

FINAL

**LEBANON CITY COUNCIL
REGULAR SESSION MINUTES
Wednesday, February 1, 2023, 7:00 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, George Sykes, Douglas Whittlesey, Devin Wilkie, and Karen Zook (Remote)

MEMBERS ABSENT:

STAFF PRESENT: City Manager Shaun Mulholland, Deputy City Manager David Brooks, Public Relations Coordinator Beth Beraldi, Director of Planning & Development Nathan Reichert, Deputy Planning & Development Director Tim Corwin, Public Works Assistant Director Jay Cairelli, Finance Director Vicki Lee, Deputy Finance Director Alesia Williams, Human Services Director Lynne Goodwin

1. **CALL TO ORDER:** Mayor McNamara called the meeting to order at 7:00 p.m.
 - City Manager Shaun Mulholland announced the meeting criteria for the public.
 - Councilor Zook stated the reason for attending remotely was due to her recovering from COVID.
2. **PLEDGE OF ALLEGIANCE: Not Done.**
3. **PUBLIC FORUM:** Mayor McNamara made the Public Forum announcement.
4. **OPEN TO PUBLIC:** No one came forth.
5. **RECOGNITIONS: NONE**
6. **ACCEPTANCE OF MINUTES:**
 - January 12, 2023 (Special Meeting)

*Councilor Heistad MOVED to approve the January 12, 2023 (Special Meeting) minutes as written and presented in the February 1, 2023 City Council agenda packet.
Seconded by Councilor Liot Hill.*

Roll Call Vote:

Assistant Mayor Below, and Councilors Heistad, Liot Hill, Simon, Sykes, Whittlesey, Wilkie, Zook and Mayor McNamara all voting Yea.
None voted Nay.

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

- January 18, 2023 (Regular Session)
- Amendments: Change “Acting Mayor” to Assistant Mayor” throughout document: Page 12, line 9; Line should read: Chair Shaun Dittrich was inspired to develop this proposal based on last winter.... : Page

25, line 17 & 18: Change “Three Tomatoes” to “1 Court Street;”; Page 28, line 7: Change “Council” to “City Administration.”

***Councilor Liot Hill MOVED to approve the January 18, 2023 (Regular Session) minutes as amended and presented in the February 1, 2023 City Council agenda packet.
Seconded by Councilor Heistad.***

Roll Call Vote:

Assistant Mayor Below, and Councilors Heistad, Liot Hill, Simon, Sykes, Whittlesey, Wilkie, and Zook all voting Yea.

None voted Nay.

Abstaining: Mayor McNamara. He was not in attendance at the January 18, 2023 meeting.

****The Vote on the Motion was approved (8-0)***

7. APPOINTMENTS:

- **Library Board of Trustees, Philip Bush (Reappointment Alternate Member).** Recommended for reappointment by Chair, Francis Oscadal. Term: (2/23-2/24)

***Councilor Whittlesey MOVED to NOMINATE Philip Bush for Reappointment as an Alternate Member of the Library Board of Trustees.
Seconded by Councilor Wilkie***

Roll Call Vote:

Assistant Mayor Below, and Councilors Heistad, Liot Hill, Simon, Sykes, Whittlesey, Wilkie, Zook and Mayor McNamara all voting Yea.

None voted Nay.

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

- **Cemetery Board of Trustees, Bruce Hartford (Appointment Ward 1 Representative) Term: (2/23-2/26)**

***Councilor Simon MOVED to NOMINATE Bruce Hartford as a Ward 1 Representative of the Cemetery Board of Trustees.
Seconded by Councilor Sykes.***

Roll Call Vote:

Assistant Mayor Below, and Councilors Heistad, Liot Hill, Simon, Sykes, Whittlesey, Wilkie, Zook and Mayor McNamara all voting Yea.

None voted Nay.

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

- **Economic Development Commission, David Newlove (Reappointment as a Citizen Representative).** Recommended for reappointment by Chair, Jessica Giordani. Term: (2/23-2/24)

Councilor Liot Hill MOVED to NOMINATE David Newlove for Reappointment as a Citizen Representative to Economic Development Commission.

Seconded by Councilor Simon.

Roll Call Vote:

Assistant Mayor Below, and Councilors Heistad, Liot Hill, Simon, Sykes, Whittlesey, Wilkie, Zook and Mayor McNamara all voting Yea.

None voted Nay.

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

- **Arts & Culture Commission, Nicholas Gaffney (Reappointment Arts Representative).**

Recommended for reappointment by Chair, Jessica Giordani. Term: (2/23-2/24)

Councilor Wilkie MOVED to NOMINATE Nicholas Gaffney for Reappointment as an ARTS Representative to the Arts & Culture Commission

Seconded by Councilor Sykes.

Roll Call Vote:

Assistant Mayor Below, and Councilors Heistad, Liot Hill, Simon, Sykes, Whittlesey, Wilkie, Zook and Mayor McNamara all voting Yea.

None voted Nay.

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

- **Lebanon Housing Authority, Ian Girdwood (Reappointment Regular Member).** Recommended for reappointment by Chair, James Moretti. Term: (2/23-2/28)

Councilor Liot Hill MOVED to NOMINATE Ian Girdwood for Reappointment as a Regular Member of the Lebanon Housing Authority.

Seconded by Councilor Whittlesey.

Roll Call Vote:

Assistant Mayor Below, and Councilors Heistad, Liot Hill, Simon, Sykes, Whittlesey, Wilkie, Zook and Mayor McNamara all voting Yea.

