

FINAL

**LEBANON CITY COUNCIL
MINUTES, REGULAR SESSION
Wednesday, January 20, 2021, 7:00 p.m.
Remote Via Microsoft Teams: [LebanonNH.gov/Live](https://lebanonnh.gov/Live)**

MEMBERS PRESENT: Assistant Mayor Clifton Below, Bruce Bronner, Erling Heistad, Karen Liot Hill, Suzanne Prentiss, George Sykes, Jim Winny,

MEMBERS ABSENT: Mayor Tim McNamara and Councilor Karen Zook

STAFF PRESENT: City Manager Shaun Mulholland, Deputy City Manager Paula Maville, City Clerk Kristin Kenniston, Director of Planning & Zoning David Brooks, Senior Planner Tim Corwin, Director of Public Works, Jim Donison, Assessing Clerk Marlene Boisclair, Finance Director Vicki Lee, Deputy Finance Director Tina Stearns, City Engineer Christina Hall

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

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

All Councilors who attended the meeting remotely are listed above.

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

3. PUBLIC FORUM: Assistant Mayor Below made the Public Forum announcement.

4. OPEN TO PUBLIC:

- Councilor Liot Hill thanked the Lebanon Fire Department and all who participated in the National COVID Vigil to honor the lives lost during the COVID-19 pandemic.
- Councilor Prentiss echoed Councilor Liot Hill's comments and thanked the Lebanon Fire Chief and Fire Department and Lebanon's Public Health Services for the great job they have done in running vaccination centers in the area.

5. RECOGNITIONS:

A. Madalyn Sprague, Ballot Clerk for Ward 3

RESOLUTION HONORING MADALYN SPRAGUE

WHEREAS, Madalyn Sprague served as Ballot Clerk for Ward 3 in the City of Lebanon for six years; and

WHEREAS, during this time, Madalyn was responsible for checking off voter names on the checklist when residents came to the poll to cast their ballots; and

WHEREAS, Madalyn’s passion for the election process showed in her ability to take her responsibilities very seriously and taking great pride in her work to ensure the accuracy of the checklist during elections; and

WHEREAS, Madalyn attended trainings to maintain and refresh her knowledge and learn new law updates, which are integral to protecting the integrity of the election process; and

WHEREAS, during the performance of her duties, Madalyn was always willing to be helpful to her fellow election officials and the residents of Ward 3; and

WHEREAS, Madalyn’s efforts were greatly appreciated by the residents, fellow election officials and City officials.

NOW THEREFORE BE IT RESOLVED; that the Lebanon City Council, on behalf of the City of Lebanon, extends its sincere appreciation to Madalyn Sprague for her time, effort and knowledge provided to the community during her service as a Ballot Clerk.

Dated this 20th day of January 2021 at Lebanon, New Hampshire.

Timothy J. McNamara, Mayor and Assistant Mayor Clifton Below
on behalf of the Lebanon City Council

Kristin M. Kenniston, City Clerk

6. ACCEPTANCE OF MINUTES:

A. January 6, 2020 (Regular Session)

Councilor Prentiss MOVED to approve the January 6, 2021 (Regular Session) minutes as written and presented in the January 20, 2021 City Council agenda packet.

Seconded by Councilor Heistad.

Roll Call Vote:

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

None voted Nay.

****The Vote on the MOTION was unanimously approved (7-0).***

7. APPOINTMENTS:

- Conservation Commission: Susan Almy (Regular Member Reappointment)

Councilor Bronner put forth the NOMINATION of Susan Almy for reappointment as a Regular Member of the Conservation Commission. Three-year term (1/21 – 1/24)

Roll Call Vote:

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

None voted Nay.

****The Vote on the MOTION was unanimously approved (7-0).***

- Library Board of Trustees, Emma Wunsch (Alternate Member Reappointment)
Councilor Heistad put forth the NOMINATION of Emma Wunsch for reappointment as an Alternate Member of the Library Board of Trustees. Three-year term (1/21 – 1/22).

Roll Call Vote:

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

None voted Nay.

***The Vote on the MOTION was unanimously approved (7-0).**

8. PUBLIC HEARING ITEMS

A. PROPOSED AMENDMENTS TO THE ZONING ORDINANCE FOR 2021 MUNICIPAL BALLOT - Public Hearing for the purpose of receiving public input and taking action to place proposed zoning amendments on the 2018 Municipal.

