

FINAL

**LEBANON CITY COUNCIL
REGULAR SESSION MINUTES
Wednesday, March 15, 2023, 7:00 p.m.
Council Chambers**

Remote Via Microsoft Teams: LebanonNH.gov/Live

MEMBERS PRESENT: Mayor Tim McNamara, Assistant Mayor Clifton Below, Erling Heistad, Karen Liot Hill (7:08P), Christian Simon, George Sykes, Douglas Whittlesey, and Devin Wilkie

MEMBERS ABSENT: Karen Zook

STAFF PRESENT: City Manager Shaun Mulholland, Deputy City Manager David Brooks, Finance Director Vicki Lee, Deputy Finance Director Alesia Williams, Recreation, Arts & Parks Director Paul Coats, Human Services Director Lynne Goodwin, Crystal Taplin, Administrative Assistant for Planning Staff.

1. **CALL TO ORDER:** Mayor McNamara called the meeting to order at 7:00 p.m.
2. **PLEDGE OF ALLEGIANCE:** Councilor Simon led the Council in the Pledge.
 - City Manager Shaun Mulholland announced the meeting criteria for the public.
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:** March 1, 2023 (Regular Meeting)

Councilor Heistad MOVED to approve the March 1, 2023 minutes as written and presented in the March 15, 2023 City Council agenda packet.

Seconded by Councilor Wilkie.

**The Vote on the Motion was approved (6-0).*

- *Councilor Liot Hill was not present at the time of this vote.*
- *Mayor McNamara abstained because he was not present at this meeting.*
- *Councilor Zook was absent.*

7. **APPOINTMENTS: NONE**

Councilor Liot Hill arrived at approximately 7:08 PM.

8. **PUBLIC HEARING ITEMS:**

A. SUPPLEMENTAL APPROPRIATION FOR THE PURCHASE OF 14, 28 AND 30 MAIN STREET, WEST LEBANON AND AUTHORIZATION TO ISSUE BONDS OR NOTES:

A public hearing for the purpose of receiving public input and taking action to appropriate the sum of \$1,800,000 for the purchase of 14, 28 and 30 Main Street, West Lebanon and to authorize the issuance of bonds or notes.

Included in the agenda packet: Notice of Public Hearing.

City Manager Mulholland reviewed the reasons behind the supplemental appropriation for the purchase of 14, 28, and 30 Main Street, West Lebanon and explained the authorization to issue bonds or notes.

BACKGROUND

On February 1, 2023, the City Council voted unanimously, pursuant to its authority under NH RSA 47:5, to authorize the purchase of three parcels situated on Main Street in West Lebanon, including 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) for a purchase price of \$1,750,000 (One Million Seven Hundred Fifty Thousand Dollars). As part of its motion, the Council designated and authorized 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 and to perform all obligations of the City under the P&S.

Based on the City Council's action, the City Manager has initiated due diligence efforts, including environmental assessment of the properties prior to closing. It is estimated that Phase 1 and Phase 2 Environmental Site Assessments will cost approximately \$50,000, bringing the total cost of acquiring the properties to \$1,800,000.

Pursuant to Section C419:43, Appropriations After Budget is Adopted, requests for appropriations that are not included in the annual budget require a two-thirds (2/3) majority vote of the Council after a public hearing.

City Manager Mulholland noted the City needs to replace both Fire Stations because they do not meet modern standards and do not have the separation needed to keep contaminants contained in the fire bay and not throughout the living quarters. One of the leading causes of death for firefighters is not fires, but cancer, and Lebanon's firefighters are not protected in our facilities. Other reasons for replacement of the Fire Stations include the size and age of the buildings (built in the 1950's). He spoke about the history of the Fire Stations discussions. He also noted initially they were looking to purchase these properties to revitalize this neighborhood, but, in the past, there was not an interest from property owners. His specific proposal is to purchase these properties for the purpose of replacing the West Lebanon Fire Station.

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

Tanya Murphy (Lebanon Business Owner): She spoke about her reasons against this acquisition, especially for use as a Fire Station, noting the Beautification Project, loss of businesses, loss of housing units, and loss of business parking spaces. For the Fire Station, she felt placing this on the Miracle Mile would be a good alternative.

Nancy Gregory (Lebanon resident): She spoke about her reasons for opposing the acquisition of these properties to be used for a Fire Station.

Mayor McNamara clarified that by purchasing these properties, the City is ***not committed*** to building a Fire Station. We are recommending a Fire Station, but the purchase of these properties is not to build a Fire Station. This is a whole separate discussion and would require another appropriation at some point in time. Right now, what we are considering is the actual purchase of the properties and then the Council will have a very extensive discussion on what the future of those properties would be. Other options to consider would be redevelopment with mixed commercial/residential, noting there are public/private partnerships, and lots of options in addition to a Fire Station. He wanted to make it clear that we need to

separate these. This is an opportunity the Council is taking to acquire these properties, and then discussions will have to follow regarding what the ultimate fate of those properties will be.

