayor's nomination of Ronald Jean, Council representative, to a three year term on the Lake Auburn Watershed Commission, said term to expire January 6, 2004

To confirm the Mayor's nomination of Laurier Raymond, 15 Delcliffe Lane, to a six year term on the Library Board of Trustees, said term to expire January 2, 2007

To confirm the Mayor's nomination of Heather Hunter, City Auditor, to a two year term on the 911 Committee, said term to expire January 7, 2003.

Passed - Vote 6-0

VOTE (3)

Motion by Councilor Carignan, seconded by Councilor Bilodeau:

To dispense with the reading of the minutes of the December 12, 2000, meeting and to accept and place them on file as prepared by the City Clerk. Passed - Vote 6-0

Report from City Council's Student Representatives

Student Representative Karen Gagnon reported that High School students sponsored a family for the holidays. She also noted that National Popcorn Day will be held in January and the students will be holding a popcorn festival as a fund-raiser. Karen also noted the Ropes Course project is about 90% complete and will be available soon for use by the public.

REZONING OF 164 ROSEDALE STREET

Mayor Tara opened the public hearing. Three residents of Rosedale Street addressed the Council about their concerns regarding this amendment. They stated this change will increase traffic on Rosedale Street, which is a residential street as well as a dead-end and narrow street. Suggestions were made for additional traffic calming efforts such as speed bumps, a stop light and additional signage. Representatives of Gendron Realty, the property owners, offered to work with the City to help implement the traffic improvement suggestions.

VOTE (4)

Motion by Councilor Bilodeau, seconded by Councilor Adams:

That the proposed amendment to re-zone 164 Rosedale Street from the Neighborhood Conservation "A" (NCA) District to the Community Business (CB) District receive final passage by a roll call vote. Passed - Vote 6-0

LAND USE CODE AMENDMENTS FOR THE SIGN ORDINANCE

Mayor Tara opened the public hearing. No members of the public spoke for or against this issue.

VOTE (5)

Motion by Councilor Bilodeau, seconded by Councilor Carignan:

That the proposed amendments to Appendix A, Article XII, "Performance Standards", Section 16, "Signs" of the City Zoning and Land Use Code, adopting sign provisions, receive first passage by a roll call vote and that the public hearing on said ordinance be continued to the meeting of January 16, 2001 for final passage. Passed - Vote 6-0

LIQUOR LICENSE APPLICATION FOR THE ENGINE HOUSE DELI & PUB

Mayor Tara opened the public hearing. Business owner Bob Lussier discussed his new business venture and invited the Council to visit the new restaurant.

VOTE (6)

Motion by Councilor Bilodeau, seconded by Councilor Adams:

To authorize the City Clerk's Office to approve the liquor license application for The Engine House Deli & Pub, 30 Lowell Street. Passed - Vote 6-0

SPECIAL AMUSEMENT PERMITS

Mayor Tara opened the public hearings. No members of the public spoke for or against these permits.

VOTE (7)

Motion by Councilor Bilodeau, seconded by Councilor Jean:

To grant a Special Amusement Permit for Dancing and Entertainment to the Hurricane Club, 308 Lisbon Street. Passed - Vote 6-0

VOTE (8)

Motion by Councilor Adams, seconded by Councilor Jean:

To grant a Special Amusement Permit for Dancing and Entertainment to Midtown Athletic Club, 315 Lisbon Street. Passed - Vote 6-0

VOTE (9)

Motion by Councilor Adams, seconded by Councilor Jean:

To grant a Special Amusement Permit for Dancing and Entertainment to the Acme Social Club, 225 Park Street. Passed - Vote 6-0

REASONS FOR DENIAL OF SPECIAL AMUSEMENT PERMIT FOR SHAKERS

The City Council during the meeting of December 12 voted to not renew the Special Amusement Permit for Shaker's Bar and Grill. Per state statutes, a written statement for the reasons of denial must be issued to the applicant. Councilors discussed the proposed statement, as prepared by the City Attorney. Councilors reviewed sections of the statement and a few had concerns regarding the specific language and statements regarding accurate past actions of the business.

Harold Skelton, Esq., representing Mrs. Doyon, addressed the Council and requested their approval of the statement as presented. He stated he believes the historical references in the statement show a pattern of problems which was the reason for the denial.