None voted Nay.

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

8. PUBLIC HEARING ITEMS: NONE

9. OLD BUSINESS: NONE

10: NEW BUSINESS:

A. Presentation of Transparent Lebanon web page (*Pages 45, Council agenda packet*)

Available but not included in agenda packet. Refer to link: [Transparent Lebanon Web Page](#)

BACKGROUND

Municipal transparency is a vital aspect of good governance, and one way that cities are working to improve

transparency is by creating web pages that provide citizens with easy access to important information about their local government.

The City of Lebanon is committed to providing free access to information and key documents in a single consolidated location through its new “Transparent Lebanon” web page. Transparent Lebanon provides a wide range of information within the following categories: City documents, City meetings, Finances, Human Resources, property information, reports, requests, and other items.

Transparent Lebanon is an important tool for promoting good governance and increasing citizen engagement. It provides citizens with a centralized location for easy access to important information about local government and will help the public stay informed and involved.

Ms. Beth Beraldi, Public Relations Coordinator (City Manager’s Office) presented and discussed the new Transparent Lebanon page which is found on the City’s main Webpage under Government/City Manager’s Department. While much of the information was on our website already, it was not in a place that people would have seen or found regularly, so bringing it all into this one place will make it easier and will promote transparency and trust in our government. This site will be ever changing. We are hoping to get the City Council voting record on there soon and are working with the City Clerk and CivicPlus software to get that up and running.

Council Discussions:

The Council discussed having a link to this information on the City’s Homepage and/or having Your Government up front on the City’s Homepage. Ms. Beth Beraldi and Ms. Melanie McDonough will work together to see if/how this can be accomplished.

City Manager Mulholland thanked Ms. Beraldi and Ms. McDonough for all the hard work they put into developing this project.

ACTION: This agenda item is for informational purposes only.

B. Discussion & Set Public Hearing for February 15, 2023: Review and Modification of Elderly Tax Exemptions (Pages 46-52, Council agenda packet)

Included in the agenda packet:

1. February 1, 2023 Memo from Michael Pelletier, Assessing agent; re: 2023 Elderly Tax Exemptions including Explanation and Summary of Elderly Tax Exemptions

Mr. Michael Pelletier reviewed the background and the proposed Modifications to the Elderly Tax Exemptions.

BACKGROUND

In response to concerns over higher assessed values following the 2022 citywide revaluation and the dramatic increases in real estate prices, the Assessing Office was asked to review existing Elderly Exemptions to see if changes to the qualifications are appropriate at this time. Many property owners are seeing dramatic increases in their assessed valuations. Real estate values have been on the rise since 2012, with the most dramatic increase occurring between 2019 and 2022. The cost of living and inflation levels are changing at a rate that has not been seen in 40 years.

At present, the exemption amount for ages 65-74 is \$66,000, for ages 75-79 is \$145,000, and for ages 80 and above is \$240,000. The income limit is currently \$45,000 for single applicants and \$65,000 for married couples. The asset limit is \$100,000 for both single and married applicants.

It is recommended that the City Council consider raising the exempted amounts for the elderly exemption in response to the increase in assessed values resulting from the 2022 city wide evaluation and the increasing real estate market. The Assessing Office recommends the City Council raise all the exempted amounts by (\$50,000). Elderly I (Ages 65-74 up to \$166,00; elderly II (Ages 75-79) to \$195,000; and elderly III (Ages 80+) to \$290,000. Increasing the exempted amounts of the three age groups would also greatly benefit our seniors.

For additional details and proposed recommendations, please see memo and explanation in agenda packet of the Elderly Tax Exemption process as completed by Assessing Agent Michael Pelletier. ([Pages 46-52, Council agenda packet](#))

Ms. Mary Davis (Ward 2): She spoke about her concerns in raising the CAP for a single person who qualifies for the Elderly Tax exemption, noting the application asks for the income figures based on the previous year's income. Changes in the current year's income are not considered when determining the eligibility for the elderly exemption.

I worked part time last year, but no longer work this year. Still, my earnings from my former job are required to be included in this year's exemption (application). Last year's earnings were spent for medicine, food and are no longer available this year. My income for this year will be considerably less, but I will be denied because of my part time job last year. I did not ask for an exemption when I was earning the extra money, but now that I don't have it, it is going to count against me and I'm wondering if there's some way to either refigure that or make some changes there. The second question is why are person's expenses not taken into consideration? The income is not profit, it is survival and pays all the yearly expenses. So, for most of the elderly there's very little, if anything left over.

I'm not sure about the ratio between the CAP, the income, and personal expenses, but I know that is changing constantly and with personal expenses rising there are very few expenses that a person on a fixed income can exercise some control over such as food, clothing, property taxes, water/sewer rates, electricity costs, and medical prescription costs. While younger people can earn extra money to cover these rising costs, a person on fixed income who can't earn extra money has very few options except to cut basic needs or sell and move away.

It is really great you are thinking about raising the tax exemption, but what I think you need to think about too is the cost of everything rising so much and so quickly. We have to raise that (income) CAP as well. To me, it is more important to raise the exemption in the CAP.

The last point is that I know that some are going to say that if the elderly are granted a higher CAP then the younger residents will have to pick up the slack. While this is sadly true, I wish to remind people that when we were younger, we ponied up to help those who needed assistance. Now that many of us are on fixed incomes, we're the ones who need a little help because Social Security and pensions are not handouts or entitlements. We worked and paid into the system and now it's our turn to have just a little bit more help for the necessities we need. Thanks for listening.