Councilor Liot Hill questioned if there were some drawings/plans showing what a Fire Station would look like. City Manager Mulholland noted this has not been done yet. In response, Councilor Liot Hill clarified, again, that right now what we are talking about is purchasing these properties, holding on to them while options are being discussed. One option is the Fire Station, but there are also other needs and other options we can consider in the future together with all of the people in West Lebanon who will want to have a say. There are no plans/drawings that have been put out to the public yet.

City Manager Mulholland noted the City is focusing on the Central Fire Station right now and options for these properties will take several years before it comes before the residents of West Lebanon.

Ms. Laurel Stavis (State Representative for Ward-1): She questioned what the appropriation for these properties would actually be used for and what would be the process for transparency and input by citizens as we move forward with these discussions.

Mayor McNamara again clarified the City is not buying these properties to build a Fire Station. That is one option staff has recommended. We will look at multiple options in a public setting over the next few years. We will look at the pros/cons of those options, whether it is a public/private partnership for a commercial/mixed commercial residential development; whether it is a municipal use such as a Fire Station; we will endeavor to look at every reasonable option. We will also do a benefit cost analysis, look at public preferences, look at the context of all the work we have done in the planning for West Lebanon, and have a very open and engaged public process.

Councilor Liot Hill also clarified that all of the City's business has to take place in public, so any appropriations would have to go through the appropriations process, which will require public hearings. People will have many opportunities to weigh in.

Councilor Whittlesey spoke about the Capital Improvement Project (CIP) process, so anything that would be built on that space would most likely be rolled through this process. There will be multiple opportunities to see what plans are potentially being considered or moved into action.

Ms. Sue Painter (Ward-1): She spoke about her reasons supporting the acquisition of these properties, but did not support the purchase for a Fire Station.

Mr. Tom Arkens (Ward 1): He spoke about his reasons supporting the appropriations for the purchase of these properties.

Mr. Chet Clem (Lyme Properties) He spoke about his reasons supporting the appropriations for the purchase of these properties and was in favor of a Fire Station. He also spoke about the very real overdue needs for a Fire Station and the life/safety of those in the Lebanon Fire Department and was confused about how this was presented.

City Manager Mulholland noted that if he proposes purchasing land, it would be for a particular purchase. We need a Fire Station, and we have been trying to get a Fire Station in West Lebanon. If we do not get this issue resolved, eventually we will not have a Fire Station in West Lebanon because we cannot continue to operate out of a building that does not meet our needs. He has an obligation to the people who put their lives on the line for the rest of us and will do everything he can to make sure he meets the needs of those folks, but the Council will have to ultimately make that discussion

Mr. Jason Achmoody (Ward-1): He spoke about his reasons supporting the appropriations for the purchase of these properties and supported solving the Fire Station issue.

Mr. Morgan Swan (Ward-1): He spoke about his reasons supporting the appropriations for the purchase of these properties.

Mr. Jim Winny (Ward-1): He spoke about his reasons supporting the appropriations for the purchase of these properties and preferred the mixed use idea, but also noted that maybe a Fire Station needs to go there.

Mr. Chris Lin (Business Owner): He spoke about his support for the acquisition of these properties, but did not support the concept for a Fire Station.

Ms. Sarah Riley (W-2): She spoke about her reasons supporting the acquisition of these properties and suggested the Council consider the potential for developing a green pedestrian corridor.

Ms. Kristin Swan (Ward-1): She spoke about her reasons for strongly supporting the acquisition of these properties to improve the quality of life in West Lebanon. This is a moment not to be missed.

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

Council Comments:

Councilors Sykes, Heistad, Whittlesey, and Wilkie spoke about their reasons supporting the acquisition/purchase of these properties, noting this purchase would open up a lot of potential opportunities for the City.

ACTION:

Councilor Liot Hill MOVED the following:

FOR THE PURPOSE OF completing environmental assessment and funding the purchase of properties located at 14, 28 & 30 Main Street, West Lebanon in the amount of \$1,800,000.

NOW THEREFORE BE IT RESOLVED, by the City of Lebanon, that funds be appropriated for expenditure in the General Fund in the amount of \$1,800,000 (One Million Eight Hundred Thousand Dollars) for the purchase of properties located at 14, 28 & 30 Main Street, West Lebanon and for the completion of environmental assessment associated with the property transaction; and

BE IT FURTHER RESOLVED, that the City Treasurer, with the approval of the City Manager, is authorized to issue, in accordance with the Municipal Finance Act (NH RSA 33), a bond issue or bond issues in an amount not to exceed \$1,800,000, and that, except as herein otherwise provided, discretion to fix the dates, maturities, denomination, interest rate, form, and other details of said issue(s) is hereby delegated to the City Treasurer, with the approval of the City Manager.

