

# CITY OF LEWISTON

**CITY COUNCIL**

**NOVEMBER 13, 2001**

## **REGULAR MEETING HELD IN THE COUNCIL ROOM AT 6:00PM**

THE HONORABLE KAILEIGH A. TARA, MAYOR, PRESIDING.

PRESENT: Councilors Gousse, Bernier, Carignan, Jean, Samson, Bilodeau, Adams,  
Acting City Administrator Phil Nadeau and City Clerk Kathleen Montejo

Pledge of Allegiance to the Flag.

Moment of Silence.

### **Committee Appointments**

Mayor Tara nominated Laurier Lachance to serve as the Ward Two representative to the School Committee to fill the current vacancy. Mr. Lachance was elected November 6 to begin a two year term effective January 7, 2002.

#### **VOTE (1)**

Motion by Councilor Samson, seconded by Councilor Carignan:

To appoint Laurier Lachance of 29 Fairlawn Avenue to fill the current vacancy in Ward Two on the School Committee, said term to expire January 7, 2002. Passed - Vote 7-0

#### **VOTE (2)**

Motion by Councilor Bilodeau, seconded by Councilor Carignan:

To appoint Nancy Perry of 456 East Avenue as an associate member of the Board of Appeals for a five year term, said term to expire January 2005. Passed - Vote 7-0

### **Proclamation - Recycling Week**

Mayor Tara announced a proclamation she signed on October 30 declaring the week of November 8 - 15 as Lewiston Recycles Week. Mayor Tara complimented the City's Recycling Coordinator for her community outreach efforts regarding the city's recycling program.

Mayor Tara announced a one million dollar federal grant that was just received for the Community Center at the new housing complex developed with Neighborhood Housing Initiatives, the partnership with Sisters of Charity Health Systems, Lewiston Housing Authority and the City.

Representatives from the No Name Pond neighborhood area presented plaques of appreciation to Councilor Bernier, City Planner Jim Lysen and the Public Works Water and Sewer Divisions for their work on the new community septic system project in the No Name Pond area.

Mayor Tara showed a quilt made by the students at Montello School which is in the shape of a US flag. This will be put on display at City Hall.

**PUBLIC HEARING AND FIRST PASSAGE FOR THE CONDITIONAL REZONING OF THE PROPERTY AT 741-747 MAIN STREET**

Mayor Tara opened the hearing to receive public input. No members of the public spoke for or against this item. Mayor Tara then closed the hearing.

**VOTE (3)**

Motion by Councilor Samson, seconded by Councilor Bilodeau:

To approve first passage of the amendment to the Zoning and Land Use Code and Map to conditionally rezone the property at 741-747 Main Street, from the Highway Business (HB) District to the Urban Enterprise (UE) District, subject to a conditional agreement, and that the public hearing on said ordinance be continued to the meeting of December 11, 2001 for final passage. Passed - Vote 7-0

**PUBLIC HEARING AND FIRST PASSAGE FOR AN AMENDMENT TO THE CONDITIONAL REZONING AGREEMENT FOR 16 WELLMAN STREET**

Mayor Tara opened the hearing to receive public comment. Councilor Bernier stated she has major concerns regarding the on-going code issues with this property. City Planner Jim Lysen stated that in the original conditional rezoning agreement, commercial parking of vehicles was not permitted and the structure is non-conforming and 2/3 of the addition would need to be removed if this rezoning is not allowed. The owner stated there were no intentional violations, just a misunderstanding of the permitted uses. It was noted the condition of the building has improved dramatically since the renovations have been done. Councilor Carignan stated the Council wants the use to be consistent with the neighborhood. Mr. George Ouellette, an abutting neighbor, stated neighbors have issues regarding snow plowing and commercial parking. The owner stated that anytime the Code Department contacted him with concerns, he worked to resolve those immediately and has worked to address the neighborhood concerns. Councilor Bilodeau stated she is concerned about the commercial activity in this residential neighborhood and the habitual code and zoning violations by the owner.

