

FINAL

LEBANON CITY COUNCIL
MINUTES (Part 1 of 2)
3rd Quarter Board/Committee Reports
Wednesday, October 7, 2020, 6:00 p.m.
Remote Via Microsoft Teams: LebanonNH.gov/Live

MEMBERS PRESENT: Mayor Tim McNamara, Assistant Mayor Clifton Below, Erling Heistad, Karen Liot Hill, Suzanne Prentiss, George Sykes, Karen Zook

MEMBERS ABSENT: Bruce Bronner, Jim Winny

STAFF PRESENT: City Manager Shaun Mulholland, City Clerk Kristin Kenniston, Melanie McDonough (IT)

1. Quarterly Board/Committee Reports (3rd Quarter 2020)

Mayor McNamara called this portion of the meeting to order at 6:00 p.m.

This meeting took place virtually due to the COVID-19 Pandemic and was conducted in accordance with the Emergency Orders issued by the New Hampshire Governor according to NH RSA 91-A “Right-to-Know.”

A Roll Call of City Councilors was taken and all who attended the meeting are listed above.

Class VI Roads: Councilor Heistad

Councilor Heistad read a letter from the Chair, Mr. Steve Wood. The Class VI Roads Committee has met five times since its reconvening in August. To date, the Committee has sent two recommendations to City Council:

1. Declassify Barton Hill Road: from the easterly end of Barden Road running east to Methodist Hill Road near the Exit 16 off I-89, as a Class A Trail.
2. Declassify Durkee Road running east for the Enfield Town line at its conjunction with McCallister Road in Enfield as a Class A Trail, 25 feet in width.

Both of these recommendations come with Rights-of Way on Patch family land.

The Committee intends next to evaluate the status and utilities of Atherton Road and McCallister Road, also on the land of the Patch family.

Ped/Bike Advisory Committee: Mr. Colin Smith

Since the Committee spent most of their time over the last few months looking at the Mascoma Greenway, which included the connection from the Greenway to the Rail Trail and the Northern Rail Trail, Mr. Smith wanted to recognize the many years of volunteer service that Mr. Dick Mackay and Mr. Ken Warren spent with the Friends of the Northern Rail Trail, noting they have looked after the Rail Trail in Lebanon and throughout the rest of Grafton County. The Lebanon Recreation Department will now be taking a more active role in the management of the Trail moving forward. We are at the point where the work that was done 10-20 years ago to improve the bridges, etc., now needs to be redone.

Since the Committee has been active on Safe Routes to School, a connection from the Middle School to the Rail Trail has been reviewed. The Committee received a grant to install a connection between the

Middle School and the Rail Trail, but the School Board at that time did not want to go forward with the project. There is now a new principal at the school who is very keen on connecting the Middle School down to the Rail Trail, so the City is working with the school to get this connection in place and the Route 4 crossing is moving forward with NHDOT negotiations.

The Committee held discussions about the reconstruction plans for Spencer Street that affects the end of the Rail Trail. Mr. Smith described the locations affected and noted that Assistant Mayor Below suggested changes that will be useful information to help DPW understand the land ownership and rights-of-way that could be incorporated into the Spencer Street reconstruction. As a result, a Motion was made at their meeting on October 6, 2020 that included some very detailed recommendations to DPW for their feedback on the Spencer Street reconstruction project.

Mr. Smith spoke about the Upper Valley Lake Sunapee Regional Planning Commission's survey program on the Greenway and the improvements being planned. They will be bringing their findings before the Council hopefully in the next month or so.

City Manager Mulholland informed the Council that the cost for repairs to the bridges on the Rail Trail will come out of the Operating Budget. The bridges have not been inspected, and the NHDOT does not inspect them, so we will be adding these to the City's Asset Management Plan inventory.

Arts & Culture Commission: Karen Zook

After a less active period, the Arts & Culture Commission has been working on a call for proposals. They are looking to hire a local designer to help them come up with a logo and putting out the messaging about the City's Arts initiative. The Graffiti Park Project is underway, and they are moving away from the auspices of the Planning Department to the auspices of the Recreation Department, which will take place on January 1, 2021.

City Manager Mulholland informed the Council that some of the City's Departments are in the process of being renamed. To further heighten the importance of Arts & Culture in the City, the name being reviewed is: Recreation, Arts & Culture.

Planning Board – No Report

Fair & Impartial Policing Task Force (FIPTF): Councilor Liot Hill, Co-Chair

They have been doing a lot of work building consensus over the summer and are now down to some very specific provisions. The FIPTF will have one more meeting next Tuesday (October 13, 2020), which will keep them on track to deliver their recommendations to the Council for review and the scheduling of a Public Hearing.

The FIPTF's areas of divergence are now limited to two provisions (of the Welcoming Lebanon Ordinance), the biggest being that the Ordinance passed by the voters does not have an enforcement provision. This is now being addressed in light of new concerns the City Manager brought forward from the perspective of City employees and for anyone who will be part of implementing this Ordinance. The language in the current Ordinance makes it a violation of the Criminal Code for the State of NH, and there is concern from City employees that, rather than being a violation of the Criminal Code, it should be treated as a violation of the City's Personnel Policy. The Towns of Hartford, Hanover and the City of

Chicago versions of their similar Ordinances were reviewed and all were violations of their Municipal Personnel Policies, as opposed to violations of the Criminal Code.

Productive conversations have taken place to address the legal concerns, while remaining as true as possible to the intent of the Ordinance passed by the voters in March 2020.

