FINAL

LEBANON CITY COUNCIL
MINUTES
Wednesday, April 20, 2022, 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, Christian Simon, Douglas Whittlesey, Devin Wilkie, and Karen Zook
MEMBERS ABSENT:	George Sykes
STAFF PRESENT:	City Manager Shaun Mulholland, City Clerk Kristin Kenniston, Director of Planning & Development David Brooks, Finance Director Vicki Lee, Deputy Finance Director Alesia Williams, Cyber Security Director Perry Eaton

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1. CALL TO ORDER: Mayor McNamara called the meeting to order at 6:00 p.m.

2. PLEDGE OF ALLEGIANCE: Councilor Simon led the Council in the Pledge.

3. BOARDS and COMMITTEES REPORTS (1st Quarter 2022):

LEAC (Lebanon Energy Advisory Committee): **Updates from Greg Ames, Chair**
(Copied from written report.)

LEAC met three times in Q1. We covered several major topics:

Lebanon Community Power/Community Power Coalition of NH.
Assistant Mayor Below gave update on the CPCNH. It has grown to 18 Municipalities, plus Cheshire County, covering approximately 18% of the population of NH. Hope is to launch CPCNH in April 2023 with 8 or 9 initial participating communities.

Assistant Mayor Below has intervened on behalf of the City in several PUC cases and legislative matters at the State House. Examples include EV time of use rates, HB 1635 and SB 321 (which would improve the ability for small power producers of up to 5MW to sell power), HB 1599, and others.

Landfill Gas to Energy
Tad Montgomery and Assistant Mayor Below gave an update on the progress of the Landfill Gas to Energy project, the required interconnect studies, and work at the substation to bring a significant amount of generation online. The study was approved by Liberty Utilities. Next in line are National Grid updates to the substation. The City has hired a project manager who has begun to order turbines and other equipment.

Solar

Solar has been re-installed at the Police station with microinverters, solving the interference issues. Re-installation at the landfill garage is pending finalizing the interconnect agreement for the Landfill Gas to Energy Project.
Additionally, we discussed various City-owned sites for Phase 3 solar, including several at the airport (ground mount north of the parking lot, rooftop on the T-hangers, and potentially on a large City-owned parcel south of the airport), at the swimming pool, the roof of City Hall, Storrs Hill, and Prospect Hill Reservoir, Valley Cemetery Building, and Civic Park Fieldhouse.

EV
We have revived the EV Subcommittee. LEAC's newest member, Sherry Boschert, will Chair the EV Subcommittee. First meeting was last week.
The City has placed an order for an electric F-150, possibly available by summer.
Tad Montgomery led an interdepartmental meeting to discuss future possible municipal EV's in the City, covering charging and everything from electric chainsaws and lawnmowers to EV Police Cars and Fire Trucks.
Mr. Montgomery also worked with the Towns of Hanover, NH and Hartford, VT to put together an RFI for publicly available EV charging stations in the three municipalities.

We met with a representative of Irving Oil who discussed their plans to add EV charging to the future gas station/convenience store at Route 12A and Interstate 89.

Streetlights
Phase 2 of the streetlight conversion continues. Various floodlights around the City (including the high school parking lot), refurbishing ornamental streetlights on N. Park, W. Park, and Court St., and a few other streetlights throughout the City.

Working on Updates to the energy chapter of the master plan**.**

Status on Green House emissions and Net Zero Goals for the City were discussed.

<u>Pedestrian/Bicyclist Advisory Council</u>: Updates from Colin Smith, Chair

- The Walk by Walk Plan is progressing well. The next Regional Project Advisory meeting will be on April 27, 2022 and they will focus on taking all the information from the survey and other sources of data to start to organize those into a list of priority projects.
- Sidewalks application looks like it will be approved according to Representative Custer and the City should be getting some funding for their most needed locations.
- The City has been given approval to go ahead with the abandonment of the rail line from the end of the Greenway down toward Riverside Skate Park.
- They will be putting together a letter of support for the W. Lebanon Greenway Riverside Trail.
- The River Family Foundation is willing to install a bike pump and repair station in the tunnel and should be installed by DPW in mid-May.
- The Committee has also been coordinating with an Eagle Scout to install a bike pump and repair station and a bike shelter in a different location by the end of September.
- They have been participating in the DOTs Project for Exit 18/Hanover Road section of Rte. 120.
- The Upper Valley E-bike lending library season is getting going. This year, the lending library will be located at DHMC.

- They will be participating with the Recreation Dept. to have a breakfast on the Green on May 13th.

Councilor Liot Hill gave accolades to Rebecca Owens for her presentation and representation of the City to Congresswoman Custer.