Mr. Pelletier noted that the elderly qualifications are part of the NH RSA 7239-B and is not an option. In order to achieve what Mary is talking about, what we need to do is actually increase the amount to qualify for an exemption to hopefully cover those sorts of situations, which you (Council) did last year.

Council Discussions:

Councilor Sykes first noted he would recuse himself from this vote because he receives these benefits. He spoke about his concerns regarding the income qualifications and elderly assets and gave the Council his personal information noting that this year he is \$800 short of qualifying for this elderly exemption. He also noted that he only owns 1/5th of his property and cannot sell it in order to qualify for this tax exemption. He, personally, felt the criteria needs to be re-examined and understands the burden it places on younger people, but agreed with Ms. Davis that when we were younger we ponied up to help those who needed assistance.

The Council discussed the qualifications from previous years; how the BLS calculator theoretically works to show how inflation is calculated from year-to-year; creating a graduated system for the elderly tax exemption; passing this proposal for the Elderly Tax Exemptions, put it before the public in March, and then take a more detailed look at the criteria by staff with the potential goal to create a graduated system.

Councilor Whittlesey spoke about the COLA increases in Social Security and how this has affected the elderly's income and their income qualifications this year. He felt that using a percentage graduation system would be more fair and explained his reasons.

City Manager Mulholland noted the State Statutory constraints are pretty strict and the percentage suggested would probably be a no go. He wanted to make sure people do not get too far down the road thinking they are going to be able to do this.

Mayor McNamara felt the more time we have to identify what the constraints are under the State's current legislation, the quicker we will know what parameters we have available to us now, and, if we find this is not adequate, then we can pursue changes to the (State's) legislation.

ACTION:

Councilor Liot Hill MOVED, that the Lebanon City Council hereby schedules a public hearing for Wednesday, February 15, 2023, beginning at 7:00 pm at the Kilton Library, Community Room, and remote via the City's Virtual Platform, for the purpose of receiving public input and taking action to modify Elderly Exemptions in accordance with NH RSA 72:39-b. Seconded by Councilor Heistad.

Councilor Liot Hill spoke to her motion and felt it was important to move this forward and agreed with the proposal to look at the bigger issues. There are different taxpayers and different groups of people who are being pitted against each other because of the fundamentally unjust way we are forced to raise taxes in New Hampshire. Property taxes are exceedingly burdensome and yes, we should look at legislation.

Councilor Sykes recused himself from this vote.

Roll Call Vote:

Assistant Mayor Below, and Councilors Heistad, Liot Hill, Simon, Whittlesey, Wilkie, Zook and Mayor McNamara all voting Yea.

None voted Nay.

Recused: Councilor Sykes

****The Vote on the MOTION was approved (8-0-1).***

Councilor Sykes returned as a regular member of the Council.

C. Housing Continuum and Low-Barrier Shelter Options in Lebanon (Page 53, Council agenda packet)

BACKGROUND

Councilor Wilkie and Councilor Sykes requested the Council’s consideration of Low-Barrier Shelter Options in Lebanon.

The Upper Valley does not have an effective shelter solution to address the unhoused population and there is a need for this near services and jobs. This issue needs to be a priority, especially with concerns about increased need following the end of some federal funding and the continued increases in living costs.

The City is working on the development of components that would constitute the beginning of a housing policy with the work the City Council began in 2022. Significant steps were taken by the Council to address housing issues. Addressing homelessness is the next appropriate step in the development of a comprehensive housing policy for the City.

Council Discussions

Councilor Wilkie noted the City Council has been discussing our housing strategy in the City. We have been discussion the increasing unaffordability of living in our community. He thought one of the areas that is frequently overlooked in those discussions are the needs of the most vulnerable.

It seems that while there are conversations going on at the State level and the hope of funding from the national level, it seems that having some sort of strategy at our local level should be something that we look into. This discussion is not conclusive but rather a beginning to a discussion about including in our housing continuum needs for the most vulnerable in our community and examining what we might be able to locate given what we may receive from other levels of government.

Councilor Sykes felt this was a good way to proceed, noting this Council has made data driven decisions which has resulted in a much better City. He felt this motion would move us forward in getting more data.

Councilor Liot Hill spoke about how the Council has identified housing as a major issue they want to be engaged in. Unfortunately, homelessness is a real issue and needs to be a part of our discussion as well. She agreed with the direction of this work, noting we are not committing to anything other than collecting data and producing a report, which will be a very helpful next step.

Mayor McNamara gave his opinions on a couple of things along with some background information, noting the Mayors’ group, which consists of 13 Mayors, has been specifically talking about the topic of homelessness and addressing the homelessness problem since last year. Back in the fall, we had a meeting with Taylor Caswell, who heads up the States’ Business and Economic Affairs (BEA). For better or worse the BEA is a clearing house for utilization of a lot of ARPA/ERAP funds. We expressed to Mr. Caswell that while the ERAP funds were a potential short-term solution for getting folks into hotel/motel rooms it still does not address the problem. We urged Mr. Caswell to have the State (BEA) consider what the long term solutions might be, whether they are Federally/State or locally funded. Mr. Caswell encouraged the Mayors’ group to come back to him with a set of concrete suggestions. The Mayors’ group then had further discussions and what they have proposed is that the cities will look into devoting staff time to have a group of folks at a statewide level looking at this problem and coming up with

potential solutions based on a nationwide basis. They will put together a list of potential ideas that could be vented by the Mayors' group before bringing this information back to Mr. Caswell.