Economic Development Commission: City Manager Mulholland: Will be emailed to City Councilors.

Mascoma River Greenway: No Report

LEAC: Assistant City Mayor Clifton Below

Assistant Mayor Below shared a copy of LEAC's last agenda with the Council and reviewed the topics they have been discussing over the past quarter as follows:

- City Solar: A presentation given to LEAC about a phone-based App. that could be used to encourage people to take steps towards sustainability called "A Path to a Green Home." Solar PV panels were removed from the landfill maintenance building and the Police Station because the optimizers on each panel were creating a radio wave frequency that was interfering with police communications. There seems to be a solution available and those panels should be reinstalled.
- Gas-to-Energy Project.
- Anerobic Digestor study.
- LED Streetlight Conversion Project.
- City's Experience with Real Time Pricing (RTP) & Other Rates.
- Lebanon Community Power (LCP) & CPNH (Community Power of New Hampshire): A slide presentation was given on CPNH, which is being led by the City of Nashua. The CPNH allows for a portfolio of supply services, etc., and helps in regulating legislation advocacy. The City of Lebanon and Town of Hanover have retained legal services of the Law Firm Duncan Weinberg Genzer and Pembroke (DWGP) in an amount of up to \$15K.
- Building Code Updates and City Procurement Policy are in the process of being reviewed.

A slide presentation was given introducing the membership and legislative authority for the CPNH, along with several other slides pertaining to LCP and the credentials of the Law Firm DWGP (Duncan Weinberg Genzer and Pembroke).

This portion of the meeting adjourned at 6:50PM.

**LEBANON CITY COUNCIL
MINUTES (Part 2 of 2)
REGULAR SESSION**

Wednesday, October 7, 2020, 7:00 p.m.

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, Suzanne Prentiss, George Sykes, and Jim Winny

MEMBERS ABSENT: Bruce Bronner, Karen Zook

STAFF PRESENT: City Manager Shaun Mulholland, Deputy City Manager Paula Maville, City Clerk Kristin Kenniston, Director of Planning & Zoning David Brooks, Senior Planner Tim Corwin, Lebanon Police Chief Richard Mello, Finance Director Vicki Lee, Deputy Finance Director Tina Stearns, Melanie McDonough (IT)

2. Call to Order: Mayor McNamara called this portion of the meeting to order at 7:00 PM

This meeting took place virtually due to the COVID-19 Pandemic and was conducted in accordance with the Emergency Orders issued by the New Hampshire Governor according to NH RSA 91-A “Right-to-Know.”

A Roll Call of City Councilors was taken and all who attended the meeting are listed above.

3. PLEDGE OF ALLEGIANCE: Councilor Prentiss led the Council in the Pledge.

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

5. OPEN TO PUBLIC:

- Councilor Liot Hill read an email to the Council from Ms. Swan (Ward 1) requesting the name of the Columbus Day Holiday be renamed to Indigenous Peoples Day. The Council will take this under their consideration in 2021.

6. RECOGNITIONS:

- City Manager recognized the considerable and tremendous amount of time and work Assistant Mayor Below has put into leading Lebanon’s Community Power initiative, not only on the municipal level, but also at the State level. After many years of discussions, things are starting to move forward because of his leadership, skill and knowledge.

7. APPROVAL OF MINUTES: September 16, 2020 (Regular Meeting)

Amendments: Page 2, Line 31 of minutes: Change “Paramedic” to “Mental Health professional”; Page 6, Line 23 of minutes: Change “PCPs” to “PCBs”; Page 6, Line 31 of minutes: Change “value” to “assessed”; Page 9, Line 3: Change “Power” to “PILOT”; Page 9, Line 6 of minutes: Change Smithfield to “Smiths Field”

Councilor Heistad MOVED to approve the September 16, 2020 (Regular Session) minutes as amended as presented in the October 7, 2020 City Council agenda packet.
Seconded by Councilor Prentiss.

Roll Call Vote:

Assistant Mayor Below, Councilors Heistad, Liot Hill, Prentiss, Sykes, Winny and Mayor McNamara, all voting Yea.

None voted Nay.

****The Vote on the Motion was unanimously approved by those present (7-0).***

8. APPOINTMENTS:

- Zoning Board of Adjustment: Stephen Cole (Alternate Member)

Councilor Heistad put forth the nomination of Mr. Stephen Cole as an alternate member of the Zoning Board of Adjustment. Three-year term (10/20 – 10/23).

Roll Call Vote:

Assistant Mayor Below, Councilors Heistad, Liot Hill, Prentiss, Sykes, Winny and Mayor McNamara, all voting Yea.

None voted Nay.

****The Vote on the Motion was unanimously approved by those present (7-0).***

- Planning Board: Gregorio Amaro (Regular Member). Mr. Amaro currently serves as an alternate member.

City Manager Mulholland put forth the nomination of Mr. Gregorio Amaro for appointment to the Planning Board. Three-year term (10/20 – 10/23).

Roll Call Vote:

Assistant Mayor Below, Councilors Heistad, Liot Hill, Prentiss, Sykes, Winny and Mayor McNamara, all voting Yea.

None voted Nay.

