

FINAL

**LEBANON CITY COUNCIL
MINUTES, REGULAR SESSION
Monday, September 1, 2021**

Remote Via Microsoft Teams: [LebanonNH.gov/Live](https://lebanonnh.gov/Live)

MEMBERS PRESENT: Mayor Tim McNamara, Assistant Mayor Clifton Below, Erling Heistad, Karen Liot Hill, George Sykes, Douglas Whittlesey, Devin Wilkie, Jim Winny and Karen Zook

MEMBERS ABSENT:

STAFF PRESENT: City Manager Shaun Mulholland, City Clerk Kristin Kenniston, Chief of Police Phillip Roberts, Fire Chief & Emergency Management Director Chris Christopoulos, Director of Planning & Development David Brooks, Public Works Assistant Director Jay Cairelli, City Engineer Christina Hall, HR Director Gloria Leskiewicz, Human Services Director Lynne Goodwin, Library Director Sean Fleming

1. CALL TO ORDER: Mayor McNamara called the meeting to order at 7:00 p.m.

2. PLEDGE OF ALLEGIANCE: Assistant Mayor Below led the Council in the Pledge.

3. PUBLIC FORUM: Mayor McNamara made the Public Forum announcement.

4. OPEN TO PUBLIC: No one from the public came forth.

5. RECOGNITIONS: Fire Chief Chris Christopoulos and NH Senator Suzanne Prentiss came forth to recognize Fire Captain Jim Wheatley for his achievement in becoming 1 of only 2 Lebanon Fire Department Officers to receive the Executive Fire Officer's Certification from the National Fire Academy. Senator Prentiss read the resolution from the NH Senate honoring Captain Wheatley. Chief Christopoulos spoke about what is involved to achieve this national certification. Captain Wheatley, along with his wife, were present to accept this honor.

6. ACCEPTANCE OF MINUTES:

- (Joint Lebanon Energy Advisory Board and City Council Meeting)

Councilor Winny *MOVED* to approve the August 18, 2021, Joint City Council/LEAC Public Hearing Session minutes as written and presented in the July 15, 2021 City Council agenda packet. *Seconded by Councilor Whittlesey*

****The Vote on the Motion was approved (9-0).***

- August 18, 2021 (Regular Meeting)

Amendments: Page 14, Line 7: change to read after semicolon: "the relative lack of buildable lots in the City of Lebanon: Page 21, line 13: Remove "~~Lebanon was way below what the Medical Society was suggesting~~" Change to read "Lebanon was below the threshold that the NH Medical Society established for mask mandates." Page 21, line 17: change 10% to 1%; Page 21, line 19: Insert "community" between substantial & transmission.

Councilor Liot Hill MOVED to approve the August 18, 2021 (Regular Meeting) minutes as amended and presented in the July 15, 2021 City Council agenda packet.

Seconded by Councilor Heistad.

****The Vote on the Motion was approved (9-0).***

7. APPOINTMENTS:

- **Lebanon Airport-Tech Park TIF Advisory Board, Jason Archambeault (Reappointment Property Owner/ Occupant Member)**

Councilor Heistad put forth the NOMINATION of Jason Archambeault for Reappointment as a Property Owner/ Occupant Member to the Airport-Tech Park TIF Advisory Board. Three year Term (9/21-9/24).

Seconded by Councilor Winny.

****The Vote on the NOMINATION was unanimously approved (9-0).***

- **Arts & Culture Commission, Joe Clifford (Reappointment Arts Representative)**

Councilor Sykes put forth the NOMINATION of Joe Clifford for Reappointment as an Arts & Culture Commission Representative for a one-year term. (9/21-9/22)

Seconded by Councilor Wilkie.

****The Vote on the NOMINATION was unanimously approved (9-0).***

- **Zoning Board of Adjustment, William Koppenheffer (Reappointment Regular Member)**

Councilor Heistad put forth the NOMINATION of William Koppenheffer for Reappointment as a regular member to the Zoning Board of Adjustment. Three-year term (9/21-9/24)

Seconded by Councilor Winny.

****The Vote on the NOMINATION was unanimously approved (9-0).***

- **Pedestrian & Bicyclist Advisory Committee, John Kelleher (Reappointment Regular Member)**

Councilor Winny put forth the NOMINATION of John Kelleher for Reappointment as a regular member of the of the Pedestrian & Bicyclist Advisory Committee. Three year Term (9/21-9/24).

Seconded by Councilor Heistad.

****The Vote on the NOMINATION was unanimously approved (9-0).***

8. PUBLIC HEARING ITEMS:

- A. APPROPRIATION FOR 20 SPENCER STREET CLEANUP PROJECT** – Public hearing for the purpose of receiving public input and taking action on a request for a supplemental appropriation in the amount of Seven Hundred Thousand Dollars (\$700,000) to be transferred from Unassigned Fund Balance to the Capital Improvement Fund for the 20 Spencer Street Cleanup Project.

Included in the agenda packet:

1. 07/28/2021 Memorandum from Department of Public Works Director Jim Donison, RE: 20 Spencer Street – Site Cleanup (**pages 45-46**)
2. Excavation area diagram with estimated soil excavation volume dated 07/19/2021. (**Page 47**)

City Manager Shaun Mulholland came before the Council to review the 20 Spencer Street Cleanup Project.

This location is the former Department of Public Works facilities site which the city is in the process of redeveloping for housing. The City is working with developer Ken Braverman to sell the property to him for \$1.5 million. Mr. Braverman plans to develop an apartment building with 94 units. A percentage of these units will be leased at workforce housing rates.

Testing of the soils on the site indicate varied levels of PCB at different depths in the soil in one area. This material will need to be removed and trucked to a location in Michigan for disposal. The area will also have to be backfilled. This work needs to be completed as soon as possible to allow for the housing to be developed which will require a supplemental appropriation. The funding will be coming from the City's Unassigned Fund Balance. No additional tax dollars will need to be raised for this cleanup.

Failure to clean up the site will prohibit the housing development. The City would be required by the US EPA to either clean up the site or cap it and permanently monitor the site with test wells.

Mayor McNamara opened the Public Hearing. Hearing no comments from the public, the Public Hearing was closed.

In response to Councilor Liot Hill's question regarding what projects the city will not be able to do because of the unexpected costs of cleaning up 20 Spencer Street, the City Manager noted that paving on the Rail Trail from Spencer Street to the Bank Street extension and widening the sidewalk in front of the Senior Center to the parking lot would not be done.

ACTION:

Councilor Liot Hill MOVED the following Resolution:

FOR THE PURPOSE OF appropriating funds for the removal and disposal of contaminated soils at 20 Spencer Street, Lebanon.

NOW THEREFORE BE IT RESOLVED, by the City of Lebanon, that funds, in the amount of \$700,000 (Seven Hundred Thousand Dollars) be appropriated for expenditure from the Capital Improvements Fund for the 20 Spencer Street Cleanup Project to be paid for through the use of Unassigned Fund Balance.

BE IT FURTHER RESOLVED, by the City of Lebanon, that funds, in an amount not to exceed \$700,000 (Seven Hundred Thousand Dollars), be transferred from Unassigned Fund Balance to the Capital Improvements Fund, for the purpose of financing the removal and disposal of contaminated soils at 20 Spencer Street, Lebanon.

This Resolution shall be effective upon passage.

Seconded by Councilor Whittlesey.

****The Vote on the MOTION was approved (9-0).***

- B. ORDINANCE 2021-05** – Public hearing for the purpose of receiving public input and taking action to amend City Code Chapter 68, Fees, Article III, Miscellaneous Fees, §68-15, Enumeration of Fees to correct the water rate charge approved as part of Ordinance #2020-

20 for a four inch water meter.

Included in the agenda packet: Proposed Ordinance 2021-05 (**Page 53**).

On December 2, 2020, the Council authorized an 8.0% increase in water service rates through the passage of Ordinance 2020-20. As part of this ordinance, the rate for a four-inch water meter was inaccurately provided due to a transposition of numbers in the previously approved rate.

Four water accounts were affected by this error in the amounts of \$457.20 each (total overcharge of \$1,828.80). Each account holder was reimbursed accordingly.

Administration is requesting the Council approve an adjustment in the rate for a four-inch water meter from \$2,629.90 to \$2,532.70 to accurately reflect the 8.0% increase.