At the Mayors' group meeting in January, we determined to move forward with this, and have subsequently had 5 of the 13 cities commit resources to this initiative (Nashua, Manchester, Concord, Berlin and Lebanon). What we have tasked our staff resources with is to come back in 90 days (end of April) with their recommendations. The Mayors' group will look at these quickly and then their goal would be to pass those recommendations on to the BEA.

Mayor McNamara also expressed his concerns about the motion presented in the agenda packet, noting that while it does talk about potential properties, funding and development options for a low barrier shelter, and while a low barrier shelter(s) is part of the solution, it does not address all of the homelessness issues. He suggested the motion be modified to direct the City Manager to collect and analyze data relative to this problem and then come back to the Council in 2-3 months so the Council has a better idea of what the problem is and can identify what the appropriate solution(s) may be (i.e., Do we need a shelter for 12 people or 240 people?; Does it need to be a low barrier shelter or should there be a family shelter and a low barrier shelter?; Should there be tiny home pods like what is being done in Burlington, VT?). His other concern was that if we do something ourselves under the current environment, we need to understand and be prepared to commit City resources for a long period of time because there are no guarantees, at this point, there will be any State/Federal resources available to us.

Mayor McNamara, again, suggested modifying this motion boiling it down to that initial data phase with a deadline to get it to the Council and then we can go from there. He did not support the motion as it is written.

Councilor Sykes felt this motion would allow us (Council) to achieve the baby steps we need to move forward.

Councilor Whittlesey agreed that collecting and analyzing appropriate data would help the discussion about possible properties, funding, and development options for a low barrier shelter(s) and that the report should be brought before the Council prior to May 20, 2023. He felt it was a fair point to determine what the Council will be talking about (i.e., will this be a \$5M or \$50M project). We have to be able to see what is out there in order to project what will happen because we are going to be creating a demand for resources that does not currently exist. He further explained his reasoning for the need in having the data first.

Councilor Liot Hill did not see anything in this motion that she would not want information about as part of a report. It all seems very basic. She felt that extending the date by 90 days would be helpful for the Council to get all the data to help move things forward.

Councilor Wilkie was comfortable with moving the dates to around the end of June. From his perspective, any data that is going to move us in the correct direction is going to need to address the need for a low barrier shelter, be it a shelter or be it in multiple locations. In any case, it will involve 3 things: space, housing, and development.

Assistant Mayor Below asked Director Lynne Goodwin if Human Services (HS) has been on the lookout and/or looked into possible properties in Lebanon.

Ms. Goodwin noted she was speaking particularly about a location for a seasonal shelter this winter and did not find something that worked for us. We then created a partnership with the Haven to have up to 10 motel rooms to house people. HS has not done an exhaustive look at properties for a year round low

barrier shelter, we were just really looking for something seasonal that was ready to go and did not need any capital improvements. There is definitely a need for more rooms.

In response to Assistant Mayor Below's question about what the Mayors' group would be presenting to Taylor Caswell (BEA), Mayor McNamara noted their priority is have the State allocate some of the remaining ARPA funds toward this initiative rather than to something else.

Assistant Mayor Below noted the motion does not contain an operating model and spoke about his reasons why this was needed.

The Council continued discussions regarding low barrier shelter(s); transitional housing; the need for some kind of affordable missing middle housing; how much resources the City has to devote into this project; the sense of urgency in housing for those who are living outside in these conditions (weather); public health and public safety issues; the need to add someone else to help collect data; looking at solutions on homeless models from other areas across the US; the need for data so the City knows what it needs for shelter(s) to accommodate the homeless; the potential public criticism of where a potential low barrier shelter would be placed (i.e., like what happened in Hartford, VT); creation of a Citizen's Task Force to delve into the complicated and complex issues (of homelessness); whether or not Federal/State funding will be available; ARPA funding; using Grants to fund this project; the seriousness of the issue to find housing for the homeless; and, Councilor's reasons regarding whether or not the motion provided in the agenda packet is too broad.

ACTION:

MAIN MOTION:

Councilor Wilkie MOVED, that the Lebanon City Council hereby directs the City Manager to collect and analyze appropriate data, to inform a future discussion about possible properties, funding, and development options for low-barrier shelter, and to provide a report to the City Council prior to the end of May 2023, if possible.

Seconded by Councilor Whittlesey.

Assistant Mayor Below Moved to AMEND the Main Motion as listed below:

MOTION TO AMEND:

Assistant Mayor Below MOVED to AMEND the Main Motion to read, that the Lebanon City Council hereby directs the City Manager to collect and analyze appropriate data, to inform a future discussion of possible funding, development and operating models and options for shelter solutions for the unhoused and to provide a report to the City Council prior to the end of May 2023, if possible.

Seconded by Councilor Simon.

Assistant Mayor Below spoke to his Motion and gave his explanations on why he worded the motion the way he did, noting that before you start picking properties and designing a project or trying to convert something you want to know how you are going to operate it. The bigger picture of shelter solutions for the unhoused is to know has to be addressed. More significantly is that the City is trying to take a leadership role with the State to be able to capture a meaningful amount of funding so we can actually get something done.

The Council held substantial discussions on the wording of both the Motions.

Roll Call Vote:

Assistant Mayor Below, and Councilors Heistad, Liot Hill, Simon, Sykes, Whittlesey, Wilkie, Zook and Mayor McNamara all voting Yea.
None voted Nay.

