

FINAL

LEBANON CITY COUNCIL
MINUTES

Wednesday, April 6, 2022, 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 (Remote), Karen Liot Hill (arrived at 6:40P), Christian Simon, George Sykes, Douglas Whittlesey, and Devin Wilkie

MEMBERS ABSENT: Karen Zook

STAFF PRESENT: City Manager Shaun Mulholland (Remote), Deputy City Manager Paula Maville, City Clerk Kristin Kenniston, Director of Planning & Development David Brooks, GIS Coordinator Mark Goodwin, Senior Planner Tim Corwin, Acting Director Public Works Jay Cairelli, Deputy Finance Director Alesia Williams, Solid Waste Manager Marc Morgan, Chief Information Officer Melanie McDonough

1. **CALL TO ORDER:** Mayor McNamara called the meeting to order at 6:00 p.m.
 - **Councilor Heistad attended the meeting remotely due to potential exposure to COVID. All votes will be taken by Roll Call.**
2. **PLEDGE OF ALLEGIANCE:** Councilor Simon led the Council in the Pledge.
3. **PUBLIC FORUM:** Mayor McNamara made the Public Forum announcement.
4. **OPEN TO PUBLIC: No one came forth.**
5. **LEGISLATIVE UPDATE WITH STATE REPRESENTATIVES:**

Introductions & updates:

Representative Richard Abel (Ward-1): He has been a resident in Lebanon for 24 years and representing Lebanon in the State House for 8 years. One good thing about Lebanon is that the City Government and the State Representatives have been working together for many years trying to form a cooperative partnership and spent a lot of time looking at State issues that have an impact on city issues and vice versa. He also spoke about some of the policies that are being put in place in Concord and felt it was unfortunate some could have very strong, negative impacts on Lebanon taxpayers and in the rest of the State such as: 1) A growing tendency in Concord is for the State Legislature to make decisions that have an impact, or take control, over what cities and towns can do. 2) We are potentially facing a situation where there will be a detrimental impact on our local property taxes because of the Voucher Programs for Education, which would increase what local property taxpayers would have to pay. He also spoke about the bills he has been involved with over the past 6 years.

Representative Laurel Stavis (Ward-1): She has lived in Lebanon for 23 years, has been in the State Legislature for 5 years, and is the Deputy Ranking member of the Municipal & County Government Committee. She spoke about her role on this Committee and highlighted some proposed House/Senate Bills that have come up: HB 1122 (Construction/Demolition debris); HB 1155 (Persons elected to local

boards cannot hold a voting position on another board in that municipality); HB 1177 (Permissible residential units in a residential zone. Most likely to come back.); HB 1223 (Basically says that if you are a member of a Budget Committee or a School Board and you miss more than two consecutive meetings, you are off these committees/boards and the seat is immediately vacant.); HB 1268 (New language in this bill would limit the authority of City Councils to pass bylaws/ordinances. This bill did pass the House but she was uncertain where it stands now; HB 1272 (Limits the authority of city/town Health Officers-passed house. What it proposes to amend is the Public Nuisances Law – not the Public Health Chapter of the RSA); HB 1375 (Redefines the definition of Veteran and would allow Veterans discharged under “honorable conditions”, rather than “honorably discharged”, to be eligible for all applicable Veteran benefits).

Most notable Senate Bills: SB 226 (Qualified private communities in the State Condominium Law would require developers to: 1) Establish an escrow account of no less than 50% of the cost for replacing all roadways in the private community and would have to remain in escrow until the ownership of the community has passed to the resident OR 2) Provide an estimate of the cost of replacing all roadways, OR 3) would have to agree to build all roadways to design standards of the municipality.); SB 249 (Would prohibit towns/cities, statewide, from banning short term rentals). There is also a proposed Senate Bill that would change the language regarding the formation of a TIF Board.

Representative Susan Almy (Ward-1): She has lived in Lebanon for 28 years, a State Representative for 27 years, and is the ranking member of the State Ways & Means Committee. She spoke about the NH State Revenues and gave an update on the following:

- We are up around \$170M over last year and \$220M over the plan.
- Our biggest taxes, the business profits taxes, appears 1-2 years after a bill becomes effective.
- Legislators are spending a lot of this surplus on continuing one-time expenses.
- The House Ways & Means Committee has been fighting to keep the tax cuts, that came after the budget, at a minimum and explained how this was done.
- The Business Enterprise Tax, based on payroll, is down from last year by 12% as of last month.
- The Business Profit Tax is up by an extraordinary amount due to the stimulus funds that came in from COVID and businesses being able to open up again.
- Real Estate taxes are starting to fade down again but are still doing well based on the value of properties being sold.
- The Business Profits Tax represents almost the entire amount of the \$170M.

She also spoke about what she calls Black Swans, noting there was law passed in 2021 that said all businesses that received and paid taxes on Federal PPE Stimulus Funds would be getting refunds from the state for the taxes they paid. She explained the credit carry forward process for businesses and her concerns about the Business Profits Tax for multi-state businesses.

