

CITY OF LEWISTON

CITY COUNCIL

MAY 15, 2001

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

THE HONORABLE KAILEIGH A. TARA, MAYOR, PRESIDING.

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

Pledge of Allegiance to the Flag.
Moment of Silence.

PROCLAMATION FOR FOSTER PARENT'S PROGRAM

Mayor Tara presented a Proclamation to representatives of the local foster care program declaring May as Foster Care Month in Lewiston. She thanked the foster parents for the hard work that they do and noted how important this work is in Lewiston. A local foster mother spoke about her work as a foster mother and how the program has enriched her life.

VOTE (1)

Motion by Councilor Samson, seconded by Councilor Gousse:

To dispense with the reading of the minutes of the May 1, 2001, meeting and to accept and place them on file as prepared by the City Clerk. Passed - Vote 7-0

Mayor Tara asked to have agenda item 21 considered at this time since she needed to leave the Council meeting early. No Councilors objected to the change.

**AMENDMENT TO THE JOINT DEVELOPMENT AGREEMENT BETWEEN
THE CITY OF LEWISTON, LEWISTON MILL REDEVELOPMENT
CORPORATION AND BATES MILL LLC.**

Motion by Councilor Samson, seconded by Councilor Jean:

BE IT RESOLVED, that the City be and hereby is authorized to enter into an agreement extending for a period of two (2) years the Joint Development Agreement entered into by the City of Lewiston, the Lewiston Mill Redevelopment Corporation and Bates Mill Limited Liability Company upon such terms as the City Administrator in his sole and complete discretion deems appropriate; and that City Administrator be and hereby is authorized to make, execute and deliver any documents which he in his sole and complete discretion may deem necessary or convenient for the accomplishment of the foregoing.

The City Administrator stated the proposed agreement was drafted after a number of meetings with representatives from LMRC and Bates Mill LLC/Platz Associates. He noted the proposed closing date is May 31. Councilor Carignan stated that LMRC has been

trying to finalize this agreement for a long time, and now suddenly, it appears that this transaction must be processed and approved immediately. He is questioning if Council can do an adequate job of reviewing this agreement, a very serious legal document, if the agreement is presented to Council ten minutes before they are requested to vote on it. He does not feel that Council could do the action justice if requested to vote in such a short period of time. He stated that additional time is needed to review and process the agreement before the Council can vote on this issue. Councilor Carignan also inquired about the original investment amount of \$4 million that would be spent to refurbish Mill Building Three, and noted the current amount listed in the agreement is \$1.25 million.

The City Administrator stated this issue highlights the difference of taking the building off of the tax rolls versus adding it onto the tax rolls, without the development work completed yet. Councilor Carignan concurred the City is moving in the right direction, to sell the Mill buildings and to get the City out of the real estate business. He did mention that the \$1.25 million investment over the four years only equates to about \$300,000 per year. Mayor Tara stated that she would like to have the agreement re-negotiated if there is enough time and would like to see an agreement that all parties are happy with. She also stated that she concurs with Councilor Carignan that the \$1.25 million investment in four years is a very low amount and will only provide basic maintenance and not re-development of the buildings.

Councilor Adams stated that LMRC did a vote of confidence at their last monthly meeting in support of the draft agreement at that time. Councilor Gousse stated he was uncomfortable with the Council moving forward on this agreement until the LMRC has voted on their recommendation.

VOTE (2)

Motion by Councilor Gousse, seconded by Councilor Carignan:

To table this item at this time. Passed - Vote 4-3
(Councilors Jean, Bilodeau and Adams opposed.)

The Mayor stated she felt this item needed additional discussion at this point.

VOTE (3)

Motion by Councilor Bernier, seconded by Councilor Samson:

To take this item from the table to address it at this time. Passed - Vote 5-1-1
(Councilor Gousse opposed, Councilor Bilodeau abstained.)

Councilor Samson stated he would like LMRC to vote on this agreement before the Council, so they can issue a recommendation to Council. Councilor Carignan and Mayor Tara agreed.