Included in the agenda packet were the

1. January 12, 2021 Memo to the Lebanon City Council from Planning & Development Department Staff re: Public Hearing on Zoning Ordinance Amendments for March Ballot which includes the following:
 - 2020-2021 Proposed Zoning Ordinance Amendments (Redlined Version, last revised January 6, 2021)
2. October 27, 2020 Legal Opinion from Attorney Christine Fillmore
3. December 28, 2020 Legal Opinion from Attorney Christine Fillmore
4. Notice of Public Hearing as Published in the January 9, 2021 Edition of the Valley News

Information available but not included in this section:

1. January 6, 2021 City Council Agenda Packet.

City Manager Mulholland stated there are two parts to the proposed Zoning Amendments. Part A includes three (3) items that will be placed on the Ballot. Part B includes all the other items (15) that will be acted on by the City Council.

Director of Planning & Zoning David Brooks and Senior Planner Tim Corwin came forth to review the proposed Zoning Amendments.

Mr. Brooks informed the Council that tonight's hearing is meant to review the Zoning Amendments that have been discussed over the last several months. There was some confusion and questions raised in the Valley News so city staff prepared a presentation that will hopefully address these. He presented some additional background, noting the Planning Staff administers, interprets, and enforces the Zoning Ordinance in the service of City residents, business owners, contractors, designers, attorneys, real estate agents and others that work with property owners. During the course of working with the Zoning Ordinance, it is not uncommon for us to come across sections where the language is ambiguous, confusing due to inconsistent terminology, or are not worded in a way that reflects how they have actually been applied for decades now. It is always staff's goal to ensure the ordinance is as clear, unambiguous and as user friendly as possible.

On October 7, 2020, the City Council was presented with a number of proposed amendments to the Zoning Ordinance. The Council took action to accept the amendments as presented and forwarded them for review and comment by the Planning Board, Conservation Commission, and Zoning Board of

Adjustment. A legal review was obtained, and all boards have completed their review. All but one of the proposed amendments have been put forward by staff and most of the proposed amendments are meant to clarify ambiguities in the text to ensure that it clearly reads in the way the language is actually interpreted. In a couple of amendments, one derives from comments raised by the Conservation Commission, as well as the Upper Valley Lake Sunapee Regional Planning Commission and several Planning Board members during the course of development review that occurred earlier in 2020. That R-1 District project was ultimately approved and is now under construction. The other amendment that was put forward by a member of the public, was the rehabilitation facility use. He re-emphasized that the Planning Department Staff usually begins working on amendments right after the prior amendment cycle wraps up. For the current amendment cycle, potential Zoning Amendments were advertised and discussed at 7-8 different public meetings dating all the way back to July 2020. For the amendments that get placed on the March Ballot, staff regularly creates frequently asked questions to help describe and explain the proposed amendments by hosting meetings, Q&A sessions, and coordinating with the Valley News for press coverage. Their goal is to make this complicated document as understandable as it can be.

Mr. Corwin came forth and gave a PowerPoint presentation for the following specific amendments:

Ballot Amendments #1 through #3 require approval by the voters before they can be enacted.

Amendment #1 – To allow additional building height of up to ten (10) ft. in the R-1 District by Conditional Use Permit. (Zoning Ordinance Section 308.3 AND ADD Section 308.4). Mr. Corwin pulled up a screen shot to illustrate where the RL-1 Zones were located.

The objective is to Amend Section 308.3 and add new Section 308.4 to allow additional building height of up to ten (10) ft. in the R-1 District by Conditional Use Permit, provided that the additional height is for the purpose of accommodating parking underneath a building. At the suggestion of the Planning Board, proposed Section 308.4 requires an enhanced building setback of two (2) feet for every (1) one foot of additional building height so authorized by Conditional Use Permit. For example, if the Planning Board were to approve a building height of 50 ft. (which is 5 ft. more than the existing 45 ft. maximum), the minimum required setbacks would be increased by 10 ft. for the structure. The Goal is to accommodate parking underneath a building to encourage reduction of surface parking which helps to implement Outcome 2, Strategy 2 of the Natural Resources Chapter of the Master Plan: “Make impervious surface reduction a goal of parking policies and regulations in the Zoning Ordinance.”

Councilor Heistad stated Nicole Cormen, before her death, was involved with a Cost of Service Study and felt the Council should go back and look at that study and keep it available where it could be located.