****The Vote on the Motion was unanimously approved by those present (7-0).***

- Cemetery Board of Trustees: Antonio Palazzo (Reappointment)

Councilor Winny put forth the nomination of Mr. Antonio Palazzo for reappointment as Ward 3 Representative of the Board of Cemetery Trustees. Two-year term (10/20 – 10/22)

Roll Call Vote:

Assistant Mayor Below, Councilors Heistad, Liot Hill, Prentiss, Sykes, Winny and Mayor McNamara, all voting Yea.

None voted Nay.

****The Vote on the Motion was unanimously approved by those present (7-0).***

- Heritage Commission: Doug Boisvert (Regular Member)

Councilor Liot Hill put forth the nomination of Mr. Doug Boisvert as a regular member to the Heritage Commission. Three-year term (10/20 – 10/23)

Roll Call Vote:

Assistant Mayor Below, Councilors Heistad, Liot Hill, Prentiss, Sykes, Winny and Mayor McNamara, all voting Yea.

None voted Nay.

****The Vote on the Motion was unanimously approved by those present (7-0).***

- Lebanon Housing Authority: Cliff Saunders (Regular Member)

Councilor Prentiss put forth the nomination of Mr. Cliff Saunders as a regular member to the Lebanon Housing Authority Board. Five-year term (10/20 – 10/25).

Roll Call Vote:

Assistant Mayor Below, Councilors Heistad, Liot Hill, Prentiss, Sykes, Winny and Mayor McNamara, all voting Yea.

None voted Nay.

****The Vote on the Motion was unanimously approved by those present (7-0).***

- Pedestrian & Bicyclist Advisory Committee: Clifton Below (Alternate Member)

Assistant Mayor Below is currently serving in the capacity of an alternate citizen member to the Pedestrian and Bicyclist Advisory Committee and his term as such has expired. Assistant Mayor Below has expressed interest in remaining on the committee.

The City Council may choose to reappoint him for another three-year term as an alternate citizen member OR the City Council may vote to add an alternate City Council seat to the membership of this committee, and the Mayor may appoint Assistant Mayor Below to fill that seat.

Councilor Prentiss MOVED to nominate Assistant Mayor Below as an alternate citizen representative of the Pedestrian & Bicyclist Advisory Committee. Three-year term (10/20 – 10/23).

Roll Call Vote:

Assistant Mayor Below, Councilors Bronner, Heistad, Liot Hill, Prentiss, Sykes, Winny, Zook and Mayor McNamara, all voting Yea.

None voted Nay.

****The Vote on the Motion was unanimously approved by those present (7-0).***

Mayor McNamara updated the Council on the membership for the West Lebanon Advisory Committee. Currently there are seven (7) folks interested in the three (3) citizen's seats. There is one (1) business owner who has stepped forward for three (3) business owner seats.

9. PUBLIC HEARING ITEMS:

A. ORDINANCE #2020-13

Public hearing for the purpose of receiving public input and taking action on proposed Ordinance #2020-13 to amend City Code Chapter 14, Alcoholic Beverages.

Included in the agenda packet were Ordinance #2020-13 and the August 18, 2020 Legal Opinion by Attorney C. Christine Fillmore re: Ordinance #2020-13, Alcoholic Beverages. For complete details of this Ordinance modifications, please refer to pages 39-43 in the October 7, 2020 City Council agenda packet.

Police Chief Richard Mello came before the Council to present an overview of Ordinance #2020-13.

The Lebanon Police Department is responsible for enforcing a number of City Code violations. Presently, the only process to address and enforce these violations is for the officer to issue a paper summons to the offender to appear in court to answer for the violation. Amending Chapter 14 to place specific fines within the penalty section of the chapter would allow for the officer to issue a “ticket.” The ticket could then be paid (much like a parking ticket) which would avoid the need to appear in court.

This change would help reduce unnecessary court appearances and help alleviate an already back-logged court docket, in addition to reducing the amount of cases the Lebanon Police Prosecutor would have to handle on a weekly basis.

The Police Department has designed a City Ordinance ticket to be used in this process. The offender will still have the option to appear in court for a due process hearing, should they choose.

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

Councilor Liot Hill reminded the public how they could participate in the meeting after seeing hands raised in MS Teams and people in Chat who wanted to speak

Mayor McNamara reopened the Public Hearing for Ordinance #2020-13.

The following people came forth:

Mr. Rory Gawler (Ward 3): He spoke about his concerns with the Ordinance regarding who gets a ticket and who gets arrested for alcohol use in public.

Chief Mello responded by noting that when the LPD issues a summons to appear in court for City Ordinance Violations, we are not taking people into custody. When you look at the published LPD yearly data regarding “what is an arrest,” it can be somewhat confusing, because to use the word “arrest” you would think the LPD would be putting handcuffs on somebody, bringing them to the station and booking them. Sometimes that happens, but not with City Ordinance Violations, unless there is an additional State Law Violation. What we are doing is alleviating the need to issue a summons where someone needs to appear in court – they are not being arrested for that City Ordinance Violation unless there is another issue of concern such as having alcohol on City property or they are intoxicated and cannot care for themselves. In the latter, they may find themselves in protective custody, but are not being arrested. He reiterated that the LPD is alleviating the need for a person to go to court.

Sarah Wraight (Ward 1): She spoke about her concerns with both Ordinance #2020-13 & #2020-14 and read a statement from Rise Upper Valley (RUV), which is a POC and Black LGBTQIA+ led grassroots organization working diligently against the violently oppressive actions of Police and ICE. In short, RUV expressed their concerns about ticketing for substance abuse, noting it disproportionately harms low-income community members. They also called on the Council to reduce the Police Department’s budget by 50% by 2022 and to reallocate those funds to Health and Human Services.