This resolution shall be effective upon passage.

Seconded by Councilor Sykes.

Councilor Liot Hill spoke to the motion pointing out that there is no particular purpose in this motion. It is the Council's responsibility to look at all of the options. We know there is a need for a Fire Station, but we also have other needs in the city as well. It is our obligation to collaborate with the community and to

explore all possibilities for these parcels. This is a once in a lifetime opportunity to buy these properties and an opportunity for the Council to not react to the poor decisions that were made in the past. We do not often have the chance to actually make proactive, intentional strategic decisions that will benefit us in the future, and this is potentially one of the most important decisions she will be a part of that will have an impact in West Lebanon for the next 50-100 years. Over the next few years, it will be a good time for us to really think about what our needs are today/in the future, and how can we make the best use of what is really a strategic asset for Main Street West Lebanon, and for our entire city.

We also need to solve the Fire Station problem and need to look at this holistically to find a win-win situation for everyone that will address all of our needs. If the Fire Station will not be located here, let's all be part of the solution of finding out where it should go.

It would be very helpful if we could put together a memo/communication that would clearly layout what is going to be our process for dealing with the Fire Station, and what is going to be our process for addressing/exploring the possibilities for these properties. She would like this put on a future City Council agenda.

****The Vote on the Motion was approved by those present (8-0).***

9. OLD BUSINESS: NONE

10. NEW BUSINESS

A. Tree Advisory Board Informational Presentation on Urban Heat Islands

Included in the agenda packet: *(NOTE: Complete presentation, including the LHS GIP heat maps, can be found on Pages 22-31)*

Chair Paul Coats, Director of Recreation, Arts & Parks, reviewed the background for this topic and the purpose of the Tree Advisory Board, which is the advocacy for education/advocacy for trees in the City. He introduced Charles Dupuy, and Mary Maxfield from the Tree Advisory Board, and student representatives from Lebanon High School.

BACKGROUND

The Lebanon Tree Advisory Board was chartered in late 2021 and began its first meetings with a visioning exercise. Out of this came a variety of possible outcomes for how Lebanon would look in the year 2030. Among these was a Lebanon whose urban hot spots (heat islands) had been newly planted with shade trees, and in which there had been a measurable reduction in surface temperatures. Importantly, this heat reduction would benefit those places in the city where the population is most vulnerable to heat. Another imagined outcome was the participation of Lebanon High School (LHS) science students to help the Tree Advisory Board in its effort to identify and document these heat islands and vulnerable populations.

In the summer of 2022, members of the Tree Advisory Board, with the participation of LHS students in their Extended Learning Opportunities program, ran a series of air temperature data collection walks on the hottest days along 10 specific routes in urban Lebanon. The routes were selected using an online NASA satellite surface temperature map of the city, which showed the likeliest hot spots. A satellite photo of the city showed treed green space locations adjacent to the anticipated hot spots. These were incorporated into each walk so that a route of temperatures with a high/low range appeared on a map of the route. The temperatures were compared with the ambient (airport) temperature for that time of day. Those temperatures above ambient revealed the location of the city's hot spots, both within each walking route and between routes.

This winter (2022-23), surveys and interviews with city residents and unhoused people are being conducted to determine how, where, and which people are most affected by heat in summer. Interviewees include users of public transit, the public libraries, first responders and students. The relationship between the respondents' experience of extreme heat and their perceived access to a range of cooling public spaces, will be recorded and measured.

The Tree Advisory Board feels that more trees and treed green spaces within a short walk of all residents, shoppers, and sidewalk users are needed in urban Lebanon. By a recent approximation using the iTree sampling app, urban Lebanon's tree canopy cover is under 30% of the urban land area*. The normative goal is 30% or more for cities worldwide. Not only does Lebanon lack a robust tree planting program, many of our existing public and private trees are endangered by disease, utility and plow damage, and real estate development.

Besides the many benefits that trees provide to the environment, the economy**, and the quality of life in urban Lebanon, there is a health component that is becoming critical. As heat waves increase in severity and duration worldwide, heat illness and death, especially in vulnerable populations, are increasing as well. This is leading to a health crisis that is less visible to the public than the well-publicized physical damage of other climate events.

Lebanon would benefit from a well-funded and regulated city government tree planting program built on a foundation of knowledge, such as that provided by our LHS science students.