Mayor McNamara opened the Public Hearing. Hearing no comments from the public, the Public Hearing was closed.

ACTION:

Councilor Wilkie MOVED, that the Lebanon City Council hereby adopts Ordinance #2021-05 to amend City Code Chapter 68, Fees, §68-15, Enumeration of Fees to correct the water rate charge for a four-inch water meter.

Seconded by Councilor Heistad.

****The Vote on the MOTION was approved (9-0).***

CITY OF LEBANON ORDINANCE #2021-05

AN ORDINANCE TO AMEND the Code of the City of Lebanon, Chapter 68 FEES, Article III, Miscellaneous Fees, Section 68-15 Enumeration of Fees, to amend the fixed meter charge for a Four-inch water meter.

BE IT ORDAINED, by the City Council of the City of Lebanon, as follows:

Section 1

The Code of the City of Lebanon is hereby amended to revise Chapter 68 FEES, Article III, Miscellaneous Fees, Section 68-15 Enumeration of Fees, for the purpose effecting a change to the fixed meter charge for a Four-inch water meter:

B. Public utilities (water/sewer) fees shall be as follows:

§68-15 B(1) Water service rates:

§68-15 B(1)(b) Fixed charge per quarter: [7] Four-inch: ~~\$2,629.90~~ \$2,532.70

Section 2. Severability

The provisions of this ordinance are declared to be severable, and if any section, subsection, sentence, clause or part thereof is, for any reason, held to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remaining sections, subsections, sentences,

clauses or part of this ordinance.

Section 3. Effective Date

This Ordinance shall become effective upon passage.

- C. ORDINANCE 2021-08** – Public hearing for the purpose of receiving public input and taking action to amend City Code Chapter 168, Vehicles & Traffic, §168-12, Stop Signs.

Included in the agenda packet: Ordinance #2021-08

Upon review of the Code that currently regulates the placement of Stop signs (requiring City Council approval), City Administration was requesting City Council to consider transferring the authority for placement of Stop signs to the City Manager. Doing so will increase efficiency and give administration the ability to act more expeditiously when situations arise that need attention.

Mayor McNamara opened the Public Hearing. Hearing no comments from the public, the Public Hearing was closed.

ACTION:

Councilor Liot Hill MOVED, that the Lebanon City Council hereby adopts Ordinance #2021-08 to amend City Code Chapter 168, Vehicles and Traffic, §168-12, Stop Signs

Seconded by Councilor Heistad.

****The Vote on the MOTION was approved (9-0).***

CITY OF LEBANON ORDINANCE #2021-08

AN ORDINANCE TO AMEND Chapter 168, Vehicles and Traffic, of the Code of the City of Lebanon, by amending § 168-12 Stop signs.

Section 1:

The Code of the City of Lebanon is hereby amended to revise Chapter 168, Vehicles and Traffic, Section 168-12, Stop Signs, for the purpose of transferring authority for placement of Stop signs from the City Council to the City Manager, to read as follows:

§168-12. Stop signs.

Stop signs may be located on City streets by approval of the City Manager or his/her designee. Date of approval and location shall be recorded in the office of the City Clerk.

Section 2: Severability

The provisions of this ordinance are declared to be severable, and if any section, subsection, sentence, clause, or part thereof is, for any reason, held to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of any remaining sections, subsections, sentences, clauses, or part of this ordinance.

Section 3: Effective Date

This ordinance shall become effective upon passage

- D. ORDINANCE 2021-09** – Public hearing for the purpose of receiving public input and taking action to adopt Ordinance 2021-09, requiring that persons wear face masks under certain circumstances.

Included in the agenda packet: Ordinance 2021-09 (*Pages 57-59*).

The Delta Variant of COVID-19 has emerged as the predominant strain of the virus in the Nation and has been found to be more infectious and faster spreading with the ability to cause more than twice as many infections as earlier strains of the virus.

The CDC is recommending that, due to the high level of spread and how contagious the Delta Variant is proving to be, even amongst those fully vaccinated, all persons wear a face covering in indoor public environments regardless of their vaccination status in areas of substantial or high transmission, which currently includes all of New Hampshire.

For the Council's consideration, City Manager Shaun Mulholland noted he made a number of changes to the previous Mask Ordinance as follows:

- Changed the age of those who would be required to wear a face mask from age 10 and above to age 3 and above, noting it is difficult to get a child under 3 years old to wear a mask. The purpose of this age change is to protect this unvaccinated population.
- In areas where there are adequate physical barriers, employees will not be required to wear masks if they are not interacting with the public.
- The preamble is different because a lot of those circumstances have changed.

Mayor McNamara opened the Public Hearing and recognized the following who came forth to speak.

Mr. Dan Nash (Ward-1): He spoke about his reasons against implementing the Mask Ordinance and felt it was usurping personal responsibility. People should decide whether they need to wear a mask. The public would be better served if the City explained the hazards that might be out there and just strongly urge people to wear a mask.

Mr. John Kenyon (Ward-1): He spoke about his reasons against implementing the Mask Ordinance noting a study done by the University of Louisville that determined there is no distinguishable difference in transmission rates between communities that have mask mandates and those who did not.

Mr. Alan Schnur (Ward-3): He spoke in favor of reinstating the Mask Ordinance noting the three criteria established by the NH Medical Society have now been crossed and Lebanon is now above their threshold, and substantial transmission rates are now in every county of New Hampshire. Grafton County has the highest number of active cases since April. The CDC is clear that people can transmit the virus even if they do not have any symptoms and they can still transmit the disease. He questioned if Lebanon does contact tracing and spoke about the benefits contact tracing would have for the City.

Brian Horan (Ward-1): He spoke about his reasons against implementing the Mask Ordinance and questioned if the Council has researched trending to know where Lebanon is at. Mayor McNamara noted the criteria utilized by the Council to rescind the mandate before came from the NH Medical Society

criteria. While Lebanon was below their criteria when the ordinance was rescinded in late June, that criteria has now been substantially exceeded. Mr. Horan then spoke about the harm the mask mandate would have socially, ecologically, and on children's mental health and felt the City should be following the CDC's recommendations.

Mr. Wesley Althusser (Ward-2): He spoke about his reasons against implementing the Mask Ordinance and questioned what the threshold for vaccines in the city should be in order to stop this mandate. If we enter into this mask mandate, we need to know how we are going to end it. He proposed businesses should make their own decisions around masks and that adults be allowed to make adult decisions.

Ms. Sarah Riley (Ward-2): She spoke about her reasons in favor of implementing the Mask Ordinance and having the Council follow the science. She appreciated the way the Council has handled this COVID crisis.

Mr. Lucas Seaver (VT resident): He manages a local business and spoke about his reason against implementing the mask mandate and how businesses have/will be affected in sustaining their day-to-day operations if this is implemented. He has seen a huge downturn in employees morale, noting a few businesses around the area who have mandated masks for their employees (100%), those employees are quitting their jobs. All the mandate would do is to create friction and anger between customers and employees.

Hearing no further comments from the public, the Public Hearing was closed.

Mayor McNamara thanked the public for their comments and noted this (mask mandate) would be very controversial one way or the other and the Council will be trying to make the best decision they can based on the information they have available.

Councilor Whittlesey noted that since the mask mandate was lifted, we went from 1 new case/day per 100K to 20.7 cases/day per 100K. We are actually on a trajectory that is eclipsing the holiday season of 2020. Directors and CEOs of Children's Hospitals across the county just issued a letter calling on leaders in the public/private sectors to stand with them to help protect children. The letter noted all the eligible population should be vaccinated, everyone should be wearing a mask responsibly, particularly during school and in large gatherings, and all should adhere to safe practices of social distancing and hand washing. We tried personal responsibility before, and he does not see it working. The mask mandate is another tool we need, unfortunately, to make sure everyone stays safe..

Council Heistad pointed out a study that was published in the Washington Post about a prepublication report being overseen by Yale/Stanford regarding a randomized study in Bangladesh that included 341K people. The study clearly reflects that masks are effective and are necessary in terms of being able to stop transmission (of COVID).