Ms. Mirriam Ashton (Ward 2): She spoke about her concerns with ticketing and felt it would disproportionately impact poor people and criminalizes poverty. It would be much better to address the root causes of addiction in the community.

Ms. Asma Elhuni (resident of Lebanon): She spoke about what the organization Right & Democracy (RAD) stands for and how they are currently trying to work with State Representatives to create legislation that will not criminalize poverty substance misuse. She also expressed concerns over Ordinances #2020-13 & Ordinance #2020-14, noting they violate the principles of what RAD promotes, and spoke about her personal concerns on ticketing, traffic stops, and divesting funds away from the Police Department.

Mayor McNamara explained that since some of these comments are not related to this particular discussion, it might be better if they were directed toward the Council during the budget process next month.

Mr. Kendal Dicks (Tunbridge, VT): He concurred with what other speakers said and expressed his concerns over citations potentially leading to an increased jail population. He addressed the ACLU's report, which stated New Hampshire is running modern day debtor prisons. He will drop the ACLU's report in the MS Teams Chat Box for the Council's review.

After hearing no further comments from the public, Mayor McNamara closed the Public Hearing.

Councilor Sykes requested Chief Mello to elaborate on how a ticket gets written and what happens afterward.

Chief Mello explained that once a ticket is written, the ticket lists the fine and how it can be paid (i.e., by mail, drop off, or electronically). If the ticket is not paid, it would be up to the LPD to locate that person(s) to recoup the fines through either immobilization of a vehicle, increased fees, or a summons to appear in court. He also confirmed the ACLU did find a mechanism in NH District Courts where if a person did not pay a fine they could actually be sent to jail. The good news is that the State of NH was paying attention to this report and have done away with sending people to jail based solely on the inability to pay a fine. He has not seen this happen in the Lebanon's District Court and would be disappointed to hear if this was still happening. However, when someone does not pay a fine, there are consequences, and those consequences are, instead of just paying a ticket, appearing in court facing a judge.

Councilor Sykes noted the last time he looked at the data, several years ago, there were people from Lebanon who had been sentenced to serve time in Grafton County Jail and the numbers were discouraging. He requested Chief Mello to obtain this information again so the Council can take a more careful look at this issue. Chief Mello will reach out to the Court's Supervisor of Judges to get this information..

Councilor Sykes felt he could not vote in favor of this motion because it is a more complicated discussion and would like to see the information he requested first.

Councilor Prentiss asked what the Council's options are and what would happen if the Council does not make this change now.

Chief Mello informed the Council that other than parking tickets, the LPD would continue with the method they have always used, which is to issue a summons for an offender to appear in court in front of a judge. Violators must appear in court - there is no other option.

Councilor Winny thought the current motion seems to improve things, somewhat, for people and is a step in the right direction, but noted a larger conversation needs to be had by the Council. He felt it was not possible to address all of the issues during tonight's session and had concerns about trying to address these issues during the budget season but was willing to submit an agenda request so the Council would have more time to address the issues presented. While this Ordinance is a gain, it is a small gain, but worth doing. He supported the motion but with the caveat that a much larger conversation take place in the future.

Assistant Mayor Below referred to Chapter 1, General Provisions of the NH State Statute, which refers to a misdemeanor that could be punished, upon a conviction, by a fine not to exceed \$500, imprisonment not to exceed 90 days, or both. He questioned if we are currently criminalizing an open container situation. Chief Mello explained that violation of City Ordinances, as the LPD has always enforced them, has always been a violation of a City Ordinance, not a violation of the New Hampshire State Statute. The reality is if a person is brought into court for a violation of a City Ordinance, that does not have a penalty attached to it, a fine is recommended by a prosecutor.

Assistant Mayor Below also expressed his concerns about the fines involved (i.e., currently \$150-1st offense and \$300 for subsequent offenses) and noted the Council has always supported the development of Headrest and collaboration to help people get into treatment, giving examples. He suggested fines should be addressed gradually and supported the Ordinance with reasonable fines.

Councilor Liot Hill concurred with Assistant Mayor Below's statements, noting there clearly needs to be a larger discussion. There is a desire in our community to address law enforcement, the health and well-being of our communities, addressing racism, and all kinds of social injustice. We have been engaged in this conversation as a body and are open to continuing engagement with the community. She is thankful to be part of a community where these questions are being asked and where Police Chief Mello is also willing to have these conversations. The City Council is limited during their meetings to address only specific issues on its agenda and the question before us is: Do we want to continue with the current process or do we want to go to a less burdensome practice of issuing a ticket that does not require people to go to court? The reason why we cannot deal with the bigger issues tonight is because the public was not notified. We have to be fair, and, as a body, our rules require that if there are big changes made to Ordinances, we have to provide public notice to give the public a chance to speak. The Council also cannot just decide to cut the Police Department in half tonight. Our rules just do not allow for that because it would not meet the public notification requirements. She was going to make and approve the motion as presented in the agenda packet, but wanted to make it clear she does not want to avoid these bigger conversations.

Councilor Heistad stated there are no cure-all solutions. Taking a small step forward does not preclude us from making another step in six months, a year, or whatever time it takes to come up with a better solution(s). Mental health problems have been with us for a long time and will be in the future until we, as a community, come up with community nursing, or whatever system there might be. He supported this Ordinance because we can move forward on a path to a better solution.

