



**LEBANON CITY COUNCIL
JANUARY 6, 2021 - 7:00 PM
REMOTE VIA MICROSOFT TEAMS
LEBANONNH.GOV/LIVE**

1. Call to Order

The January 6, 2021 Lebanon City Council Meeting is hereby called to order.

2. Pledge of Allegiance

3. Public Forum Announcement by the Mayor

Any member of the public who desires to speak on any item may do so when the item is taken up by the Council and will be allowed to speak on the subject for not more than three minutes. **(Note: Speakers are asked to state their name, ward of residence, and to use the microphone provided.)**

4. Open to the Public

5. Recognitions

A. Lebanon Public Works Operations & Maintenance Department

6. Approval of Minutes

A. MOTION TO approve the minutes as presented in the January 6, 2021 agenda packet.

7. Appointments

A. Planning Board, Laurel Stavis (Regular Member)

8. Public Hearing Items: None

9. Old Business: None

10. New Business

- A. Review and Adoption of 2021 Annual Calendar
- B. Appointment of 2021 Chair and Vice-Chair for Economic Development Commission
- C. Presentation & Discussion of Proposed Amendment to City Council Rules, Sections A191-1, Council Meetings, and A191-8, Order of Business
- D. Review of Proposed Zoning Amendments for Council Adoption and those to be placed on the 2021 Municipal Ballot (Public Hearing to be held January 20, 2021)
- E. Discussion and Set Public Hearing for February 3, 2021: Discontinuance or reclassification of a portion of Barden Hill Road

- F. Discussion and Set Public Hearing for February 3, 2021:
Discontinuance or reclassification of Durkee Road
- G. Discussion and Set Public Hearing for February 3, 2021:
Discontinuance or reclassification of Atherton Road
- H. Discussion and Set Public Hearing for February 3, 2021:
Discontinuance or reclassification of McCallister Road

11. City Manager Report

12. Council Representatives to Other Bodies Report

13. Future Agenda Items

14. Non-Public Session

15. Adjournment

Due to the current situation with the COVID-19 Pandemic, the City of Lebanon is offering its meetings via Microsoft Teams. Members of the public are encouraged to attend by going to LebanonNH.gov/Live where you will find instructions on how to enter the meeting. Members of the public will be able to participate and ask questions through the Microsoft Teams software or by phone. Please visit LebanonNH.gov/Live for full details.

THE AGENDA, IN ITS ENTIRETY IS AVAILABLE ON THE CITY'S WEBSITE AT LEBANONNH.GOV

FUTURE BOARD/COMMITTEE/COMMISSION APPOINTMENTS

Board/Committee: Arts & Culture Commission
Position: Arts Representative
Applicant: N. Gaffney
Assigned Councilor: C. Below
Assigned Date: 12/22/2020

Board/Committee: Economic Development Commission
Position: Regular Member
Applicant: D. Nash
Assigned Councilor: K. Zook
Re-Assigned Date: 12/30/2020

Board/Committee: Lebanon Housing Authority
Position: Regular Member
Applicant: I. Girdwood
Assigned Councilor: K. Hill
Assigned Date: 12/14/2020

Note: While 1 City Councilor is officially assigned to interview each applicant, any City Councilor may interview any applicant for any position to better inform their decision.

PROPOSED FUTURE AGENDA ITEMS: Dates may be tentative and this list not considered all inclusive.

JANUARY 20, 2021

PUBLIC HEARING ITEMS:

- A. Proposed Amendments to the Zoning Ordinance for 2021 Municipal Ballot
- B. Proposed Amendments to the Zoning Ordinance for Council Adoption

Lebanon City Council Agenda
January 6, 2021

OLD BUSINESS:

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

NEW BUSINESS:

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

B. Release of Collected Public School Impact Fees

C. Review of Elderly Tax Exemptions

D. Acceptance of Crafts Avenue Extension

FEBRUARY 3, 2021

PUBLIC HEARING ITEM:

A. Complete discontinuance or reclassification of a portion of Barden Hill Road

B. Complete discontinuance or reclassification of Durkee Road

C. Complete discontinuance or reclassification of Atherton Road

D. Complete discontinuance or reclassification of McCallister Road



RESOLUTION IN HONOR OF LEBANON PUBLIC WORKS OPERATIONS & MAINTENANCE DEPARTMENT

WHEREAS, the City of Lebanon and much of the State of New Hampshire received record snowfalls in December 2020; and

WHEREAS, Public Works Departments in the State of New Hampshire provide mutual aid for the entire state; and

WHEREAS, the Town of New Durham, New Hampshire on December 5 & 6 received up to 18" of snow, leaving many residents without power and unable to safely navigate several roadways; and

WHEREAS, members of the Lebanon Operations & Maintenance crew responded to a request for mutual aid by the Town of New Durham, providing valuable support to their Highway Department to clear fallen and bent trees and move snow to open roads and provide safe passage to their residents; and

WHEREAS, an immediate response with equipment and manpower shows the selfless, dedicated, caring character of our Lebanon employees and our Public Works Department as a whole.

NOW, THEREFORE BE IT RESOLVED, that the Lebanon City Council on behalf of the citizens of Lebanon extends their gratitude and appreciation to the Lebanon Public Works Operations & Maintenance Division for their willingness to take part in mutual aid operations to assist another community in need.

Dated this 6th day of January 2021.

Timothy J. McNamara, Mayor
on behalf of the Lebanon City Council

**AGENDA
LEBANON CITY COUNCIL
JANUARY 6, 2021**

6. ACCEPTANCE OF MINUTES:

MINUTES TO BE ACCEPTED

- December 2, 2020 (Regular Meeting)
- December 7, 2020 (Special Meeting)
- December 9, 2020 (Special Meeting)
- December 16, 2020 (Regular Meeting)

MOVED, to approve the minutes as presented in the January 6, 2021 agenda packet.

DRAFT

**LEBANON CITY COUNCIL
MINUTES, REGULAR SESSION
Wednesday, December 2, 2020, 7:00 p.m.
Remote Via Microsoft Teams: [LebanonNH.gov/Live](https://lebanonnh.gov/Live)**

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

MEMBERS ABSENT: None

STAFF PRESENT: City Manager Shaun Mulholland, Deputy City Manager Paula Maville, Deputy City Clerk Lori Gould,, Lebanon Police Chief Richard Mello, Finance Director Vicki Lee, Deputy Finance Director Tina Stearns, Fire Chief/Emergency Management Director Chris Christopoulos, Airport Director Carl Gross, HR Director Gloria Leskiewicz, Human Services Director Lynne Goodwin, Kelly Crate and Meagan Henry

1. CALL TO ORDER: Mayor McNamara called the meeting to order at 7:02 p.m.

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

Councilors attending the meeting remotely are listed above.

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

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

4. OPEN TO PUBLIC: No one from the public came forth.

- Councilor Liot Hill came forth to congratulate and recognize Lucky's third year anniversary, noting they have been a good part of our Downtown revitalization efforts.
- Mayor McNamara announced the members of the West Lebanon Revitalization Advisory Committee as follows:

- Councilor Jim Winny, Chair (City Council Rep.)
- Laurel Stavis - Planning Board Representative
- Chet Clem, Lyme Properties, Vice Chair - Business Owner/ Ward 1
- Kevin Purcell - Economic Development Commission Representative
- Dean Cashman, Mascoma Bank - Business Owner/ Ward 1
- Chris Lin, Consign and Design Business Owner/ Ward 1
- Graziella Parati - Resident/ Ward 1
- Lauren Groves - Resident/ Ward 1
- Gregorio Amaro Resident/ Ward 1

5. RECOGNITIONS:

A. MI-BOX Moving & Mobile Storage of Central New Hampshire

WHEREAS, the City of Lebanon began an extensive renovation to the 1923 City Hall building located at 51 North Park Street in January 2020; and

WHEREAS, City Hall departments and offices had to be temporarily relocated while the renovation occurred and furniture from office spaces and meeting rooms needed to be stored; and

1 **WHEREAS**, Chief Richard Mello stated, “CALEA Accreditation is truly the gold standard in public
2 safety and the Lebanon Police Department will continue to strive to provide the highest quality service to
3 the citizens and visitors of the City of Lebanon.”
4

5 **NOW, THEREFORE BE IT RESOLVED**, that the Lebanon City Council on behalf of the citizens of
6 Lebanon extend their sincere congratulations and appreciation to the Lebanon Police Department for
7 committing to continual betterment of the department and achieving CALEA Accreditation.
8

9 **Dated this 2nd day of December 2020.**

10
11 **Timothy J. McNamara, Mayor**
12 **on behalf of the Lebanon City Council**
13

14 Councilor Liot Hill referenced the second **WHEREAS**, less than five percent, noting she believed it
15 should read **WHEREAS**, less than twenty five percent. Mayor McNamara will verify the percentage and
16 make the change if necessary.
17

18 **6. ACCEPTANCE OF MINUTES:**

19 **A. November 10, 2020 - Budget Work Session**
20

21 **Councilor Heistad MOVED** to approve the **November 10, 2020 - Budget Work Session minutes** as
22 **written and presented in the December 2, 2020 City Council agenda packet.**
23 **Seconded by Councilor Prentiss.**
24

25 **Roll Call Vote:**

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

28 None voted Nay.

29 ***The Vote on the MOTION was unanimously approved (9-0).**
30

31 **B. November 12, 2020 – Budget Work Session**

32 **Amendments:**

- 33 • Page 15 of 78, Line 23, agenda packet: For clarification add: “Mayor McNamara asked why it
34 should be in Lebanon or West Lebanon, as opposed to Hanover for example. She said these
35 areas are close to a bus route or the services that folks use but they could certainly look at
36 properties in Hanover if they were appropriate for the use.”
37

38 **Councilor Heistad MOVED** to approve the **November 12, 2020 - Budget Work Session minutes** as
39 **amended and presented in the December 2, 2020 City Council agenda packet.**
40 **Seconded by Councilor Bronner.**
41

42 **Roll Call Vote:**

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

45 None voted Nay.

46 ***The Vote on the MOTION was unanimously approved (9-0).**
47

1 **C. November 16, 2020 – Budget Work Session**

2
3 **Councilor Bronner MOVED** to approve the November 16, 2020 - Budget Work Session minutes as
4 written and presented in the December 2, 2020 City Council agenda packet.

5 *Seconded by Councilor Heistad.*

6
7 **Roll Call Vote:**

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

10 None voted Nay.

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

12
13 **D. November 17, 2020 – Budget Work Session**

14 Amendments: Page 25 of 78, Line 6, agenda packet: Change “25,000 sq. ft.” to “2,500 sq. ft.”

15
16 **Councilor Heistad MOVED** to approve the November 17, 2020 - Budget Work Session minutes as
17 amended and presented in the December 2, 2020 City Council agenda packet.

18 *Seconded by Councilor Prentiss.*

19
20 **Roll Call Vote:**

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

23 None voted Nay.

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

25
26 **E. November 18, 2020 – Regular Meeting**

27 Amendments:

- 28 • Page 49 of 78, Line 24, agenda packet: remove “very detailed”;
- 29 • Page 49 of 78, Line 37, agenda packet: Change to read: “ Those persons raising hands”;
- 30 • Page 52 of 78, Line 47, agenda packet: Remove “well”;
- 31 • Page 53 of 78, Line 25, agenda packet: Change “excellent” to “excellently”;
- 32 • Page 56 of 78, Line 4, agenda packet: For clarification change the beginning of sentence to read:
33 “It is unfortunate that we live in a State”;
- 34 • Page 54 of 78, Line 43: Change “human resources” to “human services”;
- 35 • Page 55 of 78, Line 14: Change to read: “having the smallest increase” in property taxes; Change
36 “human resources” to “human services”;
- 37 • Page 55 of 78, Line 37, agenda packet: Change beginning of sentence to read “He spoke about
38 Lebanon’s per capita number of police compared with its employment base

39
40 **Councilor Heistad MOVED** to approve the November 18, 2020 - Budget Work Session minutes as
41 amended and presented in the December 2, 2020 City Council agenda packet.

42 *Seconded by Councilor Prentiss.*

43
44 **Roll Call Vote:**

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

47 None voted Nay.

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

2
3 **F. November 19, 2020 – Special Meeting**

4 Amendments: Page 58 of 78, Line 3, agenda packet: Change to “will be rescheduled to December 7th.”

5
6 *Councilor Bronner MOVED to approve the November 19, 2020 – Special Meeting minutes as*
7 *amended and presented in the December 2, 2020 City Council agenda packet.*

8 *Seconded by Councilor Sykes.*

9
10 **Roll Call Vote:**

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

13 None voted Nay.

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

15
16 **7. APPOINTMENTS: NONE**

17
18 **8. PUBLIC HEARING ITEMS:**

19 **A. ORDINANCE #2020-20**

20 A Public hearing for the purpose of receiving public input and taking action on proposed
21 Ordinance #2020-20 to amend City Code Chapter 68, Fees, Article III, Miscellaneous Fees,
22 §68-15, Enumeration of Fees to authorize an 8% increase to the Water Service Rate and a 7.2%
23 increase to the Sewer Service Rate.

24
25 Included in the agenda packet was Ordinance #2020-20.

26
27 City Manager Mulholland came forth representing the proposed amendments to Ordinance #2020-20,
28 noting this has been planned for some time in order to deal with the debt service we have in the
29 water/sewer funds, partially, but not entirely, due to the CSO work administratively ordered by the New
30 Hampshire Environmental Service Agency (NH ESA).

31
32 On May 15, 2019, the Council passed Ordinance #2019-06 which incorporated a new fee structure for
33 water and sewer service rates that included a Base Charge by Meter Size, a Volumetric Tier for Single-
34 Family Residential Properties, and removed the Minimum Charge.

35
36 An increase of 8.0% Water Service Rate (base user rate and minimum charge) and 7.2% Sewer Service
37 Rate (base user rates, minimum charge and residential flat rate), effective January 1, 2021, was being
38 requested. The proposed increases are in-line with projections offered by Raftelis as part of the 2018
39 Water and Sewer Rate Study and are suggested in order to provide current and future resources to absorb
40 projected operation and maintenance and debt service expenses.

41
42 Councilor Hill spoke about a newspaper article that talked about increases our communities are facing,
43 noting it showed Canaan was facing a 40% increase in their water/sewer rates. While single digit rate
44 increases are difficult and painful, the City, in the past, actually did have to make a 72% increase in the
45 sewer rate. The reason for the City’s increases is to meet a number of goals and cover costs due to the
46 CSO Project. We anticipated help from the State’s Revolving Fund for the CSO Project but Lebanon
47 ratepayers are paying more because the State Legislature did not fulfill its promise to fund those grants.