Amendment #2 – To amend the R-3 District Table of Uses to change “house of worship” from a use allowed by Special Exception to a permitted use. (Zoning Ordinance Section 310.2)

The objective is to Amend Section 310.2, the R-3 District Table of Uses to change “house of worship” from a use allowed by Special Exception to a permitted use. This change is consistent with all other districts that allow house of worship where, in those districts, “house of worship” is designated a permitted use and does not require a Special Exception or Conditional Use Permit. An inquiry came in over the summer regarding a house of worship and in reviewing the regulations it was found that one (1) out of the eleven (11) Zoning Districts did not allow a “house of worship” as an allowed use unless it applied for a Special Exception or Condition Use Permit in RL-3. Planning Staff, in order to make this

amendment consistent with how it is regulated, felt this should become part of the proposed Zoning Amendments. Mr. Corwin stated Planning Staff will do some public outreach to explain the purpose of the amendment if the Council chooses to move this forward.

Assistant Mayor Below recognized Mary Ann Mastro who expressed her concerns about “house of worship” noting she did not understand why there were not Special Exceptions in the other ten (10) Districts rather than just having a Permitted Use. Mr. Frank Mastro came forth to clarify their concerns, noting he felt that all those locations should be Special Exceptions so at least the neighborhood is part of the solution.

Mr. Corwin explained that in the locations where a “house of worship” is a permitted use, and if they are proposing to construct a new building, or an addition, a Site Plan Review before the Planning Board would be required, which would trigger a Public Hearing and notice to abutters. Also, to the extent that they would be repurposing an existing building, they still need to provide parking, which would also need to meet the Site Plan Standards and most likely would trigger a Site Plan Review.

The Council discussed the number of “houses of worship” that exist in the R-3 and RL Zones 1,2, & 3.

Amendment #3 – To clarify that the permitted density in the R-3 District for senior housing complexes and PURDs is based on one dwelling unit per 10,000 sq. ft. of lot area. (Zoning Ordinance ADD Section 310.4)

The objective is to add new Section 310.4 (“Dwelling Unit Density”) to clarify that the permitted density in the R-3 District for senior housing complexes and PURDs is based on one dwelling unit per 10,000 sq. ft. of lot area.

Assistant Mayor Below opened the Public Hearing. Hearing no comments from the public the Public Hearing was closed.

ACTION:

Councilor Bronner MOVED, that the Lebanon City Council hereby requests that the City Clerk place Amendments #1-3, as listed above, on the March 9, 2021 Municipal Election Ballot for consideration by Lebanon Voters.

Seconded by Councilor Prentiss.

Roll Call Vote:

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

None voted Nay.

***The Vote on the MOTION was unanimously approved (7-0).**

B. PROPOSED AMENDMENTS TO THE ZONING ORDINANCE FOR COUNCIL ADOPTION - Public Hearing for the purpose of receiving public input and taking action on proposed zoning amendments for adoption by the City Council, as follows:

Included in the agenda packet were the

1. January 12, 2021 Memo to the Lebanon City Council from Planning & Development Department Staff re: Public Hearing on Zoning Ordinance Amendments for March Ballot which includes the following:

- 2020-2021 Proposed Zoning Ordinance Amendments (Redlined Version, last revised January 6, 2021)
- 2. October 27, 2020 Legal Opinion from Attorney Christine Fillmore
- 3. December 28, 2020 Legal Opinion from Attorney Christine Fillmore
- 4. Notice of Public Hearing as Published in the January 9, 2021 Edition of the Valley News

Information available but not included in this section:

1. January 6, 2021 City Council Agenda Packet.

The Council was asked to act on any proposed Zoning Amendment not requiring a referendum vote in which case adoption of the Zoning Amendment shall require a majority vote of five members of the City Council; or alternatively, the Council may decide that such an amendment shall be submitted to the voters at the annual City election, even though such a referendum is not required.

Director of Planning & Zoning David Brooks and Senior Planner Tim Corwin reviewed the 15 proposed amendments with the Council. Mr. Brooks noted these amendments are largely intended to help clarify existing language and to utilize consistent terminology throughout the ordinance and across districts, which will help improve interpretation and administration of the ordinance.

Mr. Tim Corwin gave a PowerPoint presentation that explained the reasons for the 15 proposed amendments as listed below:

Amendment #1 – To add “inpatient rehabilitation facility” to the IND-L District Table of Uses as a use allowed by Conditional Use Permit; change “retail product pickup” from a use allowed by Conditional Use Permit to a permitted use; within “Uses by Conditional Use Permit”, replace “office for 50 or more employees” with “office”; and remove Section 303.6 (“Flex Buildings”). (Zoning Ordinance Section 303).