Councilor Wilkie pointed out he supports mask wearing and agreed masks are very important to saving lives. His concerns with the mask mandate was the slow process in removing the ordinance this spring and in then trying to reinstate the ordinance based on very clear numbers. Another concern were the numerous businesses and individuals who were not adhering to the ordinance and no action was being taken. In some cases, businesses decided on their own to enforce mask mandates and in other cases businesses blatantly decided to reject the mask mandate. If we are placing this into effect and not

enforcing it, or not encouraging it to be followed in the way we are imposing it, this mask mandate will undermine the Council's enforcement ability and will lead to confusion when someone goes into a large business in West Lebanon and does not see anyone wearing a mask. This ordinance does not seem to follow the numbers as closely as it could and does not seem to help us if, in addition to being only one community in the region, it is not uniform in the community.

Assistant Mayor Below shared some of the data from the NH Medial Society. "Back in May/June one of the 8 criteria was when the number of new cases was below 50 per 100K population on a rolling 14 day average. While Lebanon dropped well below this threshold toward the end of June, we have been climbing very steadily since. At this point in time, Grafton County is experiencing 287 cases/per 100K population over the last 14 days. State-wide, only about 54% of the population is fully vaccinated, and while Lebanon is well above that level (close to 74%), we are a regional center that sees people pass through here from all parts of the State and the region for a variety of reasons. Part of the problem/concern we see is that the Delta variant is breaking through those who are vaccinated and is also breaking through to younger ages at a fairly active rate. Lebanon is now at a steeper curve upward than we have been at any point in this pandemic, particularly compared to where we were at this time last year. Where does this end? Week after week, we have been seeing double digit increases in the rate of new cases. This is why he leans on the side of taking action to protect public health, particularly because we know vaccinated individuals can asymptotically spread the Delta variant without knowing they have the variant. The CDC does recommend that if you are in a substantial/high transmission area that even vaccinated people should wear face masks indoors to protect themselves and other people. Lebanon is now classified as a high transmission area.

There are provisions in the Mask Ordinance that state if a person(s) in a workplace are known to be vaccinated, then the person in charge of that workplace can dispense with the mask wearing. However, where people are interacting with the public and where the public is entering into public spaces and it is unknown whether they are vaccinated or not, that mask wearing be done.

In light of the fact that Lebanon has not ever issued a ticket, he felt the \$100 fine (1st offense) was a high threshold and suggested the fine be dropped to \$50 for the 1st offense and \$100 for the 2nd offense in cases where people were not wearing masks and were asked to leave a premise. In cases where the police were called because businesses could not persuade people to act on their own, the typical resolution was that people agreed to leave that business. He is concerned the City will have an ordinance that is just on paper and people are not actually expected to comply with it. He also felt that the Council should be given some flexibility on changes (to the mask mandate) in order to either act on something in an emergency or repeal it if it is not necessary.

City Manager Mulholland noted there is a Statute under the NH Department of Health that allows the City Council to make changes on an emergency basis, but it is the City's Code that requires the hearing process. He suggested, absent a pandemic, there are good reasons for this. Most people did not anticipate there would be a pandemic (since 1918) when the Ordinance was created, and most people do not know the Public Health Statute even exists. He suggested changing Code 115 to allow those statutory provisions for emergencies that can be implemented/repealed without an extensive process.

In response to Councilor Liot Hill's question regarding the enforcement of the Mask Ordinance, City Manager Mulholland said it was the same as used before: Educating people about masking in the City; the option to have a police officer come to a business and ask a person(s) to wear a mask or leave the

business and if they do not leave, they will be issued a fine. He also noted the City does not conduct any contact tracing and if the State is still doing this, they do not contact the City, only the people involved.

Councilor Liot Hill said she received letters from Shauni Goodwin (Ward-1) and Sarah & Nelson Rooker (Ward-3) supporting the reinstatement of the Mask Ordinance. She also spoke about Lebanon's 9 Guiding Principles, which were adopted to guide all the City Council's decision-making process, and highlighted the following:

- #4. The City shall ensure that the safety of the public is maintained in a prudent manner.
- #5. The City shall act predictably and transparently, shall be accountable for its actions, and shall regularly re-evaluate its policies and actions.
- #6. The City shall make informed, evidence-based, data-driven decisions.

For these reasons, she supported the reinstatement of the Mask Mandate. The numbers that Councilor Below reviewed clearly indicate that we are in a state of substantial transmission and that our 2-week rate is increasing significantly over the level that the NH Medical Society has indicated mask wearing should occur. She felt it important that Council reinstate the mask mandate tonight and then re-evaluate our decision as the data indicates in the future.

Councilor Sykes supported the Mask Mandate. However, the Council needs to make a better effort in making people aware of the importance of wearing masks. Being able to respond to this crisis in a timely manner is also important, but can be done separately from the passing of this Ordinance. The bigger goal is to protect the public.

Councilor Winny noted no one really wants to wear masks. However, this is one instance where personal freedom butts heads with public health. We, as a society, make decisions in favor of public health vs. public freedom all the time (i.e., speed limits, toxic waste, clean drinking water, etc.). The argument is where you draw the line, rather than should personal freedom trump public health. We have talked a lot about the NH Medical Society thresholds and when the Mask Ordinance was rescinded in June, Lebanon was looking good. However, Lebanon is a lot worse now, and he thought the Mask Ordinance should be reinstated because of public health. In this instance, public health wins over personal freedom. He suggested putting a sunset provision into the ordinance that names specific criteria the Council could follow.

Councilor Wilkie was in favor of a sunset provision and asked that the motion include some very clear numbers, which will be used to guide the Council's decisions. He felt this would allow the Council to expedite the process of rescinding the mandate. This would also allow the Council to implement this ordinance and still retain authority yet provide a quick kill switch if it becomes clear by the numbers that the Mask Ordinance is not beneficial.

Mayor McNamara noted he has become increasingly worried about the transmissivity of the Delta variant and what comes beyond the Delta variant. While he would like to be done with masks, he felt it was appropriate for the Council to do something at this point in time and realizes Lebanon would be alone here, but this is not a reason for us not to do it. He agreed with Councilor Wilkie about putting a sunset provision in the Ordinance. The NH Medical Society has three criteria, one of which was vaccination rates and felt this could be dropped. He also felt the rolling 14-day new case rate of 50/per 100K population could be put in the Ordinance as part of a sunset provision and further suggested this number be sustained for some period of time (days, weeks). He also suggested the Ordinance, if passed, become

effective on Tuesday, September 7th to allow businesses to prepare their staff, their customers, and would allow the City time to get posters out.

The Council further discussed the pros/cons of how long the Mask Ordinance should be effective; whether or not to put a sunset provision in place; at what age children should be required to wear face masks; under what set of criteria the Mask Ordinance could be suspended/rescinded; and, taking this topic up as a standard agenda item at each Council meeting that would include having a motion ready at each meeting to either rescind/keep the Ordinance.

ACTION:

Councilor Liot Hill MOVED, that the Lebanon City Council hereby adopts Ordinance #2021-09, requiring the wearing of face coverings in publicly occupied indoor spaces under certain circumstances.

This ordinance shall be effective beginning September 1, 2021, and shall continue in effect until rescinded by action of the Council.

Seconded by Councilor Whittlesey.

Assistant Mayor Below Moved to amend the Motion to be effective September 7, 2021

Amendment FAILED due to lack of a second.

Assistant Mayor Below Moved to amend the original Motion to raise the age of children not required to wear face masks to 5-years of age.

Seconded by Councilor Sykes.

Councilor Sykes seconded the Motion only for the purposes of discussion. He questioned if there was more data available regarding the appropriate age children should be required to wear a face mask. City Manager Mulholland noted the CDC does not recommend masks for children under 2-years of age.

****The Vote on the amended MOTION FAILED (0-9).***

City Manager Shaun Mulholland strongly requested the Council give City Staff more than a 24-hour notice to allow people to be prepared.

Councilor Liot Hill Moved to amend the main Motion to make it effective Saturday, September 4th, 2021.

Seconded by Assistant Mayor Below.

**** The Vote on the amended Motions was approved (9-0).***

Councilor Wilkie MOVED to amend the Main Motion to read: “This shall continue in effect until rescinded by action of the Council or once the rate of new cases over the prior 14-day average falls below 25 as reported by the Upper Valley Public Health district.