She also spoke about SB 318, which she felt Lebanon should consider doing something about quickly. This bill would extend the hours in which games of chance/gambling may be conducted and explained the implications this might have on Lebanon. She suggested the City may want/need to implement an Ordinance within the next 3-4 months before SB 318 passes in order to control how long businesses can operate daily, depending on the business type and the district they are located in, noting some city/towns do this through ordinances and others do this through their Planning Boards.

Councilor Liot Hill arrived at 6:40PM.

Representative Suzanne Prentiss (Ward-1): She is from West Lebanon, is on the State’s Senate Education Committee, and also sits on the Executive Department & Administration. She noted there is a tone in the State House about dismantling government, public education, and advised the Council to be cautious and look closely at every piece of legislation that comes in front of them. There is also a reluctance to invest in local government and spoke about legislation that would affect municipal governments, School Boards, and public bodies by essentially regulating how meetings can be run. She felt this legislation would be going away, but not the tone around it.

There was a bill that did not pass in the Senate that dealt with housing. This bill proposed that the State take each town/city/municipalities buildings and put those buildings/properties on the State Department & Administration’s website where cities, towns, developers could quickly go and use this clearinghouse to get the necessary information to develop those properties.

She also spoke about and explained the amended SB 344 that proposed a vacant building registry and discussed the cost of education and school revenue sharing.

Representative George Sykes (Ward-2): He is a Lebanon City Council Member, has lived in Lebanon for 33 years, and is in his 5th term on the Transportation Committee. He reminded everybody that the Transportation Committee does not oversee roads and bridges, Public Works is responsible for these. He spoke about SB 307 (Licensing of commercial truck drivers - the disconnect between the State and Federal legislation has been fixed and signed by the Governor); HB 435 - signed by the Governor (losing a driver’s license for “A Moral Reason” was removed); SB 308 (deals with a H2A Visa Holder being allowed to use their country’s driver’s license as opposed to not being able to drive.) He explained that immigrants are not able to get a driver’s license unless they can get a Work Permit but are required to get a driver’s license 60 days after declaring NH as their residence, but they cannot get a Work Permit for at least 365 days. SB 308 was defeated, and would have allowed immigrants the right to obtain a driver’s license from the 60 days to the 365 days; HB 417 (reinstated a 7.5% contribution from the State toward retirement costs for cities/towns.); HB 1598 (the sale of cannabis would be done through the State Liquor Commission).

The Grafton County Executive Board Report:

- 1) Nursing Home revenues are up due to increased reimbursement rates and lack of staff.
- 2) The Department of Corrections revenue is significantly down due in part to a backlog in court cases related to COVID.
- 3) Grafton County Farm expenses have risen dramatically due to the increase costs of feed, fertilizer, fuel, etc.
- 4) Last year’s county taxes did not go up.

6. RECOGNITIONS:

- Older Americans Month Proclamation – May 2022

PROCLAMATION

OLDER AMERICANS MONTH – MAY 2022



WHEREAS, The City of Lebanon, New Hampshire, has a growing number of older Americans who contribute their strength, wisdom, and experience to our community; and

WHEREAS, communities’ benefit when people of all ages, abilities, and backgrounds are welcomed, included, and supported; and

WHEREAS, we recognize our need to create a community that provides the services and supports older Americans’ need to thrive and live independently for as long as possible; and

WHEREAS, Lebanon can work to build an even better community for our older residents by:

- Planning programs that encourage independence,
- Ensuring activities are responsive to individual needs and preferences, and
- Increasing access to services that support aging in place.

THEREFORE, BE IT NOW RESOLVED, that the City of Lebanon, New Hampshire, hereby proclaims May 2022 to be Older Americans Month. We urge every resident to recognize the contributions of our older citizens, help to create an inclusive society, and join efforts to support older Americans’ choices about how they age in their communities.

Proclaimed this 6th Day of April in the year Two-Thousand-Twenty-Two.

Timothy J. McNamara
Mayor, City of Lebanon

- Refill not Landfill

PROCLAMATION
Refill NOT Landfill Month



WHEREAS, the City of Lebanon owns and operates the Lebanon landfill that has a permitted disposal capacity of another 10 years; and

WHEREAS, the City is concerned about conserving natural resources and with preserving the landfill disposal capacity for future Lebanon residents; and

WHEREAS, the City recognizes that the waste from single-use items like plastic water bottles, coffee cups, grocery bags etc., uses natural resources and consumes landfill disposal capacity; and

WHEREAS, the City also recognizes that eliminating waste through reuse is cost effective and environmentally beneficial; and

WHEREAS, choosing to reuse items like refillable containers for water, coffee and other beverages have the potential of reducing waste that will require disposal in the Lebanon Landfill; and

WHEREAS, choosing to reuse cloth grocery bags, cloth napkins and packing a lunch for school or work has a positive impact on the environment; and

WHEREAS, in an effort to encourage waste reduction, the month of April 2022 will be designated as “Refill NOT Landfill Month”.

NOW, THEREFORE, BE IT RESOLVED, that the City of Lebanon hereby proclaims the month of April 2022 as Refill NOT Landfill Month, and encourages residents to join in observing this month to reduce waste that is ultimately disposed of in the Lebanon Landfill by using reusable items like travel mugs, water bottles, and grocery bags.