Assistant Mayor Below presented a screenshot which showed where the Light Industrial Zones were located, and the proposed **redlined** language changes in the Zoning Ordinance included in the agenda packet.

Mr. Corwin also explained the difference between what constitutes a Conditional Use Permit (CUP) and a Special Exemption, and noted the requirements needed to be met for both.

Mr. Frank Mastro (Ward 2) who is on the Board of Assessors, but was not speaking on behalf of them, spoke about his concerns regarding proposed amendments #12 and #13. He asked the Council to look at residential uses as part of the industrial areas and questioned how these mixed residential/industrial would be taxed in an equitable way and explained his reasons.

Amendment #2 – To amend the IND-RA District Table of Use to change “natural resource extraction and/or processing facility (timer, stone, or soil) to “excavation of natural earth material”; replace “office building” with “office”; and amend the IND-RA District regulations to clarify “waivers” of the minimum yard requirements may be authorized by Conditional Use Permit where necessary to allow rail access. (Zoning Ordinance Section 303A).

Amendment #3 – To amend the IND-H Table of Uses to change “removal of natural uses” to “excavation of natural earth material”. (Zoning Ordinance Section 304.2).

Amendment #4 To amend the GC District Table of Uses by changing “retail product pickup” and “indoor recreational facility” from uses allowed by Conditional Use Permit to permitted uses; to change “funeral establishment” to “funeral home”; and to remove “alternative treatment center (cultivation location only)”. (Zoning Ordinance Section 305.2).

Amendment #5 – To amend GC-1 District Table of Uses by removing “alternative treatment center (cultivation location only)” and add “inpatient rehabilitation facility” as a use allowed by Conditional Use Permit. (Zoning Ordinance Section 305A.2)

Amendment #6 – To amend the CB District Table of Uses to remove “vehicular sales” and to change “funeral establishment” to “funeral home”; to amend the CB regulations to allow a reduction of the minimum required rear yard by Conditional Use Permit instead of by Special Exception; and to remove language allowing increased building height in downtown Lebanon. (Zoning Ordinance Section 306)

Amendment #7 – To amend the LD District regulations by clarifying verbiage; designating Mechanic Street a secondary street and Mascoma Street a primary street, adding Section 307.C.3 to clarify which portions of the streets identified in Sections 307.C.1 & 2 are designated as primary street or secondary streets; allowing the “waiver” of the minimum story height requirements by Conditional Use Permit; and allowing parking in the front yard by Conditional Use Permit. (Zoning Ordinance Section 307)

The objective is to Amend Section 307.6.C to designate Mechanic Street a secondary street and Mascoma Street a primary street. These designations relate to Sections 307.6.A & B, which presently require a certain portion of the first floor of a building that fronts on Mechanic Street in the Lebanon Downtown Districts, be reserved for non-residential uses: Specifically, one third of the area or 1K sq. ft, whichever is less. In contrast, properties which have frontage on Mascoma Street, because it is currently designated as a secondary street (Section 307.6.B), still have that first floor commercial requirement, but it only applies if the new building is going to be 20K sq. ft. or larger and this requirement may be “waived” by a Conditional Use Permit from the Planning Board.

At the suggestion of the Zoning Board, new Section 307.C.3 is proposed to clarify that only those portions of the streets identified in Sections 307.C.1 & 2 that are in fact located within the Lebanon Downtown (LD) District are so designated as a primary street or a secondary street (e.g. only that portion of Mechanic Street located within the LD District is designated a “secondary street”). Staff also suggests edits to Section 307.6.C.1 to clarify that the entirety of West Park Street and North Park Street are located within the LD District. (Map of proposed changes was presented to the Council).

Mr. Corwin felt this was an error when the Planning Staff designated that portion of Mascoma Street in the Lebanon Downtown District as a secondary street and in designating Mechanic Street in the Downtown Lebanon District segment as a primary street. Mr. Brooks also noted this question came up by the Mayor back in October, was raised by members of the Zoning Board, and he thought Councilor Heistad raised this question on January 6, 2021. Staff tried to clarify this in the **redline** part of the agenda packet and make it clear that we are only talking about the portion of these roads within or adjacent to the Lebanon Downtown District. We are not talking about Mascoma Street as it extends west from the High Street intersection.