1 Another goal the City has is to create stability. If you go a decade without increases, or with lower than
2 indicated increase, then you end up having to do increases like 72%. While 7-8% is still a lot to ask
3 people, these increases are reflecting the true costs of the system. While she does not support an increase
4 to Lebanon's sewer/water rates as a general principle, she supports being fiscally responsible by not
5 deferring costs which would create problems for future generations in Lebanon.

6
7 Assistant Mayor Below added that in terms of wastewater, Lebanon has a very high quality, well run,
8 facility that is recognized as such. Significant improvements in energy efficiency to it has been made,
9 which helped stabilize some of the ongoing costs. As we completed the CSO Projects, we realized there
10 are other parts of our wastewater collection system that are very old (50-60 years). Unfortunately, the
11 costs for improving/updating that infrastructure, or replacing it, is very expensive so part of what has been
12 going on is an investment in lower cost preventative measures to extend the life of the existing system.
13 He felt the budget reflects a reasonable, well-balanced approach to investing in these capacity
14 preservation/life extension infrastructure resources that we can sustain over the long term.

15
16 Mayor McNamara noted the risk in not doing some of these things now, and trying to save money in the
17 short-term, is to risk an expensive catastrophic failure down the road and gave examples. He supported
18 the increases.

19
20 **Mayor McNamara opened the Public Hearing.**

21
22 Below is the summarization of comments from people who came forth remotely to speak:

23
24 *Mr. Ramsy (Ward 1):* He was curious if the City looked into the possibility of refinancing that debt or the
25 reasons why the City didn't, noting the increases this year and the increase next year is becoming
26 burdensome.

27
28 Mr. Mulholland explained that most of the debt is with the Clear Water State Revolving Fund that are
29 lower than the market rates. The City also gets loan forgiveness from the State of up to 20%. There is
30 also a State Revolving Fund for drinking water that we draw from for these projects, most of which is on
31 the sewer side.

32
33 Further discussion took place between City Manager Mulholland and Mr. Ramsy regarding concerns over
34 the increases in rates that included the 13 CSO Project costs; the financing costs for these projects, and;
35 what a below market rate is, which can range from 1.8% to 2% with an added 20% on loan forgiveness
36 for the principle.

37
38 *Miriam Ashton (Ward 2):* For the record, she wanted it noted there are alternatives to rate hikes, spoke
39 about how funds could be reallocated from other departments, and advocated for funds to be reallocated
40 from Lebanon's Police Department.

41
42 Councilor Hill felt it important to note that the water/sewer funds are actually Enterprise Funds that
43 operate independently from the General Fund. You cannot move police department funds to the
44 water/sewer funds because the water/sewer system is funded by ratepayers (those who use the system),
45 and the General Fund is funded by property tax payers and gave examples of what constitutes an
46 Enterprise Fund vs. the General Fund.

1 *Mary Davis (no ward given):* She spoke about her concerns regarding the increases in the water/sewer
2 rates, noting her current quarterly water/sewer bill was \$800 and these increases would increase her bill
3 by 15% (\$120 per quarter). She has her main home and a rental unit located on her property.

4
5 The Council, City Manager Mulholland and Ms. Davis discussed the possibility of a leak in her system.

6
7 *Rory Gawler (Ward 3):* He questioned what would happen if an Enterprise Fund defaults and asked if the
8 City has ever had to transfer funds from the General Fund to an Enterprise fund, noting there are other
9 services within the City that do not serve all the residents, but the taxpayers pay for them anyway and
10 gave examples.

11
12 *Joan Monroe (no ward given):* Spoke about ways people could save on water/sewer usage.

13
14 **Hearing no further comments from the public, the Public Hearing was closed.**

15
16 Assistant Mayor Below shared a screenshot depicting the typical median of water/sewer usage and the
17 average cost. It is important to note the change is not additive, so the overall increase is not 15%, but
18 rather it's about 7.4% and less for people who use < than the median. The rate structure was improved so
19 households who try to minimize their water consumption are not penalized.

20
21 After further discussion on Ms. Davis' high water/sewer quarterly bill, Ms. Vicki Lee, Finance Director,
22 suggested Ms. Davis contact her office so they can give her some guidance on her issue. Ms. Davis
23 agreed to do so.

24
25 **ACTION:**

26 ***Councilor Bronner MOVED,*** that the Lebanon City Council hereby adopts Ordinance #2020-20 to
27 amend City Code Chapter 68, Fees, Section 68-15, Enumeration of Fees, to authorize an 8% increase to
28 Water Service Rates and a 7.2% increase to Sewer Service Rate

29
30 **CITY OF LEBANON**
31 **ORDINANCE #2020-20**

32
33 **AN ORDINANCE TO AMEND** the Code of the City of Lebanon, Chapter 68 **FEES**, Article III
34 Miscellaneous Fees, Section 68-15 Enumeration of Fees, to increase water and sewer service rates.

35
36 **BE IT ORDAINED**, by the City Council of the City of Lebanon, as follows:

37
38 **Section 1**

39 The Code of the City of Lebanon is hereby amended to revise Chapter 68 FEES, Article III Miscellaneous
40 Fees, Section 68-15 Enumeration of Fees, for the purpose effecting changes to water and sewer rates:

41
42 **B. Public utilities (water/sewer) fees shall be as follows:**

43
44 **§68-15 B(1) Water service rates:**
45

§68-15 B(1)(a) Per 100 cubic feet:

- [1] Single-family residential: 0 to 1,200 cubic feet: \$3.49
- [2] Single-family residential: greater than 1,200 cubic feet: \$6.98
- [3] Non-residential and non-single-family residential: \$5.24

§68-15 B(1)(b) Fixed charge per quarter:

- [1] 5/8-inch: \$18.32
- [2] 3/4-inch: \$58.55
- [3] One-inch: \$87.06
- [4] 1.5-inch: \$153.10
- [5] Two-inch: \$253.59
- [6] Three-inch: \$652.72
- [7] Four-inch: \$2,629.90
- [8] Six-inch: \$4,829.10
- [9] Eight-inch: \$9,277.99

§68-15 B(7) Sewer service rates:

§68-15 B(7)(a) Fixed charge per quarter:

- [1] 5/8-inch: \$27.61
- [2] 3/4-inch: \$88.27
- [3] One-inch: \$131.26
- [4] 1.5-inch: \$230.83
- [5] Two-inch: \$382.36
- [6] Three-inch: \$984.15
- [7] Four-inch: \$3,818.73
- [8] Six-inch: \$7,281.21
- [9] Eight-inch: \$13,989.12

§68-15 B(7)(b) Per 100 cubic feet of metered water usage: \$10.43

§68-15 B(7)(c) Flat rate (limited to consumers who are not provided water service or a meter for computing flow):

- [1] Residential: \$340.65 per quarter.
- [2] Commercial: estimated flow to be computed by the Department of Public Works based on facility use and occupancy at the rate contained in Subsection B(7)(b) above.

§68-15 B(10) Town of Enfield Sewer Rental Rate

§68-15 B(10)(a) \$12.57 per 100 cubic feet.

§68-15 B(10)(b) New or expanded sewer users within the Town of Enfield are subject to the Sewer Development Charge at the same rate charged to sewer users within the City of Lebanon.

1 **Section 3. Severability**

2 The provisions of this ordinance are declared to be severable, and if any section, subsection, sentence,
3 clause or part thereof is, for any reason, held to be invalid or unconstitutional by a court of competent
4 jurisdiction, such decision shall not affect the validity of the remaining sections, subsections, sentences,
5 clauses or part of this ordinance.
6

7 **Section 5. Effective Date**

8 **This Ordinance shall become effective January 1, 2021.**
9

10 *Seconded by Assistant Mayor Below*

11
12 **Roll Call Vote:**

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

15 None voted Nay.

16 **The Vote on the MOTION was unanimously approved (9-0).*
17

18 **9. OLD BUSINESS**

19 **A. PRESENTATION OF SECOND READING: AMENDMENT TO ORDINANCE NO. 18,**
20 **SALARY PLAN TO IMPLEMENT A 1.5% GENERAL WAGE INCREASE (GWI)**
21

22 HR Director Gloria Leskiewicz came forth representing the Amendment to Ordinance No. 18.
23

24 The City Council was asked to take action on two components to amend Ordinance 18:

- 25 1. Amend Article I to include the Lebanon Professional, Administrative, Salaried Employees
26 (LPASE) Bargaining Unit within Article II; and
- 27 2. Implement a 1.5% General Wage Increase for all employees
28

29 **AMEND ARTICLE I**
30

31 By action of the Council in 2019, the wage scales for non-affiliated employees along with those
32 represented by the LPASE bargaining unit were combined. The language provided in Article I needs to be
33 revised to clarify the change. Language is proposed as follows:
34

35 **ARTICLE I** - In accordance with Sections 419:24, 25, 51 and 52 of the Charter of the City of Lebanon,
36 as amended, City employees not covered by a recognized bargaining unit ("NonAffiliated Employees")
37 and those employees represented by the Lebanon Professional, Administrative, Salaried Employees
38 (LPASE) shall be paid in accordance with Article II below and those employees covered by AFSCME
39 Local #1348/Council 93 AFL-CIO, Lebanon Permanent Firefighters' Association Local
40 3197/International Association of Firefighters' (IAFF), or the Lebanon Police Benevolent Association
41 (LPBA)/New England Police Benevolent Association (NEPBA) bargaining unit shall be paid in
42 accordance with Article III below.
43

44 **IMPLEMENTING GENERAL WAGE INCREASE (GWI)**

45 Compensation for exempt (salaried) and non-exempt (hourly) non-affiliated and LPASE employees is
46 expressed as a minimum and maximum grade range – hourly for non-exempt employees and weekly for
47 exempt (salaried) employees. Exempt and non-exempt status is determined by application of the Fair
48 Labor Standards Act (federal). Movement within ranges is through annual general wage and merit
49 adjustments applicable for employees not at the top of their wage range. Where an employee falls within

grade and a range, depends on individual circumstances including position requirements, qualifications, experience, skills and service time.

To be useful, it is imperative that compensation and classification systems be kept current. This is achieved primarily by revising compensation ranges through regular general wage adjustments and by systematically reviewing all positions on a regular basis both relative to a meaningful sampling of the labor market and internally relative to other positions.

Funding is proposed in the 2021 City Budget which is scheduled for adoption on December 16, 2020.

Process to Amend Ordinance No. 18

Amending Ordinance No. 18 requires three separate presentations (see City Charter subsections 419:22, 419:24, 419:25, 419:52) followed by a public hearing and the vote of at least two-thirds (2/3) of all members of the City Council – six (6) members - to adopt.

On November 18, 2020, the City Council scheduled a public hearing for December 16, 2020 and recognized the first reading of the proposed amendment to Ordinance No. 18. The City Council is now asked to recognize the second of three presentations. The third presentation and public hearing will follow on December 16.

ACKNOWLEDGE SECOND PRESENTATION:

Councilor Hill MOVED, that the Lebanon City Council acknowledges the second of three presentations to amend Ordinance No. 18, Salary Plan, as follows:

1. Amend Article I to read as follows:

ARTICLE I - In accordance with Sections 419:24, 25, 51 and 52 of the Charter of the City of Lebanon, as amended, City employees not covered by a recognized bargaining unit (“Non-Affiliated Employees”) and those employees represented by the Lebanon Professional, Administrative, Salaried Employees (LPASE) shall be paid in accordance with Article II below and those employees covered by AFSCME Local #1348/Council 93 AFL-CIO, Lebanon Permanent Firefighters’ Association Local 3197/International Association of Firefighters’ (IAFF), or the Lebanon Police Benevolent Association (LPBA)/New England Police Benevolent Association (NEPBA) bargaining unit shall be paid in accordance with Article III below.

2. Implement a 1.5% General Wage Increase for all employees as shown in the table in the December 2, 2020 City Council agenda packet.

REGULAR FULL-TIME/REGULAR PART-TIME NON-AFFILIATED & LPASE EMPLOYEES – 2021 SALARY GRADES 1.5% GWI

<u>Grade</u>	<u>Position Title</u>	<u>Hourly</u>		<u>Weekly</u>	
		<u>Minimum</u>	<u>Maximum</u>	<u>Minimum</u>	<u>Maximum</u>
1	General Intern II	\$16.77	\$22.64	-	-
2	Custodian	\$17.78	\$23.99	-	-
	Department Secretary	-	-	-	-

3	Airport Maintenance Worker	\$18.84	\$25.44	-	-
	Custodian I	-	-	-	-
4	Library Assistant	\$19.98	\$26.97	-	-
5		\$21.17	\$28.57	-	-
6	-	\$22.44	\$30.29	-	-
7	Administrative Assistant	\$23.78	\$32.45		
	Administrative Secretary			-	-
	Assessing Clerk	-	-	-	-
	Assistant City Clerk	-	-	-	-
	Assistant Human Services Director	-	-	-	-

	Communications Specialist	-	-	-	-
	Library Administrative/Technical Assistant	-	-	-	-
8	Administrative Assistant	\$25.21	\$34.04	-	-
	Benefits Coordinator/Payroll Specialist	-	-	-	-
	Deputy City Clerk	-	-	-	-
	Deputy Tax Collector	-	-	-	-
	Field Inspector**	-	-	-	-
	Electrical Inspector**	-	-	-	-
	Children's Librarians			\$1,008.55	\$1,361.65
	Outreach Librarian	-	-		
	Young Adult Librarian	-	-	-	-
9	Code Health Inspector**	\$27.73	\$37.43	-	-
	Executive Assistant	-	-	-	-
	Digital Media Officer	-	-	-	-
	Information Technology Technical Specialist	-	-	-	-
	Real Estate Appraiser II**	-	-	-	-
	Associate Planner**	-	-	\$1,109.20	\$1,497.36
	Systems Librarian	-	-	-	-
	Information Technology Librarian	-	-	-	-
10	Assistant City Engineer**	\$30.50	\$41.18	-	-
	Cemetery Sexton**	-	-	-	-
	Financial Analyst	-	-	-	-
	Fleet Maintenance Supervisor**	-	-	-	-