ACTION:

Councilor Liot Hill MOVED, that the Lebanon City Council hereby adopts Ordinance #2020-13 to amend City Code Chapter 14, Alcoholic Beverages, §14-6 Penalties for Offenses, as presented in the October 7, 2020 agenda packet.

Seconded by Councilor Heistad.

Assistant Mayor Below Moved to amend the proposed language in the Ordinance (page 41) of the City Council packet) to read, at the end of the first line in red: subject to a Civil Penalty in the amount of \$50 for the first offense, \$100 for the second offense, and \$200 for subsequent offenses.

Seconded by Councilor Prentiss.

Councilor Sykes was in support of the amendment to reduce the fines, but not the overriding Ordinance.

Roll Call Vote (on amendment to Motion):

Assistant Mayor Below, Councilors Heistad, Liot Hill, Prentiss, Sykes, Winny and Mayor McNamara, all voting Yea.

None voted Nay.

****The Vote on the Motion was unanimously approved by those present (7-0).***

Roll Call Vote (on main Motion as amended):

Assistant Mayor Below, Councilors Heistad, Liot Hill, Prentiss, Winny and Mayor McNamara, all voting Yea.

Councilor Sykes voted Nay.

****The Vote on the Motion was approved (6-1).***

B. ORDINANCE #2020-14 TO AMEND CITY CODE CHAPTER 62

A public hearing for the purpose of receiving public input and taking action on proposed Ordinance #2020-14 to amend City Code Chapter 62, Drugs and Drug Paraphernalia. For complete details of this Ordinance modifications, please refer to pages 47-51 in the October 7, 2020 City Council agenda packet.

Included in the agenda packet were Ordinance #2020-14 and the August 18, 2020 Legal Opinion by Attorney C. Christine Fillmore re: Ordinance #2020-14, Drugs and Drug Paraphernalia

Mayor McNamara reiterated that he would like to avoid repeating the general comments made in the previous presentation (Ordinance #2020-13).

Lebanon Police Chief Richard Mello came before the Council to give an overview of Ordinance #2020-14.

The Lebanon Police Department is responsible for enforcing a number of City Code violations. Presently, the only process to address and enforce these violations is for the officer to issue a paper summons to the offender to appear in court to answer for the violation. Amending Chapter 62 to place specific fines within the penalty section of the chapter would allow for the officer to issue a “ticket.” The ticket could then be paid (much like a parking ticket) which would avoid the need to appear in court.

This change would help reduce unnecessary court appearances and help alleviate an already back-logged court docket, in addition to reducing the amount of cases the Lebanon Police Prosecutor would have to handle on a weekly basis.

The Police Department has designed a City Ordinance ticket to be used in this process. The offender will still have the option to appear in court for a due process hearing, should they choose.

Mayor McNamara opened the Public Hearing.

The following people came forth:

Ms. Eileen Eagleton (Hanover): Expressed her concerns about the Ordinance, and spoke about her research on Substance Abuse Disorder. She felt it was important to offer effective treatment and disease management for people with Substance Abuse Disorder and to invest in safe injection sites and rehabilitation sources.

Yolanda Huerta (new Lebanon resident): She spoke about her personal family life experiences and concerns about the impact fines would have on lower-income individuals and households.

Ms. Asma Elhuni (new resident of Lebanon): She spoke about racial data on traffic stops. Chief Mello said the data was available on the LPD website.

The Council discussed: Obtaining data for different levels of offenses to date; obtain or creating yearly comparative reports; conversations and legislation at the State level; obtaining data from the court system on those who have committed offenses and had mental health issues, and; extrapolating data on repeat offenders.

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

ACTION:

Councilor Liot Hill MOVED, that the Lebanon City Council hereby adopts Ordinance #2020-14 to amend City Code Chapter 62, Drugs and Drug Paraphernalia, §62-6 Penalties for Offenses, as presented in the October 7, 2020 agenda packet.

Seconded by Councilor Winny

Assistant Mayor Below Moved to amend the text of the proposed Ordinance (page 49) of the City Council packet) to read: Any person who is found to have violated the provision of this Chapter shall be subject to a Civil Penalty in the amount of \$50 for the first offense, \$100 for the second offense, and \$200 for subsequent offenses.

Seconded by Councilor Prentiss.

Roll Call Vote (on amended Motion):

Assistant Mayor Below, Councilors Heistad, Liot Hill, Prentiss, Sykes, Winny and Mayor McNamara, all voting Yea.

None voted Nay.

****The Vote on the Motion was unanimously approved by those present (7-0).***

Roll Call Vote (on main Motion as amended):

Assistant Mayor Below, Councilors Heistad, Liot Hill, Prentiss, Winny and Mayor McNamara, all voting Yea.

Councilor Sykes voted Nay.

****The Vote on the Motion was approved as amended (6-1).***

C. ORDINANCE #2020-15 TO AMEND CITY CODE CHAPTER 168

A public hearing for the purpose of receiving public input and taking action to amend the Code of the City of Lebanon, Chapter 168, Vehicles and Traffic.

Included in the agenda packet were Ordinance #2020-15 and the August 18, 2020 Legal Opinion by Attorney C. Christine Fillmore re: Ordinance #2020-15, Vehicles and Traffic. For complete details of this Ordinance modifications, please refer to pages 55-61 in the October 7, 2020 City Council agenda packet. Lebanon Police Chief Richard Mello came before the Council to present an overview of proposed Ordinance #2020-15.