In response to Councilor Heistad’s question about why the Mascoma Street designation did not extend further up Park Street, Mr. Brooks said they would clarify where Hanover Street ends and starts, and where Mascoma Street ends and starts. He also pointed out that a non-residential use on the ground floor is still permitted on a secondary street within the Lebanon Downtown District, it is just not going to be mandated in that area along Mechanic Street.

Amendment #8 – To clarify the minimum number of parking spaces that must be provided for dwelling units in the PB District. (Zoning Ordinance Section 311B.4)

Amendment #9 – To amend the RL-2 District Table of Uses to change “removal of natural uses” to “excavation of natural earth material”. (Zoning Ordinance Section 313.2)

Amendment #10 – To update the RL-3 District purpose statement by removing verbiage that is inconsistent with the remainder of the purpose statement and with the Master Plan. (Zoning Ordinance Section 314.1)

Amendment #11 – To amend the MC District Table of Uses to add “inpatient rehabilitation facility” as a use allowed by Conditional Use Permit. (Zoning Ordinance Section 315.2)

Amendment #12 – To allow certain commercial uses within an industrial PUD based on a percentage of total “gross floor area” instead of total “building coverage” and to expand the types of residential uses that may be included as part of a commercial or industrial PUD. (Zoning Ordinance Section 501.4.D)

Amendment #13 – To expand the types of residential uses that may be included as part of a Planned Business Park. (Zoning Ordinance Section 508.4.D)

Amendment #14 – To ADD Section 608.4.1.e “Multi-Tenant Buildings” to allow existing sign area for existing multi-tenant buildings to be used as the permitted sign area for the building. (Zoning Ordinance Section 608.4.1.e)

Amendment #15 – To adopt miscellaneous minor amendments including corrections to typographical errors, and amendments to defined terms set forth in Appendix A. (Zoning Ordinance Sections 201, 203, 204, 206, 208, 213, 301, 302, 402, 409, 501, 506, 601, 602, 607, 608, 610, 611, Appendix A)

Assistant Mayor Below opened the Public Hearing.

The following people came forth:

Mr. & Mrs. Frank Mastro (Ward 2): Mrs. Mastro spoke about her concerns regarding Ballot item #1 and the 10’ building height to allow parking under the building; the redesignation of Mascoma and Mechanic Streets; and questioned what retail pickup meant in item #4. Mr. Corwin explained the 10’ building height on Ballot item #1; Item #4, which would allow retailers satellite locations where their products could be picked up by customers and gave examples; and explained staff’s reasons for the redesignation of Mascoma & Mechanic Streets (as previously listed under Amendment #7).

Mr. Billy Saine (Ward 3): He felt a lot of the confusion Mrs. Mastro was speaking about is because nobody knows the difference between where Mascoma and Mechanic Streets start and where they end, noting the proposal makes perfect sense when you look at the map and figure out what streets are which.

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

Councilor Heistad noted that on the map, Hanover Street was going across the top of Mascoma Street and felt that before we start educating people, we should keep the names the same and the blue line should be continued up to the end of Mascoma Street so that it is defined. He requested the map be changed before being made available for others to see.

**Councilor Bronner MOVED, that the Lebanon City Council hereby approves zoning amendments #1 through #15 as presented in the January 6, 2021 Council Agenda Packet.
Seconded by Councilor Sykes.**

Assistant Mayor Below felt it made sense to move forward with the proposed Zoning Amendments and explained his reasons.

Councilor Sykes felt the proposed Zoning Amendments #1-#15 had only minor changes and the substantive ones were going to the public for a vote, so he supported moving these amendments forward.

Roll Call Vote:

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

None voted Nay.

***The Vote on the MOTION was unanimously approved (7-0).**

9. OLD BUSINESS

A. Action to adopt amendments to Council Rules as presented on January 6, 2021.

Included in the agenda packet was Chapter A191 Council Rules (as amended and presented to the City Council on 1/6/2021).

City Manager Mulholland came forth and explained that the proposed amendments to City Council Rules to include language on remote participation by members of the public, even after COVID, and to limit the “Open to the Public” session at the beginning of each meeting to 10 minutes, noting this would keep the Council focused on the agenda.

ACTION:

Councilor Prentiss MOVED that the Lebanon City Council hereby amends City Code Chapter A191, Council Rules, to include amendments to Sections A191-1 and A191-8 as presented on January 6, 2021.

Seconded by Councilor Bronner.

Councilors Liot Hill and Councilor Sykes remained uncomfortable about limiting the “Open to Public” portions of a Council meeting to 10 minutes, but felt comfortable voting on the motion because there was an alternative to change this requirement if the need arose.