Conservation Commission: Updates from Sarah Riley, Chair

- They only had one permit review during the 1st Quarter, which was an expedited wetland permit review on Labombard Rd. Their part of the review involved utilities and had nothing to do with the actual building itself.
- Began the process of updating Chapter 5 of the Master Plan starting with the Vision and Purpose Statement and tweaked it to add reference to climate change mitigation and adaptation measures.
- Began review of Chapter 52 of the Code, which is the Conservation Land Regulations, and started reviewing their rules of procedure.
- In March, they were happy to see the Legislative Policy Proposals from NHMA. We did not have any comments or suggestions this go-around, but will think about this for the future.
- While the Planning Board approved a project on Mt. Support Rd., there was a small conservation victory in that an important Wildlife Corridor will be protected.
- Have been busy working on their Amphibian Crossing Program.
- On April 30th, they will have a vernal pool workshop at the Ticknor Conservation area off of Dulac St.
- Started hosting Wild About Lebanon walks. To date, they have had three walks. There will be another one on Friday (Earth Day) at Starr Hill, 4:00 pm.
- One of their commissioners is busy at Baker's Crossing doing trail and habitat improvements to get a meadow trail ready. Blue Bird boxes have been put in place.
- One member will be seeking a Grant to partially fund a bridge over Great Brook, at the Goodwin Conservation area through the Recreation for Trails Program. The grant will pay 80% of the project and the City would be responsible for 20%.
- In January, they surveyed four properties as part of a point-in-time national homeless count. We looked at Ticknor, Goodwin, Two Rivers, and Starr Hill and luckily did not find anyone camping in those areas.
- Getting trails ready for the season and looking for our next conservation ranger.
- They continue to struggle with conservation easement enforcement (i.e., seeing that somebody has been cutting down vegetation that is not supposed to be cut down; dumping yard waste/other materials). With regard to the East Wilder Boat Launch, which is a conservation area along the Connecticut River, they are struggling to figure out how to educate the public to not cut the native vegetation. Education, outreach and signage could be valuable to curb this problem.

Councilor Liot Hill and Sarah Riley discussed the East Wilder boat launch, the shoreland protection regulations/zones from the State of NH (Connecticut River/Mascoma Lake & River, etc.), and the city-owned property that is protected by a conservation easement through the Society for the Protection of NH Forests.

DEI Commission (Diversity, Equity, and Inclusion): Updates given by Councilors Liot Hill and Wilkie

- This is the first Quarterly Report for the DEI.

- The City will be having their first Juneteenth Celebration on June 19th, 2022 to commemorate the end of slavery in the United States (1867).
- Lebanon Opera House will host the first ever Pride Event on June 17, 2022. They are looking for LGBTQ-related organizations to participate.
- They will be collaborating with the Opera House on doing the first ever Multicultural Festival in partnership with the NEXIS Festival in August 2022.
- They are also looking at policy and structure work: 1) Review of City Policies/Codes/Charters looking at gendered language and trying to remove those and replace them with more gender-neutral terms. 2) Provide more general framework for decision makers to think about equity when they are creating/enforcing policy.
- They have also been discussing what the DEI wants their focus to be in order to build a lasting structure for what the Commission will look like and how it will best support the City and other organizations.
- They plan to have Listening Sessions around different areas in the City. These sessions will be put on the City's website.

Arts and Culture Commission: Updates given by Councilor Zook from a report from the Chair.

- The Sidewalk Poetry Project: The first strand of poems are moderately active and are being installed in Downtown Lebanon. There will be four poems stamped into the sidewalks in front of City Hall, Mascoma Bank, Court St./Three Tomatoes, and Salt hill Pub.
- The first Poetry Contest is underway.
- An RFP (Request for Proposal) will be going out, which the Economic Development Commission strongly suggested to encourage proposals for nature and other recreation ideas.
- They heard a presentation from the folks who will be putting a new arts-focused tool on the Mall. The idea behind this is that the students will be partnering with local arts organizations to get organizational experience.
- They would like to see some sort of art on the utility closet on the western side of the tunnel and are currently checking to see if they can find any skilled and/or graffiti artists who can give this a nice appearance.
- There have been a lot of conceptual reviews of apartment units, including the one in the Old Village Market area and in the Old Mill on Mechanic St.

Planning Board: No Report

EDC (Economic Development Commission): Updates given by Councilor Liot Hill/William (Bill) Dunn, Chair

- They have been meeting twice each month, with one meeting being a joint meeting between the EDC and Downtown TIF Commission to discuss what can be done with the parking lots behind City Hall for future development.
- The EDC/TIF looked at options (i.e., housing or additional parking, mixed use, retail development, etc.).
- They focused on the portion of the lower lot that runs along the river for a park-like usage. This was the only topic where they had uniform consensus among the different Commissions (Ped/Bike, Conservation Commission, members of the public, etc.). Further studies are taking place as to what the economic development benefits are of green space. Mr. David Brooks is

moving forward with the concept of a request for interest to perhaps tailor this area to any future developer by separating the lower lot from the upper parking area.
- During the EDCs regular meetings, they have been working on old business.

Tree Advisory Board: Updates given by Sarah Riley
- They had a Visioning Exercise to help them focus on what their priorities should be.
- They have been discussing who is responsible for the trees/rights of way in the City; inventory of the trees; figuring out the upkeep of trees (protections from the Emerald Ash Borer); planting more trees; how to map the location of trees.
- Students will be working on maps and collecting data regarding heat islands in the City.