The Lebanon Police Department is responsible for enforcing traffic and parking violations throughout the City. This includes many City Code violations. The Lebanon Police Department currently has \$5,400 in outstanding parking fines since 2018. Currently, all unpaid fines must be recovered by issuing a summons to the violator to appear in court.

The amendments proposed in Ordinance #2020-15 achieves the following objectives:

- Allow for additional options to recover unpaid fines, including the ability to attach an immobilization device and/or tow the vehicle.
- Permit the owner of a vehicle with unpaid fines, to pay a “bond” equivalent to the amount of unpaid fines should they choose to pursue judicial determination regarding the ordinance violations.
- Allow for electronic payment of parking fines

Ordinance #2020-15 outlines the procedure that the police department must follow in order to utilize these additional methods.

These changes would help reduce unnecessary court appearances and help alleviate an already backlogged court docket, in addition to reducing the amount of cases the Lebanon Police Prosecutor would have to handle on a weekly basis.

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

The Council discussed: The threshold of fines for immobilization of a vehicle by using a boot; increasing parking fines to \$150-\$250 in certain instances; parking fines for repeat offenders; comparing this Ordinance with State Law (Chief Mello said this does not have any tie into the State system), and; parking safety issues (i.e., parking in front of a fire hydrant, in a handicapped parking space, in a crosswalk, etc.).

ACTION:

Assistant Mayor MOVED, that the Lebanon City Council hereby adopts Ordinance #2020-15 to amend City Code Chapter 168, Vehicles and Traffic, §168-13 Enforcement, as presented in the October 7, 2020 agenda packet, except with an additional amendment to the proposed language on page 58 of 216 under Subsection F to read as follows (in the first sentence): Any vehicle found

parked on any public street, parking lot or any other place for which three or more outstanding (unpaid) parking violations have been issued or sent totaling more than \$200 may be subject to towing, storage, or immobilization by the Lebanon Police Department provided notice of intent to tow and store or immobilize said vehicle has been placed on the vehicle or sent to the last known address listed with the State Motor Vehicle Department of the state in which the vehicle is registered Said notice shall contain the following information:

- (1) The date, time and location of the violations leading to the issuance of the notice;**
- (2) That the subject vehicle will be towed, stored or immobilized after a specific date of not less than five days after the date of the notice unless all the outstanding violations and late fees are paid.**

Seconded by Councilor Heistad.

Roll Call Vote:

Assistant Mayor Below, Councilors Heistad, Liot Hill, Prentiss, Sykes, Winny and Mayor McNamara, all voting Yea.

None voted Nay.

****The Vote on the Motion was unanimously approved by those present (7-0).***

D. ORDINANCE #2020-16 TO AMEND CITY CODE TO INCLUDE NEW CHAPTER 6, ADMINISTRATIVE ENFORCEMENT

A public hearing for the purpose of receiving public input and taking action to amend the Code of the City of Lebanon to include new Chapter 6, Administrative Enforcement. For complete details of this Ordinance modifications, please refer to pages 65-70 in the October 7, 2020 City Council agenda packet.

Included in the agenda packet were Ordinance #2020-16 and the September 11, 2020 Legal Opinion.

Lebanon Police Chief Richard Mello came before the Council to review Ordinance #2020-16.

A new chapter of the City code is required in order to enable the administrative enforcement of City code violations. This enabling language will provide a mechanism for City officials to issue citations for any violation of the ordinances or codes that they are responsible for enforcing. This enforcement authority is provided for under NH RSA 31:39.

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 #2020-16 to amend the City Code to include new Chapter 6, Administrative Enforcement, as presented in the October 7, 2020 agenda packet.

Seconded by Councilor Prentiss.

The Council discussed: §6-4. Citation Penalties and §6-5. Violations

Councilor Liot Hill read a question from Mr. Les Johnson asking if a violator would still have the option to challenge this in court. Chief Mello said, yes, people always have the option to challenge what they have been accused of in court.

Roll Call Vote:

Assistant Mayor Below, Councilors Heistad, Liot Hill, Prentiss, Sykes, Winny and Mayor McNamara, all voting Yea.

None voted Nay.

****The Vote on the Motion was unanimously approved by those present (7-0).***

After further discussions the Council decided to at least “start” the broader discussion issues presented earlier in the meeting on November 18th, 2020, with the understanding these discussions may take several meetings to address all the issues involved.

10. OLD BUSINESS: NONE

11. NEW BUSINESS

A. 2019 Finance Audit Presentation

Included in the agenda packet were the October 1, 2020 Letter of Governance by Independent Auditors Plodzik & Sanderson NS RHW City of Lebanon Annual Financial Report – Fiscal Year Ending December 31, 2019.

Mike Campo & Kyle Gingras of Plodzik & Sanderson came before the Council to present and discuss the detailed 2019 Financial Audit as detailed on pages 71-167 in the October 7, 2020 City Council agenda packet.

The Council had no comments.

ACTION:

No action was required by the Council. Item was for informational purposes only

B. Discussion and Set Public Hearing for October 21, 2020, Ordinance #2017 to amend City Code Chapter 1, General Penalty.

Included in the agenda packet was Proposed Ordinance #2020-17.

Ordinance #2020-16 to amend the City Code to include a new Chapter 6, Administrative Enforcement, was enacted to enable the administrative enforcement of City code violations.