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

Roll Call Vote on Main Motion as Amended:

Assistant Mayor Below, and Councilors Heistad, Liot Hill, Simon, Sykes, Whittlesey, Wilkie, Zook and Mayor McNamara all voting Yea.
None voted Nay.

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

D. Release of Public Schools Impact Fees (3rd & 4th Quarters of 2022)

(Pages 54-58, Council agenda packet)

1. Included in the agenda packet: Impact Fee Report as of 12/30/2022
2. November 22, 2021 Memorandum of Understanding between the City of Lebanon and the Lebanon School District, SAU#88

BACKGROUND

A Memorandum of Understanding (MOU) was developed in 2010 between the City and the School District for the quarterly transfer of collected Public School 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 School Impact Fees to include construction, renovation, improvement, or expansion of K-12 school buildings and related building systems, equipment, and furnishings.

Based on the broader authorization of use, a revised MOU was developed and subsequently signed on November 22, 2021.

To date \$816,655.52 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	4/20/2022	\$3,216.15	10/19/2022	\$261,738.35

This request is for the City Council to authorize disbursement of \$2,185.00 in collected Public School Impact Fees (through 12/30/2022).

PUBLIC FACILITIES IMPACT FEES

	PAID BY/LOCATION	MAP/LOT/PLOT	<u>School</u>
11/15/2022	Don and Deb Goodwin	54/32/100	\$ 2,185.00
		Balance 12/30/2022	\$ 2,185.00

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 \$2,185.00 in collected Public School 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.

Roll Call Vote:

Assistant Mayor Below, and Councilors Heistad, Liot Hill, Simon, Sykes, Whittlesey, Wilkie, Zook and Mayor McNamara all voting Yea.
None voted Nay.

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

Mayor McNamara requested that Item F. be presented before Item E, so the following was taken out of order and will be listed in the order as discussed by the Council.

F. Request for Appeal of Denial of Abatement of Water Charges *(Pages 64-68, Council agenda packet)*

Included in the agenda packet:

1. Application for Water & Sewer Bill Abatement submitted by Wheeler Office Park, LLC dated November 28, 2022.

BACKGROUND

On November 28, 2022, the property owner of 1 Oak Ridge Road, Wheeler Office Park, LLC, requested an abatement of the water and sewer bill on the property in the amount of \$6,248.20. The owner stated in his request that on October 21, 2022 a water leak was discovered in a piece of dental equipment in the space occupied by a tenant. The leak was fixed by October 23, 2022.

The owner is requesting the abatement due to financial hardship due to COVID-19 related vacancies in the office building. The City Manager denied the abatement request on December 31, 2022 as the water was used and was discharged into the sewer system. The notice of the City Manager's decision was not provided to the property owner until he inquired about the status of the request. In the meantime, the owner had received a shut-off notice from the City. The City Manager spoke with the property owner on January 25, 2023 regarding his request to reconsider the decision. The City Manager suspended the shut-off process

and allowed additional time until February 25, 2023 for the property owner to make the payment for the amount owed. Further, the City Manager abated the interest that would accrue during this additional time period to allow time for payment in light of the late notice of the denial of the original abatement request.

The owner was requesting an appeal of the City Manager's denial of the abatement of the full amount from the City Council. The remaining amount still owed is \$4,643.98.

The sections of the City Code applicable to water and sewer service abatement requests are cited below for the Council's information.

Chapter 182 (Water Service) - § 182-33 Abatement.

For good cause shown, the City Manager may abate any bill and/or fees charged herein. The Manager, or his or her designated agent, will review in private session with the person requesting abatement that person's need for abatement. The Manager may abate any bill and/or fees by a decision in writing because of financial hardship and inability to pay or may set up an installment payment schedule. In the event of a default in the installment payment schedule, water service may be terminated upon the terms and conditions as provided in this chapter. In the event that the consumer pays fees in excess of the fees required by the Code of the City of Lebanon, and abatement is made, the city shall refund such excess fees together with interest of 6%.

Chapter 136 (Sewer Service) - § 136-80 Abatement.

[Amended 12-4-2019 by Ord. No. 2019-14; 5-20-2020 by Ord. No. 2020-06]

For good cause shown, the City Manager may abate any such fees and assessments made herein. The Manager, or his or her designated agent, will review in private session with the person requesting abatement that person's need for abatement. The Manager may abate any bill and/or fees by a decision in writing because of financial hardship and inability to pay or may set up an installment payment schedule. Any person aggrieved by the neglect or refusal of the City Manager to grant an abatement may petition the City Council for relief at any time within 30 days after notice of decision or after 30 days of no notice of decision (from the date of application for abatement) by the City Manager.

City Manager Mulholland reviewed the background and reasons behind his denial of the Water & Sewer Abatement requests, noting he followed the code that exists, which was passed by the City Council. Basically, the standard is if people use the water on their property, they have to pay for it. If they have some sort of leakage it is incumbent upon them to ensure they take the appropriate measures to make sure the plumbing they have on their properties is properly maintained. These are utility funds, not a government fund, and people can ask for payment plans.

When people don't pay their water bills, we send out a shut off notice and shut the water off. When we do issue a payment plan there is a 12% interest rate by statute that is not waivable. The interest rate remains at 12% until it goes to a tax lien, which reduces the interest rate to 8% per the State Tax Statute. If that is not paid, it puts the property in jeopardy for tax collection and tax deeding.