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

5. OPEN TO PUBLIC: No one came forth.

6. RECOGNITIONS: NONE

7. ACCEPTANCE OF MINUTES: April 6, 2022 (Regular Meeting)
***Councilor Heistad MOVED* to approve the April 6, 2022 Regular Meeting) minutes as written and presented in the April 20, 2022 City Council agenda packet.**
Seconded by Councilor Heistad.
**** The Vote on the MOTION was unanimously approved by those present (8-0)***

8. APPOINTMENTS:
- Economic Development Commission, Kevin Purcell (Reappointment Regular Member)

***Councilor Simon put forth the NOMINATION* of Kevin Purcell for Reappointment as a Regular Member of the Economic Development Commission. Two-Year Term: (4/22-4/24)**
Seconded by Councilor Heistad.
**** The Vote on the MOTION was unanimously approved by those present (8-0)***

- Library Board of Trustees, Doug Whittlesey (Reappointment Alternate Member)

***Councilor Heistad put forth the NOMINATION* of Doug Whittlesey for Reappointment as an Alternate Member of the Library Board of Trustees. One-Year Term: (4/22-4/23)**
Seconded by Councilor Simon.
**** The Vote on the MOTION was approved (7-0). Councilor Whittlesey abstained/Councilor Sykes was absent.***

- Heritage Commission, Noel Figart (Appointment Regular Member)

***Councilor Wilkie put forth the NOMINATION* of** Noel Figart **for Appointment as a Regular Member of the** Heritage Commission**. Three-Year Term: (4/22-4/25)**
Seconded by Councilor Simon.
**** The Vote on the MOTION was unanimously approved by those present (8-0)***

9. PUBLIC HEARING ITEMS:

A. **ORDINANCE #2021-14** - Public hearing for the purpose of receiving public input and taking action on proposed Ordinance #2021-14 to amend City Code Chapter 180, Wards, to redefine ward lines to comply with a constitutional requirement to equalize populations amongst wards.

Included in the agenda packet:

1. Ordinance #2021-14 Chapter 180, Wards (Amended)
2. November 4, 2021 Legal Opinion by Attorney Christine Fillmore re: Ordinance #2021-14 Ward Boundaries – ***Page 44***
3. Existing Chapter 180, Wards – ***Page 46***
4. Map of Current Ward Boundaries (2012)
5. Map of Proposed Ward Boundaries – ***Page 46***
6. Detailed Maps of Proposed Changes (2022) – ***Pages 48-49***

City Manager Shaun Mulholland reviewed the history and proposed changes to City Ordinance #2021-14 regarding the City's Ward lines.

BACKGROUND

In accordance with City Charter §C419:4, Wards are defined every ten years upon the completion of the US Census and the City Council shall review the ward boundaries and adjust them to comply with a Constitutional requirement to equalize populations. The accepted standard deviation of population amongst the wards is 5% or less. According to the 2020 US Census, there is a deviation of more than 8% between Wards 2 and 3. Ward 1 remains in compliance, so no changes are required.

At the March 13, 2012, Municipal Election, voters approved a Charter amendment which adjusted the ward lines at that time and granted the authority to the City Council for future ward line changes via the ordinance process. The City Clerk's role within this process is to make a recommendation to the City Council for the proposed boundary lines of Lebanon's three wards. The ultimate decision belongs to the City Council.

If adopted as proposed, Ordinance 2021-14 will reduce the deviation to less than 2% amongst all three Wards. The proposal suggests the following adjustments and amendments:

- Adjusting boundary lines between Wards 1, 2 and 3 to reduce current deviation; and
- Amend language to allow currently elected officials (City Councilors and Election officials) to complete their existing terms should the boundary line adjustments place them in a new ward.

In 2012, the language regarding elected officials and their terms was included in the charter revision; however, it only applied to the 2012 amendment. This ordinance will allow for this caveat to be carried forward for all future adjustments to the ward boundaries without creating immediate vacancies in those elected offices.

On December 1, 2021, Lebanon City Council scheduled a public hearing for May 4, 2022 for the purpose of receiving public input and taking action on Ordinance #2021-14, to amend City Code Chapter 180, Wards, to adjust ward boundaries as required by City Charter Section 419:4 and to clarify that Councilors and Ward officers currently in office who are affected by the ward boundary adjustments shall be permitted to complete the remainder of their current term.

At the February 16, 2020 meeting, Council was asked to reschedule the public hearing from May 4, 2022 to April 20, 2022. Assistant Mayor Below made a presentation at that time for two alternate proposed Ward Line adjustments. Council voted to use his Option #1 for the April 20, 2022 Public Hearing.

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

ACTION:
Councilor Wilkie MOVED, that the Lebanon City Council hereby adopts Ordinance #2021-14 to amend the Code of the City of Lebanon, Chapter 180, Wards, to adjust ward boundaries to remain in compliance with City Charter §C419:4, and the New Hampshire Constitutional requirement to equalize populations amongst wards.

BE IT FURTHER MOVED, that Ordinance #2021-14 shall be effective May 1, 2022.

Seconded by Councilor Liot Hill.
**** The Vote on the MOTION was unanimously approved by those present (8-0)***

CITY OF LEBANON ORDINANCE #2021-14

AN ORDINANCE TO AMEND Chapter 180, Wards, of the Code of the City of Lebanon, by amending §180-2, Amendments to boundaries; §180-3, Ward 1; and §180-4, Ward 2.

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 adding the following language to the end of existing Chapter 180, Wards, Section 180-2, Amendments to boundaries:

§180-2, Amendments to boundaries

Notwithstanding any changes in the ward boundaries, the City and Ward officers serving in office, or elected to office, at the time of passage of any amendment to this ordinance, shall continue in said offices until the end of the terms for which they were elected.