	Maintenance Superintendent**	-	-	-	-
	Utilities Maintenance Superintendent**				
	Police Communications Supervisor**	-	-	-	-
	Tax Collector	-	-	-	-
	Human Services Director	-	-	\$1,220.15	\$1,647.20
	Recreation Program Coordinator**	-	-		
11	Technical Advisor I	\$33.59	\$45.34	-	-
	Administrative Services Manager**	-	-	\$1,343.60	\$1,813.60
	Airport Operations Supervisor**	-	-	-	-
	Assistant Recreation Director**	-	-	-	-
	Code Enforcement Director**	-	-	-	-
	Deputy Library Director	-	-	-	-
	Fire Marshall**	-	-	-	-
	Planner/GIS Coordinator**	-	-	-	-
	Senior Planner**	-	-	-	-
12	Wastewater Treatment Superintendent**	\$35.60	\$48.05	-	-
	Water Treatment Superintendent**	-	-	-	-
	City Assessor**	-	-	\$1,424.00	\$1,922.00
	City Clerk	-	-	-	-
	City Engineer**	-	-	-	-
	City Planner**	-	-	-	-
	Deputy Finance Director	-	-	-	-
	Energy & Facilities Manager**	-	-	-	-
	Police Lieutenant**	-	-	-	-
	Prosecuting Attorney	-	-	-	-
	Solid Waste Manager**	-	-	-	-
13	Airport Manager	-	-	\$1,509.21	\$2,037.39
	Assistant Fire Chief	-	-	-	-
	Deputy Fire Chief	-	-	-	-
	Deputy Police Chief	-	-	-	-

	Human Resources Director	-	-	-	-
	Information Systems Manager**	-	-	-	-
	Maintenance Manager**	-	-	-	-
	Recreation Director	-	-	-	-
	Police Captain**	-	-	-	-
	Systems and Information Technology Administrator	-	-	-	-
14	Assistant Director/Public Works	-	-	\$1,599.77	\$2,159.70
	Chief Assessor	-	-	-	-
	Library Director	-	-	-	-
15	Information Technology Director	-	-	\$1,695.84	\$2,289.20
16	Technical Advisor II	\$44.93	\$60.66		
	Chief of Police	-	-	\$1,797.42	\$2,426.40
	Director of Planning and Zoning	-	-	-	-
	Director of Public Works	-	-	-	-
	Finance Director	-	-	-	-
	Fire Chief	-	-	-	-
	Deputy City Manager	-	-	-	-

**denotes LPASE Positions

B. SEASONAL/TEMPORARY& STIPEND EMPLOYEES

Seasonal, temporary and part-time positions with less than 20 hours are not placed into grades. These positions are based upon comparable municipal positions and wages and/or local current market values. These positions are NOT eligible for employee benefits. Seasonal positions are up to 6 months in duration; part-time positions are less than 20 hours weekly and may be year round or by event; temporary positions vary in length of service (less than 1 year).

The following pay plan shall be in effect for the first pay period of 2021.

POSITION TITLE	HOURLY	
ELECTION POSITIONS (HOURLY)		
Ballot Clerk		\$10.15

Election Assistant		\$10.15
Supervisors of the Checklist		\$10.15
Moderator		\$12.69
Ward Clerk		\$12.69
FIRE DEPARTMENT POSITIONS		
Call Firefighter	\$11.25	\$28.54
PARK AND RECREATION POSITIONS		
Camp Counselors	\$10.15	\$12.18
Front Desk Attendants – Pool	\$10.15	\$12.18
Head Front Desk Attendants	\$11.17	\$13.70
Site Assistant	\$10.15	\$13.20
Lifeguards	\$10.15	\$12.18
Head/Lead Counselors	\$13.20	\$16.24
Site Assistant	\$10.15	\$13.20
Head & WSI Lifeguards	\$12.18	\$15.23
Head Front Desk Attendant - Pool	\$12.18	\$15.23

Outdoor Adventurer - Educator	\$12.69	\$16.24
Softball Coordinator	\$12.69	\$16.24
Camp Director	\$13.20	\$16.24
Day Camp Counselors	\$10.15	\$14.21
Arts & Craft Director	\$13.20	\$16.24
Farmers Market Coordinator	\$14.21	\$18.27
Market Assistant	\$12.18	\$15.23
Tennis Instructor	\$15.23	\$19.29
Stomp & Romp	\$15.23	\$19.29
Asst. Pool Director	\$15.23	\$19.29
Pool Director	\$16.24	\$20.30
LIBRARY POSITIONS		
Circulation Substitutes		\$13.41
Reference Librarian Substitutes		\$22.65
PUBLIC WORK POSITIONS		
Engineering Clerk	\$11.17	\$14.21
GIS Clerk - (or Intern)	\$15.23	\$17.26

Seasonal Laborers – Summer & Fall DPW, Parks & Rec. & Airport	\$16.24	\$19.29
CDL Seasonal Drivers	\$22.81	\$27.30
PLANNING POSITIONS		
Park Ranger	\$15.23	\$17.26
POLICE DEPARTMENT POSITIONS		
Crossing Guard		\$16.53
Communications Specialist	\$23.78	\$32.45
Police Administrative Aide	\$20.30	\$23.35
Parking Control Officer	\$20.30	\$23.35
Police Officers	\$26.86	\$32.39
CITY CLERK POSITIONS		
Assistant City Clerks (Part-Time/Temp. <20)	\$23.41	\$31.61
Recording Secretary	\$21.82	\$23.85
Recording Secretary Coordinator	\$22.82	\$24.36
SHARED POSITION		
General Intern I	\$13.20	\$16.75
STIPEND POSITIONS		
Sport Coaches – Seasonally (Lacrosse, Track, Youth – Basketball, Field Hockey, Football, Cheerleader Coach etc. – may vary due to Programs)	\$205	\$715
(Chair) Supervisors of the Check List	\$155	\$255
Supervisor of the Voter Checklist	\$155	\$255

A. AFSCME LOCAL #1348/COUNCIL 93 AFL-CIO - Employees covered by the terms and conditions of the collective bargaining agreement between the City of Lebanon and AFSCME (American Federation of State, County and Municipal Employees) Local #1348/Council 93 AFL-CIO, (effective January 1, 2019 to December 31, 2021) shall be paid in accordance with the accompanying pay plan covering the time period of the first pay period of 2021 through the last pay period of 2021, as provided in that agreement, and as placed on file in the office of the City Clerk. (Last Amended 12/19/18).

AFSCME POSITIONS	
GRADE	POSITION(s)
1	Laborer
2	Utility Operator Trainee
3	Operator; Maintainer; Recycling Attendant; Construction Utility Operator I; Meter/Backflow Technician; Scale Technician
4	Light Equipment Operator; Water Treatment Plant Operator; Wastewater Treatment Plant Operator;

	Airport Maintenance Technician; Utilities Plant Operator
5	Heavy Equipment Operator; Construction Utility Operator II; Utility Operator II; Airport Maintenance Specialist; Water Plant Operator; Wastewater Plant Operator
6	Parks & Grounds Crew Foreman; Mechanic
7	Electrician; Laboratory Technician/ Utilities Plant Operator; Airport Maintenance Foreman; Utilities Maintenance Mechanic; Engineering Technician
8	Foreman
9	Chief of Quality Assurance

AFSCME LOCAL 1348 - 2021 SALARY GRADES 1.5% GWI

<u>Minimum</u>							<u>Maximum</u>
<u>Grade</u>	<u>Step 1</u>	<u>Step 2</u>	<u>Step 3</u>	<u>Step 4</u>	<u>Step 5</u>	<u>Step 6</u>	<u>Step 7</u>
1	17.31	17.84	18.39	18.91	19.46	20.01	20.52
2	18.66	19.24	19.84	20.42	21.01	21.58	22.15
3	20.12	20.77	21.42	22.06	22.71	23.33	23.99
4	21.74	22.45	23.14	23.85	24.54	25.25	25.98
5	23.52	24.31	25.07	25.83	26.59	27.36	28.16
6	25.51	26.32	27.15	27.96	28.81	29.63	30.49
7	27.61	28.51	29.41	30.33	31.23	32.13	33.05
8	29.89	30.89	31.87	32.87	33.83	34.84	35.87
9	31.43	32.48	33.54	34.59	35.66	36.70	37.79

The January 1, 2021 GWI shall be based on the NE Urban CIP for June 2019 – June 2020, but in no case shall be less than one and one-half percent (1.5%) nor greater than three percent (3%).

- 1 **B. LEBANON PERMANENT FIREFIGHTERS' ASSOCIATION LOCAL 3197 -**
- 2 **INTERNATIONAL ASSOCIATION OF FIREFIGHTERS (IAFF)** - Employees covered by the
- 3 terms and conditions of the collective bargaining agreement between the City of Lebanon and the
- 4 Lebanon Permanent Firefighters' Association Local 3197/ International Association of Fire
- 5 Fighters (IAFF), (effective January 1, 2019 to December 31, 2021) shall be paid in accordance with
- 6 the accompanying pay plan covering the time period of the first pay period of 2021 through the last
- 7 pay period of 2021, as provided in that agreement, and as placed on file in the office of the City
- 8 Clerk (Last amended 12/19/18).

LEBANON PERMANENT FIREFIGHTERS/IAFF - 2020 SALARY GRADES 1.5% GWI							
<u>Minimum</u>							<u>Maximum</u>
<u>Position Title</u>	<u>Step 1</u>	<u>Step 2</u>	<u>Step 3</u>	<u>Step 4</u>	<u>Step 5</u>	<u>Step 6</u>	<u>Step 7</u>
Firefighter - EMT	\$23.45	\$24.20	\$24.95	\$25.73	\$26.47	\$27.22	\$28.05

Firefighter - Paramedic	\$25.34	\$26.10	\$26.90	\$27.64	\$28.39	\$29.17	\$29.98
Fire Alarm Technician	\$26.57	\$27.12	\$27.67	\$28.20	\$28.75	\$29.28	\$29.83
Lieutenant	\$28.53	\$28.92	\$29.33	\$29.74	\$30.13	\$30.53	\$30.95
Fire Inspector	\$30.21	\$30.70	\$31.21	\$31.71	\$32.22	\$32.72	\$33.25
Lieutenant - Paramedic	\$30.46	\$30.87	\$31.27	\$31.66	\$32.08	\$32.47	\$32.87
Captain	\$31.50	\$31.82	\$32.19	\$32.53	\$32.87	\$33.23	\$33.59
Inspector - Paramedic	\$32.16	\$32.65	\$33.14	\$33.65	\$34.14	\$34.63	\$35.18
Captain - Paramedic	\$33.41	\$33.76	\$34.10	\$34.45	\$34.80	\$35.14	\$35.51

The January 1, 2021 GWI shall be based on the NE Urban CIP for June 2019 – June 2020, but in no case shall be less than one and one-half percent (1.5%) nor greater than three percent (3%).

LEBANON POLICE BENEVOLENT ASSOCIATION (LPBA)/NEW ENGLAND POLICE BENEVOLENT ASSOCIATION (NEPBA) - Employees covered by the terms and conditions of the collective bargaining agreement between the City of Lebanon and the Lebanon Police Benevolent Association/New England Police Benevolent Association (effective January 1, 2019 to December 31, 2021) shall be paid in accordance with the accompanying pay plan covering the time period of the first pay period of 2021 through the last pay period of 2021, as provided in that agreement, and as placed on file in the office of the City Clerk. (Last Amended 12/19/18).

LEBANON POLICE BENEVOLENT ASSOCIATION - 2020 SALARY GRADES							1.5% GWI
<u>Minimum</u>							<u>Maximum</u>
<u>Position Title</u>	<u>Step 1</u>	<u>Step 2</u>	<u>Step 3</u>	<u>Step 4</u>	<u>Step 5</u>	<u>Step 6</u>	<u>Step 7</u>
Patrol Officer	\$26.86	\$27.77	\$28.72	\$29.67	\$30.59	\$31.56	\$32.39
Corporal	\$33.10	\$33.56	\$34.04	\$34.51	\$34.98	\$35.46	\$35.90
Sergeant	\$36.60	\$37.07	\$37.53	\$38.00	\$38.49	\$38.95	\$39.37

The January 1, 2021 GWI shall be based on the NE Urban CIP for June 2019 – June 2020, but in no case shall be less than one and one-half percent (1.5%) nor greater than three percent (3%).

Seconded by Councilor Bronner.

Roll Call Vote:

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

None voted Nay.

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

10. NEW BUSINESS

A. REVIEW AND DISCUSSION OF 2020 3rd QUARTER (+) OCTOBER BUDGET REPORT AND RELEASE OF COLLECTED PUBLIC SCHOOL IMPACT FEES

Included in the agenda packet (pages 71-77) were the December 2, 2020 Memo from Vicki Lee, Finance Director and Tina Stearns, Deputy Finance Director re: Financial Report as of 10/31/2020, and the Impact Fee Report as of October 22, 2020 (pages 70-78)

Finance Director Vicki Lee came forth and reviewed the 3rd quarter plus the October Budget report.

The budget report presents in summary form the year-to-date activity for both expenditures and revenues. City Charter §C419-44 requires financial information be presented to the City Council for each quarterly period of the year. Administration typically provides required financial information on a monthly basis during the 4th quarter.

Assistant Mayor Below asked when the November report could be expected. City Manager Mulholland will send out an updated report to all Councilors for their review before their final budget meeting on December 16, 2020.

ACTION:

No action is required by the Council. The agenda item was for informational purposes only.

RELEASE OF COLLECTED PUBLIC SCHOOL IMPACT FEES

Finance Director Vicki Lee came before the Council to review the release of collected Public School Impact Fees, noting this request was for the City Council to authorize disbursement of \$57,567.42 in collected Public School Impact Fees (through 10/22/2020) to the Lebanon School District.

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

To date \$369,989.89 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	\$123,706.65

ACTION:

Assistant Mayor Below MOVED, that in accordance with Section 213.10 (Administration of Impact Fees) of the Lebanon Zoning Ordinance, the City Council authorizes disbursing the sum of \$57,567.42 in collected Public Schools Impact Fees to the Lebanon School District to be applied toward the payment of debt on the new middle school located at the intersection of Moulton Avenue and Route 4 consistent with the September 2010 Memorandum of Understanding Between the City of Lebanon and the Lebanon School District, SAU 88.

Seconded by Councilor Bronner.

Roll Call Vote:

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

None voted Nay.

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

1 **B. PUBLIC INPUT ON PROPOSED 2021 MUNICIPAL BUDGET**

2 The public was invited to provide input to the City Council and members of City staff on the proposed
3 2021 Municipal Budget.

4
5 Information on the proposed 2021 Municipal Budget is available on the City's website. Due to the length
6 and number of pages in the proposed budget, it was not included in the agenda packet.

7
8 Mayor McNamara informed the public that the Council has been engaged in Budget Work Sessions for
9 several weeks and this is our first opportunity for public comment. There will be another opportunity on
10 December 16th, starting at 7PM via MS Teams. December 16th, 2020 is the official Public Hearing date
11 when the Council will take a vote.