Mr. Katz pays his bills on time and is a well-respected businessperson in our community, but I followed the standards that I normally follow and I was not going to issue an abatement because the water was used. I did offer him a payment plan, but there was a delay in him receiving the notice that I did not approve his abatement and gave him until the end of February to pay his fees without paying any interest. Mayor McNamara recognized Mr. Katz to come forward and explain his reasons regarding his abatement request for 1 Oak Ridge Road, Wheeler Office Park, LLC.

Mr. Jeremy Katz (Ward 1, Manager of Wheeler Office Park, LLC) He came forth to explain his reasons regarding this abatement request, noting it has been exceedingly difficult over the past few years for commercial real estate owners because a lot of places were shut down during COVID and a lot of the vacancy demand for commercial real estate has gone way down.

The leak was discovered by the Department of Public Works (DPW), who has a regular process of reading meters. DPW knows what a normal usage is and when we got a call from them saying there's a problem, I checked it out. It took a little work to isolate the problem, which turned out to be a piece of dental machinery from one of the tenants that went haywire and was sucking water out and we worked in conjunction with DPW to get it fixed. However, when the bill came it was about \$6500 or so. Suffice it to say it was far out of the realm of what would be normal and ordinary (quarterly for the building range is between \$400.00 on the low side and \$1100.00 on the high side). I sent in the abatement request in for “good cause” citing this was an accident beyond our control. It was not negligence or because stuff was not maintained. I think we are good landlords and try to stay on top of stuff.

As City Manager Mulholland said, we discovered the abatement request was denied. Following that, I had some discussions originally with Jay Corelli at DPW and had a similar discussion with City Manager Mulholland. DPW said we see it is an accident and I was told this kind of bill was kind of wiped off. If you look at the abatement form, all the reasons (for claiming an abatement) are sort of like things that are basically accidental (i.e., plumbing where you can check a leaking toilet; outdoor water; or unoccupied building; or viewed to be a “good cause” - like something went wrong). The City Manager explained that the reason for the abatement (denial) is that your water was actually consumed or disposed of, even if it wasn't intended to be.

There are slightly different explanations between DPW and the City Manager just in that DPW confirmed that prior to about two years ago, the normal and ordinary process was to just waive out and abate these types of bills.

Mr. Katz further spoke about his historical abatements; how sometimes accidents do happen, which could put a business, landlords, or homeowners out of business and cause financial harm to them; his payment of the bill to date: reiterated the reasons for claiming an abatement for his property; and, explained and gave examples of benefits some people use but are available to many (i.e., fire trucks and ambulances, etc.).

In his mind, by history, abatements have been consistently interpreted in one way over a period of time (over 25-years). He felt that accidental failures and things that go wrong falls into the definition of “good cause.”

Council Discussions:

Mayor McNamara noted we clearly have two policies here (Water & Sewer) that are under different administrations and we made the changes ourselves recently with regard to the sewer abatements. He asked the City Manager how many abatement requests he has had since he has been with the City. City Manager Mulholland noted there are about 6 per quarter on average and of those 12-to 24 requests per year, none have been granted for water. It's the sewer that frequently gets abated and people pay the water side, just not the sewer side.

City Manager Mulholland also noted the abatement request for Mr. Katz was written off by someone who does not have the authority to write it off. This code is rather clear, and was passed by the Council.

Mayor McNamara noted one concern he had is consistency, and if we have 12 -24 of these each year, and we grant this one, will everyone file for abatement. City Manager Mulholland agreed with this potential conclusion noting he has been using a standard that has been fair to all people over the past 5-years. We could change that and bring all (abatement) appeals before the Council but there would need to be some criteria guidelines for you to go by and further explained his reasoning.

Councilor Whittlesey questioned why the tenants are not paying this because the leak was not in the section that the City is required to maintain. Mr. Katz stated the tenant has zero financial capability to do so. Going down that path, it is a difficult thing as a landlord to deal with, especially if you are dealing with tenants who have been primarily closed. It is theoretically possible that I could start getting into the business of suing my tenant for this.

In response to Councilor Simon's question about hearing the sound of water running, Mr. Katz noted the tenant is on the top floor and was not occupying the space for a couple of weeks.

Councilor Liot Hill spoke about the backup in her basement, which she had to pay for because the cause was on her property. Why should this situation be treated differently? Mr. Katz noted his issue is not a repair issue, it is an issue with the water being sucked out and is a measured utility. Councilor Liot Hill noted this is a utility funded by ratepayers and so that inherently means that if you get an abatement, then the rest of the ratepayers are going to increase by a certain amount. Mr. Katz used an example of utility lines going into a rural. He also spoke about a residential case he had in 2016, where there was a \$2600 reversal of both water and sewer and reiterated what the categories on the abatement form are.

Councilor Heistad spoke about his experiences with this issue, which he paid for. He also spoke about the Tannery who paid for their expenses but later went out of business. It surprised him that with Mr. Katz's history of abatements he was asking for another one. Mr. Katz noted, for clarification, that there has never been an abatement request for this property. Across 25 years, 75 properties, and 6000 quarterly bills you're talking about four properties that had abatement requests.

Councilor Sykes asked if the City Manager had enough clarity about when an abatement should/should not be given. Do we need to tweak that abatement process?

Councilor Liot Hill noted the City Manager was very clear that if someone uses the water, he will not give out an abatement, with the City Manager adding that abatements have been given out for meter malfunctions.

Assistant Mayor Below explained and gave examples on what the incremental costs of processing another 30,000 cubic feet of water would be, and noted it is small compared to the costs to maintain the capital cost of the system.