**We are loosely defining "urban Lebanon" as all places, private and public, within a 2-minute walk of city sidewalks. Just as sidewalks are urban infrastructure, so are trees.*

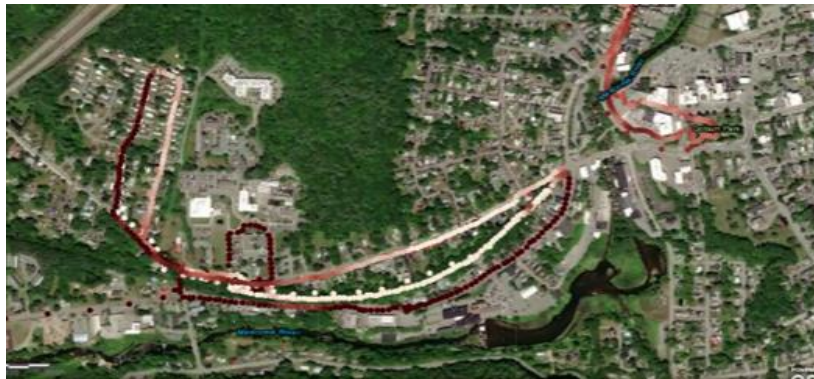
*** The City of New York credits each of its trees for over \$500 in environmental services, e.g. shade, air and water filtration, soil retention, wind protection, etc. These credits are infrastructure capital.*

Below are some sample Lebanon High School/Tree Advisory Board GIS maps depicting how they analyzed heat in urban Lebanon and the effects of that heat on our community. This initiative will continue next year and in the years to come. For complete details of the presentation, please refer to [*Pages 22-31, Council agenda packet.*](#)

Key Points

1. Lebanon has documented urban heat islands.
2. The hottest areas are characterized as tree-less and paved.
3. People in Lebanon are affected by summertime extreme heat.
4. Certain populations are particularly vulnerable to extreme heat.

Surface areas of concern: The hottest areas are characterized as treeless and paved.



Lebanon Human Services: Certain groups are especially vulnerable to heat.

- **The unsheltered**
 - Sleeping in a place not intended for human habitation such as vehicles or tents
- **The unhoused**—Many more people are in this group
 - Couch-surfing
 - Motels
- People with **lower incomes** who live in a building:
 - But more often cannot afford air conditioning
 - With more often **little to no tree shade**.
- People with **underlying health conditions**.

Lebanon Human Services: Advance Transit bus stops need trees

- Many of the bus stops are surrounded by pavement without tree or shade cover.
- People with underlying health conditions, such as heart failure, are more likely to be sensitive to extreme heat.
- Older adults, maybe someone who decided to give up their keys and now relies on the bus system may be more vulnerable to heat stroke than someone younger.
- People with mental health conditions that get agitated due to the physical discomfort of extreme heat are more vulnerable.
- People who rely on the bus system to get to their activities of daily living or simply to get to the library or other cooling station cannot simply use their car to get where they need to go.

Lebanon Human Services: Certain areas are especially vulnerable to heat.

Downtown Lebanon and West Lebanon

- Especially in downtown's older buildings containing many apartments
- These are densely populated neighborhoods
- Low tree density
- Large amounts of pavement

Recommendations to the City Council

Because trees are a critical tool in combating urban heat islands, the Lebanon Tree Advisory Board would like to see the Lebanon City Council advocate for the following:

1. Saving our existing urban trees, both public and private.
2. Supporting a comprehensive tree-planting plan in identified heat islands, especially among vulnerable populations.
3. Supporting tree planting in areas that directly involve pedestrians: sidewalks, streets with no sidewalks, bus stops, and parking lots.

Necessary thanks to:

- Emily Walton - Dartmouth Sociology Department
- John Tietjen - Lebanon High School Science Department
- Luis Alvarez Leon - Dartmouth Geography Department
- Joe Earle and Emily Ballard - Dartmouth geography students

Council Discussion:

In response to Councilor Liot Hill's question regarding the current status of tree planting efforts, Director Coats noted the Recreation Arts, & Parks Department is currently maintaining trees in the Mascoma Greenway and the Rail Trail. Trees being planted now are mostly in parks (i.e., Colburn Park and along the peripherals of ball parks). The City has an opportunity to think more broadly about its trees. For example: How to help educate/influence private landowners and developments; Planning Board Site Regulations; addressing how trees are being maintained; partnering with utilities like Liberty Utility; and, working with DPW.

Councilor Liot Hill suggested that a good goal would be to create a comprehensive Tree Master Plan for the City that the Planning Board, private projects, Public Works, City Staff and others can use.

Councilor Sykes noted that more people need to see this presentation and suggested they share the changes over time using the GIS Maps.

Councilor Heistad suggested they take a look at what types of tree species they will be planting because there are invasives that overgrow our native species (i.e., the Norwegian Maple). He felt that planting a variety of species would be a good approach.

Assistant Mayor Below suggested the High School share their GIS Maps with the City’s GIS website in order to build up a data record.