****Amendment FAILED due to lack of a second.***

****The Vote on Main Motion passed (7-1-1).***

ORDINANCE 2021-09 FACE MASKS

FOR THE PURPOSE OF reducing the spread of the SARS-Co-V-2 (COVID-19) virus and all of its current variants, and potentially reducing the need for hospitalization and the number of fatalities, the City of Lebanon ordains as follows:

WHEREAS, a primary function of municipal government is the health and safety of those persons residing within or entering into it; and

WHEREAS, the provisions of RSA 47:17, XV provide authority to city councils to adopt By- Laws and Ordinances for the well-being of their cities. Further, RSA 147:1 allows towns to make regulations for the public health and safety of the people and RSA 47:12 vests the authority of towns to make such public health regulations to city councils; and

WHEREAS, COVID-19 is a viral infection that has the ability to be spread from person to person very easily through respiratory droplets, including:

- Through the air by coughing or sneezing;
- Through close personal contact, such as touching or shaking hands;
- Touching an object or surface with the virus on it, then touching mouth, nose, or eyes before washing of hands

And,

WHEREAS, viruses constantly change through mutation and new variants of a virus emerge as the virus continues to spread and infect; and

WHEREAS, the Delta Variant of COVID-19 has emerged as the predominant strain of the virus in the Nation, and has been found to be more infectious and faster spreading with the ability to cause more than twice as many infections as earlier strains of the virus; and

WHEREAS, more than 94 percent of counties in the Nation are experiencing a substantial or high level of community transmission of COVID-19; and all 10 counties in New Hampshire are experiencing a substantial or high level of community transmission; and

WHEREAS, it is clinically established that the best means of slowing the spread of a virus, other than vaccinations, is through minimizing close personal contact with individuals in a public environment, covering one's mouth and nose by wearing a face covering, and utilizing frequent and proper hand washing; and

WHEREAS, face coverings are most likely to reduce the spread of COVID-19 when they are widely used by people in public settings, particularly when combined with social/physical distancing and other sanitary measures such as washing hands or utilizing hand sanitizer; and

WHEREAS, the CDC is recommending that, due to the high level of spread and how contagious the Delta Variant is proving to be, even amongst those fully vaccinated, all persons wear a face covering in indoor public environments regardless of their vaccination status in areas of substantial or high transmission, which currently includes all of New Hampshire.

NOW, THEREFORE the Lebanon City Council adopts the following Emergency Public Health regulations:

1. Members of the public entering or queued to enter; remaining in or exiting from, any business, governmental, or non-profit owned premises, or utilizing any form of public transportation must wear a face covering as described in paragraph 2 below.
 - Policies regarding face coverings in governmental buildings within the geographical boundaries of the City of Lebanon adopted by the governmental entity having jurisdiction over such buildings are hereby recognized by this ordinance and shall control in such buildings.
 - Property owners shall have the authority to regulate the requirement to wear masks by any person, while on the premises of their property, by allowing persons to temporarily remove their masks while remaining on the premises when it is practical or becomes necessary to do so based upon the requirements of the services provided.
2. As used herein “face covering” means a covering made of cloth, fabric, or other soft or permeable material, without holes or exhalation air valves, that covers the nose, mouth, and surrounding areas of the lower face. A face covering may be factory made or homemade and improvised from ordinary household materials.
3. Employees of all businesses shall wear a face covering over their mouth and nose when interacting with the public except when adequate physical barriers are in place to protect the public and the employee. Building owners, operators, managers, lessees, employers, businesses, and non-profit organizations, as appropriate, shall have the authority to waive masking for employees and volunteers who are known to be fully vaccinated against Covid-19 while within the workplace or building space managed by them, provided however that mask requirements shall not be waived for employees and volunteers who are interacting in person with members of the public.
4. Members of the public dining indoors at a restaurant may remove face covering while seated at their table. Members of the public must wear a mask when entering, using, or leaving the restroom of a restaurant.
5. A person may temporarily remove their mask when in a business if obtaining a service or product that requires verification of the person’s identity or age.
6. Residents, visitors, and members of the public entering or present at a residential or commercial building complex of greater than two (2) units must wear a face covering over their nose and mouth while in common areas and communal spaces when social distancing of at least six feet is not practiced.
7. Notwithstanding the above, this order does not require children under 3 years of age to wear face covering (parents should make their own judgment). Face covering is not recommended for children less than 2 years of age.
8. A face covering is also not required to be worn by any person if said person can show a medical professional has advised that wearing a face covering may pose a risk to said person for health-related reasons.

Any person who violates this ordinance shall be subject to a fine for the first offense in the amount of \$100, for a second offense or subsequent offense the fine shall be \$250.

This ordinance shall be effective immediately upon passage and shall continue in effect until rescinded by action of the Council.

Effective date September 4, 2021.

9. OLD BUSINESS

A. Presentation of Second Reading: Amend Ordinance #18 Salary Plan, Article II, Non-Affiliated & LPASE Employees, Section A – Regular Fulltime and Part-time Benefit Eligible Positions to add the position of Community Nurse, Grade 10

The City began funding the Community Nursing Program in 2019 with an allotment of \$15,000. Funding continued in 2020 with an allotment of \$23,260 which increased to \$75,000 in 2021, pending approval of a Mobile Integrated Health (MIH) Agreement with Dartmouth Hitchcock Medical Center. The MIH Agreement was signed by the City and DHMC in December 2020 and is in effect until December 31, 2023. Funding is included in the agreement for the Community Nursing Program for up to 40 hours of nursing service each week. There are currently two to three nurses participating in the program sharing the 40-hour workload. The MIH Program will be assessed in 2023 to determine if the program will continue for an additional three-year term.

The Community Nurses will be regular part-time employees of the city which requires an amendment to Ordinance #18 to include the position in the wage and classification scale. After review of the job description and the completion of a local market analysis, the position is proposed to be classified as a Grade 10.

Process to Amend Ordinance No. 18

Amending Ordinance No. 18 requires three separate presentations (see City Charter subsections 419:22, 419:24, 419:25, 419:52) followed by a public hearing and the vote of at least two-thirds (2/3) of all members of the City Council – six (6) members - to adopt.

The first presentation was recognized by the Council on August 18, 2021. The Council is now asked to recognize the second of three presentations to amend the Ordinance. The third presentation will follow on September 15, along with a public hearing to adopt the amendments as proposed.

ACTION:

1. ACKNOWLEDGE SECOND PRESENTATION:

Assistant Mayor Below MOVED, that the Lebanon City Council acknowledges the second of three presentations to amend Ordinance No. 18, Salary Plan, Article II, Non-Affiliated & LPASE Employees, Section A – Regular Full-time and Part-time Benefit Eligible Positions to include the position of Community Nurse, Grade 10, as shown in the chart on page 62 of the City Council agenda packet.

Changes in the table below shown in red.

REGULAR FULL-TIME/REGULAR PART-TIME NON-AFFILIATED & LPASE EMPLOYEES – 2021 SALARY & GRADES					
10	Assistant City Engineer**	\$30.50	\$41.18	-	-
	Cemetery Sexton**	-	-	-	-
	Financial Analyst	-	-	-	-
	Fleet Maintenance Supervisor**	-	-	-	-
	Community Nurse	-	-	-	-
	Maintenance Superintendent**	-	-	-	-
	Utilities Maintenance Superintendent**	-	-	-	-
	Police Communications Supervisor**	-	-	-	-
	Recreation Program Coordinator**	-	-	\$1,220.15	\$1,647.20

**denotes LPASE Positions.

Seconded by Councilor Winny.

**The Vote on the MOTION was unanimously approved (9-0).*

NOTE: The Council discussed **Item 10B from New Business**, which was taken out of the original order from the Council’s agenda packet. Items below are presented in the order discussed. Also note the Council Chamber audio was accidentally muted for a few minutes of the presentation.

10 B. Status update by City Engineer Christina Hall re: Mechanic Street/ Mascoma Street/ High Street Roundabout

Included in the agenda packet: PowerPoint Presentation – City of Lebanon, High Street / Mascoma Street Intersection Project, Lebanon City Council, September 1, 2021, Lebanon, NH (*pages 157-171*).

City Engineer Christina Hall and a representative from Stantec presented the Council with an update regarding the status of the Mechanic Street / Mascoma Street / High Street Roundabout project that included the project history; map of the High Street /Mascoma Street intersection and their proposed improvements; what the project benefits and challenges were; traffic management during the project, along with potential detour routes; construction phases; scheduling for the project; the project’s estimated costs; and, the potential final condition of this project once completed.