VOTE (10)

Motion by Councilor Jean, seconded by Councilor Bilodeau:

To approve the Statement of Reasons for Permit Denial regarding the Special Amusement Permit for Shaker's Bar and Grill.

Having held a public hearing on December 12, 2000, and having determined that the application of Shaker's Bar-n-Grill, Inc., for a special amusement permit, should be denied, the City Council hereby, pursuant to Section 10-78 of the Revised Code of Ordinances, sets forth its reasons for the denial.

Based upon the testimony and the documentary evidence presented to the City Council at the public hearing, the Council concludes that issuance of the permit, as requested, would be detrimental to the health, safety or welfare of the public in that:

- A. The applicant has been historically unable to assure that its operation of entertainments permitted by special entertainment permit can and will be conducted in a manner consistent with the noise performance standards set forth in the Zoning and Land Use Code of the City of Lewiston, Article XII, Section 2;
- B. The Council finds that there was evidence that the applicant violated the noise performance standards during the spring and summer of 2000;
- C. Such violations continued until the Council met to consider the possibility of revoking the applicant's prior special entertainment permit;
- D. There was evidence that sound levels emanating from the applicant's premises were measured to be in excess of those permitted in the performance standard;
- E. The evidence established a likelihood that the applicant's continued operation of entertainments permitted by special entertainment permit will cause the intrusion of loud sound at all frequencies, and particularly, the intrusive and invasive low-frequency sounds, into the home and bedroom of Mrs. Lorraine Doyon;
- F. Issuance of the permit would result in a continuing interference in the rights of residents of Summit Avenue, and in particular, Mrs. Doyon, to the peaceful and quiet enjoyment of their homes;
- G. Such intrusion and interference is detrimental to the public health and welfare.

Dated at Lewiston, Maine this 2nd day of January, 2001.

Vote 3-3 (Councilors Jean, Bilodeau and Adams in favor; Councilors Gousse, Carignan and Samson opposed.) Mayor Tara voted to break the tie and voted against this motion. Motion failed by final vote of 3-4.

After additional discussion and comments, the Councilors revised the proposed statement and removed three sections from the original proposal.

VOTE (11)

Motion by Councilor Bilodeau, seconded by Councilor Carignan:

To approve the Statement of Reasons for Permit Denial regarding the Special Amusement Permit for Shaker's Bar and Grill.

Having held a public hearing on December 12, 2000, and having determined that the application of Shaker's Bar-n-Grill, Inc., for a special amusement permit, should be denied, the City Council hereby, pursuant to Section 10-78 of the Revised Code of Ordinances, sets forth its reasons for the denial.

Based upon the testimony and the documentary evidence presented to the City Council at the public hearing, the Council concludes that issuance of the permit, as requested, would be detrimental to the health, safety or welfare of the public in that:

- A. There was evidence presented and alleged that sound levels emanating from the applicant's premises were measured to be in excess of those permitted in the performance standard;
 - B. The evidence established a likelihood that the applicant's continued operation of entertainments permitted by special entertainment permit will cause the intrusion of loud sound at all frequencies, and particularly, the intrusive and invasive low-frequency sounds, into the home and bedroom of Mrs. Lorraine Doyon;
 - C. Issuance of the permit would result in a continuing interference in the rights of residents of Summit Avenue, and in particular, Mrs. Doyon, to the peaceful and quiet enjoyment of their homes;
 - D. Such intrusion and interference is detrimental to the public health and welfare.
- Dated at Lewiston, Maine this 2nd day of January, 2001.

Passed - Vote 5-1 (Councilor Gousse opposed.)

LEGISLATIVE UPDATE

Assistant City Administrator Phil Nadeau reported due to the holidays, the MMA LPC has not met since the previous Council meeting.

SCHOOL COMMITTEE REPORT

Councilor Samson reported due to the holidays, the School Committee has not met since the previous Council meeting.

VOTE (12)

Motion by Councilor Jean, second by Councilor Gousse:

To adjourn at 8:37 p.m. Passed - Vote 6-0

A true record, Attest:

Kathleen M. Montejo, CMC
City Clerk
Lewiston, Maine