12
13 City Manager Mulholland reviewed the procedures to be used by the public as follows: When recognized
14 by the Mayor, please announce your name and ward you live in; If you do not live in the City, announce
15 the City that you live in; Using the raised hand function in MS Teams will put you in the order to be
16 chosen to speak. Phone participants will be chosen to speak after those who have raised hands in the
17 virtual session.

18
19 Mayor McNamara announced the same protocol will be followed as has always been used, which is in the
20 Charter. Participants were asked to hold comments to 3 minutes; try not to be repetitive if at all possible,
21 and; a 2 minute warning (time-up) will be given.

22
23 Below is the summarization of comments from people who came forth remotely to speak on Lebanon's
24 proposed 2021 Municipal Budget:

25
26 *Al Patterson (Ward 3):* He congratulated the LPD on their CALEA Accreditation and did not support
27 cutting the LPD budget.. He spoke about his concern that people who came forth at the November 18,
28 2020 session did not live, or pay taxes in Lebanon and were taking time away from the taxpayers. He felt
29 it reasonable to have surrounding communities like Hanover, Hartford, Plainfield, etc. to participate in
30 funding some of the resources they use. Another concern was having social workers respond to
31 emergency calls, noting this could be extremely dangerous, even deadly, and explained an incident that
32 took place in Florida.

33
34 *Rory Gawler (Ward 3):* He spoke about his concerns regarding the proposed 2021 Municipal Budget,
35 noting that steps needed to be taken now to reduce the harmful role of policing and to support needed
36 services. It was also of concern to him that this body refuses to acknowledge the comments from
37 constituents given at the November 18, 2020 session and explained his reasons.

38
39 *Wendy Roger (Ward 1):* Member of the Upper Valley Democratic Socialists of America (UVDSA). She
40 spoke about some of the issues discussed at the November 18, 2020 session, such as housing insecurity,
41 hunger, substance misuse, homelessness and lack of health care, noting that people interviewed (by
42 UVDSA) agreed these problems exist in Lebanon and there was overwhelming support to increase
43 funding for human services. She also gave her reasons for defunding the LPD and urged the Council to
44 make the necessary changes to the budget.

45
46 *Luke Kruger-Howard (Ward 3):* He spoke about the LPD budget; the significant increase in economic
47 insecurity; food insecurity; homelessness; drug abuse; mental health issues; crime, and; persecution by
48 law enforcement. He supported taking a preventive approach by putting more funding toward Headrest,
49 WISE, Upper Valley Haven, Twin Pines Housing, Lebanon Housing and noted that if the goal truly is to
50 serve and protect, then taking drastic steps in this direction is the right choice.

1
2 *Luke Slipsky (Ward 1)*: He said many facets of this budget were appalling, and the most appalling was the
3 defunding of human services. He spoke about the UVDSA's presentation to the Council on November
4 18, 2020, noting the Council's unwillingness to defund the LPD and asked the Council to reflect on
5 whom this budget is optimized to help.

6
7 *Phil Bush (Ward 1)*: Treasurer of the Lebanon Library Foundation. He gave an update to the Council on
8 the Lebanon Library renovation and spoke about the funds that have been, or are expected to be, raised
9 for the library's renovation. He is confident the Library Foundation's goal to raise \$300K will be
10 achieved.

11
12 *Meredith Jackson (Ward 2)*: Spoke about her support for the Lebanon Library Renovation Project, noting
13 they have been a resource she has used for the last 16 years. Libraries are always the hub and heart of
14 what communities are like and are a resource to our community.

15
16 *Noelle Warinsky (Ward 2)*: Spoke about her concerns regarding staff cuts, especially the Energy &
17 Facilities Manager position, and her support for defunding the LPD and reallocating those funds to
18 humans services.

19
20 *Fran Oscadal (Ward 3)*: Library Board of Trustees Chair. He spoke about his support for renovation of
21 the Lebanon Library and described the renovation projects, both on the exterior and the interior, that
22 would be done to bring this building forward into the future.

23
24 *Ryan Ratts (Amber Coughlin's husband) (Ward 2)*: Assistant Professor of both Medicine and Pediatrics
25 at the Geisel School of Medicine at Dartmouth. His opinions were his own and not those of his employer.
26 He spoke about his support for the Lebanon Library renovations and the role libraries play in public
27 health outcomes giving examples.

28
29 *Olivia Shin (Ward 2)*: She supported defunding the LPD and increasing funding to human services and
30 the Lebanon Library. She felt it was crucial to reallocate these funds in 2021 and read a couple of articles
31 from the American Public Health Association (2018) regarding how law enforcement violence is a public
32 health issue.

33
34 *Aparna Jayanti (No Ward given)*: She spoke about her, and her family's, positive experiences with the
35 LPD since moving to Lebanon in 1993, noting they have been very helpful. As an immigrant, she has
36 always trusted the LPD/Fire Department and holds a deep respect for them, noting she has never had a
37 single bad experience with the people who live in Lebanon or the LPD, and feels safe here. She was
38 against defunding the LPD.

39
40 *Yaniris McLenithan (Ward 1)*: She supported the Lebanon Library renovation and spoke about why these
41 renovations need to take place.

42
43 *Jon Chaffee (Ward 1)*: Lebanon Energy Advisory Committee (LEAC) member. He supported keeping
44 the Energy & Facilities Manager position and requested the Council to dive deeper into the budget to
45 keep this position. He also spoke about the effects of climate change, the need for energy conservation,
46 and the need for professional help to confront these issues.

47
48 *F. Woody Rothe (Ward 3)*: Lebanon Energy Advisory Committee (LEAC) member. He supported
49 keeping the Energy & Facilities Manager position, noting the City needs professional help and a leader in
50 dealing with Lebanon's investment with sustainability and this position offers that leadership in
51 sustainability.

1 *Susan Valiante (Ward 1):* She supported the Lebanon Library Renovation Project and expressed her
2 reasons why the Lebanon Library programs are important to residents, noting this project is not a nicety,
3 it is a real necessity and urged the Council to support this project in their budget.

4
5 *Kim Paige (Ward 3):* She supported keeping the Lebanon pool open, noting the pool is an investment in
6 our children, our families, and an investment in summer jobs for our high school and college students.
7 She also spoke about her experiences with the LPD, noting that while their budget could probably be cut a
8 little bit, she was really surprised to hear some of the negative comments she was hearing because her
9 experiences with the LPD, and what she has seen over the years, is that they are very patient and helpful
10 with the people and respond quickly,

11
12 *Dave Lindberg (Ward 3):* Business owner. He wanted to go on record as fully supporting the City's
13 investment in the Lebanon Library and in the EFM (Energy & Facilities Manager) position and spoke
14 about the LPD subtotals for each of the sections in their budget, noting it makes it difficult to drill down
15 to specific areas to see how they are performing. He spoke about how the LPD's overtime and other areas
16 of their budget have decreased over the last few years and felt a hiring freeze in the LPD would go a long
17 way to help the City balance their budget and enable funding for essential human services.

18
19 *Katharine Rancourt (Ward-2):* She spoke about the letter sent to the Council from community members
20 who supported keeping the pool open and requested the Council to refocus and consider continuing the
21 services and events that have already been in place for the City vs. starting potential new projects in the
22 future. While the pool is fairly small in the grand scheme of things, the amount of joy that it brings to the
23 community is very, very big.

24
25 **City Manager Mulholland opened public comments to those participating by phone. No one came**
26 **forth, so the public comment session was closed.**

27
28 Councilor Liot Hill commented on the letter sent by Ms. Rancourt, noting she was speaking on behalf of a
29 very large group. We have received a lot of comments this year from people on behalf of the pool, the
30 Lebanon Library Renovations, the Energy & Facilities Manager position, and people on both sides of the
31 issue pertaining to defunding the LPD. She acknowledged the budget is a moral document but it is not
32 accurate to try and extrapolate the values of a community based on a single budget. Over her 16 years on
33 the City Council, Lebanon has increasingly been a leader in the State in terms of our economic prosperity,
34 social justice, responding to climate change, public health, as well as housing and gave her opinions on
35 the following:

- 36 • Human Services: Lebanon is one of the most generous public supporters in the entire Upper
37 Valley. Every year we have provided more funding for organizations such as LISTEN, The
38 Haven, WISE, and many other social service agencies to support people in need. The City has
39 gone through the Great Recession (2008-2009), an Opioid Crisis and have seen more
40 homelessness. During these times, our human service funds were increased and our City
41 departments modified their services to address human services needs. It is not just the Police
42 Department who has had to adopt their practices to address mental health and other issues, but
43 our libraries have increasingly become human service organizations in terms of people who are
44 looking for jobs and for children looking for a place to go after school. Our Recreation & Parks
45 Department has also become an important provider of human service needs through the services
46 they provide.
- 47 • Public Transportation: The City of Lebanon is one of the most generous funders in the entire
48 State and the City provides a significant amount of funds to Advance Transit.
- 49 • Energy: The City of Lebanon is also a leader in terms of energy. We were one of the first in the
50 community to have an Energy Committee. We adopted the Mayor's agreement on climate

1 change, adopted the goals of the Paris Climate Accord and have consistently been a leader in
2 these areas. Assistant Mayor Below is leading the charge in Concord, NH for the City of
3 Lebanon to not just be a leader for our community, but to make changes on the State level that
4 will impact all municipalities.

- 5 • Economy: The City of Lebanon has taken care, on a public policy level, to protect our local
6 economy. For example, during the recession of 2008-2009, we specifically funded the Kilton
7 Library building because it was the right thing to do for our community and was a good
8 economic policy to invest in the City's infrastructure.
- 9 • Social Justice: When racist literature appeared in the City, the Council took a stand and adopted
10 a Resolution of Inclusiveness making it clear that hate has no home in the City of Lebanon.
11 After that, the Welcoming Lebanon Ordinance was built on the work of that Resolution. The
12 Council and City continually look at how we can make Lebanon a place that truly lives up to the
13 values of human dignity, equality and equal protection.
- 14 • Budget: While it is important for the Council to take a look at the budget for one year and make
15 the best decisions that we possibly can, we need to be realistic and remember the budget needs
16 to be looked at over time and that the City has been on a path of continuous improvement and
17 leadership in the areas of the economy, social justice, climate and public health.

18
19 *Joan Monroe* came forth and supported keeping the Energy & Facilities Manager position and presented
20 her ideas on where the City could save on the budget (i.e., Taking out the more expensive items in the
21 \$360K City Hall renovation budget and replacing them with less expensive, more energy efficient items
22 like touchless faucets; Postponing work on Mill Road because wash outs often happen there and it is not a
23 highly used road, and; Eliminating overtime at the Transfer Station.

24
25 City Manager Mulholland informed the Council that the State is reducing the interest rate on the City's
26 community Water Revolving Funds from 2.4% to 2% and we were given a 20% loan forgiveness on the
27 CSO 11 project. This will net the City \$113K for the 2021 budget.

28
29 Mayor McNamara suggested these funds could be used to reduce the impact on the budget, or applied
30 toward the cost of operating the pool, explaining the costs and impacts for both.

31
32 Councilor Hill requested the memo she received from Recreation & Parks Director Paul Coats be made
33 available to the public for their review before the Council's final budget review/vote on December 16th,
34 2020.

35
36 Councilor Sykes highlighted a couple of important points, noting the discussions we are having are to
37 determine how to reallocate existing resources to where they might more closely align with the wishes
38 and desires of the residents of Lebanon; how does the budget match with the City's Master Plan; how
39 does it match the ideas residents are talking to us about, and; how do we achieve the goals we hope to
40 achieve.

41
42 The Council discussed opening the pool and the impact COVID may have on its opening; increasing the
43 pool rates; the public health/safety concerns regarding large gatherings/mask
44 requirements/decontamination procedures; the feasibility of opening the pool given that vaccinations have
45 not yet been explored for children, and; the risk to public health/safety if there is another surge in COVID.

Councilor Zook addressed comments she received from the public, noting the pool closing is specifically for 2021 and not a long-term situation and it may be good to look at reallocating funds from the pool toward some of the human services.

Councilor Liot Hill addressed a comment she received from Rory Gawler who requested the Council to at least fund the West Central Behavioral Health Program.

At the request of Councilor Hill, City Manager Mulholland explained the State's funding for mental health and the regional shelter for the homeless, noting the State has released its 10-year plan for mental health, which includes a Mobile Crisis Response Unit. However, the Mobile Crisis Response Unit is going to require a regional response, which needs to be addressed, and Protocols are being worked on.

West Central Behavioral Health has an opening for a social worker, but have been unable to fill this position because it is a challenge not only to find social workers, but finding social workers who are willing to work a night position.

Agreements with social service agencies need to be worked on. At present, the City has no agreements on how they provide their services.

The Community Block Grant funding requests for \$300K should be available in January/February 2021.

In terms of the shelter, City Managers, Mayors and Selectmen from the four towns of Norwich, Hanover, Hartford and Lebanon have asked The Haven to put together a proposal to build a shelter. Unfortunately, CARES Funding cannot be utilized because the structure cannot be built before the end of the year. The City has added \$20K to the budget for human services with the expectation that it will be used to build a low barrier shelter by the end of 2021.

ACTION:

No action is required by the Council. Item is for informational purposes only.

11. City Manager Report:

City Manager Mulholland reported on the following:

- Broadband: There are 140 homes in the City that are not covered. We are waiting on the final proposal from Comcast.
- We did receive notification from Comcast that the City will continue to receive service for Channel 9 and Channel 5.
- Landfill site update regarding solar panels.
- 20 Spencer Street update.
- COVID-19 update: Right now, there are no plans to close City Hall but are certainly getting prepared to do this if the need arises.
- City Council Meeting updates for December 2020.

12. Council Representatives to Other Bodies Reports: NONE

13. Future Agenda Items: NONE

14. Non-Public Session: Held before meeting.

1
2 **15. Adjournment:**

3
4 *Councilor Bronner MOVED for adjournment.*
5 *Seconded by Councilor Heistad.*
6

7 **Roll Call Vote:**

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

10 None voted Nay.

11 **The Vote on the MOTION was unanimous (9-0).*
12

13 **The meeting was adjourned at 9:58 PM.**
14

15 Respectfully submitted,

16 Dona E. Gibson

17 Recording Secretary

DRAFT

**LEBANON CITY COUNCIL
(SPECIAL SESSION)
MINUTES**

Monday, December 7, 2020, 7:00 p.m.