Deputy City Manager Paula Maville pointed to Section A-191.13, which is the rules of adoption on amendment and suspension., noting the Council can go through the process of suspending their rules for anything and felt this would be the process for any written rules. This would require a vote of 2/3 of the members present.

Roll Call Vote:

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

None voted Nay.

****The Vote on the MOTION was unanimously approved (7-0).***

10. NEW BUSINESS

Councilor Winny MOVED to change the order of items 10C/10D to come before items 10A, 10B. and 10E.

Seconded by Councilor Heistad.

Roll Call Vote:

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

None voted Nay.

****The Vote on the MOTION was unanimously approved (7-0).***

The following items are listed in the order they were discussed..

C. Review of Elderly Tax Exemptions.

Included in the agenda packet were

1. January 7, 2021 Memo from Marlene Boisclair, Assessing Clerk; re: 2020 Elderly Exemptions Study.
2. Spreadsheet: 2020 Elderly Exemptions Study.
3. Explanation and Summary of Elderly Tax Exemptions.

Assessing Clerk Marlene Boisclair came forth to review the Elderly Tax Exemptions as presented on pages 90-94, agenda packet. As part of the background, City Manager Mulholland requested the Assessing Office review existing Elderly Exemptions to determine if current exemption values are appropriate based on the results of the 2020 city-wide re-evaluation. During the review, it was discovered the amount of assessed values exempted for the elderly population have not changed since November 2005 when the Council voted to set income limits for those age 65-74 up to \$45,000; for those age 75-79 up to \$80,000; and for those age 80+ up to \$170,000.

The average increase for residential properties at the conclusion of the city-wide reassessment was between 12 and 17%, which is substantial when you are talking about elderly populations that are often on a very strict income level. What she proposed to do is apply approximately a 12-14% increase to those awards to keep in line with the increase in property values because Lebanon's elderly are facing paying taxes again, especially if they are 80 years old or above. We want to take care of our elderly so they can enjoy living in their home as long as they can.

Councilor Sykes asked how one's income factors into this whole equation. Ms. Boisclair said there is a limit on the amount of income in all three categories, noting the Council addressed this back in 2019 when the income limit was updated to \$36,800 for a married couple and the single applicant. The income from all sources is calculated before any deductions are taken.

Councilor Winny thought it might make sense to tie this to either tax rate increases or a CPI in the future.

City Manager Mulholland noted this request is due to the recent city-wide assessment of property values.

ACTION:

Councilor Bronner MOVED that the Lebanon City Council, in accordance with NH RSA 72:39-b, hereby increases the amount of assessed value exempted for three elderly age groups as follows:

Elderly I (ages 65-74) amount of assessed value exempted up to \$55,000 (Fifty-Five Thousand Dollars.

Elderly II (ages 75-79) amount of assessed value exempted up to \$95,000 (Ninety-Five Thousand Dollars.

Elderly III (ages 80 and above) amount of assessed value exempted up to \$200,000 (Two Hundred Thousand Dollars).

BE IT FURTHER MOVED that the amount of assessed value exempted set forth above shall be effective immediately.

Seconded by Councilor Prentiss.

Roll Call Vote:

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

None voted Nay.

****The Vote on the MOTION was unanimously approved (7-0).***

D. Acceptance of extended portion of Crafts Avenue, West Lebanon as a Class V Public Street.

Included in the agenda packet (pages 95-105):

1. December 23, 2020 memo from David Brooks, Director of Planning & Development which includes the following:
 - a. Quitclaim deed from XYZ Dairy, LLC to the City of Lebanon dated November 17, 2020
 - b. Title opinion for Crafts Avenue Extension dated November 19, 2020

City Engineer Christina Hall came forth and reviewed the status and requirement of this request by XYZ Dairy, LLC for the City of Lebanon to accept as a Class V public street, the extended roadway and cul-de-sac portion of Crafts Avenue, West Lebanon. The roadway was extended to provide access to a number of residential lots approved as part of the River Park subdivision. This roadway provides a service to the City and future residents by allowing the City's plows to have a place to turn around safely.

It should be noted that the proposed quitclaim deed only applies to the right-of-way and the constructed roadway at this time. The proposed conveyance is made subject to a reservation of a temporary right and

easement for the applicant to maintain and repair all water and sewer utilities within the right-of-way in accordance with Chapters 136 and 182 of the Code of the City of Lebanon. The temporary right-of-way and easement will expire once the utilities are accepted by the City as part of the public water and sewer systems. All requirements have been met.