VOTE (4)

Motion by Councilor Bilodeau, seconded by Councilor Gousse:

To postpone this issue to a special Council meeting to be held on May 17, 2001.

Passed - Vote 7-0

At this point, the Council took a five minute recess. Mayor Tara left the meeting at this time due to illness and Council President Bilodeau took over the meeting.

AMENDMENT TO PARKS AND RECREATION ORDINANCE

Council President Bilodeau asked if any members of the public wished to speak for or against this ordinance amendment. No members of the public addressed the Council on this issue.

VOTE (5)

Motion by Councilor Gousse, seconded by Councilor Carignan:

That the proposed amendment to the City Code of Ordinances, Chapter 54 "Parks and Recreation", Sections 1 - 8, receive first passage by a roll call vote and that the public hearing for said ordinance be continued to the meeting of June 5, 2001 for final passage.

Passed - Vote 7-0

AMENDMENT TO THE STREETS AND SIDEWALKS ORDINANCE

Council President Bilodeau asked if any members of the public wished to speak for or against this ordinance amendment. No members of the public addressed the Council on this issue. Public Works Director Chris Branch requested a change to the proposed amendment. He noted that all ordinances, when referring to duties of the Public Works Department state "Director of Public Works", rather than "Department of Public Works" and suggested Council make this change to be consistent with other ordinances.

VOTE (6)

Motion by Councilor Carignan, seconded by Councilor Gousse:

To amend the proposal to change the phrases "Department of" to "Director of".

Passed - Vote - 7-0

VOTE (7)

Motion by Councilor Gousse, seconded by Councilor :

That the proposed amendment to the City Code of Ordinances, Chapter 66 "Streets and Sidewalks", Article I, "In General", Sections 66-9 (a), (b) and (d) "Altering, widening, establishing and discontinuing streets", receive first passage by a roll call vote and that the public hearing for said ordinance be continued to the meeting of June 5, 2001 for final passage. Passed - Vote 7-0

AMENDMENT TO THE BUILDINGS AND BUILDING REGULATIONS ORDINANCE

Council President Bilodeau asked if any members of the public wished to speak for or against this ordinance amendment. No members of the public addressed the Council on this issue

VOTE (8)

Motion by Councilor Samson, seconded by Councilor Jean:

That the proposed amendment to the City Code of Ordinances, Chapter 18 “Buildings and Building Regulations”, Article V, “Electrical Code”, Section 18-171 “Installations” and Section 177 “Exceptions”, receive first passage by a roll call vote and that the public hearing for said ordinance be continued to the meeting of June 5, 2001 for final passage.
Passed - Vote 7-0

PUBLIC HEARING ON ORDER TO ESTABLISH A MUNICIPAL REFERENDUM ELECTION FOR FUNDING OF THE PRIVATE AND PAROCHIAL SCHOOLS

Council President Bilodeau opened the public hearing at this time. Resident Larry Gilbert addressed the Council regarding his concerns with this issue and the lack of media coverage regarding this topic. He strongly urged the Council not to place this issue before the voters for referendum.

Motion by Councilor Gousse, seconded by Councilor Adams:

To approve the Order Establishing the Municipal Referendum Election for the Funding of Private and Parochial Schools:

ORDER ESTABLISHING MUNICIPAL REFERENDUM ELECTION FOR FUNDING OF PRIVATE AND PAROCHIAL SCHOOLS

- Whereas the City of Lewiston has traditionally provided city funds for the student transportation, testing, textbooks and school nursing services for the Lewiston students who attend private and parochial schools, and
- Whereas the City supports the right of parents to freely select the educational institutions their children shall attend, and
- Whereas the Maine State Statutes provide for municipalities to financially support private and parochial schools if residents of that community are attending these schools, and
- Whereas the funding for private and parochial schools has been an issue that has created great discussion amongst the City Council regarding public policy; and
- Whereas the City Council believes this is a public policy decision that should be addressed by the voters of Lewiston,

Now, Therefore, be it hereby Ordered by the City Council that a Municipal Referendum Election be held on Tuesday, November 6, 2001 for the purpose of allowing the registered voters of Lewiston the opportunity to vote on the following referendum question:

“Should the City of Lewiston continue to subsidize student transportation, testing, textbooks, and school nursing services for Lewiston students who attend private and parochial schools, as allowed for under state law?”