Remote Via Microsoft Teams: [LebanonNH.gov/Live](https://lebanonnh.gov/Live)

MEMBERS PRESENT: Mayor Tim McNamara, Assistant Mayor Clifton Below, Erling Heistad, Karen Liot Hill, Suzanne Prentiss, George Sykes, Jim Winny and Karen Zook

MEMBERS ABSENT:

STAFF PRESENT: City Manager Shaun Mulholland, Deputy City Manager Paula Maville, Lebanon Police Chief Richard Mello, City Engineer Christina Hall, Human Services Director Lynne Goodwin, Kelly Crate (DPW), Attorney Barry Schuster, Attorney Bernie Waugh

1. CALL TO ORDER: Mayor McNamara called the meeting to order at 7:00 PM.

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

A Roll Call of City Councilors was taken and all who attended the meeting remotely are listed above.

City Manager Mulholland reviewed the procedures for the remote meeting to the public.

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

3. PUBLIC FORUM ANNOUNCEMENT: Mayor McNamara made the Public Forum announcement.

4. OPEN TO PUBLIC: No one from the public came forth.

- Councilor Liot Hill came forth and apologized for questioning the percent of the Law Enforcement Agencies in the country who are CALEA Accredited that was included in the December 2, 2020 Resolution by the City Council and congratulated the Lebanon Police Department for the work they did to accomplish this accreditation.
- City Manager Mulholland announced the passing of NH House Speaker Dick Hinch.

5. PUBLIC HEARING ITEMS:

A. ORDINANCE #2020-19 - Public hearing for the purpose of receiving public input and taking action on proposed Ordinance #2020-19 to amend the City Code to add new Chapter 185, Welcoming Lebanon

Included in the agenda packet were the recommendations by the Task Force along with Ordinance #2020-19, which formats the recommendations for codification as part of the City Code, and the following October 30, 2020 Legal Opinion by Attorney H. Bernard Waugh re: Welcoming Lebanon Ordinance, with the following attachments: 1) January 13, 2020 Legal Opinion by Attorney H. Benard Waugh re:

1 “Welcoming Lebanon Ordinance” Binding Initiative Petition. 2) April 23, 2020 Legal Opinion by
2 Attorney H. Bernard Waugh re: “Welcoming Lebanon” Ordinance.

3
4 • **Fair & Impartial Policing Task Force Report to the Council (pages 28-37, agenda packet).**

5
6 In March 2020, the voters of Lebanon passed the “Welcoming Lebanon” Ordinance which began through
7 a binding referendum process in October 2019.

8
9 In May 2020, the City Council established the Fair and Impartial Policing Task Force to study and
10 propose amendments to the ordinance in an effort to make it compliant with applicable Federal and State
11 laws, rules, and regulations, while maintaining the intent and purpose of the ordinance as adopted by
12 voters.

13
14 Ordinance #2020-19 was sent for legal review in accordance with City Code Chapter 115, Enactment of
15 Ordinances. A legal opinion by Attorney H. Bernard Waugh and “Comments on Formatting” were
16 incorporated into the draft proposed ordinance and posted as part of the November 7th, 2020 public
17 hearing notice.

18
19 Councilor Liot Hill, Chair of Lebanon’s Fair and Impartial Policing Task Force came forth to review and
20 take questions from the public and Council on proposed Ordinance #2020-19 to amend the City Code to
21 add a new Chapter 185, Welcoming Lebanon. She introduced the members of the Task Force who are:

22
23 Councilor Liot Hill, Chair
24 Councilor Suzanne Prentiss
25 Kathleen Beckett
26 Devin Wilkie
27 Diane Root
28 Keysi Montas
29 Attorney Barry Schuster.

30
31 The Task Force also benefited greatly by the participation of City Attorney Bernie Waugh, as well as the
32 Attorney for the Petitioner’s Committee Kira Kelley, Lebanon’s Police Chief Richard Mello and City
33 Manager Shaun Mulholland. While the Task Force was able to achieve consensus on almost every single
34 issue, not everyone was 100% satisfied, but satisfied enough to move forward. One major area where
35 there were differences in opinion was enforcement of the ordinance.

36
37 Ms. Diane Root came forth, gave an introduction to the ordinance, and thanked everyone for the work
38 they did on trying to answer some of the legal concerns and being faithful to the intention of the
39 petitioners and the voters of Lebanon. The work they did came from a desire that all residents, workers,
40 and visitors in Lebanon should be able to feel welcome, respected and safe and believed we are taking a
41 strong step in that direction. There are some areas where we would have liked to be able to do more,
42 especially to ensure the safety of residents and workers who may be undocumented, but we also realized
43 that may be beyond the scope of both our charge and our authority. This ordinance does address mostly
44 City agents and agencies and the reason for that is because this is where our local power, authority and
45 leadership comes from. Our City employees share and value the interest in having a welcoming
46 community and they share the desire that everyone in our City should be treated equally, justly and with
47 dignity. We hope our Task Force has produced a document that will support their efforts, as well as
48 strengthening the security of the more vulnerable members of our community.

1
2 Ms. Kathleen Beckett came forth and presented her version of the Origins of the Ordinance as listed on
3 pages 28-32, agenda packet.
4

5 The effort to adopt the Welcoming Lebanon Ordinance was motivated by the understanding that all
6 municipalities bear an obligation to ensure fair and just treatment of every person who lives, works,
7 travels through, and otherwise participates in the life of their communities. Lebanon joined community
8 members of three towns in the Upper Valley: Hartford, VT; Norwich, VT; and Hanover, NH, to focus on
9 the particular goal of prohibiting their local police departments from enforcing federal immigration law
10 and to provide a cohesive approach to this concern in the Upper Valley.
11

12 Ms. Beckett's presentation included: Federal Immigration Enforcement's Presence within the Upper
13 Valley; The Citizens' Binding Initiative Process; The Public Hearing; The Municipal Vote, and; The Task
14 Force Assignment, which was to:
15

- 16 1. Propose amendments to the ordinance recently passed which would make it compliant with
17 applicable Federal and State laws, rules and regulations. Further, that the original purpose of
18 the measures remain intact to the extent possible.
19
- 20 2. Reformat the ordinance so it is easily codified as part of the Code of the City of Lebanon, to be
21 known as "Chapter 65 Fair and Impartial Policing."
22

23 The Ordinance has been formatted as Chapter 185, Welcoming Lebanon, in order to remain consistent
24 with the name of the Ordinance as it was passed by voters.
25

26 **WORK OF THE TASK FORCE**

27 Mr. Devin Wilkie recorded a presentation of the work of the Task Force, but due to sound complications
28 that prevented his presentation being heard by those attending the meeting remotely, Councilor Liot Hill
29 read verbatim the work of the Task Force (pages 32-38, agenda packet), noting the concerns and
30 testimonies given to the Task Force. (The new proposed Ordinance #2020-19 depicting the language that
31 the Council would be voting on was shared on screen with the public and the Council as it appeared on
32 pages 3-7 in the agenda packet.)
33

34 **Task Force Recommendations:**

35 Councilor Liot Hill noted that Provision 9, which deals with enforcement of the Ordinance is the last area
36 where there was some disagreement between the Task Force members, but in a unanimous vote, the Task
37 Force agreed to submit this ordinance to the Council. A minority objects to the exclusion of the words
38 "under the criminal code" from Provision 9, as it limits violation-level offenses to violations of the
39 ordinance rather than a violation of law. Further, the Task Force recommends that the City Council and
40 the City of Lebanon undertake several actions to support a smooth and effective implementation of the
41 ordinance, including:
42

- 43 1. Passing a policy that requires City interviewers to show the ordinance to any prospective
44 employee and to take into account any expressions of aversion to its anti-racist sentiments
45 when making hiring decisions, as well as to ensure employees are thoroughly familiar with the
46 Ordinance and what it asks of them.
47
- 48 2. Creating a process for compiling and reviewing complaints. (i.e., showing how they
49 have been handled perhaps in an annual report.)
50

1 3. Removing the term “citizen” from City policies such as “Complaints and Investigations,” when
2 the word “resident” would be more appropriate.

3
4 4. Reviewing and adjusting the City’s Anonymous Hotline Policy to eliminate the City’s
5 exclusive discretion over whether or not reports called in are subsequently investigated.

6
7 Ms. Kathleen Beckett noted that paragraph D of the Enforcement Provision, where it originally said:
8 “cause any action under the Criminal Code,” the Task Force decided to change this to read: “Concerns
9 around the fact that there is no clear penalty or consequence within the Enforcement of the provision.”
10 (Criminal Code was eliminated.)

11
12 Mayor McNamara asked Councilor Hill if the words “under the Criminal Code” were eliminated. Ms.
13 Beckett responded instead saying this change was part of their minority opinion, noting there was a
14 discussion and when Devin recorded his presentation he did not include any course of action under the
15 Criminal Code. The Mayor explained that what is before the Council is what they will be considering.

16
17 Attorney Kira Kelley (attorney for the Petitioner) came forth and introduced herself as a practicing
18 attorney in the areas of Municipal, Constitutional, and Criminal Law and she represents the Welcoming
19 Lebanon Committee for the Petitioners, who first collected signatures for this Ordinance to be put on the
20 ballot to ensure the intent of the final version remains true to the intent of the voters, who approved this
21 initiative by vote on March 10, 2020.

22
23 The Welcoming Committee asked her to speak on the Enforcement Provision. This was the last provision
24 to be reworked during the Task Force meetings and was the only provision included in the version that we
25 are looking at tonight, which lacked unanimous support from all Task Force members. Her clients
26 requested that the City Council formally recognize the need to develop a new Enforcement Provision,
27 potentially by forming a Commission to explore and replace the provision that has been put forth. There
28 are four (4) ways the Enforcement Provision of this ordinance might be improved to fit everybody’s needs
29 and address everyone’s concerns appropriately.

- 30 1. Transparency: A key component of accountability, especially because this Ordinance, as distinct
31 from many of the City of Lebanon’s other ordinances, addresses conduct that often gets swept
32 under the rug and often gets overlooked. Racial bias and violence are statistically underreported
33 and normalized when they are reported because of the skewed dynamics and institutional nature
34 of this suppression even as it shows up interpersonally. Complaints, after an initial verification
35 process, should be public information. Redactions should be made so that people reporting or
36 harmed by violations of this ordinance do not become targets of retaliation or other hate crimes,
37 and we can learn from some of the experiences that people of color, immigrants and activists in
38 Hartford, for example, have had. She noted they became a target of death threats and other forms
39 of intimidation and we want to make sure this ordinance, when it gets adopted and procedures are
40 in place for its enforcement, does not incur danger for those people who come forward to try to
41 help the City of Lebanon live up to this mandate.
- 42 2. Violation process: The process should be clear and easily understood so anyone can report a
43 violation and will have a clear understanding of what happens next after they file a report. The
44 existing preferred version of this ordinance, as presented tonight, just says that an enforcement
45 shall be by the City’s policies, which is a little vague, especially if we are thinking about people
46 where English might not be their first language and are looking to find justice in this ordinance by
47 having a very clear, and in multiple languages, complaint form.
- 48 3. One of the biggest reasons that the Welcoming Lebanon Committee had hesitations about what is
49 put forth in the current version is because it leaves a lot up to the discretion of the City Manager,
50 whereas, ideally an Enforcement Provision would prescribe clear and distinct escalated

1 consequences that depend on the intent behind, and the severity of the violation. The ordinance
2 must be explicit in who makes the decision of a person's intent or the severity of the violation.
3 Did somebody accidentally or inadvertently, unknowingly mess something up, or was this
4 intentional by a City employee who was calling Customs and Border Patrol informing them of
5 people who should be profiled?
6

7 A concern was raised by City Manager Shaun Mulholland regarding City employees who were
8 worried they might get in trouble for something they did not know they were doing. That concern
9 was taken into account, and thought was given about what an Enforcement Provision might look
10 like if it was carefully worded so that inadvertent, or unintentional violations of the ordinance,
11 would garner an appropriately mild response. When somebody intentionally violates the
12 ordinance by notifying ICE or Customs and Border Patrol, such as by willfully ignoring the duty
13 an ordinance imposed or flauntingly disregarding the solemn responsibility that the ordinance
14 affirms that public servants have to respect and enforce the ordinance and protect all members of
15 the public from harm, these egregious violations should not be left up to discretion with the
16 possibility of being ignored and thus invited to continue. Replacing the existing Enforcement
17 Provisions, using the City Manager as the catch all, be all, should have clearer guidelines and
18 tailored appropriately to the severity of the offense. Something to consider would be treating a
19 City employee differently than a contract worker, which came up in Task Force discussions.
20 Examples were given. The process should be ideally cemented in the ordinance rather than put in
21 a policy that is then incorporated by reference into the ordinance. She spoke about further
22 changes to the ordinance which could be subject to future changes that may not be as carefully
23 thought through as it is right now with its adoption, noting that when a policy is changed it can
24 happen in a less democratic and transparent way.

- 25 4. In the Task Force meetings, strong aversion was heard from a couple people, who were not
26 members of the Task Force, towards any kind of criminal or civil liability for anyone who fails to
27 comply with this ordinance. On behalf of the Welcoming Lebanon Committee, she urged the
28 Council to question if they are feeling this way, where this aversion comes from and to look at the
29 other ordinances and provisions in the Lebanon City Code to see that there is actually a broad
30 range of severity in penalties the City imposes for other ordinance violations and gave examples.
31 As we are thinking about making sure this ordinance is enforceable, we should not be afraid of
32 imposing severe consequences. For City employees, we are not expecting everything to be
33 perfect, but it is the intentional and egregious violations that we are holding people accountable
34 for. Employees of the City who intentionally subject their people to harm should be dismissed
35 from their positions if they violate the ordinance severely or repeatedly. This ordinance is the
36 will of the people and compliance with it should not be optional.
37

38 Attorney Kelley asked that the request from the Welcoming Lebanon Committee's Enforcement
39 Provision, as written, be revisited and changed to better meet the needs of everyone involved.
40

41 *Phil Bush (Ward 1):* Member of the Petitioner's Committee. He sent an email to the Council and Task
42 Force members asking they consider the additional recommendations from the Petitioning Committee
43 regarding the Enforcement Provision and requested a Welcoming Lebanon Commission be created to
44 address a number of roles in relation to the ordinance and vetting broader immigration issues, explaining
45 his suggestions and his reasons for them.
46

47 Attorney Waugh's opinion was that the draft meets the Council's intent and purpose the Task Force was
48 created for. The legal concerns he expressed in his two opinions fixes some of the problems and he did
49 not feel anything further needed to be done, but understood some of the desires to do that. He did not
50 hear anyone say this version should not be passed before the first of the year to replace the one passed by
51 voters, and did not think it appropriate to comment now about what might happen after that.