Proclaimed this 6th day of April in the year Two-Thousand Twenty-Two.

Timothy McNamara
Mayor, City of Lebanon

7. ACCEPTANCE OF MINUTES:

- March 10, 2022 Canvass of Vote
- March 16, 2022 Regular Meeting (Includes Non-Public Sessions)
- March 23, 2022 Organizational Meeting

Councilor Wilkie MOVED to approve the March 10, 2022 Canvass of Vote, the March 16, 2022 Regular Meeting (Includes Non-Public Sessions), and the March 23, 2022 Organizational Meeting minutes as written and presented in the April 6, 2022 City Council agenda packet.
Seconded by Councilor Whittlesey.

Roll Call Vote:

Assistant Mayor Below, Councilors Heistad, Liot Hill, Simon, Sykes, Whittlesey, Wilkie and Mayor McNamara all voted Aye.

None voted Nay.

***The Vote on the Motion was approved (8-0).** Councilor Zook was absent.

8. APPOINTMENTS:

- Economic Development Commission, Andy Key (Reappointment Regular Member)

Councilor Heistad put forth the NOMINATION of Andy Key for Reappointment as a Regular Member to the Economic Development Commission. 2-Year Term: (4/22-4/24)

Roll Call Vote:

Assistant Mayor Below, Councilors Heistad, Liot Hill, Simon, Sykes, Whittlesey, Wilkie and Mayor McNamara all voted Aye.

None voted Nay.

***The Vote on the Motion was approved (8-0).** Councilor Zook was absent.

- Board of Cemetery Trustees, Fran Hanchett (Reappointment At-Large Member)

Councilor Sykes put forth the NOMINATION of Fran Hanchett for Reappointment as an At-Large Member to the Board of Cemetery Trustees. 3-Year Term: (4/22-4/25)

Roll Call Vote:

Assistant Mayor Below, Councilors Heistad, Liot Hill, Simon, Sykes, Whittlesey, Wilkie and Mayor McNamara all voted Aye.

None voted Nay.

***The Vote on the Motion was approved (8-0).** Councilor Zook was absent.

At Mayor McNamara’s request, Item, 11A (New Business) was taken out of order and discussed next since it would give context to the Public Hearing item 9A.

11. NEW BUSINESS

A. Discussion with Class VI Roads Advisory Committee re: Committee Purpose/Charge & Expectations

Class VI Roads Advisory Committee Chair Stephen Wood reviewed the current Purpose/Charge of the Class VI Roads Advisory Committee to ensure the Council understands its role and the expectations from them moving forward.

“The Class VI Roads Advisory Committee shall review the status of all of the Class VI roads within the City to include their current, historic, and possible future uses, and to report findings and make recommendations to the Council for their action to continue the present use, upgrade, discontinue or otherwise change the status of the roads.” He also added that the hardest charge is figuring out whether a Class VI road is actually a public right of way, noting a lot the determination is from a historical record through maps and documents. The fundamental question is if a particular road/path is a right of way, and if someone is hiking on this road, are they doing so as a matter of right, or are at the pleasure of the landowner? This is one of the few places where private property rights come up against the general welfare and interest of the society, so templates have been drawn up to help determine this question. Only after the Class VI Roads Advisory Board has determined whether it is a public right of way or not, is a recommendation considered to be brought before the Council. If it is not a public right of way, the Board walks away from it.

Chair Wood explained what the State defines as a Class VI Road. By definition, if it is not classified otherwise, an unmaintained city/municipal road, path, trail, is a Class VI road, noting there are two choices beyond Class VI Roads and they are: 1) Class A trail, and 2) Class B trail. Class VI Roads are pretty much unrestrictive and can be used pretty freely, noting the City cannot regulate it’s use other than some seasonal rules. Class A trails prohibit wheeled motor vehicles except to the landowner, who has full use of the road to access his property for agriculture/forestry. However, a Class A trail regulates the rest of us and there is quite a lot of latitude of choice and judgment about how it should be regulated and he explained the liabilities between a Class VI Road and a Class A Trail.

Mr. Mark Goodwin (GIS Coordinator) and City Attorney Matt Decker came before the Council to answer their questions.

Mr. Goodwin gave a slide presentation and explained the process/purpose for the classification of roads/trails.

“Review the status” = The identification of Public Rights of Way *21 years and counting!*

Leading to availing this information to the public, providing an opportunity to utilize the public resource
(Goal)

Eliminating the ongoing reoccurrence of City of Lebanon resources devoted to determining the status of possible public rights-of-way on a case-by-case basis (Goal)

Recommendation of the designation (Administrative)

He also presented slides depicting map Guides from the Towns of Enfield, Hanover and Marble Head, MA to their Class VI Roads, Trails and Boat access as shown on their public websites, along with a map that Planning Staff would like to make available as a public resource on the City of Lebanon's website showing where Lebanon's Class VI Roads are located. For Lebanon, a Ranger annually monitors all these Class VI Roads and makes reports on their condition.

availing this information to the public(Goal)



The Council and Attorney Decker discussed: Whether or not to take proactive efforts to publicize Class VI Roads to the public; the difference between making a map of Class VI Roads **available** (upon request) to the public vs. proactively **publicizing** them (actively promoting or placing map on City's website), and the need for a Council discussion regarding this policy issue because some property owners may have concerns; the need to contact landowners before making a publicized map available to the public; the importance of having the knowledge of what is and is not a Class VI, especially for the Planning Board when they are looking at subdivisions; how the Class VI Roads Advisory Board spends a lot of time assessing what would be the best protection for the land (from use or misuse) and for the landowners; the need to work with landowners; having the Class VI Roads Advisory Committee continue to identify Class VI Roads, make recommendations, until a policy discussion can take place in the future.