Chapter 1, General Provisions, of the City Code contains a “General Penalty” section to address penalties where another penalty is not provided in subsequent chapters of the Code. Currently the section is only applicable to “persons.” The amendment proposed by Ordinance #2020-17 expands applicability to accessories, principals, and corporations.

ACTION:

Assistant Mayor Below MOVED, that the Lebanon City Council hereby schedules a public hearing for Wednesday, October 21, 2020, beginning at 7:00pm, Remote via Microsoft Teams, for the purpose of receiving public input and taking action on proposed Ordinance #2020-17, to amend City Code Chapter 1, General Provisions, §1-4 General Penalty. Seconded by Councilor Prentiss.

Roll Call Vote:

Assistant Mayor Below, Councilors Heistad, Liot Hill, Prentiss, Sykes, Winny and Mayor McNamara, all voting Yea.

None voted Nay.

****The Vote on the Motion was unanimously approved by those present (7-0).***

C. Presentation of 2021 Proposed Zoning Amendments (Ballot & Council Adoption)

Included in the agenda packet were the September 29, 2020 Memo from Planning Staff, re: 2020-2021 Proposed Zoning Amendments, including redline excerpts of current Zoning Ordinance (redline last revised 9/29/2020).

Mr. David Brooks and Mr. Tim Corwin came before the Council representing the proposed 2021 Zoning Amendments.

It is staff's practice to present a set of proposed zoning amendments to the Council each fall for review and consideration. Presenting the amendments in the fall allows them to move through the required review process in time for placement on the ballot the following March, when necessary.

This year, the Planning Department has been working a lot with the Planning Board, who created a subcommittee to review and update the Boards Site Plan and Subdivision Regulations. As a result, the current set of proposed changes are primarily process-oriented and/or are intended to address ambiguities and inconsistencies in the existing text. A few substantive amendments are also proposed (such as adjusting the building height requirement in the R-1 District).

For complete details, please refer to the September 29, 2020 Memo from the Planning Office and the proposed Zoning Amendments that include redline excerpts of the current Zoning Ordinance (pages 175-207, City Council agenda packet).

If the Council chooses to move forward with the proposed draft amendments, they will be sent to the City's legal counsel and Land Use Boards for further review. Once that review process is complete, the amendments will come back to the Council for a Work Session and a Public Hearing. The review schedule is outlined in the staff memo and the Council's Work Session and Public Hearing are in January. Any items required to go on the ballot would appear there in March.

In response to Mayor McNamara's request, Mr. Chip Brown gave an overview of the proposal to Amend Section 303.2, the IND-L District Table of Uses in order to add a "rehabilitation hospital" (which is not currently a use category in the Zoning Ordinance) as a use allowed by a Conditional Use Permit from the Planning Board. Mr. Tim Corwin presented the slides sent to him from Mr. Brown, showing the graphics of the proposed rehabilitation hospital's location.

Mr. Brown described the function of a rehabilitation hospital, noting these are facilities designed to treat patients that have suffered from strokes, brain, spinal and orthopedic injuries who do not need the acute care of a traditional hospital, but are not ready to go home. Unlike traditional hospitals, they tend to be privately owned for-profit entities. Buildings are approximately 40,000 sq. ft. and require about five (5) acres of land. The cost to build a facility would be between \$16-\$20M and are usually located near major hospitals, hotels and major arteries. While the use for a rehabilitation hospital would seem to be compatible with the City and its tax base, it does not seem to be supported by Lebanon's current zoning and explained his reasons. The logical location for a rehabilitation hospital in Lebanon is along the Route 120 corridor where it would be close to DHMC, I-89 and other hospitals.

In response to Mayor McNamara's question, Mr. Corwin affirmed that the City does not currently have a definition for "rehabilitation hospitals" in the Zoning Ordinance and Planning Staff is not proposing a specific definition for a "rehabilitation hospital", noting that not every use is defined. The use is created by adding it to the use table. However, a separate definition can be created for that use based on the feedback they receive from the Council. This definition could then be presented to legal counsel and Land Use Boards. Mr. Corwin also confirmed that this facility would pay full property taxes.

***Councilor Heistad MOVED to extend the City Council meeting to 10:15 PM.
Seconded by Councilor Winny.***

Roll Call Vote:

Assistant Mayor Below, Councilors Heistad, Liot Hill, Prentiss, Sykes, Winny and Mayor McNamara, all voting Yea.

None voted Nay.

****The Vote on the Motion was unanimously approved by those present (7-0).***

A presentation of the proposed 2021 Zoning Amendments, item-by-item was not given due to time constraints.

Mr. Corwin and the Council briefly discussed Section F and Section 2, Item B (Downtown District).

ACTION:

Assistant Mayor Below MOVED, that the Lebanon City Council in accordance with the City of Lebanon Zoning Ordinance, Article X, Section 1000.3, Amendment Procedures, submits the Zoning Ordinance amendments as contained in the document titled, "2020-2021 Draft Zoning Amendments, September 29, 2020," to the Planning Board, Conservation Commission, and Zoning Board of Adjustment for the review and comment. The City Council hereby sets the following tentative review schedule:

- ***Zoning Board of Adjustment – November 2, 2020***
- ***Conservation Commission – November 12, 2020***
- ***Planning Board – November 23, 2020***
- ***City Council Public Hearing – January 20, 2021***

Seconded by Councilor Prentiss.

Roll Call Vote:

Assistant Mayor Below, Councilors Heistad, Liot Hill, Prentiss, Sykes, Winny and Mayor McNamara, all voting Yea.