Councilor Carignan noted the Council discussed this issue at a budget workshop a few weeks ago and felt this was an issue the citizens should speak to. He offered an amendment to the language of the referendum question to define levels of support for future years.

VOTE (9)

Motion by Councilor Carignan, seconded by Councilor Gousse:

To amend the referendum question to insert the following (underlined) phrases:

“Should the City of Lewiston continue to subsidize student transportation at full cost, testing, textbooks, and school nursing services at current proportional levels for Lewiston students who attend private and parochial schools in the City of Lewiston, as allowed for under state law?”

Mr. Gilbert stated he is opposed to having this issue go before the citizens. He stated that schools that began in Lewiston, yet moved to Auburn, should be entitled to receive this funding support as well.

Student Representative Karen Gagnon stated that she would like to see all Lewiston students, regardless of the location of their school, receive financial assistance in the form of current funding for textbooks, transportation, etc.

Councilor Gousse stated he believes this is an issue of equity and equality and it is also his wish that all Lewiston school-age children receive the same treatment regardless of the location of their school. Councilor Adams then inquired about transportation expenses to out of town private schools. Councilor Gousse concurred that the City needs to define the transportation areas.

Passed - Vote 6-1 (Councilor Jean opposed.)

VOTE (10)

Motion by Councilor Carignan, seconded by Councilor Adams:

To amend the motion to approve the Order to include the phrase: “...contingent upon review by the City Attorney and certification that the wording of the question meets appropriate literacy standards.”

Mr. Gilbert stated that for the record, he is also opposed to this amendment as well. Mr. Gilbert stated he is disturbed by the possible citizen referendum on this issue and believes that if this item was in the newspaper as an issue on tonight's agenda, then the Council room would be filled with citizens and parents of school children who would be opposed to this issue as well. He stated that Catholic schools are saving the City hundreds of thousands of dollars each year, perhaps close to one million dollars in savings, by providing an education alternative to parents. He noted that if all of the parochial schools closed and the Lewiston children had to attend the city schools, then the city school system could not handle the influx, both with space needs, expenses, number of teachers, etc. He mentioned that parents today who send their children to private parochial schools are making a huge financial sacrifice to do so, but it is their choice, and the schools are in need of the funding that they receive from the City each year.

Mr. Gilbert stated that as elected officials, the Council must protect the minority, and he noted that the school children who attend the private and parochial schools are within a minority. He informed Council this issue will be very divisive in the community if they allow it to move forward. Lewiston does not need any more division within the community. Lewiston wants to be a community of excellence, and we need to work together now; we have worked against ourselves and each other for too long. Mr. Gilbert noted that the Catholic priests are attending an annual retreat in Bar Harbor this week, and would be present for this issue if they were in town. He reminded the Council that compared to the entire cost of providing an individual student with an education, the amount of funds the City is contributing per Lewiston pupil who attend the private and parochial schools, is a bargain. He asked the Council to factor in the full cost of this decision before voting this evening.

Councilor Gousse thanked Mr. Gilbert for his comments and noted this issue has been controversial when discussed by the Council during the past few budget years. Councilor Gousse stated the issue is very plain and simple - do we want public funding for private schools? He shared with Mr. Gilbert that the original proposal was to eliminate all of the funding for private and parochial schools, as a budget adjustment item. This year, however, the Council decided to fund the schools at last years level and to have the citizens speak on this issue.

Councilor Bernier stated that she wants to make sure that not all private schools that have Lewiston students attending will be expecting to receive funding if the referendum is approved.