While this was not a Public Hearing, Mayor McNamara acknowledged the following people to come forth and speak:

Michael Townsend (Ward-2): He expressed his concerns about liability and the level of maintenance that can be done between a Class A Trail and a Class VI Road and gave examples.

Attorney Decker explained that on a Class VI Road, there is no maintenance from the City or volunteers. Abutting landowners can be given permission from the municipality to maintain the road for their own access, but there is a liability concern due to negligence/incorrect maintenance of the road. This would not fall on the City, but on the private party that is maintaining the road. For a Class A Trail, the municipality would control and direct the volunteers and be able to direct the type of maintenance that is done. The protection from liability is similar to the protection of recreational uses of the property. There is a specific statute that talks about management.

Mrs. Joan Townsend (Ward-2): She spoke about access to the Fire/Police tower that is located on the Class VI Road #28, which has not been maintained well, and the need to address this tower before the road becomes a Class A Trail. She also questioned if there was a time curfew for people using a Class VI Trail, noting that in the last two years they have had a lot of people walking on the road at all times of the day and night (i.e., at 11PM with flashlights, dogs off leashes disturbing her horses, people getting lost and coming to their door asking for directions, people sitting on their equipment, and litter being left on road. She felt there was a lot of concern among abutting landowners about reclassifying this road to a Class A Trail. She also noted they have never had an issue with the public when this road was listed as a Class VI Road, but now that this has been mowed people are starting to use it. She, personally, would like it to stay a Class VI Road.

In response to Councilor Wilkie's question, Attorney Decker stated there are two primary purposes for creating a Class A Trail: 1) The ability to impose use strictions on it, and 2) Relates to development (i.e., if you have a parcel that has access to a Class VI Road, a building permit is obtainable with permission from the governing body. If you have a parcel that is accessible only from a Class A Trail, it is not eligible for a building permit, which is a tool that can be used to reign in development in remote areas as an alternative to discontinuing the road entirely).

The Council held more discussions regarding what restrictions could/could not be imposed on a Class VI Road and a Class A Trail; the use of the terminology "trail" and the difference of the legal definition of the trail is adding to the tension on this topic.

Assistant Mayor Below read the State Statute RSA regarding the restrictions that could be placed on a Class A Trail, noting it would be reasonable for the local governing body to set time, seasonal, and regulation restrictions. Attorney Decker concurred.

Mr. Dan Hazelton (Farnum Hill Road): He questioned what the requirements would be to have the property declassified, and Attorney Decker informed him that an application could be presented to the City Council for their consideration.

ACTION: *No formal action was required. Item was for discussion purposes only.*

The Council returned to the regularly scheduled agenda items.

9. PUBLIC HEARING ITEMS:

A. RECLASSIFICATION OF CLASS VI ROAD #28 – A public hearing for the purpose of receiving public input and taking action on the reclassification of Class VI Road #28, Old Kings Highway (between Storrs Hill Road and Farnum Hill Road) to a Class A Municipal Trail.

Included in the agenda packet:

1. Class VI Road Assessment Template (Road #28)
2. Coordinate Map for Class VI Road #28 (NAD 1983 NH State Plane FIPS 2800) Printed February 22, 2022
3. Abutter Notification Map – Class VI Road #28

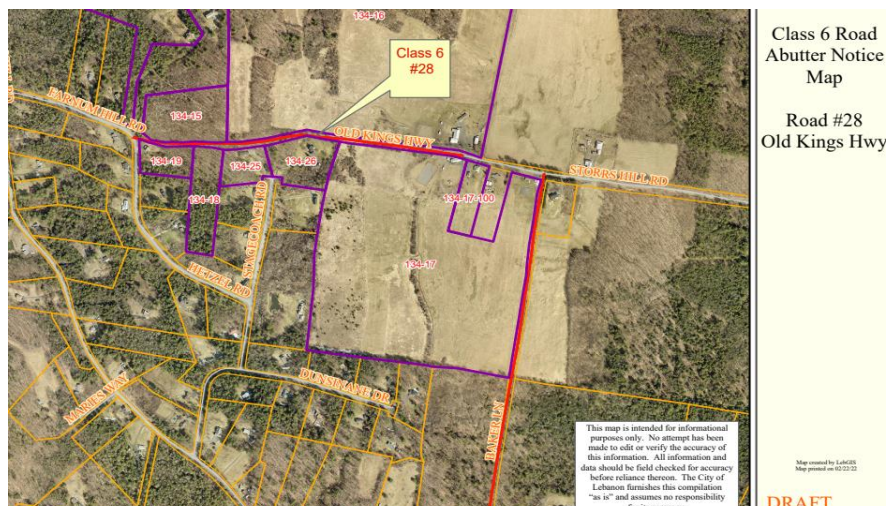
Mr. Mark Goodwin, GIS Coordinator reviewed the reclassification Class VI Road #28, Old Kings Highway, noting the Kings Highway is arguably one of the oldest public rights-of-way in the City of Lebanon. The original course is currently segmented into several sections, including a variety of road designations, e.g. Class 5, Class 6, Class A trail. The section referred to as #28 extends from the intersection with Hetzel Road, easterly to where it transitions to Storrs Hill Road.