Section 2:

The Code of the City of Lebanon is hereby amended by repealing and replacing in their entirety Sections 180-3, Ward 1; and 180-4, Ward 2, for the purpose of adjusting boundary lines to equalize populations of the three wards in response to the 2020 US Census, to read as follows:

§180-3, Ward 1

Ward 1 shall consist of all that land in said City of Lebanon beginning at the southwest corner of the Lebanon-Plainfield line; thence easterly along said boundary to Tax Map 188 Lot 49; thence traveling easterly along the southern boundary of Tax Map 188 Lot 49 to a 50' Right of Way extending in a northerly direction through said Tax Map 188 Lot 49; thence northerly along said 50' Right of Way within Tax Map 188 Lot 49 to the southwestern corner of Tax Map 188 Lot 1; thence traveling northerly along western boundary of Tax Map 188 Lot 1 until it connects to Poverty Lane; thence easterly on Poverty Lane until it meets the Hibbard Brook; thence northerly along said road to the intersection of Slayton Hill Road; thence northeasterly along Slayton Hill Road to the intersection of Farnum Hill Road; thence westerly along said road until it meets Old Kings Highway; thence northwesterly along said road until it

intersects with power transmission lines; thence northwesterly along said power lines until it intersects another set of power lines; thence turning 90° and continuing northeasterly along the latter power lines until it meets the Hanover/Lebanon boundary; thence westerly along the Lebanon-Hanover line until it meets the New Hampshire-Vermont boundary; thence southerly along said boundary to the point of beginning.

§180-4, Ward 2

Ward 2 shall consist of all that land in said City of Lebanon north of the Lebanon-Plainfield town line beginning at the Lebanon-Enfield line at the intersection of Interstate 89; thence northwesterly along I-89 until it meets Dartmouth College Highway; thence westerly along Dartmouth College Highway until it intersects with LaPlante Road; thence southerly along LaPlante Road until intersects with Meriden Road (Route 120); thence northerly along said center line until it merges with School Street; thence continuing along the center line of School Street; to the center line of Prospect Street; thence easterly along said center line to the center line of Elm Street; thence northerly along said center line to the center line of Bank Street; thence westerly along said center line to the center line of East Park Street; thence southerly along said center line onto South Park Street; thence westerly along center line of South Park Street continuing until it merges with Route 4; then north along Hanover Street to the Mascoma River; thence easterly along the Mascoma River until reaching the northwestern corner of Tax Map 78 Lot 8; thence crossing the Mascoma River to the northwestern corner of Tax Map 78 Lot 23 where it meets a small stream; thence northeasterly along the stream until it meets I-89; thence northwesterly along I-89 to the intersection of Route 120; then northerly along center line of Route 120 until it intersects with Heater Road; thence northwesterly along the center line of Heater Road to the where Heater Road and Hanover Street converge and intersect with Mt. Support Road; thence northerly along Mt. Support Road until the intersection of Route 120; thence northerly to the Lebanon-Hanover boundary; thence westerly along said boundary to where it meets eastern boundary of Ward 1; thence easterly along the boundary of Ward 1 to the point of beginning.

Section 3: 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 4: Effective Date

This ordinance shall become effective upon passage.

B. RECLASSIFICATION OF CLASS VI ROAD #11 – A public hearing for the purpose of receiving public input and taking action on the reclassification of Class VI Road #11, (portion of) Monica Road to a Class A Municipal Trail. **(HEARING POSTPONED – RESCHEDULED DATE TO BE DETERMINED)**

C. EXTENSION OF 79-E APPROVAL – Public hearing for the purpose of receiving public input and taking action to extend tax relief under the provisions of the Community Tax Relief Incentive Program (NH RSA 79-E) to 1 Mechanic Street, LL

Included in the agenda packet:

1. March 22, 2022 letter from Jeremy Katz - Request for Extension of Property Tax Relief for 1 Mechanic Street – **Page 54**
2. Declaration of Covenants – **Pages 55-57**
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 – **Pages 58-68**
4. Excerpt of April 21, 2021 City Council meeting minutes – **Pages 69-73**
5. Council Policy, CC-105, Community Revitalization Tax Relief Incentive Program Guidelines – **Pages 74-77**

Mr. David Brooks (Director of Planning & Development) and Mr. Jeremy Katz (Manager of One Mechanic Street, LLC) reviewed the history and reasons for the request regarding the provisions of the Community Tax Relief Incentive Program (NH RSA 79-E) to 1 Mechanic Street, LLC

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 the 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.

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

ACTION:
***Councilor Liot Hill MOVED the following RESOLUTION*:**

RESOLUTION

BE IT HEREBY RESOLVED by the Lebanon City Council, after a duly-notice public hearing that:

WHEREAS, the City Council has determined that the application of One Mechanic Street, LLC (hereinafter the "Applicant") for property assessment tax relief under the City's 79-E Program is complete enough to commence consideration, and

WHEREAS, the City Council has determined that the Applicant's property, located at 1 Mechanic Street, Tax Map 91, Lot 264, (hereinafter the "Property") is situated in the Downtown Lebanon 79-E District as adopted by the City and, therefore, meets the 79-E Program requirement as a Qualifying Structure, and

WHEREAS, the City Council has determined that the Applicant's project to convert an existing commercial building into eighteen (18) dwelling units on the Property pursuant to plans and information provided in the original application (hereinafter the "Project") exceeds the lesser of 15% of the original pre-rehabilitation assessed valuation or $75,000 and, therefore, meets the 79-E Program requirement as a Substantial Rehabilitation, and

WHEREAS, the City Council has determined that the Applicant's proposed Project will generate one or more Public Benefits to the City, 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.***

NOW THEREFORE, pursuant to the provisions of the Community Revitalization Tax Relief Incentive (NH RSA 79-E) Program and City Council Policy #CC-105, as adopted, the City Council hereby grants to the Applicant seven (7) years of property assessment tax relief for the Property to commence upon completion of the Project, with the following conditions:

1. The Applicant shall grant to the City of Lebanon a Declaration of Covenants to be recorded in the Grafton County Registry of Deeds ensuring that the Project shall be maintained and used in a manner that furthers the Public Benefit(s) set forth above for which this property tax relief is granted. The term of the Declaration of Covenants shall be effective for fourteen (14) years, which is twice the duration of the approved tax relief period as permitted under RSA 79-E:8, II.