ACTION: No action required. This was for informational purposes only.

- B.** Presentation of First Reading & Set Public Hearing for April 19, 2023: Amendments to Ordinance #18, Salary Plan, Article II, Non-Affiliated & LPASE Employees, as follows:
1. Add new Asset Manager position
 2. Add new Solid Waste Foreman position
 3. Designate Solid Waste Manager position as a Non-Affiliated position

Included in the agenda packet: *(Pages 34-34)*

1. Ordinance #18, Salary Plan

City Manager Mulholland briefly reviewed the amendments to Ordinance #18, Salary Plan noting these do not add any new people, it simply modifies changes in existing positions.

Council Discussion:

Mayor McNamara suggested that in acknowledging the first presentation, the section regarding: “and designation the Solid Waste Manager (Grade 12) as a Non-Affiliated position in the Non-Affiliated & LPASE Employee compensation and classification schedules” be eliminated.

ACTION:

The City Council was asked to recognize the first of three presentations and to schedule a public hearing as follows:

1. ACKNOWLEDGE FIRST PRESENTATION:

Councilor Wilkie MOVED, that the Lebanon City Council acknowledges the first of three presentations to amend Ordinance #18, Salary Plan, Article II, by adding the positions of Asset Manager (Grade 10) and Solid Waste Foreperson (Grade 9, LPASE).

*Below is an excerpt of the Non-Affiliated & LPASE Employees compensation and classification schedule impacted by the proposed changes described above. Changes to the compensation and classification schedules are shown in **red** type; new positions and retitled or reclassified positions are shown in **red bold** type, position deletions are shown stricken and in **red italics** type*

REGULAR FULL-TIME/REGULAR PART-TIME NON-AFFILIATED & LPASE EMPLOYEES 2023 SALARY & GRADES TO INCLUDE 3% GWI					
Grade	Position Title	Hourly		Weekly	
		Minimum	Maximum	Minimum	Maximum
9	Code Health Inspector**	\$32.36	\$43.69	-	-
	Executive Assistant	-	-	-	-
	Public Relations Coordinator	-	-	-	-
	Digital Media Officer	-	-	-	-
	Deputy Assessor	-	-	-	-

	Cyber Services Technical Specialist	-	-	-	-
	Real Estate Appraiser II**	-	-	-	-
	Solid Waste Foreman** (LPASE designation proposed)	-	-	-	-
	Associate Planner**	-	-	\$1,294.40	\$1,747.70
10	Asset Manager	\$35.64	\$48.10	-	-
	Assistant City Engineer**	-	-	-	-
	Financial Analyst	-	-	-	-
	Community Nurse	-	-	-	-
	Police Communications Supervisor**	-	-	-	-
	Recreation Program Coordinator**	-	-	\$1,425.52	\$1,924.05

	Youth Services Librarian	-	-	-	-
11	Technical Advisor I	\$37.77	\$50.98	-	-
	Cemetery Sexton**	-	-	-	-
	Fleet Maintenance Supervisor**	-	-	-	-
	Maintenance Superintendent**	-	-	-	-
	Utilities Maintenance Superintendent**	-	-	-	-
	System Administrator	-	-	-	-
	Airport Operations Supervisor**	-	-	\$1,510.80	\$2,039.05
	Assistant Recreation Director**	-	-	-	-
	Code Enforcement Director**	-	-	-	-
	Fire Marshall**	-	-	-	-
	Planner/GIS Coordinator**	-	-	-	-
	Senior Planner**	-	-	-	-
	Systems Librarian	-	-	-	-
	Information Technology Librarian	-	-	-	-
12	Wastewater Treatment Superintendent**	\$40.03	\$54.04	-	-
	Water Treatment Superintendent**	-	-	-	-
	Administrative Services Manager**	-	-	\$1,601.12	\$2,161.47
	City Assessor**	-	-	-	-
	City Clerk/Tax Collector	-	-	-	-
	City Engineer**	-	-	-	-
	City Planner**	-	-	-	-
	Deputy Library Director	-	-	-	-
	Energy & Facilities Manager**	-	-	-	-
	Human Services Director	-	-	-	-
	Police Lieutenant**	-	-	-	-
	Prosecuting Attorney	-	-	-	-
	Solid Waste Manager** (remove LPASE designation)	-	-	-	-

2. SCHEDULE PUBLIC HEARING:

Councilor Wilkie FURTHER MOVED, that the Lebanon City Council hereby schedules a public hearing for Wednesday, April 19, 2023, beginning at 7:00pm, Council Chambers, City Hall, and

Remote via City’s Virtual Platform, for the purpose of receiving public input and taking action to amend Ordinance #18, Salary Plan, Article II, Non-Affiliated & LPASE Employees, to add the positions of Asset Manager (Grade 10) and Solid Waste Foreperson (Grade 9)-

Seconded by Councilor Liot Hill.