**VOTE (4)**

Motion by Councilor Samson, seconded by Councilor Jean:

To approve first passage for the amendment to the conditional rezoning agreement, for 16 Wellman Street, to conditionally rezone the property from the Office Service (OS) District to the Urban Enterprise (UE) District, subject to the conditions defined in the rezoning agreement, and that the public hearing on said ordinance be continued to the meeting of December 11, 2001 for final passage. Passed - Vote 5-2  
(Councilors Bilodeau and Bernier opposed)

**PUBLIC HEARING AND FIRST PASSAGE REGARDING AN AMENDMENT TO  
THE BUSINESS LICENSING ORDINANCE FOR THE DEFINITION OF  
CHILD CARE FACILITIES**

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

**VOTE (5)**

Motion by Councilor Samson, seconded by Councilor Jean:

That the proposed amendment to the City Code of Ordinances, Chapter 22 “Businesses”, Article I “In General”, Section 22-2 “Definitions”; Article II “Licenses”, Section 22-41 “Duration of licenses; expiration date”, and Section 22-46 “Schedule of Fees” receive first passage by a roll call vote and that the public hearing on said ordinance be continued to the meeting of December 11, 2001 for final passage. Passed - Vote 7-0

**PUBLIC HEARING AND FIRST PASSAGE REGARDING AN AMENDMENT TO THE  
BUSINESS LICENSING ORDINANCE FOR THE DEFINITION OF SOUND TRUCK**

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

**VOTE (6)**

Motion by Councilor Bilodeau, seconded by Councilor Jean:

That the proposed amendment to the City Code of Ordinances, Chapter 22 “Businesses”, Article I “In General”, Section 22-2 “Definitions”; Article II “Licenses”, Section 22-28 “License for each location required”, and Section 22-46 “Schedule of Fees” receive first passage by a roll call vote and that the public hearing on said ordinance be continued to the meeting of December 11, 2001 for final passage. Passed - Vote 7-0

**PUBLIC HEARING ON A \$350,000 BOND ISSUE FOR WORK ASSOCIATED  
WITH THE EXPANSION OF LEPAGE BAKERIES, INC.**

Mayor Tara opened the public hearing. No members of the public spoke for or against this item. Finance Director Richard Metivier noted this item is a follow up to the March 10 action which authorized the City to proceed with this work to be funded by a future bond issue. This item is to proceed with the bond issue.

**VOTE (7)**

Motion by Councilor Samson, seconded by Councilor Bilodeau:

Ordered, that \$350,000 be appropriated to finance demolition and road investment associated with the LePage Bakeries, Inc. expansion project;

Further Ordered, that to meet this appropriation, \$350,000 shall be raised by the issue of these Bonds;

Further Ordered, that the City Council instruct the Finance Director to negotiate the sale of the Bonds with Peoples Heritage Bank, N.A. or any other qualified purchaser; to award the loan; and to employ Palmer and Dodge LLP to furnish the legal opinion for the same;

Further Ordered, that the Bonds shall be signed by the City Treasurer and Mayor;

Further Ordered, that the date, maturities, denominations, interest rate or rates, place or places of payment, form or other details of the Bonds and of the provisions for the sale thereof shall be determined by the Finance Director.

Passed - Vote 7-0

**PUBLIC HEARING ON A LIQUOR LICENSE AND SPECIAL AMUSEMENT  
PERMIT FOR THE GALLERY THEATRE BAR**

**VOTE (8)**

Motion by Councilor Samson, seconded by Councilor Jean:

To authorize the City Clerk's Office to approve the liquor license application and a special amusement permit for dancing and entertainment for The Gallery Theatre Bar, 347 Lisbon Street. Passed - Vote 7-0