Councilor Carignan thanked Mr. Gilbert for his remarks and noted this is a very difficult topic to discuss. He feels that since this is such a difficult issue, the Council would like to have the issue decided with the full involvement of the community. Councilor Adams echoed these comments and stated that if the question goes to the citizens, then it will be a fair decision. He said this issue is a large issue and the decision should not be left up to four Councilors (majority of Council) but should be decided by the community and the Councilors need to represent the community. He is confident the City will support the referendum.

Mr. Gilbert asked to have this issue tabled until a future meeting to allow for additional citizen input. Councilor Gousse noted that is what the intent of the referendum vote is - to get public input from all citizens on this issue.

Councilor Bilodeau noted this issue has been debated many times in the past and it is not a new issue. It has been discussed during previous budgets and by other communities as well. She noted the City Clerk's Office placed a legal ad in the newspaper announcing the public hearing, as is done by City policy for all public hearings, and this issue was no different.

Passed - Vote 7-0

Council now voted on the Main Motion as originally presented, (motion by Councilor Gousse, seconded by Councilor Adams) along with the two additional amendments that have been approved:

VOTE (11)

To approve the Order Establishing the Municipal Referendum Election for the Funding of Private and Parochial Schools contingent upon review by the City Attorney and certification that the wording of the question meets appropriate literacy standards.

ORDER ESTABLISHING MUNICIPAL REFERENDUM ELECTION FOR FUNDING OF PRIVATE AND PAROCHIAL SCHOOLS

- Whereas the City of Lewiston has traditionally provided city funds for the student transportation, testing, textbooks and school nursing services for the Lewiston students who attend private and parochial schools, and
- Whereas the City supports the right of parents to freely select the educational institutions their children shall attend, and
- Whereas the Maine State Statutes provide for municipalities to financially support private and parochial schools if residents of that community are attending these schools, and
- Whereas the funding for private and parochial schools has been an issue that has created great discussion amongst the City Council regarding public policy; and
- Whereas the City Council believes this is a public policy decision that should be addressed by the voters of Lewiston,

Now, Therefore, be it hereby Ordered by the City Council that a Municipal Referendum Election be held on Tuesday, November 6, 2001 for the purpose of allowing the registered voters of Lewiston the opportunity to vote on the following referendum question:

Should the City of Lewiston continue to subsidize student transportation at full cost, testing, textbooks, and school nursing services at current proportional levels for Lewiston students who attend private and parochial schools in the City of Lewiston, as allowed for under state law?

Mr. Gilbert stated that he is opposed to this Order and urged the Councilors to vote against it.

Passed - Vote 7-0

AMENDMENTS TO THE ELECTRICAL PERMIT FEE SCHEDULE POLICY

Deputy Development Director Gil Arsenault stated that a public meeting was held on April 11 on this issue and over 200 letters were mailed to electrical contractors and builders informing them of the proposed change and inviting their input. Only three people attended the meeting. This would be implemented on July 1 to allow time for notification.

VOTE (12)

Motion by Councilor Jean, seconded by Councilor Adams:

To approve the proposed amendments to the Electrical Permit Fee Schedule Policy as recommended by the Code Enforcement Division, to be effective July 1, 2001.

Passed - Vote 6-1 (Councilor Bernier opposed.)

AMENDMENTS TO THE INSPECTION AND CITY LICENSES POLICY

VOTE (13)

Motion by Councilor Gousse, seconded by Councilor Jean:

To approve the proposed amendment to the Inspection and Approval of City License Applications Policy as recommended by the City Clerk's Department and the Police Department. Passed - Vote 7-0

RESOLUTION OPPOSING THE NATIONAL FIRE PROTECTION ACT 1710

The City Administrator explained the background on this issue. There is a proposal to change the National Fire Protection Act, which is a federal act that all full time fire departments must follow, which created a new and stronger standard for minimum staffing levels for fire apparatus and new response times. The Fire Chief stated the NFPA 1710, as originally proposed, would require Lewiston to hire an additional thirty people to staff the trucks and would cost the City approximately \$1,127,000 per year to comply. He noted that fire departments around the country have expressed their concerns regarding this proposal, and the NFPA 1710 is in the process of being amended. The Chief is asking the Council to approve the Resolution to oppose the NFPA 1710 as originally presented.