The Class VI Advisory Committee conducted the initial assessment of Road #28 in 2014 and re- reviewed

it in 2021. They reviewed the prescriptive evidence supporting the assertion of its existence as a public right-of-way, the current conditions and use, as well as potential future uses, and are recommending that the Council reclassify it to a Class A Trail designation:

A motion by Donald Lacey that the Class VI Roads Advisory Committee recommend to the Lebanon City Council they reclassify Class VI Road #28 (a segment of the Old Kings Highway, running from Hetzel Road east to Storrs Hill Road) to a Class A Municipal Trail as defined in RSA 231-A:1(l), and as shown on the City of Lebanon Draft Class VI Roads Map printed June, 2013, subject to the following public trail use restrictions: Means of travel shall be restricted to horse, bicycle and foot and snowmobiles when snow cover is adequate. Motor vehicles, wheeled vehicles other than bicycles, and off- highway recreational vehicles other than snowmobiles, shall be prohibited, subject, however to vehicular uses of abutting landowners for access to existing uses of land as set forth in RSA 231-A:1(1).

The Public Works Director shall cause to be posted legible signs at the entrances to the trail describing the restrictions contained herein as provided by RSA 231-A:4.



Mayor McNamara opened the Public Hearing and the following came forth to give their testimony:

Mr. Michael Townsend (Ward-2): He again spoke about his reasons for keeping this road a Class VI Road.

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

After discussions took place by the Council regarding whether or not to reclassify Class VI Road #28 (Kings Highway) to a Class A Trail, it was the Council's consensus to not take any action and leave this as a Class VI Road. This can be taken up again by the Council in the future if necessary.

ACTION: None taken.

10. OLD BUSINESS: NONE

11. NEW BUSINESS:

- A. Discussed earlier in the meeting.
- B. Acceptance of purchase price in the amount of \$12,899.44 and authorization for the City Manager to prepare and execute documents for the sale of a 0.11 acre portion of City-owned land located at 12 South Park Street Lebanon, further identified as Tax Map 91, Lot 253 to Recreo, LLC.

Included in the agenda packet:

- 1. March 23, 2022 letter by Tim Sidore, Chief of Operations for Recreo, LLC
- 2. Map showing proposed boundary line adjustment between Recreo, LLC (Tax Map 91, Lot 254) and the City of Lebanon (Tax Map 91, Lot 253)
- 3. GIS Location Map showing areas surrounding Tax Map 91, Lots 253 & 254
- 4. March 30, 2022 Statement of Public Benefit by City Manager Shaun Mulholland

City Manager Mulholland explained that Recreo, LLC is the new owner of property located at 2 Mascoma Street, Lebanon (former location of the Village Market, further identified as Tax Map 91, Lot 254) which directly abuts City-owned land at 12 South Park Street (Fire Station #1, further identified as Tax Map 91, Lot 253).

Conceptual plans for redevelopment of 2 Mascoma Street have been presented to the Planning Board. The plans as presented require a boundary line adjustment between 2 Mascoma Street and 12 South Park Street. The total amount of land affected by the proposed boundary line adjustment equals 0.11 acre.

As you will see from the attached plan, the land that is the subject of this proposed boundary line adjustment, is otherwise unusable by the City or any other entity. It is a small wedge located on a very steep slope that drops sharply down to parcel 91-254. Administration recommends the sale of this land to Recreo, LLC.



A letter from Tim Sidore on behalf of Recreo, LLC offers a purchase price of \$12,899.44 for the land in question.

The Architects handed out and reviewed the detailed site plans with the Council.

ACTION:

Councilor Whittlesey MOVED, that in accordance with City Council Policy CC-102, Real Property Transactions, the Lebanon City Council hereby authorizes the City Manager to prepare and execute documents for the sale of a 0.11 acres square for portion of property identified as City Tax Map 91, Lot 253, located at 12 South Park Street, Lebanon, to abutting property owner Recreo, LLC in the amount of \$12,889.44 and to include any other appropriate conditions/requirements he may deem necessary. Seconded by Councilor Sykes.

Roll Call Vote:

Assistant Mayor Below, Councilors Heistad, Liot Hill, Simon, Sykes, Whittlesey, Wilkie and Mayor McNamara all voted Aye.

None voted Nay.