**HEARING ON AN APPEAL FOR A DENIAL OF A TATTOO LICENSE**

Keith "Caveman" Desrochers is appealing the denial of his tattoo license. The Police Department did not approve his application due to past problems and criminal actions related to a tattoo business. Mayor Tara opened the public hearing to receive public

comment. Mr. Derochers was represented by Attorney Scott Lynch. Mr. Lynch noted the criminal violations were more than five years ago, and Mr. Desrochers has been operating a tattoo parlor in Lisbon for the past five years without any state or local violations. He said the business is subject to inspections by the state and each time a review was conducted, no problems were located. It was noted that the past violations occurred during a time that Mr. Derochers was having a problem with alcohol, which he as been in treatment for the past couple of years. Attorney Lynch presented a statement from Mr. Derochers treatment counselor attesting to the treatment he has been receiving. Attorney Lynch stated that Mr. Derochers is well respected in the tattoo industry and teaches tattoo hygiene and health and safety courses with the state. Approximately 30-40 people in the audience indicated they were present to support Mr. Derochers request for an appeal.

**VOTE (9)**

Motion by Councilor Carignan, seconded by Councilor Bilodeau:

To approve the tattoo license for Keith Derochers with the following conditions:

- 1) Immediate suspension for any violation, no matter how minor
- 2) The business adopt a minor prohibition protocol to include signage both interior and exterior, that a copy of all identification cards be made and to require double identification from customers
- 3) Records be made available for Police Department inspection at anytime
- 4) Host a tattoo law seminar with the city health inspector for all business employees

Passed - Vote 7-0

**SPECIAL AMUSEMENT PERMIT FOR THE MIDTOWN ATHLETIC CLUB**

**VOTE (10)**

Motion by Councilor Bilodeau, second by Councilor Adams:

To grant a Special Amusement Permit for Dancing and Entertainment to The Midtown Athletic Club, 315 Lisbon Street. Passed - Vote 7-0

**APPOINTMENT OF ACTING CITY ADMINISTRATOR**

**VOTE (11)**

Motion by Councilor Bilodeau, second by Councilor Samson:

To appoint Assistant City Administrator Phil Nadeau to serve as Acting City Administrator until a City Administrator is appointed and assumes office. Passed - Vote 7-0

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

**VOTE (12)**

Motion by Councilor Bilodeau, second by Councilor Jean:

Be it resolved, that the City be and hereby is authorized to approve amendments to the existing 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 the 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. Passed - Vote 6-1 (Councilor Gousse)

**PROPOSED PUBLIC/PRIVATE PARTNERSHIP WITH L/A ARTS TO  
GENERATE FUNDS TO COMPLETE THE COURTHOUSE PLAZA PROJECT**

Public Works Director Chris Branch and L/A Arts Director Richard Willing addressed the Council on a project proposal. The Courthouse Plaza project estimates are much higher than the budget will allow, and it is the desire of the City not to have to eliminate any of the design elements. L/A Arts new building will be located near the Plaza and is very interested in being able to host outdoor musical events and so forth in the Plaza. L/A Arts is undergoing a capital campaign to collect funds for the renovations of their new building and suggested incorporating fundraising for the Plaza into their campaign. This is viewed as a win-win situation for both organizations. The campaign consultant does not view the additional fundraising as a burden and sees the project as one that can be accomplished and will be a nice compliment to the arts building campaign.

**VOTE (13)**

Motion by Councilor Bilodeau, second by Councilor Carignan:

To authorize the City Administrator to negotiate and execute a partnership agreement with L/A Arts which establishes a cost sharing agreement for completing Courthouse Plaza as originally designed. The City's share of the construction cost will be approximately \$319,260, which has already been appropriated. L/A Arts share will not exceed \$300,000, with the money to come from an upcoming capital campaign. Passed - Vote 7-0

**CONSULTANT'S RECOMMENDATIONS ON EASTSIDE CORRIDOR PROJECT**

Greg Hanscom and Dennis Therriault served on the Citizens Advisory Committee for this project, and urged the Council to approve the motion to accept the consultant's report as recommended by city staff.