Mr. Brooks noted this is a fulfillment of a Planning Board Condition from the original River Park approval in 2011. The dedication has been made by the applicant.

ACTION:

Councilor Liot Hill MOVED that the Lebanon City Council hereby accepts as a Class V public street – under the New Hampshire Law of Dedication and Acceptance – the extended roadway and cul-de-sac portion of Crafts Avenue, West Lebanon (already constructed) as shown on the plan entitled “Subdivision Plan, River Park, North Main Street (N.H. Route 10) & Crafts Avenue, Lebanon, New Hampshire,” six (6) sheets, dated March 9, 2015, as revised, and recorded in the Grafton County Registry of Deeds as Plan #15441.

Seconded by Councilor Bronner.

Councilor Prentiss questioned the notarization procedure for the Quitclaim Deed, noting that New Hampshire was crossed out and Vermont written in. City Clerk Kristin Kenniston explained that as long as it is notarized it is valid and legal.

Roll Call Vote:

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

None voted Nay.

***The Vote on the MOTION was unanimously approved (7-0).**

- A.** Preparation of Concise Explanations stating the City Council’s position on the Zoning Amendments to appear on the March 2021 Municipal Ballot. Explanations are required by Section 1000.4.D of the Lebanon Zoning Ordinance and must indicate the Council’s approval/disapproval of the proposed amendments, stating reasons for such.

Included in the agenda packet was the January 12, 2021 Memo from Planning & Development Department Staff re: Preparation of Concise Statements for Zoning Ordinance Amendments.

Mr. David Brooks came forth and explained that in accordance with Section 1000.4(C)(2) of the Zoning Ordinance, the City Council, Planning Board, and Conservation Commission must prepare and include on the Ballot a brief and concise explanation of their positions on the amendments being presented for voter consideration.

The Planning Board will prepare concise explanations at its January 25, 2021 meeting. The Conservation Commission will be meeting on January 28, 2021 to prepare their concise explanations.

ACTION:

Councilor Prentiss MOVED that the Lebanon City Council adopts the following concise explanation for the three (3) amendments that will be put on the Ballot on March 9, 2021.

Amendment #1 (Additional Building Height in the R-1 District)

The Lebanon City Council approves of and endorses the adoption of the proposed zoning amendment as it supports the goals of the Lebanon Master Plan. The proposed amendment will enable the development of needed housing in the City in a more compact form that minimizes impervious coverage and avoids the excessive disturbance of natural vegetation by facilitating the placement of parking underneath buildings.

Amendment #2 (House of Worship from Special Exception use to Permitted use)

The Lebanon City Council approves of and endorses the adoption of the proposed zoning amendment, which will change “house of worship” from a use allowed by Special Exception to a Permitted use within R-3 District, which is consistent with all other districts in which “house of worship” is allowed.

Amendment #3 (Clarify Maximum Density Requirements in the R-3)

The Lebanon City Council approves of and endorses the adoption of the proposed zoning amendment as it clarifies an existing ambiguity in the Zoning Ordinance.

Seconded by Councilor Winny.

Roll Call Vote:

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

None voted Nay.

****The Vote on the MOTIONS were unanimously approved (7-0).***

B. Release of Collected Public School Impact Fees.

Included in the agenda packet was the Impact Fee Report as of December 31, 2020

A Memorandum of Understanding (MOU) between the City and Lebanon School District (September 30, 2010) provided the City would transfer once each quarter of the calendar year all collected Public Schools Impact Fees to the Lebanon School District for application toward the payment of debt on the new middle school.

To date \$427,560.31 has been disbursed to the Lebanon School District.

The City Council was requested to authorize disbursement of \$102,409.40 in collected Public School Impact Fees (through 12/31/2021) to the Lebanon School District.

ACTION:

Councilor Prentiss MOVED that in accordance with Section 213.10 (Administration of Impact Fees) of the Lebanon Zoning Ordinance, the City Council authorizes disbursing the sum of \$102,409.40 in collected Public Schools Impact Fees to the Lebanon School District to be applied toward the payment of debt on the new middle school located at the intersection of Moulton Avenue and Route 4 consistent with the September 2010 Memorandum of Understanding Between the City of Lebanon and the Lebanon School District, SAU 88.

Seconded by Councilor Heistad.

Roll Call Vote:

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

None voted Nay.