****The Vote on the Motion was approved (8-0).*** Councilor Zook was absent.

C. Authorization for City Manager to enter into a lease agreement with Execusuite, LLC for continued use of the Bank Street Ballfields (former Junior High)

The City first entered into a formal lease agreement for use of the fields at the former Junior High on Bank Street in 2019. The 2019 lease was for a two-year initial period and did not contain language for automatic renewal. The City desires to continue use of the fields and is hereby requesting the Council to authorize the City Manager to execute a new lease agreement.

The terms of the proposed lease include the following:

- An initial two-year term (ending March 31, 2024).
- Automatic renewal for additional two-years terms unless a 90-day notice is provided by either party.
- Rent: First year \$13,112; Second year \$13,505 – Rent to be renegotiated for any additional terms.

ACTION:

Councilor Sykes MOVED, that the Lebanon City Council hereby authorizes the City Manager to enter into and execute a lease agreement in the amount of \$26,617 with Execusuite, LLC to permit the continued use of the field space located at 75 Bank Street, Lebanon.

Seconded by Councilor Liot Hill.

Roll Call Vote:

Assistant Mayor Below, Councilors Heistad, Liot Hill, Simon, Sykes, Whittlesey, Wilkie and Mayor McNamara all voted Aye.

None voted Nay.

***The Vote on the Motion was approved (8-0).** Councilor Zook was absent.

- D. Discussion & Set Public Hearing for April 20, 2022: Extension of Approval of Community Revitalization Tax Relief Application for 1 Mechanic Street, LLC (originally granted April 21, 2021)**

Included in the agenda packet:

1. March 22, 2022 letter from Jeremy Katz - Request for Extension of Property Tax Relief for 1 Mechanic Street
2. Declaration of Covenants
3. March 26, 2021 Memo from Planning & Development Director David Brooks - Community Revitalization Tax Relief Incentive Program (RSA 79-E) Application for One Mechanic Street, LLC
4. Excerpt of April 21, 2021 City Council meeting minutes
5. Council Policy, CC-105, Community Revitalization Tax Relief Incentive Program Guidelines

Mr. David Brooks (Director of Planning and Development) reviewed the approval of the Community Revitalization Tax Relief Application, noting that on April 21, 2021, the Lebanon City Council approved an application from One Mechanic Street, LLC for seven (7) years of limited property tax relief pursuant to the City's Community Revitalization Tax Relief Incentive (RSA 79-E) Program. The tax relief was requested and granted in connection with a project to convert an existing commercial building into eighteen (18) dwelling units on property located at 1 Mechanic Street (Tax Map 91, Lot 264). Attached hereto is an excerpt of the Planning Department's original agenda packet dated March 26, 2021 and an excerpt of the minutes from the Council's April 21, 2021 meeting.

Under the terms approved by the City Council, the project is required to be completed on or before April 21, 2022, "unless otherwise extended by the City Council in writing." On March 22, 2022, Jeremy Katz, Manager of One Mechanic Street, LLC, submitted a request for an extension of time associated with the approved property tax relief. In the request, Mr. Katz noted that while the project was started in a timely fashion, the Covid-19 pandemic and resulting supply chain disruptions and other delays have prevented the project from proceeding as expected, and he did not expect to meet the April 2022 deadline for the completion of work.

In considering the request to extend the tax relief associated with the project, the Council is, in essence, verifying that the proposed project and property continue to comply with the provisions of the 79-E program and would be re-approving the applicant's participation in the program. Under the terms of the 79-E program, the City Council must hold a public hearing on the request to determine whether the proposed project still qualifies for the tax relief incentive.

The property at 1 Mechanic Street remains a *Qualifying Structure* located within the designated Downtown Lebanon 79-E district and the project continues to exceed the required threshold to be considered a *Substantial Rehabilitation*. In addition, staff presumes that the previously documented *Public Benefits* approved by the City Council still apply to the project, including:

1. Enhancement of the economic vitality of Downtown Lebanon, and
2. Promotion of the preservation and reuse of existing building stock, and
3. Promotion of the development of municipal centers, providing for efficiency, safety, and a greater sense of community consistent with RSA 9-B, and
4. Increasing residential housing in municipal centers.

Since the tax relief was originally granted, there have been no changes to the location or extent of the designated 79-E districts. It is noted, however, that the City Council adopted policy #CC- 105 (Community Revitalization Tax Relief Incentive Program Guidelines) in August 2021, which established a process and guidelines for City Council's consideration of applications for 79-E tax relief. Whereas the property is also situated within the Downtown Tax Increment Finance District, Section 5.3 of the Policy normally requires review of the request by the Downtown TIF District Advisory Board. However, since this is a request for re-approval of the same project for the same time period of tax relief, staff does not believe it is necessary for the Downtown TIF Advisory Board to review the project again pursuant to the policy.

ACTION:

Assistant Mayor Below MOVED, that the Lebanon City Council hereby schedules a public hearing for Wednesday, April 20, 2022, beginning at 6:00pm in the Council Chambers, City Hall, for the purpose of receiving public input and taking action on a request by One Mechanic Street, LLC, for an extension of tax relief under the provisions of the Community Revitalization Tax Relief Incentive Program (NH RSA 79-E) as adopted by the City Council on February 17, 2016. Seconded by Councilor Simon.