**VOTE (14)**

Motion by Councilor Samson, second by Councilor Adams:

To accept the Parsons Brinckerhoff Report for the Eastside Corridor Alternatives Analysis, eliminating from consideration alternatives number one through five (the Garcelon Bog alternatives) and to further study and investigate the No Build and Upgrade Alternatives number six, seven and eight, with a concentration on the City's primary transportation objective to maximize traffic flow on arterial streets and to minimize impacts on streets in residential areas. Passed - Vote 7-0

**UPDATE OF CITY POLICY REGARDING THE DOWNTOWN FACADE  
IMPROVEMENT PROGRAM**

Councilor Bernier expressed concern about the zone area that is defined in this program, and suggested expanding the area beyond Adams Avenue up to Bleachery Street in order to allow the Pepperell Mill property owners to participate in this program. Other Councilors supported her suggestion. Councilor Bilodeau stated she did not support this one specific change, and noted there are other property owners that she is familiar with on other sides of the boundary line that would be interested in participating, but noted the Downtown Development Advisory Board reviewed these changes and supported the zone area, and suggested that making one specific change at this time to support one property owner is not appropriate at this time, without additional complete review of the entire zone area.

**VOTE (15)**

Motion by Councilor Bernier, second by Councilor Gousse:

To expand the priority zone area for the Downtown Facade Improvement Program to move the boundary line from Adams Avenue to Bleachery Street. Passed - Vote 6-1  
(Councilor Bilodeau opposed)

**VOTE (16)**

Motion by Councilor Samson, second by Councilor Jean:

To repeal the current Downtown Facade Improvement Program Policy, Policy Number 27, and to adopt and establish a new Downtown Facade Improvement Program Guidelines Policy, Policy Number 27, as amended. Passed - Vote 7-0

**ADOPTION OF NEW CITY POLICY REGARDING THE ESTABLISHMENT  
OF AN ELEVATOR GRANT PROGRAM**

Councilor Bernier said that she would like to have the priority zone for this program expanded to Bleachery Street as well, for the same reasons she stated in the previous discussion. Councilor Bilodeau stated that the same concerns she expressed previously also apply to this program as well.

**VOTE (17)**

Motion by Councilor Bernier, second by Councilor Carignan:

To expand the priority zone area for the Elevator Grant Program to move the boundary line from Adams Avenue to Bleachery Street. Passed - Vote 6-1  
(Councilor Bilodeau opposed)

**VOTE (18)**

Motion by Councilor Bilodeau, second by Councilor Jean:

To adopt and establish a new City Policy: Policy Number 75 - Elevator Grant Program Policy, as amended. Passed - Vote 7-0

**WAIVER OF CITY PERSONNEL POLICY TO CHANGE THE HOLIDAY SCHEDULE FOR SOME CITY EMPLOYEES**

**VOTE (19)**

Motion by Councilor Samson, second by Councilor Bilodeau:

To approve a waiver of the City Personnel Policy for fiscal year 2001-2002, to include in the holiday schedule the day after Thanksgiving as a recognized holiday and to remove Patriot's Day as a scheduled holiday, for salaried employees and employees in a MSEA union position. In addition, to approve the closure on November 23, 2001 of City Hall, the Library, the Armory, the Multi-Purpose Center and the bill paying office of Public Works. Passed - Vote 7-0

**TRAFFIC SCHEDULE AMENDMENT FOR PINE STREET**

**VOTE (20)**

Motion by Councilor Samson, second by Councilor Bilodeau:

Section 7 - Parking Meters - Time Limitations - 1 Hour, is hereby amended as follows:

PINE STREET        ~~6 parking spaces southerly side between Park St. and Middle St.~~

Section 8 - Parking Meters - Time Limitations - 2 Hours, is hereby amended as follows:

PINE STREET        ~~8 parking spaces southerly side between Bates St. and the southeasterly line of Middle Street~~

24 parking spaces beginning at a point 86.5' from the southeast corner of Park St. and Pine St., odd numbered side, east side between Park St. and Bates St.