****The Vote on the MOTION was unanimously approved (7-0).***

E. Review and Adoption of City Council Policy CC-104 – Implementation of City Code Chapter 185, Welcoming Lebanon.

Included in the agenda packet:

1. Policy CC-104 Implementation of City Code Chapter 185, Welcoming Lebanon
2. City Code Chapter 185, Welcoming Lebanon
3. Policy ADM-132 Implementation of City Code Chapter 185 Welcoming Lebanon
4. Policy ADM-126.1 Complaints & Investigations

City Manager Mulholland came forth to review City Council Policy CC-104-Implementation of City Code Chapter 185, Welcoming Lebanon as presented on pages 106 -132, agenda packet.

On December 7, 2020, the City Council adopted Chapter 185 of the City Code which made amendments to the Welcoming Lebanon Ordinance passed by voters in March 2020. Chapter 185 had an effective date of January 1, 2021. The code provisions are applicable to "...council, committee, board or other body of the City of Lebanon...". Further, the definition of Agent subjects appointed and elected officials to the provisions of the code.

The City Manager has drafted and adopted an implementation policy (ADM-132) which is applicable to employees and officials appointed by the City Manager. That policy establishes the training requirements and procedures to implement Chapter 185. This proposed Council Policy mirrors the salient procedures to implement Chapter 185 for officials appointed by the Council, as well as elected officials.

There is some question about the provision to remove City Councilors under RSA 49-C.13. This states that the Mayor or Councilors can be removed by the Council for violation of ineptitude, malicious behavior, and/or criminal activity. Whether or not a violation of Chapter 185 fits into this RSA is a big question. There are also conflicting attorney comments on this about whether or not Chapter 49-C is simply enabling legislation, which is the RSA that allows the creation of City Charters. Another question is about whether or not the Council has the authority to remove its own members. He has asked for a third party opinion on this but has not received one back yet. He also reminded the Council that the Implementation of City Code Chapter 185, Welcoming Lebanon took effect on January 1, 2021 and the sooner this is put into place, the sooner he can get the training in place.

Councilor Sykes felt there was a lot to unpack in this policy and questioned if the Council might be able to amend this if necessary in the future. Assistant Mayor Below stated that at any time, by a simple majority of the vote, the Council can amend policies adopted by the Council. This does not require a public hearing.

ACTION:

Councilor Bronner *MOVED* that the Lebanon City Council hereby adopts Policy CC-104 - Implementation of City Code Chapter 185, Welcoming Lebanon - as presented in the January 20, 2021 City Council Agenda Packet, to be effective March 1, 2021.

Seconded by Councilor Prentiss.

Roll Call Vote:

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

None voted Nay.

****The Vote on the MOTION was unanimously approved (7-0).***

11. City Manager Report:

City Manager Mulholland updated the Council on the following:

- NHMA Legislation.
- HB-302: Language for electronic signatures and electronic documents for municipalities ambiguities. This has come before the legislature, which he plans to testify on.
- HB-439: This will have significant impact on the City of Lebanon in that it will limit a City Council's ability to create By-Laws and Ordinances. There is a provision in RSA-47 that states cities can develop ordinances and by-laws. They want to remove the ability of City Councils or Boards of Aldermen to do this. He will be testifying in opposition to HB-439 when it comes before House Judicial Committee. His plan will be to draft a letter on behalf of the City of Lebanon stating their opposition to this bill, but noted it is always better for them to hear from elected officials. Councilor Liot Hill offered to continue being on the list of people who are willing to testify.
- Education Funding Bills: Will be presented at the February 3, 2021 City Council meeting. Materials were provided to the Council.
- Westboro Yard Update: Options will be discussed at the February 3, 2021 City Council meeting.
- Rail Yard Lease: The Executive Council will be taking up this issue.
- Community Power of NH.

12. Council Representatives to Other Bodies Reports:

Councilor Winny noted the West Lebanon Revitalization Advisory Committee will be offering some thoughts on the Westboro Yard options. They are breaking out into a subcommittee to look specifically at Westboro Yard. He will bring their suggestions to the Council at the February 3, 2021 meeting.

13. Future Agenda Items: NONE

14. Non-Public Session: NONE

15. Adjournment:

Councilor Bronner *MOVED* for adjournment.

Seconded by Councilor Prentiss.

Roll Call Vote:

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

None voted Nay.

****The Vote on the MOTION was unanimously approved (7-0).***

The meeting was adjourned at 9:41 PM.

Respectfully submitted,
Dona E. Gibson
Recording Secretary