VOTE (14)

Motion by Councilor Bernier, seconded by Councilor Jean :

To adopt the Resolution Opposing the proposed National Fire Protection Act (NFPA) 1710 Standard for the Organization and Deployment of Fire Suppression, Emergency Medical Operations and Special Operations to the Public by Career Fire Departments.

WHEREAS, It is the position of the City of Lewiston to oppose the National Fire Protection Act (NFPA) 1710, “Standard for the Organization and Deployment of Fire Suppression, Emergency Medical Operations and Special Operations to the Public by Career Fire Departments”, as originally proposed and,

WHEREAS, In Chief Michel A. Lajoie’s March 22, 2001, attached letter, he states that “if NFPA 1710 (as originally proposed) were mandated by law, it would present a financial and logistical challenge for the City as a whole as well as for the fire department” and,

WHEREAS, Chief Michel A. Lajoie’s letter specifically states that NFPA 1710, as originally proposed, would result in a significant increase in municipal costs of approximately \$1,127,277.06 per year in regards to the “high hazard” standard and,

WHEREAS, The International City/County Management Association, United States Conference of Mayors, and the National League of Cities have stated their strong opposition to the adoption of NFPA 1710, as originally proposed, based upon the significant financial impact upon communities across the United States,

NOW, THEREFORE, be it resolved by the City Council of the City of Lewiston, Maine, that the City Council hereby stands in opposition to the National Fire Protection Act (NFPA) 1710, as originally proposed.

Passed - Vote 7-0

ADOPTION OF SUMMER MEETING SCHEDULE

VOTE (15)

Motion by Councilor Carignan, seconded by Councilor Bilodeau:

To suspend Section 1,(a) of the Rules Governing the City Council and to hold only one regular meeting during the months of July and August, said meetings to be held on Tuesday, July 17th and Tuesday, August 14th. Passed - Vote 7-0

AUTHORIZATION TO TRANSFER FUNDS

VOTE (16)

Motion by Councilor Carignan, seconded by Councilor Bilodeau:

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 \$2,768.00 and the proceeds from the sale of one Mossberg 12 gauge pump shotgun, serial number K978291, or any portion thereof, in the case of State of Maine vs. Ly Ha, Criminal Action, Docket Number CR-00-558. 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

VOTE (17)

Motion by Councilor Carignan, seconded by Councilor Bilodeau:

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 \$2,922.00 or any portion thereof, in the case of State of Maine vs. Kerry Felker, Criminal Action, Docket Number CR-01. 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

REQUEST TO USE KENNEDY PARK

VOTE (18)

Motion by Councilor Carignan, seconded by Councilor Bilodeau:

To authorize the Seventh Day Adventist Church to use Kennedy Park on July 18 - 24, 2001, for discussion/presentation on health issues, subject to the following conditions:

1. Area to be kept properly cleaned by Seventh Day Adventist Church
2. Security, satisfactory to the Police Chief, to be provided at the expense of Seventh Day Adventist Church.
3. Advanced approval of the Public Works Department regarding any use of electrical power.
4. Appropriate insurance, and fire safety certificates (if having a tent), are provided to the City at least seven (7) days in advance of said event.
5. Compliance with all City ordinances, rules, policies, procedures and regulations.

Passed - Vote 7-0

VOTE (19)

Motion by Councilor Carignan, seconded by Councilor Bilodeau:

To authorize the Seventh Day Adventist Church to use Kennedy Park on July 25 - 31, 2001, for a stop smoking clinic, subject to the following conditions:

1. Area to be kept properly cleaned by Seventh Day Adventist Church
2. Security, satisfactory to the Police Chief, to be provided at the expense of Seventh Day Adventist Church.
3. Advanced approval of the Public Works Department regarding any use of electrical power.
4. Appropriate insurance, and fire safety certificates (if having a tent), are provided to the City at least seven (7) days in advance of said event.
5. Compliance with all City ordinances, rules, policies, procedures and regulations.