Councilor Liot Hill underscored the comments made by Attorney Waugh. She but did not hear any public testimony and has not heard from any members of the Task Force during their meetings who said this version, as presented to the City Council, should not be passed. There might be disagreement about whether the Enforcement Provision is strong enough and whether it should be enforced under RSA 625:9 instead of under the City policy, but what has been presented to the City Council has unanimous agreement on Provisions 1-8, and even if there is some disagreement on Provision 9, the Council can make changes to this in the future if it is determined that it would be more appropriate to address this ordinance under RSA 625:9. She strongly urged the Council to listen to public testimony, consider what the public has to say, and then adopt the language by the Task Force because it addresses the concerns raised by City Attorney Waugh, and is an important step forward for the City in addressing nondiscrimination and human dignity within our borders.

Mayor McNamara informed the public about the procedures for participating in the Public Hearing and opened the Public Hearing.

Below is the summarization of comments made by the following people who came forth remotely to speak:

Angela Zhang (Hanover resident): Programs Director for LISTEN. She spoke about LISTEN's mission noting they have met and worked with immigrants in our communities who are afraid to contact social services to get much needed help. Confidentiality is the bedrock of social services and she assured people LISTEN does not share confidential information with any outside agency, including Border Patrol or ICE. LISTEN supported passing Ordinance #2020-19.

Al Patterson (Ward 3): He once again congratulated the LPD on their CALEA Accreditation and spoke about his concerns with the notification clause. He felt this seemed like nothing more than a policy to protect illegal immigrants and make sure there is no accountability and urged the Council to be careful with penalties. He felt there should not be any loss of City employee jobs, and did not support the passing of the ordinance.

Sarah Wraight (Ward # not given): She supported passing the ordinance and underscored the cases where people's lives have been harmed. She appreciated the work of LISTEN and others in the community who are trying to support the most marginalized members of our community.

Liam Coyle (Ward-1): He supported passing the ordinance and spoke about his opinions on why consequences should be included in the ordinance and felt there should be a Lebanon Commission as a bridge between the Lebanon community and immigrants.

Richard Holmes (Ward-3): He spoke about the concerns he had with the ordinance's title and felt it was not a true "Welcoming Ordinance," noting that nowhere in the ordinance does it say Lebanon welcomes immigrants. Instead, it lists all the penalties, which puts a lot of pressure on both police and City employees. This ordinance is just addressing a topic in one way, which are penalties and prohibitions.

Angela Zhang (Hanover resident): She came forth again and spoke about her profession as a social worker and HIPPA standards. She did not view the proposed ordinance penalties as being any different from the HIPPA standards that apply to her profession.

Paula Maville (Ward-1): Deputy City Manager for the City of Lebanon and resident. She wanted to clear the air and said that when the discussion started about enforcement against City employees, it was

1 because of the concern that, depending on the violation, we may be either subject to violating a City
2 ordinance or we may be subject to violating a State or Federal law. No City employee will say they
3 should not be subject to laws, but what she and other employees are saying is that we should not be
4 subject to laws created by our local City Council that put us in a position where we will violate another
5 law (State/Federal) and wanted to make sure this point was clear.

6
7 *Joshua Flanders (Ward-1):* He was born and raised in this City and has never seen the Lebanon Police
8 Department, or any Lebanon City official, be negligent regarding matters of ethnic or racial inequality.
9 He firmly believes this is an important issue the world is facing at this time, but we need to be a little
10 more specific about how we are addressing this issue and felt we are trying to create a law at a City level,
11 but avoiding laws at a Federal level explaining his rationale.

12
13 Fran Hanchett (Ward 2): She did not personally see anything wrong with the original Welcoming
14 Lebanon Ordinance and has always felt we are a welcoming City, noting she has lived here all her life.

15
16 **Mayor McNamara, seeing no further hand comments, opened phone call comments from the**
17 **public. Seeing no further comments, by hand or phone, Mayor McNamara closed the Public**
18 **Hearing.**

19
20 Councilor Heistad supported passing this Ordinance. He believes the life blood of a lot of communities is
21 generated by the immigrants who are willing to work hard. We need to do all we can to make all
22 residents feel welcome.

23
24 Councilor Prentiss pointed out the original ordinance was passed by the voters last year and said we are
25 not debating the ordinance itself; we are just talking about the Petitioner's Committee and the Task
26 Force's language that needed to be clarified, which is what this Task Force did. From her perspective,
27 one of the jobs the Council has is to hire a City Manager, and the City Manager is there to manage the
28 employees. We, as City Councilors, do not manage employees, we only manage the manager and she has
29 no issues with having the City Manager manage this process should there be a violation, whether
30 intentional or unintentional. This ordinance has already been passed and is not in debate.

31
32 Councilor Sykes recognized the work from the Task Force was not perfect and would not make everyone
33 happy. It did do some very important things, which was to fix some of the concerns/flaws of the original
34 Petitioner's request, so from this perspective alone it is important we continue with the process the City
35 and residents of this community have been engaged in. He was hopeful this kind of dialogue would
36 continue to improve the life for all in the City of Lebanon, noting he will continue to advocate for a
37 continuation of this dialogue.

38
39 Councilor Winny concurred with Councilor Sykes, noting the modified version addresses the concerns he
40 had with the initial Welcoming Ordinance and he is willing to look at this ordinance, or any other
41 ordinance that the City has to improve any and all of them.

42
43 Mayor McNamara supported moving this forward as currently written, with the realization that nothing is
44 perfect, and ordinances are always subject to change. What we have here is a product of months of very
45 sincere efforts and negotiations and is something that can be implemented and have an immediate impact.
46 Public policy is rarely cut and dried. Successful public policy is typically a compromise and thought this
47 represents a reasonable and legitimate compromise.

48
49 Councilor Bronner concurred with Mayor McNamara, but thought the original penalties imposed were a
50 little too much. He supported the proposed ordinance moving forward as written.

1 Councilor Prentiss supports moving the ordinance forward as is. There was a lot of hard work done and it
2 was a privilege to be part of this Task Force, noting that nothing in public policy can be absolutely
3 perfect.

4
5 Councilor Liot Hill addressed Phil Bush's comment about the creation of a Commission, noting this was
6 an interesting idea and is worth the Council's consideration. There is a misconception that if someone
7 supports the Welcoming Lebanon Ordinance it means that person also believes there are bad things
8 happening in the City or agents for the City are engaging in this kind of discrimination. She wanted to
9 make clear that the City of Lebanon is a welcoming place. Just because someone supports or votes for
10 this ordinance does not mean they are anti-police. Just because someone does not support this ordinance,
11 it does not mean they are racist. It is possible to support the Welcoming Lebanon Ordinance and to
12 support the Lebanon Police Department and all City employees, noting it is not one or the other.

13
14 Councilor Zook concurred with Councilor Hill on the role of this ordinance. Our job is not necessarily to
15 look at Lebanon as it is at this exact moment. We need to be looking at it 50 years from now. This does
16 not supersede the Welcoming Resolution and is not taking its place.

17
18 Assistant Mayor Below appreciated all the work everyone has done on this effort and supported this
19 moving forward, but knowing our work is not done.

20
21 City Manager Mulholland asked for clarification from Kathleen Beckett regarding the comment she
22 made on November 4th, when this was first presented to the Council from the Task Force. He said she
23 made the following quote: "Racial and ethnic discrimination by government officials is a well-proven,
24 nationwide reality." He attended all but one meeting with the Task Force and did not recall the Task
25 Force discussing anything of that nature, nor coming to any such conclusions of that fact. He requested
26 Ms. Beckett to clarify that the Task Force did not draw that conclusion and that it must be from either the
27 Petitioner's Committee or from her own comments, but not from the Task Force.

28
29 Ms. Beckett was no longer available to speak, but Councilor Hill noted the way the report from the Task
30 Force was reported to the City Council, is that Kathleen (Beckett) wrote a history that provided a
31 background from the Welcoming Lebanon Petitioners Committee, so the report of the Task Force, which
32 Devin (Wilkie) used, was based on the memo she (Kathleen) prepared for the Task Force, but the report
33 of the Task Force authored by Devin (Wilkie) contained some of his own commentary. The first half of
34 the memo that went to City Council included a section that was titled: Origins of the Ordinance. This is
35 what was authored by Kathleen Beckett. The portion of the memo that started with "Work of the Task
36 Force," was the section that was submitted by Devin Wilkie. She believed the quote City Manager
37 Mulholland was referencing was in Kathleen (Beckett's) presentation and would have been coming from
38 her perspective as a representative of the Petitioner's Committee. This was not something the Task Force
39 discussed or identified and was certainly something we did not agree with because it was not a topic of
40 our conversations.

41
42 City Manager Mulholland thanked Councilor Hill and reiterated that this was not the position of the Task
43 Force and not the position of the City.

44
45 ***Councilor Sykes MOVED, that the Lebanon City Council hereby adopts Ordinance #2020-19, to***
46 ***amend the Code of the City of Lebanon, by adding new Chapter 185, Welcoming Lebanon, as***
47 ***presented in the December 7, 2020 City Council agenda packet.***

48 ***Seconded by Councilor Heistad.***
49
50

1 **Roll Call Vote:**

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

4 None voted Nay.

5 **The Vote on the Motion to approve City of Lebanon Ordinance #2020-19 was unanimously approved*
6 *(9-0).*

7
8 **See below for the approved ordinance.**
9

10 **CITY OF LEBANON ORDINANCE #2020-19**

11
12 **AN ORDINANCE TO AMEND** the Code of the City of Lebanon by adding a new Chapter 185, to be
13 entitled **WELCOMING LEBANON**, which provides for the procedures concerning residents'
14 immigration status and responsibilities and powers regarding federal civil immigration enforcement.
15

16 **Be it ordained by the City Council of the City of Lebanon as follows:**
17

18 **Section 1.**

19 ~~The Code of the City of Lebanon is hereby amended by adding thereto a new chapter, to be~~
20 ~~Chapter 185, Welcoming Lebanon, to read as follows:~~
21

22 ~~The “Welcoming Lebanon Ordinance” which was enacted by the voters of the City by citizen~~
23 ~~initiative pursuant to §C419:23a of the City Charter, and which as to take effect on January 1,~~
24 ~~2021, is hereby repealed and replaced by adding a new chapter to the Code of the City of Lebanon~~
25 ~~to become Chapter 185, Welcoming Lebanon, and to read as follows:~~
26

27 **§185-1. Purpose/Intent**

28 **§185-2. Definitions**

29 **§185-3. Provisions**

30 **§185-4. Implementation and Enforcement**
31

32 **§185-1. PURPOSE/INTENT**

33 The people of Lebanon voted by Citizens' Initiative Ballot measure to enact the Welcoming Lebanon
34 Ordinance. The purpose of this Ordinance is to establish the City's procedures concerning its residents'
35 immigration status and its responsibilities and powers regarding federal civil immigration enforcement.
36

37 This Ordinance gives substance to the sentiments in the City of Lebanon's "Resolution for Inclusiveness"
38 proclaimed by the City Council on June 20, 2018 and commits the City to preserve the public trust, affirm
39 human rights and constitutional rights, and promote community identity, civic pride, and quality of life
40 for all people regardless of race, skin color, national or ethnic origin, cultural group, language, gender
41 identity or expression, sexual orientation, mental or physical ability, age, religious or political opinion or
42 activity, economic status, immigration status, or housing status. The City of Lebanon commits to
43 protecting civil liberties, promoting tolerance, and providing equal protection under the law to all persons
44 in the city. Such protections strengthen trust and collaboration among community members in keeping all
45 residents and visitors safe.
46

Furthermore, the City recognizes that a person's presence in the United States without documents is not a crime and that the City presently lacks the legal authority to enforce noncriminal civil violations of federal immigration law.

Due to the City's limited resources; the complexity of immigration laws; the clear need to foster the trust of and cooperation from the public, including members of the immigrant communities; and to effectuate the City's goals, we find that there is a need to articulate guidelines regarding the relationship between the City and the federal government and to clarify the federal Constitutional protections Lebanon has against federal agencies commandeering its resources.

§185-2. DEFINITIONS

As used in this ordinance, the following words and phrases shall mean and include:

ADMINISTRATIVE WARRANT - An immigration warrant issued by a federal agency charged with the enforcement of civil immigration laws, used as a non-criminal, civil warrant for immigration purposes.

AGENCY – Includes every department, agency, division, commission, council, committee, board, or other body of the City of Lebanon established by authority of state law, the Lebanon City Charter, or an ordinance, executive order, or order of the Lebanon City Council.

AGENT - Any person employed by or acting on behalf of an Agency, whenever any such person is acting within the scope of that person's employment or agency capacity, or when utilizing or disclosing any information that may be learned in the course of that person's employment or agency capacity. The term includes any volunteer acting on behalf of an Agency, as well any person with access to Agency information which is not available to the general public.

CITIZENSHIP OR IMMIGRATION STATUS - All matters regarding questions of citizenship of the United States or any other country or of the authority to reside in or otherwise be present in the United States.

FEDERAL IMMIGRATION AUTHORITIES – Includes federal agencies, departments, or employees tasked with enforcement of immigration law and border, entry, including without limitation, the Department of Homeland Security (DHS), Immigration Control and Enforcement (ICE), and U.S. Customs and Border Patrol (CBP).

IMMIGRATION DETAINER - An official request issued by ICE, or another federal agency charged with the enforcement of civil immigration laws concerning the custody or detention of any individual based on a violation of a civil immigration law.

PHYSICAL OR MENTAL ABILITY - Includes, but is not limited to, "disability" as defined in RSA 354-A:2, IV.

§185-3. PROVISIONS

1. No law enforcement agent or other agent or agency of the City of Lebanon, shall profile, target, detain, or otherwise discriminate against any person because of any of the following, whether actual or perceived: age, sex, gender identity, race, creed, color, marital status, familial status, physical or mental ability, national origin, sexual orientation, ethnicity or culture, language or

1 religion, economic or housing status, or citizenship or immigration status.

2
3 2. No person shall be questioned in a manner which is biased or discriminatory, as described in
4 Provision 1, and no personal information may be collected, retained, utilized, or disclosed in any
5 discriminatory manner or to any discriminatory purpose or effect by any agent or agency of the
6 City.

7
8 3. No agent or agency of the City of Lebanon shall request, collect, or retain information about, or
9 otherwise investigate or assist in the investigation of the United States citizenship or
10 immigration status of any person in the City of Lebanon.

11
12 4. No agent or agency of the City shall disclose information regarding the U.S. citizenship or
13 immigration status of any person, unless such disclosure has been authorized in writing by the
14 individual to whom such information pertains, or if such individual is a minor or is otherwise
15 not legally competent, by the individual's parent or guardian.

16
17 5. Notwithstanding Provisions 1-4 above, agents of the City may question about, collect, retain,
18 utilize, and disclose information concerning the criteria listed in Provisions 1-4 in the following
19 circumstances, as long as that is done on an impartial basis and in a nondiscriminatory manner
20 and as long as no agent of the City provides or requests any of this information from federal
21 immigration authorities.