Roll Call Vote:

Assistant Mayor Below, Councilors Heistad, Liot Hill, Simon, Sykes, Whittlesey, Wilkie and Mayor McNamara all voted Aye.

None voted Nay.

****The Vote on the Motion was approved (8-0).*** Councilor Zook was absent.

- E. Proposed NHMA Policy Positions:** Suggested language changes by Pedestrian & Bicyclist Advisory Committee relative to "Local Authority and Efficiency," "Transportation," and State Aid and Non-Property Tax Revenues."

Included in the agenda packet: March 2, 2022 Legislative Policy Proposal Forms from Pedestrian & Bicyclist Advisory Committee.

Mr. David Brooks (Director of Planning & Development) reviewed the proposed changes made by the Pedestrian & Bicyclist Advisory Committee.

In September, the New Hampshire Municipal Association (NHMA) will hold a Legislative Policy Conference to establish priorities and positions on behalf of its member communities for the 2023-2024 legislative session. The process begins with a solicitation of policy proposals from local officials to create an initial issues list. Upon receipt, NHMA's legislative policy committees review all policy proposals and

make recommendations for the full Legislative Policy Conference in September.

This year, for the first time, as part of the City’s consideration of potential policy proposals, the City Council invited other boards and committees to provide ideas and input into the process. The Planning & Development Department provided a summary of the NHMA process and the Council’s request to the Planning Board, Conservation Commission, Heritage Commission, and Pedestrian & Bicyclist Advisory Committee for consideration.

The Planning Board, Conservation Commission, and Heritage Commission all expressed appreciation to the City Council for the opportunity to participate in the process but did not have any specific recommendations for this year.

The Pedestrian & Bicyclist Advisory Committee had three recommendations to the City Council, which are outlined on the attached Explanations of Proposed Policy forms. Two of the recommendations suggest amendments to existing NHMA policy positions to advocate for a clearer indication of support for multi-modal facilities, including pedestrian, bicyclist, and transit systems and services. Ped/Bike’s final recommendation was to create a new policy statement under “Local Authority and Efficiency” encouraging NHMA to support “the authority of municipalities to set meeting locations, conditions, and modalities (including in-person, remote, or combined in-person/remote) for municipal level meetings of councils, boards, committees, and commissions.”

ACTION:

The Council’s consensus was to accept all of the policy proposals as suggested by the Pedestrian & Bicyclist Advisory Committee, and directed staff to submit the Explanation of Proposed Policy forms to the NHMA for consideration. No Motion required.

F. Discussion & Set Public Hearing for April 20, 2022: Ordinance 2022-01 to delete and repeal City Code Chapter 31, Article VI, Licensing Board.

Deputy City Manager Paula Maville noted they have been working continuously over the past few years to streamline processes and how we are dealing with permits for the public.

On April 18, 1990, in accordance with NH RSA 286:3, the City established a Licensing Board with the authority to issue licenses and permits in accordance with State Statute, namely:

- Licensing amusement places (RSA Chapter 286)
- Pawnbrokers (RSA 398:4)
- Permits for soliciting funds (RSA 31:91)
- Street fairs (RSA 31:100)
- Fireworks (RSA 160-B-7)
- Billiard tables (RSA 286:6)
- Raffles (RSA 287-A:7)
- Parades (RSA 286:2)

The Licensing Board is comprised of the Mayor, the Police Chief (or designee), and one member of the public.

In an effort to streamline permitting for use of City-owned property, administration is requesting that the Council consider repealing the requirement for a Licensing Board and delegating authority for permitting of those items to the City Manager.

It is the intent of administration to continue to create efficiencies in the permitting process. As such, a comprehensive overhaul of the City Code is to be presented in the near future which will result in the repeal of many existing chapters and the repeal and replacement of current Chapter 49, Use of City Property. When Chapter 49 is brought forward, it is the intent of administration to include the delegation of permitting authority to the City Manager as part of the chapter.

(CURRENT) CODE OF THE CITY OF LEBANON
CHAPTER 31 – BOARDS, COMMITTEES, AND COMMISSIONS
Article VI
Licensing Board

[Adopted 4-18-1990 by Ord. No. 45; effective 4-26-1990]

§ 31-23 Declaration of purpose.

This article establishes a Licensing Board pursuant to RSA 286:3 to grant licenses under RSA Chapter 286 and to grant licenses and permits required to be issued by the city by state statutes described in § 31-29.

§ 31-24 Membership.

The Licensing Board shall consist of the Chief of Police or such person as he/she may designate from the Police Department; the Mayor; and one other person who shall be appointed by the City Council.

§ 31-25 Terms; alternate member.

The elected Mayor shall serve as a member of the Board so long as that person is serving as Mayor. The person appointed by the City Council shall serve for a term of three years. The City Council may also appoint an alternate member for a term of three years who shall serve whenever the Mayor or the person appointed by the City Council is absent.

§ 31-26 Meetings.

The Board shall meet at such times as may be necessary to review applications for licenses and permits. Notices of the meeting shall be given as required by RSA Chapter 91-A.

§ 31-27 Organization.

The Board, annually, shall organize and elect a Chair and a Clerk.

§ 31-28 Quorum.

A majority of the Board shall constitute the quorum necessary in order to transact business at any meeting.