Ms. Sarah Riley (W-2) came forth and spoke about her concerns regarding the safety of the roundabout crossing for pedestrians and bicyclists and how adult cyclists will use the roundabout, noting it is illegal, as a bicyclist to use a sidewalk.

The Council discussed how the Rail Trail and the Mascoma River Greenway intersect with this project, noting they are not part of, nor were they meant to be, integrated into this project. They also discussed how, or if, this roundabout intersection could be safely used by bicyclists.

Mr. Dan Nash (Ward-1) came forth and spoke about his concerns regarding the expense of this project and felt the City should take a step back and review if this project is really needed. He felt it was not.

ACTION:

No action is required. Item was for informational purposes only.

OLD BUSINESS (continued).

9 B. Review and adoption of City Council Policy CC-107, Debt Management

Included in packet:

1. August 18, 2021 City Council Agenda Packet Item 10.E
2. PowerPoint Presentation – Debt Management Policy

The Council adopted the present debt management policy, 99-02-C in January of 1999. The policy needs to be revised to address the circumstances the City currently operates in. Since the inception of this policy, the City was issued an administrative order by the US Environmental Protection Agency regarding the separation of the City's sewer system from its stormwater system. This required the City to authorize long-term debt in the amount of approximately \$71 million dollars. The cost of the debt service was apportioned to the General Fund, Sewer Fund and Water Fund. The present debt load regarding the General Fund is in compliance with the requirements of state statute; however, it is not in compliance with the previously approved policy.

The proposed revisions reformat and renumber the policy to comply with the new policy format and numbering system. The policy adopts a new structure and standards for the General Fund. The revised policy for the first time proposes the adoption of specific provisions for the Water, Sewer, and Solid Waste enterprise funds.

A review was conducted of similar policies in other cities in New Hampshire, as well as other states. The Government Finance Officers Association standards were also incorporated into the policy. The proposed policy complies with the provisions of state and federal law. City staff working with consultants Dave Fox of Raftelis and Doug Smith assisted in the development of the policy and analysis of the financial data.

The goal of the policy revisions are to assist the City in long-term financial planning to meet its infrastructure needs and ensure the City's financial health. The provisions of the plan would take effect immediately upon approval regarding debt management in the General Fund and Solid Waste Fund. The provisions relative to the Water and Sewer Funds would take effect in January of 2024 when the present rate plan developed by Raftelis ends at the end of 2023. The specific percentage rates for the Sewer Fund will need to be added in 2022 when the long-term sewer infrastructure plan is finalized.

Adoption of the policy would be used to develop the present 6 Year Capital Improvement Plan under consideration by the City Manager and the Planning Board this year. Adoption of this policy would not change the process which requires the Council to make appropriations on an annual basis, as well as the setting of water, sewer and solid waste rates. The appropriation of funds and the rate setting process will continue to occur on an annual basis while the CIP will continue to be re-adopted and projected out for the subsequent 6 years.

It is important to note that the projections for debt service are based upon the 6 Year CIP being proposed. The actual debt service will change for a number of reasons to include:

1. Some projects will come under budget while others will exceed their budget estimates.
2. The timing of when debt service is due changes based upon when the bonds are actually sold. Some project schedules change and the need to borrow the funds also changes depending upon the project.
3. We estimate what interest rates will be however the actual amount is not known until the bond sale actually occurs.

4. Some projects anticipate grant funding that may not actually be received while others are the recipients of grant funds that were not initially anticipated.

This policy focuses on the amount of debt principal that is owed, not the annual debt service payments which will fluctuate for the reasons indicated above.

City Manager Shaun Mulholland began his presentation where he left off at the last Council Meeting and included the following:

Water Enterprise Funds

Water Fund – Option 1: (see chart example of cost increases for residential/nonresident customers through 2030 on page 122, agenda packet.)

- WATER Fund-Long term Infrastructure improvement plan will cost an estimated \$25 million not including a new water source.
- Option #1 would involve a 37% increase in rates for year one (2024). This would produce \$1.5 million each year in additional revenue. Subsequent annual rate increases would only address increases in operating costs estimated to be approximately 3% per year. Time to complete plan would be 17 years. This is a pay-as-you-go option.

Water Fund – Option 2:

- Option #2 would set a structure where there would be a fixed component annual increase of 5% and a variable component added to that based upon the % increase of the CPI (starting in January of 2024).
- After accounting for the increase in operating expenses, the additional revenue generated would pay for increases in debt service which determines the amount that can be borrowed for infrastructure improvement projects

Option #2 - Fixed 5%+CPI Variable Max of 8% (Chart on page 124)

Option #2 - Quarterly Customer Water Bill through 2030 (page 125)

Projects for Revenue Generation (page 127)

Option 1- 37% & 3% \$38,063,811

Option 2- 5%+CPI Variable (6.5% est.) \$32,801,584

These numbers represent the potential total revenue generated from 2024-2030.

Sewer Fund Options: Not all data available at this time. Will hold off on discussions.

Solid Waste Fund:

1. Debt limits are based upon the present and future capacity of the Solid Waste Facility to accept waste and generate the revenue from that waste to pay for operating expenses and debt service payments for the ensuing year and beyond.
2. The period by which indebtedness may occur for any given project is limited to the useful life of the infrastructure asset.
3. Situations where the state or federal government mandate by administrative or court order that action must be taken by the City that requires long term debt may require borrowing funds for periods beyond the useful life of the asset.

ACTION:

No action taken at this time. Council will discuss in further detail at a later meeting.

10. NEW BUSINESS**A. Review and Action on Properties Qualified for Tax Deeding**

Included in the agenda packet: August 23, 2021, Memo from Kristin M. Kenniston, City/Clerk Tax Collector, re: Tax Deeding (*pages 134-155*)

City Clerk Kristin Kenniston came before the Council to review and explain the process for properties qualified for Tax Deeding.

Tax bills are mailed on or around June 1 and November 1 each year. Interest accrues at a rate of 8% per annum on bills outstanding for more than 30 days. Within 18 months of the date assessed (April 1), the Tax Collector places a lien on properties for all uncollected property taxes. The lien on these properties has priority over other liens and accrues interest at 12% per annum.

According to State law, if property is not redeemed (including taxes, penalties and interest) within the 2-year redemption period, the Tax Collector is required to tax deed the property as a normal matter of course unless notified by the City's governing body (City Council) not to take a deed.

When the City Council instructs the Tax Collector that it shall not accept a tax deed, the tax lien remains in effect indefinitely. The taxpayer's right of redemption (to pay what is outstanding including taxes, penalties and interest) is likewise extended indefinitely with interest at the rate of 12% per annum continuing to accrue. At any time, if in the judgment of the City Council, the reasons for refusing the tax deed no longer apply, and the tax lien has not been satisfied, the City Council may instruct the Tax Collector to commence the statutory deeding process.

WAIVER OF TAX DEEDING:

There is one property recommended to waive tax deeding on totaling \$9,093.79. This property has an active payment plan in process (2018 outstanding taxes expected to be paid in full by the end of June 2022).

AUTHORIZATION FOR TAX DEEDING:

The properties recommended to commence the deeding process on total \$38,153.27 consisting of a mobile home (\$2,615.07); a restaurant (\$31,754.43); and land with decaying structures (\$8,891.23).

ACTION:

Councilor Liot MOVED, the following RESOLUTION:

FOR THE PURPOSE, of complying with NH RSA 80:76.

NOW THEREFORE BE IT RESOLVED that the Lebanon City Council, in accordance with NH RSA 80:76, has reviewed the following compilation prepared by the Tax Collector of tax liens outstanding for tax years 2018-2020.

NOW THEREFORE BE IT FURTHER RESOLVED that the Lebanon City Council, hereby serves notice upon the Tax Collector to waive taking deeds on the immediately following property because of an existing payment plan between the owner and the City of Lebanon:

Billed Owner/Location	Map/Lot	Type
-----------------------	---------	------

Maville, Sandra 19 Mason Street	91/59	Residence
------------------------------------	-------	-----------

Seconded by Councilor Winny.

****The Vote on the Motion was approved (9-0)***

Councilor Winny MOVED the following RESOLUTION:

FOR THE PURPOSE, of complying with NH RSA 80:76.