Section 35 - Parking Reserved - Handicapped, is hereby amended as follows:

PINE STREET            Odd numbered side, east side, beginning at a point 61' from the southeast corner of Park St. and Pine St. and extending easterly on Pine St. a distance of 25.5'

Passed - Vote 7-0

**REQUEST TO HANG BANNER**

**VOTE (21)**

Motion by Councilor Samson, second by Councilor Bilodeau:

To authorize the Prevention Works Harm Reduction Services organization to hang a banner at the Lewiston pump station from December 3-15, 2001 to promote the holiday concert fundraising event. The banner must be installed per requirements of the Public Works Department. Passed - Vote 7-0

**VOTE (22)**

Motion by Councilor Samson, second by Councilor Bilodeau:

To authorize the Sisters of Charity Foundation to hang a banner at the Lewiston pump station from November 14 - December 2, 2001 to promote the Festival of Lights event. The banner must be installed per requirements of the Public Works Department. Passed - Vote 7-0

**AUTHORIZATION TO ACCEPT TRANSFER OF FORFEITURE FUNDS**

**VOTE (23)**

Motion by Councilor Samson, second 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 \$1,050.00, or any portion thereof, in the case of State of Maine vs. Geary Bissonette, Court Records 01-3086; \$1,015.00, or any portion thereof, in the case of the State of Maine vs. Geraldine Teague, Court Records 00-3511; and \$75.00, or any portion thereof, in the case of State of Maine vs. Joshua Pinkham, Court Records 00-3459. 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

**LEGISLATIVE UPDATE**

Councilor Samson stated that he worked with the Development Department to have the Resolution drafted regarding additional funds for the Courthouse building renovation. This Resolution will be discussed under Other Business.

**REPORT FROM THE SCHOOL COMMITTEE**

Councilor Samson stated the newly elected officials orientation will be held soon, that LHS recently dedicated their Memorial Garden and the School Committee is reviewing plans for renovating the Middle School.

**OTHER BUSINESS**

Resolution for Courthouse Funding:

**VOTE (24)**

Motion by Councilor Carignan, second by Councilor Jean:

To adopt a Resolution for the \$2.5 million dollars in additional funding for the Lewiston District Court Music Hall Renovation. Passed - Vote 7-0

Councilor Gousse urged the returning Councilors and city staff to explore the re-uses of the Libby Mill cupola.

**VOTE (25)**

Motion by Councilor Bilodeau, second by Councilor Carignan:

To enter into executive session for Real Estate negotiation of which the premature disclosure of the information would prejudice the competitive bargaining position of the City, to discuss a legal matter with the City Attorney and for personnel matters. Passed - Vote 7-0

Session began at 9:10pm and ended at 9:40pm

**ORDER TO PROVIDE NOTICE OF INTENTION FOR EMINENT DOMAIN**

**VOTE (26)**

Motion by Councilor Gousse, second by Councilor Samson:

Be it Ordered by the City Council that the City Clerk, on behalf of the Council, and in accordance with the provisions of said 23 M.R.S.A. §3022, to give written notice of the intentions of the City Council to condemn and take by eminent domain the premises, including all structures, bounded by Lisbon Street, Pine Street, Park Street Alley and the

southerly boundary of the existing Lewiston Public Library, such notice, in a form to be drafted or approved by the City Attorney, to be posted in 2 public places and in the vicinity of the property described below at least seven (7) days in advance of the meeting of the City Council on the December 11, 2001, and that action in furtherance of this intention be placed upon the agenda for said Council Meeting of December 11, 2001.

Passed - Vote 7-0

**VOTE (27)**

Motion by Councilor Carignan, second by Councilor Gousse:

To adjourn at 9:43 P.M. Passed - Vote 7-0

A true record, Attest:

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Kathleen M. Montejo, CMC  
City Clerk  
Lewiston, Maine