2. The Applicant shall obtain and maintain property and casualty insurance, as well as flood insurance, if appropriate, for twice the number of years of property tax relief granted to ensure proper restoration or replacement of the Project and the Property. Such insurance shall, effective as of the date on which the Project is completed, name the City as an additional insured by endorsement and the City shall be provided with certificates of insurance annually. The applicant agrees to have the City made a Loss Payee of the proceeds of any property or casualty insurance coverage, subject to the rights of any current or future mortgagee of the Property and any structures thereon, for the purpose of ensuring proper and timely restoration or demolition of the Property, including any damaged structures thereon. The City further requires that restoration or demolition commence within one year following the date of any occurrence or incident for which an insurance claim is or could be made; otherwise the Applicant shall be subject to the termination provisions set forth in RSA 79-E:9, I. The obligation to name the City as an additional insured and a Loss Payee shall remain in effect for the term of these Covenants.

3. The Project, which has already obtained a building permit and commenced work, shall be completed on or before March 31, 2024, unless otherwise extended by the City Council in writing.

Seconded by Councilor Simon.
**** The Vote on the MOTION was unanimously approved by those present (8-0)***

D. ORDINANCE #2022-01 – Public hearing for the purpose of receiving public input and taking action to adopt proposed Ordinance #2022-01 to delete and repeal City Code Chapter 31, Article VI, Licensing Board

Included in the agenda packet:
1. Proposed Ordinance 2022-01
2. City Code Chapter 31, Article VI, Licensing Board

City Manager Shaun Mulholland reviewed the reasons behind adopting proposed Ordinance #2022-01.

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 requested 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 will 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 that chapter.

Mayor McNamara opened the Public Hearing and the following came forth to speak:

Mr. Bill Dunn (no ward given): He spoke about his reasons in favor of adopting the proposed ordinance, noting that the EDC (Economic Development Commission) felt this was a good move.

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

ACTION:
Councilor Wilkie MOVED, that the Lebanon City Council hereby adopts Ordinance #2022-01 to delete and repeal City Code Chapter 31, Article VI, Licensing Board.
Seconded by Councilor Heistad.
**** The Vote on the MOTION was unanimously approved by those present (8-0)***

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.

10. OLD BUSINESS: NONE

11. NEW BUSINESS

A. Action to delegate permitting authority to the City Manager for all permits previously granted by the Licensing Board.

Action to repeal the requirement for a Licensing Board was taken by the Council through the adoption of Ordinance 2022-01. The Council is now asked to delegate permitting authority to the City Manager for all permits previously granted by the Licensing Board.

As previously stated, 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.

ACTION:
Councilor Whittlesey MOVED the following RESOLUTION:

***FOR THE PURPOSE OF authorizing the City Manager to issue all permits previously* under the authority of the Licensing Board.**

***WHEREAS, Article VI of Chapter 31 has been rescinded by action of the City Council,* dissolving the Licensing Board.**

***NOW THEREFORE BE IT RESOLVED, by the City of Lebanon, that with the dissolution of* the Licensing Board effective April 20, 2022, the City Manager is authorized to issue, administer, suspend, and revoke all licenses and permits previously under the authority of the Licensing Board to include:**

- ***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)***

***NOW THEREFORE BE IT FURTHER RESOLVED, that the City Manager's decision* regarding licenses and permits may be appealed to the City Council through a written request received within seven (7) days after written notice of such decision is issued. A hearing before the Council on the appeal will be held within 30 days after such appeal is filed with the Council.**

***NOW THEREFORE BE IT FURTHER RESOLVED, that such authority is effective* immediately and shall remain in effect until specifically rescinded by action of the City Council.**

Seconded by Councilor Liot Hill.
**** The Vote on the MOTION was unanimously approved by those present (8-0)***

B. Authorization for the City Manager to execute a lease with 30 Airport Road, LLC for office space at 30 Airport Road for the relocation of the Cyber Services Department.

City Manager Shaun Mulholland reviewed the reasons for a lease with 30 Airport Road, LLC.

As of June 1, 2022, the Lebanon Opera House will be occupying/renovating the current office space of the Cyber Services Department. City Administration has been searching for adequate space and has reached a 3-year agreement with 30 Airport Road, LLC for 1800 square feet of office space. This agreement has the option for 2 additional 3-year terms should it be necessary. The space includes 2 offices and an open floor plan at a cost of $17.85/SF for the first year. This location will provide adequate space for staff, easy access, and the necessary connectivity infrastructure.

Authorization from the Council is required for the City Manager to execute a lease agreement with 30 Airport Road, LLC.

ACTION:

Councilor Liot Hill MOVED, that the Lebanon City Council hereby authorizes the City Manager to enter into and execute a lease agreement in the amount of $32,130 with 30 Airport Road, LLC for the first year of a three-year lease of office space at 30 Airport Road, West Lebanon, to house the Cyber Services Department.

