

CITY OF LEWISTON

CITY COUNCIL

OCTOBER 15, 2002

REGULAR MEETING HELD IN THE COUNCIL ROOM AT 7:00PM

THE HONORABLE LAURIER T. RAYMOND, JR., MAYOR, PRESIDING.

PRESENT: Councilors Philippon, Bernier, O'Brien, Jean, Mason, Paradis, Rousseau, City Administrator James Bennett, and City Clerk Kathleen Montejo

Pledge of Allegiance to the Flag.

Moment of Silence.

VOTE (298-2002)

Motion by Councilor Bernier, seconded by Councilor Jean:

To dispense with the reading of the minutes of the October 1, 2002, 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 REZONING PROPERTIES AT
70, 88, 96 AND 104 COMMERCIAL STREET**

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

VOTE (299-2002)

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

That the proposed amendment to re-zone the properties at 70, 88, 96 and 104 Commercial Street, from the Highway Business (HB) District to the Urban Enterprise (UE) District, receive first passage by a roll call vote and that the public hearing on said ordinance be continued to the meeting of November 12, 2002 for final passage. Passed - Vote 7-0

**PUBLIC HEARING AND FIRST PASSAGE FOR LAND USE CODE
AMENDMENTS CONCERNING ADULT BUSINESS AND
ADULT AMUSEMENT STANDARDS**

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

VOTE (300-2002)

Motion by Councilor Mason, second by Councilor Jean:

That the proposed amendment to Appendix A, Article II "Definitions", Article XI, "District Regulations" and Article XII "Performance Standards" of the City Zoning and Land Use Code, concerning adult business and adult amusement standards, receive first passage by a

roll call vote and that the public hearing on said ordinance be continued to the meeting of November 12, 2002 for final passage. Passed - Vote 7-0

**PUBLIC HEARING REGARDING AMENDMENTS TO THE CITY OF LEWISTON
AND WALMART STORES EAST, INC. AGREEMENT FOR DEVELOPMENT
ASSISTANCE AND TAX INCREMENT FINANCING**

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

Development Director Greg Mitchell made a brief presentation. The development project includes approximately forty five million dollars in combined real estate and personal property investment in the City to establish a regional distribution facility and 350 jobs. The current agreement commits the City to make public infrastructure investment for this project. The amendment does not change the financial arrangement with Walmart in support of this project, but allows the City to “shelter” fifty percent of the personal property tax revenue to cover such items as city economic development staff salaries, city marketing programs, establishment of a city wetlands banking program, establishment of a commercial revolving loan fund and other economic development tools. The City is projected to save over \$1.3 million dollars if it “shelters” fifty percent of the personal property tax revenue.

VOTE (301-2002)

Motion by Councilor Jean, second by Councilor Rousseau:

That the City Administrator is authorized to execute the attached Amendment to the Agreement for Development Assistance and Tax Increment Financing, dated December 28, 2001 between the City and Wal-Mart Stores East, Inc., and that such amendments to the agreement be incorporated into the Tax Increment Financing Application submitted to the Maine Department of Economic and Community Development. Passed - Vote 7-0

**AMENDMENT TO THE AGREEMENT BETWEEN THE CITY OF LEWISTON
AND GENDRON & GENDRON, GENDRON REALTY AND DOLARD GENDRON**

Mr. Mitchell stated the addendum to the agreement became necessary with the realignment of the Alfred Plourde Parkway closer to the project, as a result of relocating the Walmart project truck entrance to Goddard Road, which resulted in the need for City investment in a road extension into adjacent industrial land.

VOTE (302-2002)

Motion by Councilor Philippon, second by Councilor Bernier:

That the City enter into an Amendment to the Agreement dated August 14, 2001 between the City, and Gendron & Gendron, Gendron Realty, and Dolard Gendron, and that the City Administrator be and hereby is authorized to execute and deliver said Amendment to the Agreement, on behalf of the City. Passed - Vote 7-0

ADDITIONAL BOND AUTHORIZATION FOR WALMART DISTRIBUTION FACILITY

Mr. Mitchell reported this item relates to the need for an additional one million dollars in City investment in support of the Walmart project public infrastructure needs. The increased level of City public infrastructure investment is needed to support completion of the Public Works Operation Center with the sand, salt and storage facilities; road extension into Plourde Business Park and engineering and technical support.

VOTE (303-2002)

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

To authorize an additional \$1,000,000.00 to finance the necessary public infrastructure improvements associated with the Wal-Mart Distribution Facility and to finance the improvements through the issuance of a future bond issue. Passed - Vote 7-0

PUBLIC HEARING ON A LIQUOR LICENSE APPLICATION FOR THE THAI ELEPHANT, 875 LISBON STREET

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

VOTE (304-2002)

Motion by Councilor Paradis, second by Councilor Philippon:

To authorize the City Clerk's Office to approve the liquor license application for the Thai Elephant, 875 Lisbon Street, pending final approval from the state background check. Passed - Vote 6-0-1 (Councilor O'Brien abstained.)

PUBLIC HEARING ON A RENEWAL FOR A LIQUOR LICENSE APPLICATION AND SPECIAL AMUSEMENT PERMIT FOR THE OUTER LIMITS, 855 LISBON STREET

Mayor Raymond opened the public hearing. The City Administrator stated the City received a petition from 33 residents of Summit Avenue regarding noise issues at the business. Petition organizer Ray Beaudoin of Summit Avenue addressed the Council and stated he has numerous complaints regarding noise levels, loud patrons leaving, music until 3am and noted it is impossible to sleep. He stated that during this past year, there were 646 police calls to the Promenade Mall, and 319 were for the Outer Limits for such issues as disorderly conduct, fighting, noise, hit and run, drugs, weapons, public drinking and so forth. Mr. Beaudoin called this business a magnet for trouble and a time bomb.