NOW THEREFORE BE IT RESOLVED that the Lebanon City Council, in accordance with NH RSA 80:76, has reviewed the following compilation prepared by the Tax Collector of tax liens outstanding for tax years 2018-2020.

NOW THEREFORE BE IT FURTHER RESOLVED that the Lebanon City Council, hereby serves notice upon the Tax Collector to commence the statutory tax deeding process immediately on the following properties:

Billed Owner/Location	Map/Lot	Type
Wright, Karen 22 Rudsboro Road #17	56/15/1700	Mobile Home
Vorachak LLC 70 Hanover Street	91/197	Restaurant

Seconded by Councilor Sykes.

****The Vote on the MOTION was unanimously approved (9-0).***

Councilor Liot Hill MOVED to extend the meeting until 10:15 PM.

Seconded by Councilor Wilkie.

****The Vote on the Motion was approved (9-0)***

C. Presentation of first reading and set public hearing for October 6, 2021: Amendment to Ordinance No. 18, Salary Plan, Article III, C. Lebanon Police Benevolent Association (LPBA)/ New England Police Benevolent Association (NEPBA).

Included in the agenda packet: Excerpt of Ordinance No. 18, Salary Plan, as adopted December 16, 2020 – Article III, Bargaining Unit Employees, Section C, 2021 Wage Scale for Lebanon Police Benevolent Association (LPBA) / New England Police Benevolent Association (NEPBA). **(Page 175).**

The City Council is not directly responsible for the negotiation of collective bargaining agreements; it is the City policy making body and the legislative body with authority to raise and appropriate tax revenues to fund labor agreements. Under the City Manager form of government, the City Manager is responsible for administering the affairs of the City, including the appointment of employees and the negotiation of labor agreements. The City Manager’s statutory obligation is to bargain in “good faith.” In the collective bargaining context, “good faith” negotiation “... involves meeting at reasonable times and places to reach agreement on the terms of employment, and to cooperate in mediation and fact-finding required by this chapter [RSA 273], but the obligation to negotiate in good faith shall not compel either party to agree to a proposal or to make a concession.” Failure to bargain in good faith constitutes an unfair labor practice.

The City and the Lebanon Police Benevolent Association (LPBA) / New England Police Benevolent Association (NEPBA) have reached a tentative three-year (2022 - 2024) labor agreement.

Negotiations with LPBA/NEPBA included the provision of an independent Salary Market Analysis for positions to include Patrol Officers, Corporals, and Sergeants. Municipal Resources Incorporated (MRI) was contracted to perform the study which compared the salaries for ten (10) cities and towns that are comparable to the City of Lebanon. Results of the study showed that Lebanon is paying well below the market for these three positions. To bring salaries to a competitive level in the market and increase recruitment/retention of police personnel, management is proposing to raise wages over a two-year cycle (2021 and 2022). Action in 2021 will bring positions to the 25th percentile with costs totaling \$34,000. There will be no need for supplemental funding to cover these costs as vacancies and retirements in the PD will allow the 2021 budget to absorb the additional burden. Proposed increases in 2022 will bring positions to the 50th percentile with costs totaling \$96,000. Funding for the increases will be included in the City Manager's proposed 2022 municipal budget.

State law requires that only cost items be submitted to the City Council for approval. Cost item means any benefit acquired through collective bargaining whose implementation requires an appropriation by the legislative body of the public employer (City of Lebanon) with which negotiations are being conducted. Cost items shall be submitted within 30 days to the City Council for approval. Within 30 days of the receipt of the submission, the City Council shall vote to accept or reject the cost items. If the City Council rejects any part of the submission, or while accepting the submission takes any action which would result in a modification of the terms of the cost items submitted to it, either party may reopen negotiations on all or part of the entire agreement. Please see attached memo from City Manager Mulholland for a summary of cost items associated with the tentative labor agreement. Legislative bodies may only raise and appropriate funds for the current fiscal year. Many collective bargaining agreements cover several fiscal years. The New Hampshire Supreme Court held (Appeal of Sanborn Regional School Board) that a public employer was not bound by a collective bargaining agreement where the legislative body, when approving and funding the cost items in the current year of the labor agreement, were not warned of the cost of the successive years.

According to the tentative three-year labor agreement, annual General Wage Increases (GWI's) for the life of the contract will be based on the % change in the Northeast Urban CPI for June from 12 months prior but shall be no less than 1% (floor) and no greater than 3% (ceiling). Based on a 4.6% increase in the CPI as of June 2021, the GWI for 2022 will be 3%. The estimated wage and statutory benefit costs for 2022 is \$96,000. Costs for years two (2023) and three (2024) will include up to a 3% GWI in 2023 (no step increases) and up to a 3% GWI in 2024 with step increases for all eligible staff.

LEBANON POLICE BENEVOLENT ASSOCIATION - 2022 SALARY GRADES							
		<u>Minimum</u>	<u>Maximum</u>				
<u>Position Title</u>	<u>Step 1</u>	<u>Step 2</u>	<u>Step 3</u>	<u>Step 4</u>	<u>Step 5</u>	<u>Step 6</u>	<u>Step 7</u>
Patrol Officer	\$27.87	\$29.49	\$30.51	\$32.02	\$33.63	\$35.33	\$36.84
Corporal	\$37.90						
Sergeant	\$37.90	\$38.70	\$39.69	\$40.71	\$41.70	\$42.69	\$43.74

Corresponding schedules for the subsequent two-years are not provided as the GWI for 2023 and 2024 will not be known until July of those years.

Amending Ordinance No. 18 requires three separate presentations (see City Charter subsections 419:22, 419:24, 419:25, 419:52) followed by a public hearing and the vote of at least two-thirds (2/3) of all members of the City Council – six (6) members - to adopt.

The Council was asked to recognize the first of three presentations on September 1, and to schedule a public hearing for October 6, 2021, to amend the Ordinance. The second and third presentations will follow on September 15, and October 6, respectively.

ACTION:

1. PRESENTATION:

Assistant Mayor Below MOVED, that the Lebanon City Council acknowledges the first of three presentations to amend Ordinance No. 18, Salary Plan, Article III, Bargaining Unit Employees, Section C, Lebanon Police Benevolent Association (LPBA)/New England Police Benevolent Association (NEPBA) by replacing the current (2021) wage scale with the following:

C. LEBANON POLICE BENEVOLENT ASSOCIATION (LPBA)/NEW ENGLAND POLICE BENEVOLENT ASSOCIATION (NEPBA) – Employees covered by the terms and conditions of the collective bargaining agreement between the City of Lebanon and the LPBA/NEPBA (effective January 1, 2022 to December 31, 2024) shall be paid in accordance with the accompanying pay plan covering all remaining pay periods in 2021 following adoption by the City Council as provided in that agreement, and as placed on file in the office of the City Clerk. (ref. Table page 174, agenda packet).

LEBANON POLICE BENEVOLENT ASSOCIATION – 2021 REVISED SALARY THROUGH THE LAST PAY PERIOD OF 2021.							
Position Title	Minimum						Maximum
	Step 1	Step 2	Step 3	Step 4	Step 5	Step 6	Step 7
Patrol Officer	\$26.86	\$28.20	\$29.17	\$30.38	\$31.62	\$32.93	\$34.08
Corporal	\$36.60						
Sergeant	\$36.60	\$37.32	\$38.03	\$38.76	\$39.49	\$40.20	\$41.22

1. SCHEDULE PUBLIC HEARING:

Assistant Mayor Below Further MOVED, that the Lebanon City Council hereby schedules a public hearing for Wednesday, October 6, 2021, beginning at 7:00 pm, Council Chambers, City Hall, Lebanon, and Remote via City's Virtual Platform, for the purpose of receiving public input and taking action to amend Ordinance No. 18, Salary Plan, Article III, Bargaining Unit Employees, Section C, Lebanon Police Benevolent Association (LPBA)/New England Police Benevolent Association (NEPBA) by replacing the current (2021) wage scale with that approved as part of the tentative collective bargaining agreement to be effective from January 1, 2022 to December 31, 2024.

Seconded by Councilor Liot Hill.