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

C. Request for Exception from City Code Chapter 110, Noise from Sound Amplification Systems; Lebanon Opera House, Nexus Music and Arts Festival

Included in the agenda packet: ***(Pages 35-40)***

1. Approved Sound Permit by the Lebanon Police Department
2. City Code Chapter 110, Noise from Sound Amplification Systems

BACKGROUND

City Code Chapter 110, “Noise from Sound Amplification Systems,” allows residents to obtain a permit for sound amplification between the hours of 8am – 8pm, Monday through Saturday and 1pm – 5pm on Sundays and legal holidays. Chapter 110-2(B) allows the City of Lebanon upon its motion, or upon application and for good cause shown, may modify, suspend, repeal or amend the provisions of any rule or regulation or section herein contained.

The Lebanon Opera House (LOH) is hosting the Nexus Music and Arts Festival Friday, August 11 through Sunday, August 13, 2023. They have been issued a Sound Permit from the Lebanon Police Department for the permitted timeframes (12:00pm – 8:00pm Friday and Saturday; and 1:00pm – 5:00pm on Sunday). LOH is requesting an extension to allow the amplification equipment to be utilized until 10:30pm on Friday, 10:30pm on Saturday, and from 12:00pm to 10:30pm on Sunday.

Council Discussions: NONE

ACTION:

Councilor Whittlesey MOVED, that the Lebanon City Council, in accordance with City Code Chapter 110, Noise from Sound Amplification Systems, §110-2, hereby authorizes the Lebanon Opera House to utilize amplification equipment until 10:30pm on Friday, August 11; until 10:30pm on Saturday, August 12; and between the hours of 12:00pm and 10:30pm on Sunday, August 13, 2023.

Seconded by Councilor Wilkie.

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

D. Discussion & Set Public Hearing for April 5, 2023: Ordinance #2023-02 to Amend City Code Chapter 179, Vendors, Section 179-4, Permits and fees

Included in the agenda packet: ***(Pages 41-49)***

1. Proposed Ordinance #2023-02
2. City Code Chapter 179

City Manager Shaun Mulholland reviewed and explained the amendments to Ordinance #2023-02.

BACKGROUND

Included below is proposed Ordinance #2023-02, which would amend City Code Chapter 179, Vendors, §179-4, Permits and fees, to authorize a vendor electricity use fee. Currently, there are fees for daily, weekly, seasonal, and abutting business vendor permits, but there is no fee structure for using city

electricity in lieu of a portable generator. With electric rates increasing, the City would like to charge vendors for the use of electricity. The proposed fees are based, in part, on the electricity usage fees charged to Farmers' Market vendors on a daily or seasonal basis. NOTE: Proposed changes are highlighted in **Red**.

CITY OF LEBANON ORDINANCE #2023-02

AN ORDINANCE TO AMEND the Code of the City of Lebanon, Chapter 179, Vendors, by amending §179-4, Permits and fees, to include a vendor electricity use fee.

BE IT ORDAINED, by the City Council of the City of Lebanon, as follows:

Section 1:

The Code of the City of Lebanon is hereby amended to revise Chapter 179, Vendors, §179-4, Permits and fees, as follows:

§179-4. Permits and fees.

- A.** Daily permits: The fee for a daily vendor permit is \$10. Applicants wishing to obtain daily permits shall apply to the City Manager prior to the desired event at a time designated by the City Manager. All applications shall include the following conditions:
 - (1) Applicants must meet the requirements of the City Manager for size of vehicle/operation, noise, state permit(s), hours of operation and other conditions as may be set by the City Manager.
 - (2) When more applications are received for spaces than are available, the City Manager shall determine the allocation by lottery.
 - (3) Permits and assigned locations are nontransferable, and the fee is nonrefundable.
 - (4) The daily fee for use of electricity from a city-owned power supply is \$3.
- B.** Weekly permits: The fee for a weekly vendor permit is \$50. Weekly permits shall be issued for the week beginning Monday and ending Sunday, and may run consecutively. All applications shall include the following conditions:
 - (1) Applicants must apply to the City Manager for a space at least two weeks prior to the date that is needed and must meet the requirements of the City Manager for size of vehicle/operation, noise, state permit, hours of operation and other conditions as may be set by the City Manager.
 - (2) When more applications are received for spaces than are available, the City Manager shall determine the allocation by lottery.
 - (3) Permits and assigned locations are nontransferable, and the fee is nonrefundable.
 - (4) The weekly fee for use of electricity from a city-owned power supply is \$15.
- C.** Seasonal permits: The fee for a seasonal vendor permit is \$100. Seasonal permits shall be issued for four three-month periods of the calendar year as follows: January/February/March; April/May/June; July/August/September; and October/November/December. All applications shall include the following conditions:
 - (1) Applicants must apply to the City Manager for a space before the end of the preceding quarter (December 15 for first quarter; March 15 for second quarter; June 15 for third quarter; and September 15 for fourth quarter) and meet the requirements of the City Manager for size of vehicle/operation, noise, state permit, hours of operation and other conditions as may be set by the City Manager.
 - (2) When more applications are received for spaces than are available, the City Manager shall

determine the allocation by lottery.