§ 31-29 Authority to issue certain licenses and permits under state statutes.

- A. The Licensing Board shall have the authority to issue licenses and permits as required by the following statutes:
- (1) Licensing amusement places, RSA Chapter 286.
 - (2) Pawnbrokers, RSA 398:4 et seq.
 - (3) Permits for soliciting funds, RSA 31:91.
 - (4) Street fairs, RSA 31:100.
 - (5) Fireworks, RSA 160-B-7. **[Amended 9-20-2000 by Ord. No. 70]**

- (6) Billiard tables, RSA 286:6.
- (7) Raffles, RSA 287-A:7.

- B. When the Board exercises authority pursuant to any statute, the Board shall comply with all statutory requirements for that particular license or permit.

§ 31-30 Applications, licenses and permits.

[Amended 9-20-2000 by Ord. No. 70]

Application shall be made to the Licensing Board for any permit or license required hereunder upon such form as the Board shall designate. Application shall be obtained from and filed with the City Manager. All licenses or permits shall be signed by at least two members of the Licensing Board.

§ 31-31 Revocation or denial of licenses and permits.

The Licensing Board may revoke or suspend any permit or license for any violation of any term or condition of issuance. The Board may deny an application for a license or permit. In all cases, the Board shall notify the applicant, licensee or permittee in writing of the denial, revocation or suspension and the reason for such action. The applicant, permittee or licensee shall have the right to a public hearing before the Board as to such revocation or suspension. Such public hearing shall be requested within seven days of receipt of the notification. The licensee or permittee shall have seven days to appeal the decision of the Licensing Board to the City Manager who shall hear and decide such appeal within 20 days from the date of appeal.

ACTION:

Councilor Liot Hill MOVED, that the Lebanon City Council hereby schedules a public hearing for Wednesday, April 20, 2022, beginning at 6:00pm in Council Chambers, City Hall, and Remote via the City’s Virtual Platform for the purpose of receiving input and taking action on proposed Ordinance #2022-01, to delete and repeal City Code Chapter 31, Boards, Committees and Commissions, Article VI, Licensing Board.

Seconded by Councilor Wilkie.

Roll Call Vote:

Assistant Mayor Below, Councilors Heistad, Liot Hill, Simon, Sykes, Whittlesey, Wilkie and Mayor McNamara all voted YA.

None voted Nay.

***The Vote on the Motion was approved (8-0).** Councilor Zook was absent.

(PROPOSED) CITY OF LEBANON

ORDINANCE #2022-01

AN ORDINANCE TO AMEND the Code of the City of Lebanon, Chapter 31, Boards, Committees, and Commissions by deleting and repealing Article VI, Licensing Board.

Be it ordained by the Council of the City of Lebanon as follows:

Section 1.

The Code of the City of Lebanon is hereby amended by deleting and repealing City Code Chapter 31, Boards, Committees, and Commissions, Article VI, Licensing Board.

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.

12. City Manager Report:

City Manager Shaun Mulholland updated the Council on the following:

- Ms. Angela Zhang, Social Worker for LISTEN, was selected as NH's Social Worker of the Year.
- Westboro Yard: The Natural Gas Propane tanks will not be filled by rail car but instead will be filled by trucks.
- APD Proposal.
- Requested the Council to submit their requests for laptop replacement.
- YMCA after school program has ended. We are looking at options for childcare.
- Paving cost concerns.
- The old Kleen Laundromat building on Mechanic Street has been torn down, and the old Kleen Laundry facility on Route 12A will be turned into a gas station by Irving and will have EV charging stations.
- River Park discussion with Chet Clem regarding TIF development.
- Deputy City Manager interview progress.
- Route 12A Main Street bridge: Held up because the railroad wants to do their own engineering analysis. While there is no immediate concern, City staff is concerned about the integrity of the bridge and DPW will be keeping an eye on this and doing monthly inspections to ensure the safety of the public. If anything comes up, the bridge will be closed and traffic detour signs will be put in place.
- Mascoma Street roundabout: Delayed until 2024.
- Mt. Support Road & Lahaye intersection project roundabout safety concerns.
- Miracle Mile Project: Will rebid this out due to rising costs.
- Kimball St./Forest Ave. Project: Delayed until next year.
- The Congressional Grant Appropriates Project. West Lebanon StreetScape Improvements and the Westboro Yard trail system have been included in the grant submission.

13. COUNCIL REPRESENTATIVES TO OTHER BODIES: NONE

14. FUTURE AGENDA ITEMS:

- Class VI Roads/Class A Trails Policy Discussion.

15. NON-PUBLIC SESSION: NONE

16. ADJOURNMENT:

Councilor Wilkie MOVED for adjournment.

Seconded by Councilor Whittlesey.

Roll Call Vote:

Assistant Mayor Below, Councilors Heistad, Liot Hill, Simon, Sykes, Whittlesey, Wilkie and Mayor McNamara all voted YA.

None voted Nay.

****The Vote on the Motion was approved (8-0).*** Councilor Zook was absent.

The meeting was adjourned at 9:21 PM.

Respectfully submitted,

Dona E. Gibson

Recording Secretary