Seconded by Councilor Whittlesey.

**** The Vote on the MOTION was unanimously approved by those present (8-0)***

C. Authorization for the City Manager to execute a new lease agreement with Lebanon Opera House Improvement Corporation to permit the occupancy of additional space in City Hall

Included in the agenda packet: Exhibit A – Plan of Leased Premises – 2022 Lease Agreement with Lebanon Opera House Improvement Corporation. **Pages 87-90**

City Manager Shaun Mulholland reviewed the reasons for a new lease agreement with the Lebanon Opera House Improvement Corporation.

The office for the Cyber Services Division of the City is currently located on the main lobby level of City Hall (front entrance). The Opera House is requesting to occupy this portion of the building for additional office and concession space. If this additional area is leased to the Opera House, it will provide them with an expanded and consolidated operational space. Administration has been working with the Opera House on their plans to improve the lobby to better accommodate the public during opera house events and is in agreement that the additional space would be of great benefit to their operation.

The additional space consists of approximately 600 square feet and the initial term of the lease would be for 35 years, expiring in 2057. Under the terms of the new lease, there would continue to be no rent charged to the Opera House and the City would continue to receive 10 percent (10%) of their "gross" concession sales (total amount in dollars of the actual sales price for all concession sales). They will continue to be required to pay for their electric and communication needs and must maintain insurance for their space at all times. There is also a provision in the terms whereby the Opera House agrees to comply with City Code Chapter 185, "Welcoming Lebanon."

One change to the terms of the lease is the inclusion of the sale/consumption of alcoholic beverages. The Opera House intends to sell alcoholic beverages as part of their concession services. It is understood by both parties that this service will be reviewed annually by the Council as outlined in Chapter 14 of the City Code and that the Opera House will be fully required to abide by the laws of the City as well as the State of New Hampshire.

ACTION:

Councilor Wilkie MOVED, that the Lebanon City Council hereby authorizes the City Manager to enter into and execute a lease agreement with the Lebanon Opera House Improvement Corporation for leased premises within City Hall as shown on "Exhibit A – Plan of Leased Premises – 2022 Lease Agreement with Lebanon Opera House Improvement Corporation," and included in the April 20, 2022 City Council Agenda Packet.

Seconded by Councilor Heistad.
**** The Vote on the MOTION was unanimously approved by those present (8-0)***

D. Request from the Lebanon Opera House for an Exemption (per §14-5) of City Code Chapter 14, Alcoholic Beverages, to permit the serving of alcoholic beverages on City property.

Included in the agenda packet:

1. April 6, 2022 Letter from Operations Manager Brian Cook, Lebanon Opera House – **Pages 92-93**
2. Location Map of Outdoor Areas – **Pages 95-96**

Mr. Brian Cook, Operations Manager for the Lebanon Opera House, reviewed his reasons for permitting the serving of alcoholic beverage on City property.

Lebanon Opera House is requesting an exemption for the serving of alcoholic beverages on City-owned property to include the alley between City Hall and the neighboring building located at 55 North Park Street, the back parking lot behind City Hall, the sidewalk in front of City Hall and all other areas immediately surrounding the building.

City Manager Shaun Mulholland noted that City Administration has no objection to the above.

City Code Chapter 14, Alcoholic Beverages, §14-5, Exemption states that, "Any person, publicly recognized organization, organized group, family group or business may be exempted from the provisions of this article for a short period of time not exceeding 12 hours, upon first obtaining permission from the City Manager after consultation with and approval by the Chief of Police. For a period of time exceeding 12 hours but not exceeding one year, permission must first be obtained from the Lebanon City Council and reviewed on an annual basis." Due to the nature of the business and the desire to continue to serve alcohol on City-owned property, Council approval is required pursuant to §14-5 above.

ACTION:
Councilor Wilkie MOVED, that the Lebanon City Council hereby grants an exemption pursuant to §14-5 of City Code Chapter 14, Alcoholic Beverages, to Lebanon Opera House to serve alcoholic beverages in the alley between City Hall and the neighboring building located at 55 North Park Street, the back parking lot behind City Hall, the sidewalk in front of City Hall and all other areas immediately surrounding the building as shown on the map included in the April 20, 2022 City Council Agenda Packet. Exemption shall be valid beginning April 20, 2022 and shall expire on December 31, 2022.
Seconded by Councilor Heistad.
**** The Vote on the MOTION was unanimously approved by those present (8-0)***

E. Request from Lalo's Taqueria for an Exemption (per §14-5) of City Code Chapter 14, Alcoholic Beverages, to permit the serving of alcoholic beverages on City property.

Included in the agenda packet:

1. Letter from Nick Yager, Lalo's Taqueria requesting exemption pursuant to City Code Chapter 14 (Letter undated. Received by the City Manager's Office April 7, 2022) – **Page 98**
2. Map depicting proposed outdoor seating area – **Page 99**

Mr. Nick Yager spoke about his request to serve alcohol at Lalo's Taqueria.

BACKGROUND

Lalo's Taqueria, located at the west end of the pedestrian mall established an outdoor dining area in 2021 and is planning to continue the service in 2022. As the restaurant serves alcoholic beverages as part of their dining menu, they would like to serve alcohol as part of their outdoor dining service. In order to do so, an exemption from City Code Chapter 14 is required.