- (3) Permits and assigned locations are nontransferable, and the fee is nonrefundable.
 - (4) Seasonal vendors must utilize their assigned space at least 15 days of each month.
 - (5) A vendor may, upon written permission from the City Manager, utilize the assigned space on less than 15 days in any month due to vacation, illness or other extenuating circumstance. However, during the entire period of time the space is vacated by the vendor, due to the approved absence, the City reserves the right to rent the space on a daily permit basis.
 - (6) Noncompliance will result in the assigned vendor losing the space and disqualifying the vendor from applying for any space for the period of one year.
 - (7) The seasonal fee for use of electricity from a city-owned power supply is \$40.
- D.** Abutting business permit: The annual fee for an abutting business permit shall be \$125. Abutting businesses shall be entitled to a permit for the use of an area in the vicinity of their established place of business. All applications shall include the following conditions:
- (1) Applicants must apply to the City Manager for a space at least two weeks prior to the date that is needed and must meet the requirements of the City Manager for size of vehicle/operation, noise, state permit, hours of operation and other conditions as may be set by the City Manager.
 - (2) Permits shall be for the period of time designated by the applicant in the application for a permit. Permits must be renewed annually and are subject to all other applicable state and City regulations.
 - (3) Permitted areas shall not exceed 625 square feet in area, unless specifically approved by the City Manager, and may be prescribed, mapped and modified from time to time by the City Manager, depending on the needs of the City.
 - (4) The City Manager, in his/her reasonable discretion, may waive or modify the provisions of §179-7A, and B as they may apply to permits for abutting businesses granted under this section.
 - (5) Permits and assigned locations are nontransferable, and the fee is nonrefundable.
- E.** As an alternative to the annual abutting business permit under Subsection **D** above, abutting businesses may also apply for daily or weekly vendor permits under Subsection **A** or **B** above. Such permits shall be subject to the same conditions as any other daily or weekly permit, except that the numerical permit limitations of this section shall not apply to abutting businesses.

Section 2: Severability.

The provisions of this ordinance are declared to be severable, and if any section, subsection, sentence, clause or part thereof is, for any reason, held to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of any remaining sections, subsections, sentences, clauses or part of this ordinance.

Section 3: Effective Date.

This ordinance shall become effective upon passage.

Council Discussions:

City Manager Mulholland noted this increase would be enough for the City to recoup the cost of electricity used by vendors, and he would rather have vendors plug into a city outlet rather than use a generator since there is a risk of carbon monoxide/other risks associated with generators.

Councilor Simon concurred with the City Manager because of the ambient noise and carbon monoxide that comes from generators. It is just much safer.

ACTION:

Councilor Whittlesey MOVED that the Lebanon City Council hereby schedules a public hearing for Wednesday, April 5, 2023, beginning at 7:00 p.m. in Council Chambers, City Hall, and Remote via City's Virtual Platform, for the purpose of receiving public input and taking action on proposed Ordinance #2023-02, to amend the Code of the City of Lebanon, Chapter 179, Vendors, §179-4, Permits and fees, to authorize a vendor electricity use fee.

Seconded by Councilor Liot Hill.

Councilor Sykes asked if this would also apply to vendors inside the Farmers' Market and questioned what kind of revenue would be brought in. He felt the vendors bring vitality and so much more to the community and the administrative costs for these vendors would not be worth their trouble and would vote against this (motion).

City Manager Mulholland noted one of our goals in the proposed ordinance is to reduce the taxes on the general public and do some cost recovery. At the end of the day, it is a policy decision for the Council to make. However, he did receive a lot of complaints from taxpayers who were concerned they were paying for the vendors' electrical costs.

Councilor Wilkie concurred with Councilor Sykes and was against this (motion), noting it does not seem this would provide substantial revenue. He also questioned if this would increase the use of City electricity by making it clearer that this is an option. The City Manager was unsure if this would encourage more people to plug into the City's electricity.

Assistant City Manager David Brooks clarified that the daily and seasonal fees are already being charged and applied to Farmers' Market vendors. This would only apply to vendors located along South Park Street in the City's right-of-way. The reason for this amendment change is due to a request from one of those vendors asking to be tapped into the City's electricity and asked what the fee was. We cannot just throw out a number, so we came to the Council to amend the vendor's policy to add in the same fee that already applies to Farmers' Market members.