22
23 A. Where collection, retention, utilization, or disclosure of the specific information is
24 mandated in order to implement a municipal program, process, or function which is
25 performed by the City unrelated to the enforcement of federal immigration law, but
26 whose rules and parameters are imposed by state or federal law or authority, including
27 but not limited to federal and state laws governing employment and elections.

28
29 B. Where collection, retention, utilization, or disclosure of the specific information is required
30 by statute or court order, or where the specific information constitutes an essential
31 evidentiary element in an ongoing investigation or prosecution of a violation of law unrelated
32 to civil immigration law or citizenship status.

33
34 C. Where the information is being collected or retained solely for purposes of evaluating and
35 improving the performance of the Police Department or other City agency with respect to its
36 compliance with the impartiality and non-discrimination requirements of Provision 1 and 2
37 above.

38 D. Where relevant economic information is being collected, retained, or utilized in the course of
39 administering a program of benefits based on financial need, including but not limited to
40 general assistance under RSA Ch. 165.

41
42 6. No Agent or Agency shall condition the provision of City of Lebanon benefits, opportunities, or
43 services on matters related to citizenship or immigration status unless required to do so by statute,
44 federal regulation, or court decision. Where presentation of a New Hampshire driver's license or
45 identification card is accepted as adequate evidence of identity, presentation of a photo identity
46 document issued by the person's nation of origin, such as a driver's license, passport, or matricula
47 consular (consulate-issued document), shall be accepted and shall not subject the person to a higher

1 level of scrutiny or different treatment than if the person had provided a New Hampshire driver's
2 license or identification card, except that this subsection shall not apply to the completion of the
3 federally mandated 1-9 forms.
4

- 5 7. No Agent or Agency of the City of Lebanon, including Law Enforcement, shall aid or participate in
6 immigration enforcement actions. An Agent or Agency is authorized to communicate with Federal
7 immigration authorities in order to determine whether any matter involves enforcement based solely
8 on a violation of a civil immigration law. No Agent or Agency shall:
- 9 A. arrest, detain, or continue to detain a person based solely on suspected or actual civil
10 immigration violation.
 - 11 B. arrest, detain, or continue to detain a person on an Administrative warrant or upon an
12 Immigration detainer based solely on a violation of immigration law.
 - 13 C. accept requests by Federal immigration authorities to support or assist in operations that are for
14 civil immigration enforcement.
 - 15 D. permit Federal immigration authority access to a person being detained by, or in the custody of,
16 the Agent or Agency.
 - 17 E. permit Federal immigration authorities use of agency facilities for investigative interviews or
18 other investigative purpose.
 - 19 F. respond to Federal immigration authorities' inquiries or share information about an individual
20 with Federal immigration authorities. Such information includes but is not limited to the
21 individual's custody status, release date/time, court dates, whereabouts, residence, employment,
22 identification numbers, appearance, telephone number, and familial relations. For the purpose of
23 aiding an individual who may qualify for a U, S, or T Visa, information may be shared if such
24 disclosure has been authorized in writing by the individual to whom such information pertains.
25 Nothing in this Section shall be construed as prohibiting participation in an inter-agency data
26 bases such as the National Crime Information Center, so long as its utilization by City agents is
27 not biased or discriminatory and does not violate the prohibitions in Provisions 3 and 4 above.
28
- 29 8. In order to maintain public safety and the orderly processes for all persons traveling in and through
30 the City of Lebanon, if the City Manager or someone acting on the City Manager's behalf learns of a
31 delay or obstruction in the City of the normal flow of traffic including, for example, due to a Federal
32 immigration authority checkpoint, the City Manager or someone acting on the City Manager's behalf
33 shall make a reasonable effort to confirm that one exists and then cause the public to be promptly
34 notified which may be done through the LebAlert system.
35

36 **§185-4. IMPLEMENTATION AND ENFORCEMENT**

- 37 A. Failure by agents of the City to comply with the Welcoming Lebanon Ordinance shall be
38 addressed under the terms of the City's policies.
39
- 40 B. Any person who believes that they have been subjected to a violation of this Ordinance by a City
41 employee, or who otherwise has personal knowledge of such a violation, may submit a complaint
42 in whatever form or manner the complainant chooses, to the employee or department involved, or
43 to the City Manager, and may submit such a complaint anonymously. Reasonable efforts shall be
44 made to accommodate any language or access barriers. Such complaints shall be handled in
45 accord with applicable City complaints and investigations policies; provided, however, that at the
46 discretion of the Manager, the complaint may be referred to the appropriate law enforcement
47 agency having jurisdiction, and any internal investigation may be delayed pending the outcome of

1 the law enforcement agency's involvement.

2
3 C. Complaints alleging violations of this Ordinance by non-employee agents of the City, including
4 appointed or elected officials, shall be filed with or forwarded to the City Manager, who may take
5 such action as is appropriate in light of the nature of the complaint, including referral to the law
6 enforcement agency having jurisdiction, and/or referral to the Council for such action as it deems
7 justified.

8
9 D. This Ordinance shall not be construed to create any civil cause of action or any cause of action
10 under the criminal code or to form any basis of liability on the part of the City or its agents.
11 Nothing herein shall be deemed to pre-condition or restrict any person from pursuing a complaint
12 in court or from seeking such alternative remedies as may be available under law.

13
14 **Section 2. Severability**

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

19
20 **Section 3. Effective date.**

21 This ordinance shall become effective ~~upon passage~~. January 1, 2021.

22
23 **6. ADJOURNMENT:**

24 *Councilor Prentiss MOVED for adjournment.*

25 *Seconded by Councilor Heistad.*

26
27 **Roll Call Vote:**

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

30 None voted Nay.

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

32
33 **The meeting was adjourned at 9:22 PM.**

34
35 Respectfully submitted,

36 Dona E. Gibson,

37 Recording Secretary

DRAFT

**LEBANON CITY COUNCIL
MINUTES, SPECIAL MEETING
JOINT CITY COUNCIL & BOARD OF ASSESSORS
Wednesday, December 9, 2020, 7:00 p.m.
Remote Via Microsoft Teams: LebanonNH.gov/Live**

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

BOARD OF ASSESSORS

MEMBERS PRESENT: John Jay Hutchins, Brian Ware, Frank Mastro, Barry Seaver, Falguni Mehta

MEMBERS ABSENT: None

STAFF PRESENT: City Manager Shaun Mulholland, Deputy City Manager Paula Maville, City Manager Executive Assistant Beth Beraldi, Planning & Zoning Director David Brooks, Police Chief Richard Mello, Deputy Chief of Police Phillip Roberts, Public Works Director Jim Donison, City Engineer Christina Hall, Finance Director Vicki Lee, Deputy Finance Director Tina Stearns, Fire Chief/Emergency Management Director Chris Christopoulos, Airport Director Carl Gross, Parks & Recreation Director Paul Coats, HR Director Gloria Leskiewicz, Human Services Director Lynne Goodwin, Library Director Sean Fleming, Solid Waste Manager Marc Morgan, Chief Assessor Rick Vincent, IT Director Perry Eaton, Meagan Henry

1. Call to Order: Mayor McNamara called the meeting to order at 7:00 p.m.
Councilors who attended the meeting remotely are listed above.

Special Session Board of Assessors Call to Order: Chair Jay Hutchins called this portion of the meeting to order at 7:01 p.m.
Board of Assessors members who attended the meeting remotely are listed above.

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

2. Pledge of Allegiance: Councilor Bronner led the Council in the Pledge.

3. Public Forum: Mayor McNamara made the Public Forum announcement.

4. Open to Public: No one from the public came forth.

- City Manager Shaun Mulholland announced the passing of Richard (Dick) Hinch, NH Speaker of the House.

5. New Business

A. Acceptance of Bid and Authorization of Sale of 695 Dartmouth College Highway, Lot #2

1 **(Property was acquired through Tax Deed)**

2
3 Included in the agenda packet (pages 3-7): The September 16, 2019 Tax Collector's Deed; the City of
4 Lebanon Property Record Card and NH RSA 80:80.

5
6 City Manager Mulholland came forth to review the Acceptance of Bid and Authorization of Sale of 695
7 Dartmouth College Highway, Lot #2 (Property was acquired through Tax Deed), noting the City has
8 received one bid and one bid only in the amount of \$1,875, leaving approximately \$28K in taxes owed to
9 the City.

10
11 On September 16, 2019, the City Council accepted the tax collector's deed for the mobile home located at
12 695 Dartmouth College Highway, further identified as Tax Map 99, Lot 8, Plot 200 in accordance with
13 the provisions of RSA 80:58-86. The former property owner has not expressed an interest in re-
14 purchasing the property at this point.

15
16 On August 5, 2020, the City Council authorized the City Manager to initiate the process to sell the
17 property by sealed bid. One bid was received for the opening that was scheduled for November 25, 2020.
18 The bid was submitted by Gordon Bagley Jr. in the amount of \$1,875. Mr. Bagley is the owner of the
19 mobile home park. The amount of his bid is reflective of the amount of rent the City owed since taking
20 ownership of the mobile home, plus the cost for property maintenance and winterizing of the structure.

21
22 The Council was asked to accept the bid and authorize the City Manager to execute the documents
23 necessary to sell the property.

24
25 **Board of Assessors member Frank Mastro signed into the meeting at approximately 7:07 p.m.**

26
27 **ACTION:**

28 ***Councilor Bronner MOVED, that the Lebanon City Council hereby accepts the bid from Gordon***
29 ***Bagley Jr. in the amount of \$1,875 to purchase the mobile home located at 695 Dartmouth College***
30 ***Highway, Tax Map 99, Lot 8, Plot 200, and in accordance with City Policy CC-102, Real Property***
31 ***Transactions and NH RSA 80:80, authorizes the City Manager to take all actions necessary to***
32 ***execute the sale of the mobile home.***

33 ***Seconded by Councilor Heistad.***

34
35 Councilor Liot Hill asked if this property valuation was actually \$42K and questioned why it was being
36 sold for \$1,875. Councilor Bronner explained this property was in such poor condition the bidder is
37 going to tear it down.

38
39 **Roll Call Vote:**

40 Assistant Mayor Below, and Councilors Bronner, Heistad, Liot Hill, Sykes, Winny, Zook and Mayor
41 McNamara, all voting Yea.

42 None voted Nay.

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

44
45 **Councilor Prentiss signed into the meeting remotely at approximately 7:10 p.m.**

46
47 **B. Review and authorize City Manager to sign Payment in Lieu of Taxes (PILOT) and Mobile**
48 **Integrated Healthcare (MIH) Agreements with DHMC**

1 Included in the agenda packet:

- 2 1. First Amendment to 2002 PILOT Agreement between the City of Lebanon and DHMC (pages 10-18,
3 agenda packet.)
- 4 2. January 24, 2002 PILOT Agreement between the City of Lebanon and DHMC (pages 19-53, agenda
5 packet)
- 6 3. Proposed Mobile Integrated Healthcare-Community Paramedicine Program Agreement (pages 54-61,
7 agenda packet)

8
9 Discussions regarding potential agreements with DHMC are two parts:

10
11 1. A joint discussion between the City Council and Board of Assessors regarding the merits of the
12 negotiated PILOT agreement with Dartmouth Hitchcock Medical Center. While the City Council will
13 have input on the provisions of the agreement, it is the Board of Assessors that has the authority to enter
14 into PILOT agreements in accordance with the provisions of NH RSA Chapter 72; and

15
16 2. A discussion with the City Council regarding a proposed three-year agreement for the provision of a
17 Mobile Integrated Healthcare Program. The City Council has the authority to enter into the negotiated
18 MIH agreement.

19
20 On January 24, 2002, the Board of Assessors and the City Manager executed the first PILOT agreement
21 with DHMC. That agreement specified the amount of the payment in lieu of taxes that would be paid to
22 the City on an annual basis for the term of the agreement which is set to expire on December 31, 2020.

23
24 On February 19, 2019 the City provided a letter to DHMC signaling its intent to negotiate a renewal of
25 the PILOT agreement. During this same time period, City Manager Shaun Mulholland and Fire Chief
26 Chris Christopoulos began unrelated discussions with DHMC regarding a possible agreement between the
27 City and DHMC to begin a Mobile Integrated Health program.

28
29 City Administration and DHMC officials have negotiated the respective agreements for consideration and
30 action by both parties. The PILOT agreement would increase at a rate of 2.5% each year over the next
31 twenty years of the agreement. As DHMC adds more property to the PILOT agreement the base square
32 footage will be adjusted and added to the amount of the annual payment to the City. DHMC will provide
33 the City with a one-time payment in the amount of \$189,050 for the emergency vehicle intersection pre-
34 emptation system to be installed along the Route 120 corridor between Hanover Street and the Hanover
35 town line.

36
37 Finance Director Rick Vincent came forth and reviewed the PILOT Agreement between the City and
38 Dartmouth Hitchcock Medical Center. The agreement before the Council is a result of two years of
39 discussions between the two parties. Discussions went well. Both sides were cooperative and there were
40 no major hurdles to overcome. While he was not present for the original negotiations 20 years ago, he
41 was sure these negotiations were far easier than the prior negotiations. Exhibits A (pages 19-24, agenda
42 packet), Exhibit B (pages 25-29, agenda packet), Exhibit C (pages 30-32, agenda packet), and Exhibit D
43 (pages 32-35, agenda packet) have been added to clarify some confusing language in areas that were sort
44 of gray and hard to understand so down the road future parties who are involved with the agreement can
45 better understand the agreement's intent. Updates have been done with all the base figures, base
46 payments, and the base sq. footage. Over the course of the 20 years, there were properties that DHMC
47 purchased off campus and those have been added to the agreement.