City Code Chapter 14, Alcoholic Beverages, regulates the consumption of alcohol on City- owned property. Section 14-5, Exemption, states that, "Any person, publicly recognized organization, organized group, family group or business may be exempted from the provisions of this article for a short period of time not exceeding 12 hours, upon first obtaining permission from the City Manager after consultation with and approval by the Chief of Police. For a period of time exceeding 12 hours but not exceeding one year, permission must first be obtained from the Lebanon City Council and reviewed on an annual basis."

ACTION:

Councilor Whittlesey MOVED that the Lebanon City Council hereby grants an exemption pursuant to §14-5 of City Code Chapter 14, Alcoholic Beverages, to Lalo's Taqueria to serve alcoholic beverages on the Lebanon Pedestrian Mall within the area shown on the maps included in the April 20, 2022 City Council Agenda Packet.

Exemption shall be valid beginning April 20, 2022 and shall expire on December 31, 2022.

Seconded by Councilor Simon.

**** The Vote on the MOTION was unanimously approved by those present (8-0)***

F. Discussion and Set Public Hearing for May 18, 2022: Request for supplemental appropriation in the amount of $187,980.30 for parking lot improvements at the police station.

Included in the agenda packet:

1. April 10, 2022 Memo from Police Chief Phil Roberts re: Supplemental Appropriation Request – **Page 101**
2. March 24, 2022 Plan for Lebanon Police Station Parking Lot Improvements – **Page 102**

BACKGROUND

The police department maintains one building for all operations. Construction on the current facility was completed in 1991 and includes a visitor parking area consisting of 8 parking spaces (two of which are designated handicapped spaces) and 1 cement pad for motorcycle parking. The parking area for staff includes 9 spaces for marked cruisers, and 31 spaces for staff.

Presently, the department has 26 vehicles in the fleet and total staffing of 56 employees. In the 30+ years since the construction of the station, the parking areas have not been expanded or improved. There is great need for additional parking, and improvements are required to effectively address both the safety and appearance of driveways, sidewalks, and curbing. Infrastructure for future charging stations for electric vehicles is also planned to be installed during construction.

The estimated total cost of the project is $307,980.30. One Hundred Twenty Thousand Dollars ($120,000) was encumbered from 2021 leaving the need for $187,980.30 to complete the project. Funds for

the additional appropriation are to be transferred from Police Department Impact Fees to the Capital Improvements fund so there will be no impact to the tax rate.

City Manager Mulholland noted there was no need for the City to spend funds on a Canine Training Facility as Vermont would be setting one up in the near future that can be used by the Lebanon Police Department.

ACTION:

Councilor Liot Hill MOVED, that the Lebanon City Council hereby schedules a public hearing for Wednesday, May 18, 2022, beginning at 7:00pm in Council Chambers, City Hall, and remote via the City's Virtual Platform for the purpose of receiving public input and taking action to appropriate $187,980.30 for Lebanon Police Department Parking Lot Expansion & Improvements; and to authorize disbursement of $187,980.30 in Police Public Facilities Impact Fees as the means to pay for the work.

Seconded by Councilor Whittlesey.

**** The Vote on the MOTION was unanimously approved by those present (8-0)***

G. Release of Collected Public School Impact Fees

Included in the agenda packet:

1. Impact Fee Report as of 3/31/2022

2. November 22, 2021 Memorandum of Understanding between the City of Lebanon and The Lebanon School District, SAU#88 – Pages 105-106

BACKGROUND

A Memorandum of Understanding (MOU) was developed in 2010 between the City and the School District for the quarterly transfer of collected Public Schools Impact Fees to the Lebanon School District for application toward the payment of debt on the (then) new middle school.

On October 12, 2021, the Planning Board authorized a broader use of Public Schools Impact Fees to include construction, renovation, improvement, or expansion of K-12 school buildings and related building systems, equipment, and furnishings. A revised MOU was developed and signed on November 22, 2021.

To date $551,701.02 has been disbursed to the Lebanon School District.

7/17/2013	$83,690.78	7/15/2015	$1,627.50	2/7/2018	$41,262.70
11/6/2013	$14,651.99	11/4/2015	$936.00	9/5/2018	$12,564.45
5/21/2014	$19,407.00	3/2/2016	$3,156.00	2/6/2019	$1,833.10
8/6/2014	$2,122.75	5/18/2016	$864.00	8/7/2019	$8,822.20
2/18/2015	$723.00	5/17/2017	$5,230.00	4/15/2020	$40,432.02
5/20/2015	$2,819.00	12/6/2017	$6,140.75	7/15/2020	$123,709.65
12/2/2020	$57,567.42	1/21/2021	$102,409.40	8/4/2021	$12,695.86
1/19/2022	$9,035.45				

The City Council was asked to authorize disbursement of $3,216.15 in collected Public School Impact Fees (through 3/31/2022) to the Lebanon School District.

	PAID BY/LOCATION	**CURRENT OWNER**	**MAP/LOT/PLOT**	**School**	
			Balance 12/30/2021	**$ 207,375.81**	pending for project completion
			Interest to date 7/1-12/31/2021	$ 184.70	
2/16/2022	Rock Ridge Lebanon LLC	Same	74/3/182	$ 1,272.05	
2/16/2022	Rock Ridge Lebanon LLC	Same	74/3/161	$ 1,759.40	
			Monies owed to School District	**$ 3,216.15**	

ACTION:

Councilor Whittlesey MOVED, that in accordance with Section 213.10 (Administration of Impact Fees) of the Lebanon Zoning Ordinance, and the November 22, 2021 Memorandum of Understanding between the City of Lebanon and the Lebanon School District, SAU 88, the City Council hereby authorizes the disbursement of $3,216.15 in collected Public Schools Impact Fees to the Lebanon School District to be applied toward the construction, renovation, improvement or expansion of K-12 school buildings and related building systems, equipment, and furnishings.