None voted Nay.

****The Vote on the Motion was unanimously approved by those present (7-0).***

D. Authorization for transfer of \$65,000 from the Assessing Department Budget to the Department of Public Works for the insulation of walls within the Lebanon opera House as part of the City Hall Renovation Project.

City Manager Mulholland came before the Council representing the authorization for transfer of \$65,000 from the Assessing Department Budget to the DPW.

The renovations of City Hall that are presently underway do not include insulating the walls of the Lebanon Opera House (LOH). While the project was never part of the planned renovations, completing the project now will avoid future disruptions to LOH as they are not currently providing programming due to the Coronavirus Pandemic.

Installation of the insulation in this large space will reduce heating and cooling cost, reduce operational costs to the City, and further reduce the City's carbon footprint. Cost for the project itself will be less if completed in conjunction with the existing project as the construction company is fully mobilized.

The funds proposed for transfer are not needed in the Assessing Department. The transfer of funds from one department to another requires Council approval in accordance with the applicable Charter provisions.

ACTION:

Councilor Winny MOVED, that in accordance with City Charter Section C419:45, Transfer of Appropriations, the City Council hereby authorizes the City Manager to transfer unencumbered appropriated funds in the amount of \$65,000 from the Assessing Department to the Department of Public Works to be utilized for the insulation of walls within the Lebanon Opera House as part of the City Hall Renovation Project.

Seconded by Councilor Heistad.

Roll Call Vote:

Assistant Mayor Below, Councilors Heistad, Liot Hill, Prentiss, Sykes, Winny and Mayor McNamara, all voting Yea.

None voted Nay.

****The Vote on the Motion was unanimously approved by those present (7-0).***

E. Authorization for transfer of unspent bond proceeds from the Dulac Street Reconstruction Project to the Spencer Street Reconstruction Project.

City Manager Mulholland came before the Council representing the unspent bond proceeds as listed above.

The purpose of this agenda item is to request the City Council to approve transferring unspent bond proceeds in the amount of \$70,554.92 from the Dulac Street Reconstruction Project to the 20 Spencer

Street Reconstruction Project. When the budget was developed for the project, it did not include final design within the scope of services. The BETA Group (current project engineer) has provided amendments to their original scope of services to include additional survey and base mapping and preparation of contract documents so the project is ready for advertisement for bids in early 2021. Utilizing appropriated funds from an existing project will allow the City to move forward with final design with no tax rate implications.

ACTION:

Assistant Mayor Below MOVED to accept the following:

RESOLUTION FOR THE PURPOSE OF authorizing the transfer of unspent bond proceeds from Dulac Street Reconstruction project to the 2020 Spencer Street Reconstruction Project.

NOW THEREFORE BE IT RESOLVED, by the City of Lebanon, that New Hampshire RSA 33:3-A 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 a 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, by the City of Lebanon, that appropriation authority, and associated funding derived from the issuance of bonds, is authorized to be transferred as presented on page 216 of the October 7, 2020 City Council agenda packet as follows:

Project	Bond Issue/Dated	Unspent Bond Proceeds BEFORE Transfer	Transfer	Unspent Bond Proceeds AFTER Transfer	Project Useful Life
FROM					
Dulac Street Reconstruction	NHMBB17B/06-06-17	\$70,554.92	(70,554.92)	\$0	20 years
TO					
20 Spencer Street Reconstruction	Unissued	\$0	\$70,554.92	\$70,554.92	20 years

Seconded by Councilor Prentiss.

Roll Call Vote:

Assistant Mayor Below, Councilors Heistad, Liot Hill, Prentiss, Sykes, Winny and Mayor McNamara, all voting Yea.

None voted Nay.

****The Vote on the Motion was unanimously approved by those present (7-0).***

12. CITY MANAGER REPORT:

City Manager Mulholland updated the Council on the following:

- See Click Fix Contract: This app will allow public interface with the City. It will also interface with the City's Beehive Program (fixed asset management program). A presentation will be given to the Council in Jan/Feb.
- Change in City Hall hours: After the move on November 16th, City Hall hours will be changed to 7:00AM to 5:00PM, four days a week.
- Trick-or-Treat will be occurring absent any major outbreaks of COVID-19. Recommendations and guidance will be forthcoming.
- 20 Spencer Street Project: The development agreement will be executed to allow this to move forward.
- Fixed Asset Management Plan: A presentation will be given to the Council sometime during the 1st Quarter of 2021.
- CivicClerk Update: The format of the agendas has changed.
- NHMA Conference (Mayor McNamara):
 - Right-to-Know provision recommendations from City Council: He abstained from vote because the City's recommendations were rejected.
 - Evergreen Section provision recommendations from City Council. NHMA's position was against the City's recommendations.

13. COUNCIL REPRESENTATIVES TO OTHER BODIES: NONE

14. FUTURE AGENDA ITEMS: NONE

15. NON-PUBLIC SESSION: NONE

16. ADJOURNMENT:

Councilor Heistad MOVED for adjournment.

Seconded by Councilor Winny.

Roll Call Vote:

Assistant Mayor Below, Councilors Heistad, Liot Hill, Prentiss, Sykes, Winny and Mayor McNamara, all voting Yea.

None voted Nay.

**The Vote on the Motion was unanimously approved by those present (7-0).*

The meeting was adjourned at 10:15 PM.

Respectfully submitted,
Dona E. Gibson,
Recording Secretary