ACTION – Water Usage Abatement Fees:

Councilor Sykes MOVED that the Lebanon City Council hereby issues an advisory opinion regarding the appeal of the City Manager's denial of the abatement of water usage fees requested by Wheeler Office Park, LLC recommending the denial of the abatement for water user fees in the amount of \$1,907.87. Seconded by Councilor Whittlesey.

Councilor Sykes spoke to his motion noting that through both his experience and hearing from other citizens about their water bill issues, these led him to the conclusion that was an appropriate decision.

Councilor Whittlesey also spoke to his second of the motion and specifically stated that in his mind this is the failure of a tenant, and frankly the negligence of the tenant, which is not the City's responsibility to rectify. Approving the abatement sets a standard that I don't think we can afford, nor do I think it is fair to everyone else who is expected to cover their own costs.

Councilor Liot Hill felt this abatement was requested because of extraordinary circumstances. She was uncertain if the entire bill should be abated and felt there was an equitable way to for the Council to provide some abatement in recognition of the extraordinary circumstances, while also being mindful of ratepayers.

Mayor McNamara felt in this case the water was used, treated, and is gone.

Roll Call Vote:

Assistant Mayor Below, and Councilors Heistad, Liot Hill, Simon, Sykes, Whittlesey, Wilkie, Zook and Mayor McNamara all voting Yea.

None voted Nay.

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

ACTION – Sewer Usage Abatement Fees::

Assistant Mayor Below MOVED, that the Lebanon City Council hereby GRANTS the appeal of the City Manager's denial of the abatement of sewer usage fees requested by Wheeler Office Park, LLC and issues an abatement for sewer user fees in the amount of \$2,000.00 pursuant to the provisions of § 136-80 Abatement.

Seconded by Councilor Liot Hill.

City Manager Mulholland informed the Council that they would be getting all these (abatements) now and will have to figure out what their criteria is going to be on how they come up with the numbers. He wanted them to think about this and how the Council will deal with these (i.e., how did you figure that out for this fellow?)

The Council continued to debate their reasons for/against an abatement/partial abatement of sewer fees.

Roll Call Vote:

Voting Yea: Assistant Mayor Below, and Councilors Liot Hill and Simon

Voting Nay: Councilors Whittlesey, Sykes, Heistad, Wilkie, Zook, and Mayor McNamara

****The Vote on the Motion to abate sewer fees Failed (3-6).***

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

Seconded by Councilor Wilkie.

Roll Call Vote:

Assistant Mayor Below, and Councilors Heistad, Liot Hill, Simon, Sykes, Whittlesey, Wilkie, Zook and Mayor McNamara all voting Yea.

None voted Nay.

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

E. Preparation of Concise Explanations stating the City Council’s position on the Zoning Amendments to appear on the March 2023 Municipal Ballot. Explanations are required by Section 1000.4.C of the Lebanon Zoning Ordinance and must indicate the Council’s approval/disapproval of the proposed amendments, stating reasons for such. (Pages 59-63, Council agenda packet)

Included in the agenda packet:

1. Memorandum from Planning & Development Department staff, dated January 24, 2023

Director of Planning & Development Nathan Reichert and Deputy City Manager David Brooks reviewed the background for the concise explanations on the following Zoning Amendments.

Under the advice of legal counsel, Mr. Reichert informed the Council about a couple of words that were inadvertently left out of the original statement dealing with Accessory Dwelling Units and they are “or attached.”

BACKGROUND

Following a public hearing on January 18, 2023, the City Council approved a motion to place the following four (4) proposed Zoning Ordinance amendments on the March 14, 2023 municipal ballot for consideration by Lebanon voters:

Amendment #1 - To adopt a new Section 509 ("Cottage Developments") as a use allowed by Conditional Use Permit in the R-1, R-2, R-3, R-O, and R-O-1 Districts. **(Zoning Ordinance ADD Section 509 and amend Sections 308.2, 309.2, 310.2, 311.2, and 311A.2, with related amendments to Section 205.1, Section 500, and Appendix A)**

Amendment #2 - To amend and rename the Manufactured Home regulations in Sections 503 and 504. **(Zoning Ordinance Sections 503 and 504, with related amendments to Sections 209, 308.2, 312.2, 313.2, 500, 501.2.C, and Appendix A)**

Amendment #3 - To amend the RL-3 District Table of Uses to change "accessory use to any, one-family dwelling" from a use allowed by Special Exception to a Permitted Use. **(Zoning Ordinance Section 314.2)**

Amendment #4 - To amend the Accessory Dwelling Unit (ADU) regulations in Section 610 to allow an accessory dwelling unit for an owner-occupied two-family dwelling. **(Zoning Ordinance Section 610)**

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 zoning amendments being presented for voter consideration.

To assist this process, the Planning and Development Department has prepared draft concise statements for the Council's consideration. The Council is free to modify or completely rewrite the draft statements in any way it sees fit.

The Planning Board adopted its concise statements at its January 23rd meeting. The Conservation Commission will prepare their concise explanations at its next meeting on February 9th.

ACTION:

Councilor Whittlesey MOVED that the City of Lebanon adopts the following Concise Statements as presented in the February 1 Council agenda packet.

Amendment #1 (Cottage Developments)

The Lebanon City Council approves of and endorses the adoption of the proposed zoning amendment as it supports the overall goals and desired outcomes of the Lebanon Master Plan. Allowing residential developments with smaller and more energy efficient dwelling units will enable the development of needed housing in a more compact form that supports a sustainable community and promotes efficient land use while ensuring compatibility with surrounding neighborhoods.