Seconded by Councilor Wilkie.

**** The Vote on the MOTION was unanimously approved by those present (8-0)***

H. Review and Approval of City Manager Job Description

Included in the agenda packet: Draft City Manager job description – **Pages 108-113**

BACKGROUND

In a history dating back to the late 1950s, the City Council has not been presented with a request to approve a job description for the City Manager. In an effort to better describe and document the duties of the City Manager, City Manager Mulholland presented a draft job description for Council's consideration in October 2021. Council requested that City Manager Mulholland work with the Governance Committee to refine the draft, which was completed on March 14, 2022.

The job description as presented in the agenda packet is in compliance with the City's job description requirements and meets ADA and other applicable standards.

Mayor McNamara felt the Draft City Manager job description, as modified, was very thorough and it accurately represents the City Manager's job responsibilities.

Councilor Wilkie agreed that the job descriptions sounded great, but in the spirit of addressing the DEI concerns, particularly regarding some items that were brought up at the DEI Commission, he requested the following changes be made:

1. On page 110, the description for Chief Equity Officer, 2nd sentence, starting with he/she, be removed and replaced with either "this position" or "this person".
2. In regard to "physical requirements," some of these seem potentially unnecessary to certain positions. He was unsure if it was necessary that a City Manager be expected to stand, walk, etc., noting that a wheelchair bound person, for instance, could be barred from being employed as City Manager. He also saw "colored vision" in the job description, which he also felt might be unnecessary.

Mayor McNamara noted these questions were also raised during the Governance Committee meeting, but noted that the City Manager mentioned the last sentence of that section was intended to address these issues under the Reasonable Accommodation Section. None of us ever had the intention of precluding someone who was wheelchair bound/color blind/unable to carry objects weighing 20 lbs. from one level to another, etc. from any City position. Rather than taking some things out, the City Manager suggested we have this last sentence which would allow for these types of accommodations.

City Manager Mulholland stressed the City looks at a position and what the requirements are for a specific position. If there is someone who qualifies but has disabilities, we would make accommodations.

Councilor Liot Hill noted one of the DEI Commission members volunteered to look into this matter because there were some questions raised about similar language in other job descriptions. Would it make sense for us to adopt this job description in its current language and then have the DEI Commission in the next couple of months come back with any recommendations for alternative language? If necessary, we could make an amendment(s) to this job description at that time.

Mayor McNamara explained that we all have the same position on this topic, noting we always want the best person for the position regardless of any disabilities that may come with it. As we all know, there are people who might not be able to do everything on this job description but who may make a fantastic City Manager.

Councilor Wilkie agreed with Councilor Liot Hill's comments and felt the Council should not delay in approving this job description but hoped that the Council would be receptive to his suggested changes. Yes, by law, we are required to make reasonable accommodations, and that clause at the end of the Physical Requirements Section does allow for that. However, it can be unnecessarily discouraging to have an emphasis on this list if it is not strictly necessary for the position.

Councilor Whittlesey noted his concerns about how someone might not be interested in applying for this position and suggested the last paragraph be moved up and make it the first paragraph under Physical Requirements and adjust the language to say: "*The City will make reasonable accommodations regarding the physical requirements list hereunder*."

Mayor McNamara also suggested having the next sentence say: "*In the absence of the need for accommodations, employees will be required to……"*

These changes would be an interim solution and would address what is trying to be accomplished at present.

ACTION:

Councilor Wilkie MOVED, that the Lebanon City Council hereby approves the job description for the position of City Manager as included in the April 20, 2022 City Council Agenda Packet changing the one instance of "he/she" in the descript of Chief Equity Officer to the City Manager; moving the paragraph beginning with "The City will make reasonable accommodations…" to the beginning of the Section titled Physical Requirements, and then beginning the next paragraph with the phrase "In the absence of the need for reasonable accommodations…."

Seconded by Councilor Whittlesey.

**** The Vote on the MOTION was unanimously approved by those present (8-0)***

12. City Manager Report:

City Manager Shaun Mulholland gave updates on the following:

- Briefed the Council on the ICMA (International City/County Management Association) conference that he attended and spoke about the Braver Angels group and addressing "wicked" problems and explained how their goals could be beneficial to the City in the future if necessary.
- Changing the dynamics of the City's Strategic Model by next year.
- Congressional/Community funding priorities.
- Home Grown Grant/Family Childcare: If/when the City receives funding, Early Childhood Education will manage these grant funds
- Mayor McNamara noted City Staff is actively working on the $100M grant and explained how these funds could be used.

13. COUNCIL REPRESENTATIVES TO OTHER BODIES:

Assistant Mayor Below spoke about three Legislative Bills he was involved with, specifically noting SB 321, which included an alternative to net metering.

14. FUTURE AGENDA ITEMS: NONE

15. NON-PUBLIC SESSION: NONE

16. ADJOURNMENT:

Councilor Liot Hill MOVED for adjournment.

Seconded by Councilor Heistad.

**** The Vote on the MOTION was unanimously approved by those present (8-0)***

The meeting was adjourned at 8:31 PM.

Respectfully submitted,
Dona E. Gibson
Recording Secretary