***The Vote on the MOTION was unanimously approved (9-0).**

D. Authorization of transfer of unspent bond proceeds totaling \$40,000 from the Hillcrest Acres Reconstruction Project to the Kimball Street Reconstruction Project

The purpose of this agenda item is to request the City Council approve transferring unspent bond proceeds in the amount of \$40,000 from the Hillcrest Infrastructure Project to the Kimball Street Infrastructure Project. These monies are to bring documents up to federal guidelines and complete an environmental review, as well as the NHDES coordination for plan review in advance of the beginning of the project (slated for funding as part of the 2022-2027 Capital Improvement Program).

ACTION:

Councilor Liot Hill MOVED the following RESOLUTION:

FOR THE PURPOSE OF authorizing the transfer of unspent bond proceeds from the Hillcrest Infrastructure Project to the Kimball Street Infrastructure Project.

NOW THEREFORE BE IT RESOLVED, by the City of Lebanon, that New Hampshire RSA 33:3A of the Municipal Finance Act provides that if after notes or bonds have been issued and no expenditure of the proceeds has been made for the purpose or purposes for which the debt was incurred, or if a balance remains after the completion of the project or projects for which the debt was authorized, a city, by vote of 2/3 of the city council may authorize the expenditure of the sum or sums on hand, including any premiums received, for any purpose or purposes for which bonds or serial notes may be issued for an equal or longer period of time at any time which said sum or any portion thereof remains available; provided, however, that if the sum obtained by issuance of bonds or notes, as aforesaid, or any balance thereof, including any premium, is not appropriated as aforesaid, then the same shall be used to pay the principal of the loan as it matures.

NOW THEREFORE BE IT FURTHER RESOLVED, that appropriation authority, and associated funding derived from the issuance of bonds, is authorized to be transferred as follows according to the table on page 176 of 193 of the Lebanon City Council agenda packet of September 1, 2021:

Project	Bond Issue/Dated	Unspent Bond Proceeds BEFORE Transfer as of 8/1/2021	Appropriation & Funded Transfer	Unspent Bond Proceeds AFTER Transfer	Project Useful Life
<u>FROM</u>					
Hillcrest Infrastructure Project	NHMBB20B/07/14/20	\$653,383.23	\$(40,000.00)	\$613,383.23	20 years
<u>TO</u>					
Kimball Infrastructure Project	Unissued	\$0	\$40,000	\$40,000	20 years

Seconded by Councilor Wilkie.

***The Vote on the MOTION was unanimously approved (9-0).**

1
2 **E. Clarification of authorization to create a technical review committee originally authorized by**
3 **the City Council on August 4, 2010**
4

5 Included in the agenda packet: City Council meeting minutes of August 4, 2010 (excerpt) (*Pages 179-*
6 *180*).
7

8 Mr. David Brooks, Director of Planning and Development, came before the Council to review the
9 clarification to create a technical review committee.
10

11 On August 4, 2010, the City Council adopted a resolution pursuant to RSA 674:43, III, authorizing the
12 Planning Board to delegate its power to review minor site plans to an administrative technical review
13 committee. RSA 674:43, III, provides that:
14

15 The local legislative body of a municipality may by ordinance or resolution authorize the Planning
16 Board to delegate its site review powers and duties in regard to minor site plans to a committee of
17 technically qualified administrators chosen by the Planning Board from the Departments of Public
18 Works, Engineering, Community Development, Planning, or other similar departments in the
19 municipality. The local legislative body may further stipulate that the committee members be
20 residents of the municipality. This special site review committee may have final authority to approve
21 or disapprove site plans reviewed by it, unless the local legislative body deems that final approval
22 shall rest with the Planning Board, provided that the decision of the committee may be appealed to
23 the full Planning Board so long as notice of appeal is filed within 20 days of the committee's decision.
24

25 Efforts by the Planning Board and Planning Department to create a technical review committee pursuant
26 to the Council's authorization were not previously finalized but have remained an important goal for the
27 Department. Last year, the Planning Board, through its Development Regulations Subcommittee, revived
28 the effort to create a technical review committee as part of its overall effort to clarify the development
29 regulations and streamline the review process for smaller-scale projects.
30

31 Throughout the past year, the Planning Board, working through staff, prepared draft amendments to the
32 Site Plan Review Regulations to (1) identify activities that will qualify for minor site plan review, and (2)
33 to establish application and administrative procedures for the review of minor site plans by what is now
34 proposed to be called the "Minor Site Review Committee". The Planning Board has scheduled a public
35 hearing on the final draft amendments for Tuesday, September 13, 2021.
36

37 In reviewing the final draft of the amendments however, the City's legal counsel noted that the City
38 Council's 2010 resolution is somewhat ambiguous as to precisely what the Council had authorized. The
39 2010 authorization provides as follows:
40

41 **FOR THE PURPOSE OF** authorizing the Lebanon Planning Board to delegate its site review
42 powers and duties in regard to minor site plans to an Administrative Technical Review Committee.
43

44 **NOW THEREFORE BE IT RESOLVED**, that the Lebanon City Council, in accordance with NH
45 RSA 674:43.III, hereby authorizes the Lebanon Planning Board to delegate its site review powers and
46 duties in regard to minor site plans to a committee of technically qualified administrators, the
47 members of which are to be selected by the Planning Board.
48

1 **BE IT FURTHER RESOLVED**, that the final approval of such minor site plans lie with the
2 Planning Board, and that any decision made by the Committee, may, within 20 days of the decision,
3 be appealed to the Planning Board for reconsideration.
4

5 The City's attorney noted that the third clause, beginning "Be It Further Resolved", is confusing as to
6 whether the City Council's intent was to allow the Minor Site Review Committee to make final
7 determinations on applications reviewed by it or whether that final approval power remained with the full
8 Planning Board.
9

10 It is City staff's recommendation that the Minor Site Review Committee should have final authority to
11 approve or disapprove site plans reviewed by it, subject to any appeal to the full Planning Board within 20
12 days of such decisions. Therefore, Planning Department staff request that the City Council clarify its prior
13 authorization enabling the Planning Board to delegate its site review powers and duties in regard to minor
14 site plans and offered the following revised resolution for the Council's consideration.
15

16 In response to Councilor Sykes' question on what is considered a minor site plan, Mr. Brooks noted that
17 part of the work done over the last year was to create those thresholds and define what is going to be
18 classified as a minor, and what will be classified as beyond a minor development. At present, the
19 threshold for a Site Plan Review is roughly 1,000 sq. ft. of new building space or pervious coverage. The
20 proposal before the Planning Board is to move the upper threshold to 2,500 sq. ft. and lower the bottom
21 threshold to 500 sq. ft. The 2,500 sq. ft. and 500 sq. ft. would fall into this new minor site plan process.
22 The Planning Board is trying to create a simplified process for smaller applications to go through a
23 streamlined process with a lower amount of submission and design requirements. Mr. Brooks also
24 explained the reasons behind lowering the lower threshold from 1,000 sq. ft. to 500 sq. ft. to Councilor
25 Liot Hill.
26

27 **ACTION**

28 *Councilor Wilkie MOVED the following RESOLUTION :*
29

30 **FOR THE PURPOSE OF authorizing the Lebanon Planning Board to delegate its site review**
31 **powers and duties in regard to minor site plans to an administrative technical review committee.**
32

33 **NOW THEREFORE BE IT RESOLVED**, that the Lebanon City Council, in accordance with NH
34 RSA 674:43.III, hereby authorizes the Lebanon Planning Board to delegate its site review powers
35 and duties in regard to minor site plans to a committee of technically qualified administrators (the
36 Minor Site Review Committee), the members of which are to be selected by the Planning Board.
37

38 **BE IT FURTHER RESOLVED**, that the Minor Site Review Committee shall have final authority to
39 approve or disapprove site plans reviewed by it, provided that the decision of the committee may be
40 appealed to the full Planning Board so long as notice of appeal is filed within 20 days of the
41 committee's decision.
42

43 *Seconded by Councilor Liot Hill.*

44 **The Vote on the MOTION was unanimously approved (9-0).*
45

46 *Councilor Liot Hill MOVED to extend the meeting until 10:30 PM.*

47 *Seconded by Councilor Winny.*

1 ***The Vote on the Motion was approved (9-0)**

2
3 **F. Discussion of Potential Use of Narcan by Police Staff (Agenda Request Submitted by**
4 **Councilor Sykes)**