Councilor Simon felt these fees are reasonable. Anything we can do to lower the usage of fossil fuels is a benefit and supported the motion.

Mayor McNamara supported the motion based on the clarification from Assistant City Manager David Brooks.

Councilor Heistad felt it helps to be able to state what the City's electric use policy is.

****The Vote on the Motion was approved by those present (6-2). Councilor's Sykes and Wilkie opposed.***

11. City Manager Report:

- Assistant Mayor Below first updated the Council regarding the status of Lebanon Community Power (LCP). He was pleased to report that informational letters are in the process of being printed and are expected to go out at the end of March or early April, which is the time customers can start to switch over. For the City of Lebanon, Liberty's rate through the month of July is \$0.22/KwH, and LCP will be offering the basic rate of \$0.158, which is a 28% reduction from

Liberty Utilities rates. LCP will also be offering choices to have more renewable content and all of those options are at a lower cost from the current costs of Liberty Utilities. He encouraged people to consider going with the highest renewable content that they are comfortable with financially as listed below:

- Granite Plus: \$0.162 Kwh
- Clean 50 (50% renewable): \$0.169 Kwh
- Clean 100 (100% renewable): \$0.191 Kwh

Customers will be able to opt-out at any time, but would have to wait until the next meter read cycle to switch.

City Manager Shaun Mulholland updated the Council on the following:

- Miracle Mile Project: Will begin this spring and came in under the projected costs by \$1.9M.
- Roundabout (Mechanic/High Street/Mascoma Street): Steps are being taken to acquire the property. Put back on schedule for 2024.
- Kimball St./Forest Ave: Might be able to start this project this year. Bidding will go out May/June.
- West Lebanon Main St.: Agreement is moving forward. No date set yet as to when this project will start.
- Westboro Yard.: There is progress, but there are issues that still need to be resolved.
- Rail Trail expansion/Glen Road.
- Central Fire Station Project: ReArch Management Firm has been hired to look at this. Will be looking at demolishing the existing building and building a new 3-story structure on the site. It is estimated to be an 18-month construction project and a temporary location will be needed. The Fire Chief is meeting with the National Guard to see if the City can use their armory.
- Personnel Changes:
 - Additional HR Director (Samantha Lauzon) has been hired and started on March 13th;
 - Long-Standing City Clerk Kristin Kenniston will be leaving us for a job with the State and will be running their Registrar of Vital Records Department.
 - Rebecca Owens: She is now the City's fulltime Grant Writer and replaces Shelly Hatfield.
 - Assistant DPW Director Everett Hammond is leaving his position in DPW. This position is being filled. There will be some reorganization in the DPW.
 - Lebanon Police Captain Timothy Cohen is retiring.
- SB 221: He gave testimony in reference to childcare.
- 20 Spencer St.: Ken Braverman will not be moving forward on this project due to the cost of capital. A meeting has been scheduled with Twin Pines and the Lebanon Housing Authority to look at a 100% Workforce Housing initiative.
- **OTHER:**
Councilor Liot Hill questioned the location of where the new Childcare facility would be located (Airport Tech Park). She would like to have a bigger discussion in the near future. City Manager Mulholland said he has already started contracted work at this particular site.

The Council had lengthy discussions regarding the pros/cons of the location of the Childcare facility and Councilor Liot Hill felt it would still be good idea for the Council to have this topic as an agenda item in the near future so that people who have questions can get them answered. Mayor McNamara asked her to submit an agenda request.

12. COUNCIL REPRESENTATIVES TO OTHER BODIES: NONE

13. FUTURE AGENDA ITEMS:

- Childcare Facility Location Discussion (Councilor Liot Hill will submit an agenda request form.)

14. NON-PUBLIC SESSION:

Councilor Whittlesey MOVED to go into Non-Public Session for the purpose of discussing RSA 91-A:3, II(a) “The dismissal, promotion, or compensation of any public employee...”

Seconded by Councilor Liot Hill.

Roll Call Vote:

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

None voted Nay.

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

Staff Present: City Manager Mulholland

The Council went into Non-Public Session at 9:44 PM

The Council briefly discussed the City Manager’s compensation for 2023.

Councilor Whittlesey MOVED to extend the Non-Public Session to 10:15 PM.

Seconded by Councilor Wilkie.

Roll Call Vote:

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

None voted Nay.

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

Councilor Whittlesey 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 and Mayor McNamara all voting Yea.

None voted Nay.

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

The Council came out of Non-Public Session at 10:28 PM

15. ADJOURNMENT:

The regular session meeting was adjourned at 10:28 PM.

Respectfully submitted,
Dona E. Gibson
Recording Secretary