Resident Bob Lambert stated the bar is creating problems in the neighborhood. Mr. Saroy of Summit Avenue stated the neighbors want relief from the noise after 1:00am. Mr. Beaudoin said that even after the business closes, patrons remain in the parking lot and get very loud.

Michael Berube, owner of the Outer Limits, addressed the Council and stated he took over operations of the business three months ago. He noted he had a business partner who was in

charge of the club but now Mr. Berube is the manager. Mr. Berube said the business was closed for one and a half months during renovations, and there were still police calls in the area, because the area attracts people who want to hang out. He noted in the Lewiston police log, there are only three noise complaints listed during the past year. He said the current zone he is in allows for 60 decibels and he has checked his sound decibel meter and it records an average of 52 or 53 decibels at the peak times. Mr Berube stated he would like a chance to work with the neighborhood to resolve the issues. He said that the peak hours for his club business are 11pm - 3am. He noted that he is a large taxpayer in town regarding taxes on his businesses and he recognizes that both the resident and the business owner both have rights. Mr. Berube reminded Council that he hires off duty police officers to work at the business, per city ordinance, and he pays between \$500 and \$1000 each week for the police officers to be present. He will be trying new aspects for his business, such as adding pub-style food to attract people during an earlier time. Mr. Berube summarized by stating he has had no violations of his liquor license, he feels that having a police presence is good for the business and he will work to install sound barriers for the noise.

Mayor Raymond then closed the hearing.

Chief of Police William Welch stated the Police do not have any concerns regarding the liquor service in general, but do have issues with the activities after hours, between midnight and the 3:00 am closing time. Chief Welch said most of the police calls for the business are after midnight, but more police complaints are filed because there are police officers on scene so they are present when problems occur and can radio them in directly. The Chief reported that only three valid noise complaints were received in the past year. The officers respond with a decibel meter reader to determine the level of noise.

Councilor Bernier noted the business is located in a commercial zone. The decibel level at the business property line can be at 60 decibels, after 1:00am, per the City Code. The City Administrator recommended tabling both the liquor license issuance and the special amusement permit issuance until the November 12, 2002 Council meeting, the City will issue a letter to the state permitting an extension of his liquor license until then, and this will allow Mr. Berube time to prepare a formal letter outlining his plans for noise reduction improvements and other solutions to resolve the problems. If the written changes are not submitted by the next Council meeting, the recommendation will be to deny the license.

VOTE (305-2002)

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

To continue the public hearing on this item to the Council meeting of November 12, 2002.
Passed - Vote 7-0

PUBLIC HEARING FOR SPECIAL AMUSEMENT PERMIT FOR MIDTOWN ATHLETIC CLUB, 315 LISBON STREET

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

VOTE (306-2002)

Motion by Councilor Philippon, second by Councilor Paradis:

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

CONTINUANCE OF PUBLIC HEARING FOR AMENDMENTS TO THE AMUSEMENTS AND ENTERTAINMENT ORDINANCE

VOTE (307-2002)

Motion by Councilor Jean, second by Councilor Paradis:

To continue the public hearing for the amendment to the Amusements and Entertainment ordinance to the Council meeting of November 12, 2002.
Passed - Vote 6-0-1 (Councilor Mason abstained.)

DISCUSSION OF MUNICIPAL SUPPORT AND PARTICIPATION IN THE MAINE MUNICIPAL ASSOCIATION'S TAX REFORM PETITION INITIATIVE

City Administration will work with the local schools and PTAs to line up volunteers to work at the tables to collect signatures.

VOTE (308-2002)

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

To direct City Administration to seek community volunteers and to use limited municipal staff participation, only if necessary, to assist the Maine Municipal Association with the collection of signatures for the Tax Reform Citizen Initiative petition drive on November 5, 2002. Passed - Vote 6-1 (Councilor Jean opposed.)

AMENDMENT TO THE TRAFFIC SCHEDULE REGARDING PARKING PROHIBITED IN THE FIRE LANES ON KING AVENUE

VOTE (309-2002)

Motion by Councilor Jean, second by Councilor Paradis:

To adopt the proposed amendments to the Traffic Schedule for King Avenue, to prohibit parking on the south side of the street from Fair Street to Main Street, as outlined on the vote sheet. Passed - Vote 6-0-1 (Councilor Mason abstained.)

UPDATE FROM LEWISTON MILL REDEVELOPMENT CORPORATION REPRESENTATIVES

Councilor Rousseau reported that LMRC recently signed with Caldwell Banker Realty to market the Mill complex.

UPDATE FROM THE SCHOOL COMMITTEE

No update was presented at this time.

OTHER BUSINESS

VOTE (310-2002)

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

To approve the request from Sisters of Charity Health Systems to hang a banner on the Lewiston Pump Station from November 14 to December 6 to promote their event of the Festival of Lights fundraiser. Passed - Vote 7-0

Councilor Bernier noted the Council meetings will be televised live on cable now and it is recommended that all members of the public who wish to address the Council should do so from the podium next to the staff table. City Administrator Bennett stated the Council meeting of November 12 will be live and the cable system will soon be broadcasting the Council workshops as well.

Councilor Jean inquired about the city ordinance regulations regarding push cart vendors. The Mayor stated the staff will review the procedures.

VOTE (311-2002)

Motion by Councilor Jean, second by Councilor Mason:

To adjourn at 9:45 P.M. Passed - Vote 7-0

A true record, Attest:

Kathleen M. Montejo, CMC
City Clerk
Lewiston, Maine