Amendment #2 (Manufactured Housing)

The Lebanon City Council approves of and endorses the adoption of the proposed zoning amendment as it supports the overall goals and desired outcomes of the Lebanon Master Plan. The proposed amendment will help encourage and facilitate needed housing by enabling additional manufactured housing development that is comparable to the manufactured housing developments that already exist within the City.

Amendment #3 (Accessory Uses in the Rural Lands Three (RL-3) District)

The Lebanon City Council approves of and endorses the adoption of the proposed zoning amendment to remove the requirement for a Special Exception for accessory structures to one-family dwellings in the RL-3 District. Requiring a Special Exception from the Zoning Board of Adjustment in order to construct an accessory structure to a one-family dwelling is an undue and unnecessary burden on property owners without any substantial benefit to the public.

Amendment #4 (Accessory Dwelling Units)

The Lebanon City Council approves of and endorses the adoption of the proposed zoning amendment as it supports the overall goals and desired outcomes of the Lebanon Master Plan. Allowing ADUs for owner-occupied two-family dwellings will encourage additional opportunities for affordable housing with dwelling units that are proportionately sized to the existing dwelling, and which preserve community character.

Seconded by Councilor Liot Hill.

Roll Call Vote:

Assistant Mayor Below, and Councilors Heistad, Liot Hill, Simon, Sykes, Whittlesey, Wilkie, Zook and Mayor McNamara all voting Yea.

None voted Nay.

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

11. City Manager Report:

City Manager Shaun Mulholland updated the Council on the following:

- Municipal elections.
- PFAS: Enhanced testing for drinking water/sewer/landfill.
- Infrastructure Project Delays: Most will be delayed and will not occur until 2024 or beyond.
- Westboro Yard Status: Rail Trail complications.
- Deputy Human Resources Director candidate: Will be starting on March 13, 2023.

- Landfill Gas to Energy Project: Solar being put on roof of building at landfill.
- Child Care Facility and Child Care Providers.
- ICMA Conference in Austin, TX: Discussed inclusionary zoning; cooperation between counties; strategies to deal with homelessness;

12. COUNCIL REPRESENTATIVES TO OTHER BODIES:

- Councilor Sykes updated the Council on the Grafton County Executive Council meeting.

13. FUTURE AGENDA ITEMS: Next meeting on February 15, 2023.

14. NON-PUBLIC SESSION:

Councilor Whittlesey MOVED to go into NON-Public Session for the purpose of discussing A. RSA 91-A:3, II(d) – “Consideration of the acquisition, sale, or lease of real or personal property which, if discussed in public, would likely benefit a party or parties whose interests are adverse to those of the general community.

Seconded by Councilor Sykes.

Roll Call Vote:

Assistant Mayor Below, and Councilors Heistad, Liot Hill, Simon, Sykes, Whittlesey, Wilkie, Zook and Mayor McNamara all voting Yea.

None voted Nay.

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

Council went into NON-PUBLIC Session at 10:16 PM.

Staff attending Non-Public Session: City Manager Shaun Mulholland, Deputy City Manager David Brooks

The Council briefly discussed A. RSA 91-A:3, II(d) – “Consideration of the acquisition, sale, or lease of real or personal property which, if discussed in public, would likely benefit a party or parties whose interests are adverse to those of the general community.

Councilor Heistad MOVED to come out of NON-PUBLIC SESSION.

Seconded by Councilor Simon.

Roll Call Vote:

Assistant Mayor Below, and Councilors Heistad, Liot Hill, Simon, Sykes, Whittlesey, Wilkie, Zook (Remote) and Mayor McNamara all voting Yea.

None voted Nay.

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

Council came out of NON-PUBLIC Session at 10:28 PM

The Council was back in PUBLIC Session and took action on the following:

ACTION:

AUTHORIZATION TO PURCHASE 14, 28 & 30 MAIN STREET, WEST LEBANON (TAX MAP 72, LOTS 88, 84 & 83)

Councilor Sykes MOVED the following:

FOR THE PURPOSE OF acquiring three (3) parcels situated on Main Street, West Lebanon, specifically: 14 Main Street (Tax Map 72, Lot 88; ~0.11 Acres), 28 Main Street (Tax Map 72, Lot 84; ~0.48 Acres), and 30 Main Street (Tax Map 72, Lot 83; ~0.45 Acres) (hereinafter the “Properties”) for a total purchase price of \$1,750,000 (One Million Seven Hundred Fifty Thousand Dollars); it is hereby

MOVED, that the Lebanon City Council, pursuant to its authority under NH RSA 47:5 to purchase real property, hereby designates and authorizes the City Manager to act on behalf of the City Council to undertake all actions and execute all documents as may be required to enter into a Purchase & Sale Agreement (P&S) for the acquisition of the Properties, to perform all obligations of the City under the P&S, to execute a closing of the real estate purchase transaction described in the P&S, and to complete the City’s acquisition of the Properties free and clear of all liens and encumbrances, except as may be specified in the P&S.

Seconded Councilor Whittlesey.

Roll Call Vote:

Assistant Mayor Below, and Councilors Heistad, Liot Hill, Simon, Sykes, Whittlesey, Wilkie, Zook (Remote) and Mayor McNamara all voting Yea.

None voted Nay.

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

15. ADJOURNMENT:

Councilor Whittlesey MOVED for adjournment.

Seconded by Councilor Sykes.

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

The meeting was adjourned at 10:30 PM.

Respectfully submitted,
Dona E. Gibson
Recording Secretary