5
6 **Included in the agenda packet: (Pages 182-193)**

- 7 1. August 5, 2021 Agenda Request – City Policy Referencing Narcan Use by the Police Department
8 (Submitted by Councilor Sykes)
9 2. Lebanon Police Department Incident Response Times (January 2021 – July 2021) **(pages 184-187)**
10 3. Lebanon Police Department Operational Procedure OP-127, Naloxone **(pages 188-190)**
11 4. August 23, 2021 Memo from Fire Chief Chris Christopoulos re: 2020 and 2021 Year-to-Date Overdose
12 Data. **(pages 191-193)**
13

14 This agenda request was submitted by Councilor Sykes in response to the opiate overdoses and fatality
15 that occurred in the City in July. He wanted to know what the policies might be in reference to the use of
16 Narcan by various agencies in the City, specifically the Police Staff.
17

18 Lebanon Police Chief Phillip Roberts presented a history and reviewed the LPD's Policy on the use of
19 Naloxone (Narcan) by Lebanon Police Officers as presented on pages 188-199 of the City Council
20 Agenda packet. There was a discussion years ago between LFD Chief and the LPD Chief on whether
21 there was a necessity for officers on the street to carry Narcan. At the time, the consensus was that it was
22 not feasible due to the training and the logistics of carrying it. Storage temperatures need to be maintained
23 at a certain room temperature so it does not freeze or become too hot, etc. Other factors came into this
24 decision as well. It is not advisable to issue Narcan with just one emergency worker on scene because
25 patients can become combative when they come to. An ambulance has two members. The LPD is
26 usually the first one at the scene and goes into a life-saving CPR mode while waiting for EMS to arrive.
27 Fire Chief Christopoulos stated the former LPD Chief and he monitored these incidents.
28

29 In another program we worked with the Canine Veterinarians to have intramuscular Narcan available for
30 the canine cops should their dogs become affected with an opiate. Fire Chief Christopoulos referred to
31 his cover memo (pages 191-193, agenda packet) that contained recent data relative to Narcan
32 administration, noting they are seeing more non-opiate related overdoses (i.e., Xanax, Cocaine,
33 Methamphetamine and THC) and of our suspected opiate-related overdoses, the minimum dose per patient
34 in 2020 was 4.95 mg of Narcan and this year (2021) it is at almost 5.5 mg per person. The intranasal
35 doses that staff carry are only 2 mg. Once the 2 mg. are given, you have to wait for a period of time
36 before you give another dose. Paramedics have more latitude in this with the use of intramuscular and/or
37 intravenously where they can give Narcan.
38

39 For suspected opiate-related deaths, the LPD/LFD never officially get a confirmation from the State that a
40 person actually died from an overdose from any particular narcotic. Between this year and last year,
41 bystander CPR was initiated in 4 cases but Narcan would not have been effective in those calls unless the
42 person had a pulse. There were two deaths this year where no resuscitative measures were taken because
43 the person had passed away, including one we had revived two days prior with Narcan.
44

45 Fire Chief Christopoulos felt we are not at a crisis point yet because of our new station alerting and pre-
46 notification system for all EMS calls, our turnout and response times, and the availability of Narcan in all
47 of our staff vehicles, even with the temperature control issues.

1
2 The Council discussed the drugs being seen in Lebanon and how Narcan would not revive someone who
3 was overdosing from a non-opiate; how more potent opiates are being seen that are mixed with other
4 narcotics (i.e., heroin being mixed with carfentanil, etc.); how overdoses related to Xanax, Cocaine,
5 Methamphetamine and THC have increased over the last 2-years and with more potent combined opiate
6 mixtures, more Narcan is necessary; the different factors that weigh into the use of Narcan; how the
7 enhanced 911 system and emergency dispatch works (Note: Average EMS Response time = 4:13 minutes
8 and as of August 23rd, 2021 this was reduced to 2:31 minutes).

9
10 Councilor Sykes' questioned if Narcan should be administered quickly to better the chances of a
11 favorable outcome for an individual. Chief Christopoulos said it is not necessarily the initial dose, it is
12 the total quantity of the dose that will bring someone back, noting there has been only 2 cases in the last
13 year where someone was given <2 mg of Narcan –(1 was intravenous and 1 was intramuscular.) Anytime
14 bystander CPR is given, the greater the survival rate is.

15
16 Councilor Sykes questioned if there was any data about early intervention programs for administration of
17 Narcan, what agencies should be doing this, and what the public's access to Narcan is.

18
19 Chief Christopoulos said that, sadly, members of the public can get Narcan and use it without any of the
20 training EMS/Law Enforcement are required to do. We had a person call the station asking for free
21 Narcan, and 10-minutes later we get called to an overdose and it was the person who called us asking for
22 the free Narcan. LFD/LPD looked at the data within their departments to see if the use of Narcan will
23 have a measured impact on public safety. They reviewed the training, outfitting, and dealing with the
24 storage issues of Narcan in police cruisers, and for all police officers, noting the data does not support this
25 yet.

26
27 **Councilor Heistad MOVED to extend the meeting until 10:45 PM.**

28 **Seconded by Councilor Wilkie.**

29 ****The Vote on the Motion was approved (9-0)***

30
31 The Council, LFD Chief Christopoulos, and LPD Chief Roberts discussed if other communities have
32 police using Narcan and how they are managing these issues. (Enfield does but their EMS system is not
33 quick in terms of response time. Hanover, Lebanon, and Claremont do not carry Narcan); the amount of
34 Narcan that might be needed to bring a person back to consciousness; the reasons why LPD/EMTS
35 (basic) are only authorized to give intranasal doses of Narcan; whether or not a lower dose of Narcan
36 buys time for the patient; why the current LPD policy only allows LPD to administer Narcan in their
37 station; and what the procedures are for giving Narcan in the police station.

38
39 Chief Roberts explained to Councilor Sykes that under former Chief Mello's policy those who are trained
40 to carry Narcan are those officers within the Detective Division and Administration.

41
42 Councilor Heistad asked about the amount of time/training officers would need to carry Narcan and be
43 able to administer it. Chief Roberts said it would take about 6-8 hours of training noting each officer has
44 to be licensed under the Lebanon Fire Department's EMS license number, so with 35 officers it would be
45 a significant cost for training, licensing, and for the cost of Narcan.

46

The Council continued to discuss preventing deaths from overdoses; how it may be a good idea for Lebanon Police to carry Narcan; why the arrival of police or EMS may not have make a difference in overdose deaths; inviting more citizens to become trained and equipped to carry Narcan within the communities of users; how Dartmouth-Hitchcock Medical Center and State programs and substance abuse facilities could help with substance abuse; the Lebanon Farmer's Market Community Training program; and, how much the City would need to set aside financially to provide individual officers the training they need to use Narcan.

Councilor Hill MOVED to extend the meeting until 10:55 PM.

Seconded by Councilor Wilkie.

***The Vote on the Motion was approved (9-0)**

Councilor Sykes believed that one of his jobs as City Councilor is to be responsive to residents of this city who have questions/concerns and are looking for information. He noted that he still does not have enough information to entertain a motion, or have the Council change. However, there is an opioid crisis in this State and in the City of Lebanon. Whether it is 1-3+/- people, the City must examine everything we can do to help protect people and increase their chances for survivability (from an overdose).

ACTION:

No action taken at this time.

11. CITY MANAGER REPORT:

City Shaun Mulholland briefly updated the Council on the following:

- Broadband: No response from Comcast to cover the 142 homes that are not presently covered. Hub 66 agreed to submit a grant on the city's behalf, which has now been submitted.
- Child Care Symposium dates: Behind housing, this is the #2 issue in our community that needs to be addressed. The dates are October 20th and November 3rd. He will send notices out to all Council members.
- Westboro Yard will be addressed at a future meeting.

12. COUNCIL REPRESENTATIVES TO OTHER BODIES: NONE

13. FUTURE AGENDA ITEMS: NONE

14. NON-PUBLIC SESSION: NONE

15. ADJOURNMENT:

Councilor Heistad MOVED for adjournment.

Seconded by Councilor Winny.

***The Vote on the MOTION was unanimously approved (9-0)**

The meeting was adjourned at 10:52 PM.

Respectfully submitted,
Dona E. Gibson, Recording Secretary