Passed - Vote 7-0

VOTE (20)

Motion by Councilor Carginan, seconded by Councilor Bilodeau:

To authorize Gospel Tent Ministries to use Kennedy Park on June 7 - 17, 2001, for gospel tent meetings/religious services, subject to the following conditions:

1. Area to be kept properly cleaned by Gospel Tent Ministries.
2. Security, satisfactory to the Police Chief, to be provided at the expense of Gospel Tent Ministries.
3. Advanced approval of the Public Works Department regarding any use of electrical power.
4. Appropriate insurance, and fire safety certificates (if having a tent), are provided to the City at least seven (7) days in advance of said event.
5. Compliance with all City ordinances, rules, policies, procedures and regulations.

Passed - Vote 7-0

REQUEST TO HANG BANNER

VOTE (21)

Motion by Councilor Carignan, seconded by Councilor Bilodeau:

To authorize the American Diabetes Association to hang a banner at the Lewiston pump station from August 26 - September 16, 2001 to promote the Walk-a-thon. The banner must be installed per requirements of the Public Works Department. Passed - Vote 7-0

UPDATE FROM LEWISTON MILL REDEVELOPMENT CORPORATION

Due to the earlier agenda item discussion, no report was presented at this time.

REPORT FROM SCHOOL COMMITTEE

No report was presented at this time.

OTHER BUSINESS

Due to the late hour, no other business was presented at this time.

Council President Bilodeau requested that the Council take agenda items 22, 23, and 24 out of order to address these issues at this time. No Councilor objected.

DISCONTINUE A PORTION OF HINES ALLEY

Public Works Director Chris Branch recommended to the Council that they approve the Order as presented, yet he mentioned that the exact legal descriptions of the portions of Hines Alley to be discontinued needs to be legally defined. This information is being provided by Platz Associates and will be reviewed and approved by the Director of Public Works before it is included in the Order.

VOTE (22)

Motion by Councilor Gousse, seconded by Councilor Samson:

That the Order vacating and discontinuing a portion of Hines Alley from Lincoln Street to Chestnut Street and a portion from Cross Street to City of Lewiston property, be adopted.

Passed - Vote 7-0

DISCONTINUE A PORTION OF CROSS STREET

The City Administrator removed this item from the agenda, stating that the City is still waiting to receive a deed from Florida Power and Light Company before this section can be discontinued.

PUBLIC EASEMENT FOR MILL STREET

VOTE (23)

Motion by Councilor Jean, seconded by Councilor Gousse:

That the Order vacating and discontinuing a portion of Mill Street, from Chestnut Street to Cross Street Canal No. 1, be adopted. Passed - Vote 7-0

VOTE (24)

Motion by Councilor Samson, seconded by Councilor Jean:

Ordered, that Mill Street, with the boundaries and admeasurements of the same, as laid out and reported by the Director of Public Works, be and the same is hereby accepted, allowed and established as a public easement for the use of the City of Lewiston. Passed - Vote 7-0

APPLICATIONS SUBMITTED UNDER TITLE 36, SECTION 841 (2)

VOTE (25)

Motion by Councilor Gousse, seconded by Councilor Jean:

To enter into Executive Session to review two applications submitted under Title 36, section 841 (2). Passed - Vote 7-0

Session began at 9:25pm and ended at 9:40pm.

VOTE (26)

Motion by Councilor Carignan, seconded by Councilor Samson:

To deny Application Number One as submitted under Title 36, section 841 (2) due to insufficient information to demonstrate need. Passed - Vote 7-0

VOTE (27)

Motion by Councilor Samson, seconded by Councilor Gousse:

To approve, with stipulations, Application Number Two as submitted under Title 36, section 841 (2). Passed - Vote 7-0

VOTE (28)

Motion by Councilor Samson, second by Councilor Gousse:

To adjourn at 9:42 P.M. Passed - Vote 7-0

A true record, Attest:

Kathleen M. Montejo, CMC
City Clerk
Lewiston, Maine