1 On the addenda, everything was brought back to year one on all base calculations. So, instead of starting
2 with the 1 million 700 sq. ft. from 20-years ago, we are starting with 2.2 million sq. ft. The base payment
3 that was originally \$800K it is now \$1.7 million, which is the payment that will start in 2021 and is based
4 on all properties included in the agreement plus the annual 2.5% increase to that payment. The vast
5 majority of the agreement, other than a few words being changed for clarity, is identical to the original
6 agreement and the intent is the same.
7

8 Mayor McNamara said his understanding is there are several ways over the next 20 years that this annual
9 payment can be changed and asked what they were, noting the first way is by an escalated 2.5% per year,
10 so the year one payment is \$1,776, 597 and that gradually increases until the final payment of \$2,840,157
11 in 2040.
12

13 Adele Fulton, Attorney for the City, said that in addition to what is called a base payment, DHMC has to
14 pay additional monies to the City for every taxable property they buy and convert to an exempt use. The
15 rationale for this was to keep the City level funded. For example, if they have taxable property now, the
16 City will lose that money in taxes if DHMC were to buy it and begin using it for their medical reasons.
17 The amount of tax DHMC has to pay, when they first buy a property and it is folded into the PILOT, will
18 go up by 2.5% per year, the same as the base contributions. This is so the City has assurance it will not
19 lose taxes if DHMC buys new taxable property. The 3rd way the City gets additional contributions as a
20 payment in lieu of a tax is based on all improvements DHMC constructs. Every sq. ft. of new space that
21 DHMC constructs, starting now and going through the next 20 years, is folded into a formula by which
22 they have to make additional payments that reflects every new sq. ft. She referred back to page 25 of the
23 agenda packet for the formula, noting every time DHMC adds new building space they have to increase
24 their PILOT contribution to the City based upon the agreed formula.
25

26 Councilor Bronner questioned how we are dealing with the fact that DHMC is now controlling Alice
27 Peck Day Hospital (APD). Attorney Fulton noted APD is not part of this agreement.
28

29 Mayor McNamara announced the PILOT Agreement is not voted on by the Council. It is voted on by the
30 Board of Assessors.
31

32 Councilor Heistad felt it was interesting we can assure the hospital will only have a 2.5% increase when
33 we cannot make that assurance to our own residents. He would like to see the hospital's taxes tied to the
34 rate the rest of the City is paying, noting this has been brought up to him by many of the City's residents.
35

36 Bryan Ware (Board of Assessors) said one of the things he looks at is what he calls proportions and
37 questioned what the total tax bill is for all the residents of Lebanon.
38

39 Mayor McNamara questioned if all the PILOT taxes from DHMC will go to the City and not to the
40 County or State. Attorney Fulton said this is her understanding.
41

42 Mr. Ware noted DHMC probably has \$25M worth of potentially taxable dollars if they were to be taxed
43 like the Cancer Institute of the United States, which is a for profit organization. It seems like we are
44 putting the burden back on the Lebanon City taxpayer. The Mayor makes an excellent point when he
45 says Lebanon is turning itself into more of a regional center than a small NH City.
46
47

1 Mayor McNamara commented that if we assume DHMC is paying taxes on \$25M, the City would be
2 getting about a third of that amount (\$8-9M, yr.) compared to the \$2M we will be getting this year.

3
4 Assistant Mayor Below said he looked up the \$22.3M that was being raised this year from property taxes
5 for the municipal budget, and found DHMC was contributing almost 10%, which is not insignificant.
6 Arguably they would pay more, but they are a nonprofit and do a fair amount of charity care where they
7 write off medical bills for people who cannot afford to pay. It is a national issue trying to control
8 healthcare costs, and in general, most hospitals in NH are nonprofit and are not paying property taxes.

9
10 Councilor Sykes thought DHMC also paid some property taxes for certain small portions of their facility,
11 which are actually commercial in nature. This is separate and distinct from the PILOT. When we talk
12 about their total amount of funds they send to the City, it is not just the PILOT that we should be looking
13 at. It should be the total package. Assistant Mayor Below also noted DHMC pays taxes on vacant land
14 outside the hospital area.

15
16 The Council continued discussions on DHMC's property taxes and what they would pay if they were to
17 pay the same amount as the City's residents; the DHMC/City PILOT Agreement's benefits to the City;
18 the potential impact of rejecting the PILOT Agreement, which could cost the City a lot of money in legal
19 costs and time; the benefits of building a good relationship with DHMC, especially since the City will be
20 working with them on a Mobile Integrated Healthcare-Community Paramedicine Program; the
21 importance of recognizing that DHMC is under no legal obligation to pay even a PILOT, and; the
22 guaranteed revenue stream for the next 20 years to the City.

23
24 Hearing no further questions from the Council, Board of Assessors or the public, the following **actions**
25 **were taken by the Board of Assessors and City Council:**

26
27 **ACTION: THE BOARD OF ASSESSORS**

28 For approval of the PILOT Agreement.

29
30 ***Chair John Jay Hutchins MOVED, that the Lebanon Board of Assessors hereby approves the***
31 ***Payment In Lieu of Taxes agreement between the City of Lebanon and Dartmouth Hitchcock***
32 ***Medical Center as outlined in the "First Amendment to Agreement" presented in the December 9,***
33 ***2020 City Council/Board of Assessors Joint Meeting agenda packet; and hereby authorizes the City***
34 ***Manager to execute all documents and take any action necessary to enter into this agreement.***
35 ***Seconded by Falguni Mehta.***

36
37 **Roll Call Vote of the Board of Assessors:**

38 Chair John Jay Hutchins, Brian Ware, Frank Mastro, Barry G. Seaver, Falguni Mehta all voting Yea.
39 None voted Nay.

40 ****The Vote on the MOTION passed unanimously (5-0).***

41
42 **ACTION: LEBANON CITY COUNCIL**

43 ***Councilor Bronner MOVED, that the Lebanon City Council hereby ratifies and reaffirms the***
44 ***authority of the City Manager under the Council resolution of August 6, 1997 to negotiate***
45 ***agreements for payments in lieu of taxes and, further, reaffirms the City Manager's authority to***
46 ***negotiate with Mary Hitchcock Memorial Hospital, Dartmouth-Hitchcock Clinic, Dartmouth-***
47 ***Hitchcock Medical Center and the Trustees of Dartmouth College for the renewal of a January 24,***
48 ***2002 PILOT agreement that shall begin on January 1, 2021 and expire on December 31, 2040 as set***

1 forth in the “First Amendment to Agreement” presented in the December 9, 2020 City
2 Council/Board of Assessors Joint Meeting agenda packet; and also hereby authorizes the City
3 Manager to execute all documents and take any action necessary to enter into said “First
4 Amendment to Agreement”.

5 *Seconded by Assistant Mayor Below.*

6
7 **Roll Call Vote of the City Council:**

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

10 None voted Nay.

11 **The Vote on the MOTION passed unanimously (9-0)*

12
13 **BOARD OF ASSESSORS ADJOURNMENT:**

14 *Barry Seaver MOVED* to adjourn the Board of Assessors portion of this meeting.

15 *Seconded by Falguni Mehta.*

16
17 **Roll Call Vote of the Board of Assessors:**

18 Chair John Jay Hutchins, Brian Ware, Frank Mastro, Barry G. Seaver, Falguni Mehta all voting Yea.

19○ None voted Nay.

20 **The Vote on the MOTION passed unanimously (5-0).*

21
22 **The Board of Assessors portion of this meeting was adjourned at 7:41 PM.**

23
24 **Mobile Integrated Healthcare (MIH) Agreement:**

25
26 Fire Chief/Emergency Management Director Chris Christopoulos came forth to review the MIH
27 Agreement with the Council.

28
29 DHMC, through a separate proposed agreement (MIH Agreement), has agreed to fund the community
30 paramedicine program and would fully fund a full-time paramedic or AEMT position in the Lebanon Fire
31 Department, as well as 40 hours of staffing for the community nursing program in the City. This program
32 would allow for the provisions of advanced healthcare in the community setting instead of the hospital
33 which it is hoped will reduce healthcare costs and improve the quality of service for those who need it.
34 The initial term of the agreement would be for a three year period with extended service beyond that if the
35 program is successful. The total estimated amount of funding to the City for the agreement for the first
36 three years is \$715,280.

37
38 Mayor McNamara expressed his concern about the City adding a potential FTE after the end of three
39 years. Chief Christopoulos said if the Council chooses to eliminate the program, then the position would
40 go away, noting that 6-months prior to end of the agreement, a small group would meet to review whether
41 or not the program is meeting the expectations of community needs, which is required by the hospital
42 under their licensure report.

43
44 Mr. Mulholland said we will be adding another FTE. It is still being determined if the 40-hr. weekly
45 nurse under the community nurse program will be an employee of the City.

46
47 Councilor Hill said this has been discussed and identified as a goal for some time and supported moving it
48 forward.

1 **ACTION:**

2 For approval of the MIH Agreement.

3
4 **Councilor Bronner MOVED, that the Lebanon City Council hereby approves the Mobile Integrated**
5 **Healthcare-Community Paramedicine Program Agreement between the City of Lebanon and**
6 **Dartmouth Hitchcock Medical Center as presented in the December 9, 2020 City Council/Board of**
7 **Assessors Joint Meeting agenda packet; and hereby authorizes the City Manager to execute all**
8 **documents and take any action necessary to enter into this agreement.**
9 **Seconded by Councilor Prentiss.**

10
11 **Roll Call Vote:**

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

14 None voted Nay.

15 **The Vote on the MOTION passed unanimously (9-0)*

16
17 **C. Discussion and Questions Regarding Proposed 2021 Municipal Budget**

18
19 Information available but not included in the agenda packet: 2021 Municipal Budget as proposed by the
20 City Manager.

21
22 Due to the length of time needed for other discussion at the November 17th Budget Work Session, the
23 Council did not have an opportunity for a wrap-up Question & Answer Session with City Administration.
24 This agenda item will allow the members of the Council to ask any additional questions they may have
25 regarding the proposed 2021 Municipal Budget in advance of the December 16 Public Hearing.

26
27 Mayor McNamara supported and will vote on the budget as proposed, noting he understands there are
28 some controversial items. Since the budget was developed, the City has come up with an additional
29 \$113K in savings from some State programs and he would like to see those savings applied directly
30 against the budget to reduce the tax rate, which would take us down to just over 2.5%. The City Manager
31 was asked to look at the Capital Expenditure for renovations of the bathrooms on the 1st floor of City
32 Hall, and this has come down by about \$200K. He also recommended these savings be applied to the
33 2022 budget since they are not included in the 2021 budget.

34
35 Councilor Prentiss would not vote for the budget at a 3% increase or for the elimination of the Energy &
36 Facilities Manager and would like to see the budget come down to between 2.3-2.5%. She felt additional
37 savings could be found and spoke about the return of investment the Energy & Facilities Manager would
38 add to the City.

39
40 Councilor Zook questioned if the \$113K would be beneficial to those who are renting if applied to the tax
41 rate. Mr. Mulholland explained this depends on the landlord/property owner.

42
43 Assistant Mayor Below requested to hear more about the \$360K adjustment on the City Hall restrooms.
44 He understands there is a proposal that would bring the costs down. Mr. Mulholland explained that bids
45 came in for most of the work, but there are some portions of the work that we could not get bids on.
46 Totals for the windows, the outside wall, the restrooms, the fixtures and dealing with the asbestos, etc. is
47 \$158K. If the Council were to appropriate \$158K in the Capital Budget, it would be up to him to find
48 other funding for the rest of the project. There are a couple of other opportunities that may be coming our

way, such as additional CARES Act funding if approved by the Federal Government and residuals from Phases I & II, but the amount (of residual funds) is uncertain due to a number of issues being addressed.

Assistant Mayor Below put out a straw proposal on some budget adjustments that he thought were reasonable and could allow the funding of the Energy & Facilities position, as well as additional reductions in the projected tax rate. He informed the Council that at the last LEAC meeting, they voted unanimously to urge the Council to continue funding the Energy & Facilities position. He shared the following screen shots of his possible adjustment to the budget.

City Council-Other Purchases (page 86, agenda packet): This is the line item on the City Council's other purchases and felt the budget could be cut by \$2K.

		1 2019 ACTUAL	2 2020 BUDGET	3 2020 ACTUAL	4 2021 PROPOSAL	5 \$ CHG VS 2020 BUDGET	6 % CHANGE VS 2020 BUDGET
		As of December		As of October			
CITY COUNCIL							
1100-4110-01-5500	CITY COUNCIL: OUTSIDE DUPLICATI	0.00	2,500.00	0.00	0.00	-2,500.00	-100.00%
1100-4110-01-5600	CITY COUNCIL: DUES/MEMBERSHIP	14,004.00	15,000.00	14,165.00	15,000.00	0.00	0.00%
1100-4110-01-5900	CITY COUNCIL: OTHER PURCHASES	1,902.53	3,000.00	571.33	3,000.00	2,000	0.00%

Building permits (page 108, agenda packet). He felt we could go up to \$350K in revenues because over the past 5-years we have brought in at least \$350K.

		1 2019 ACTUAL	2 2020 BUDGET	3 2020 ACTUAL	4 2021 PROPOSAL	5 \$ CHG VS 2020 BUDGET	6 % CHANGE VS 2020 BUDGET
		As of December		As of October			
PLANNING AND ZONING REVENUE							
REVENUES							
1100-3230-01-0000	BUILDING PERMITS	360,931.41	275,000.00	1,298,101.29	275,000.00	350,000	0.00%

Building Permit Revenues over time

Building Permits				
	Budgeted	Actual	Actual compared with budget	
2004	\$ 110,000	\$ 129,803		\$ 19,803
2005	\$ 280,000	\$ 364,809		\$ 84,809
2006	\$ 200,000	\$ 184,481		\$ (15,519)
2007	\$ 210,000	\$ 229,490		\$ 19,490
2008	\$ 450,000	\$ 452,405		\$ 2,405
2009	\$ 300,000	\$ 212,991		\$ (87,009)
2010	\$ 360,000	\$ 391,936		\$ 31,936
2011	\$ 550,000	\$ 644,640		\$ 94,640
2012	\$ 235,000	\$ 218,073		\$ (16,927)
2013	\$ 300,000	\$ 683,776		\$ 383,776
2014	\$ 160,000	\$ 179,914		\$ 19,914
2015	\$ 120,000	\$ 234,061		\$ 114,061
2016	\$ 200,000	\$ 719,746		\$ 519,746
2017	\$ 250,000	\$ 342,008		\$ 92,008
2018	\$ 250,000	\$ 533,526		\$ 283,526
2019	\$ 250,000	\$ 360,931		\$ 110,931
2020	\$ 275,000	\$ 1,468,331	as of 11.17.20	\$ 1,193,331
Average	\$ 264,705.88	\$ 432,407	all rows	\$ 167,701
2015-2019	\$ 214,000	\$ 438,054	5 yrs < 2020	\$ 224,054
2010-2014	\$ 321,000	\$ 423,668	next prior 5 years	\$ 102,668
2004-2013	\$ 299,500	\$ 272,198	oldest 5 year period	\$ 22,198
2010-2019	\$ 267,500	\$ 430,861	10 yrs < 2020	\$ 163,361
2004-2019	\$ 264,063	\$ 367,662	16 yrs < 2020	\$ 103,599

1 Police Revenues for Annual Alarm Fees (pages 113, agenda packet). He felt projected fees could
 2 probably go up.

	1 2019 ACTUAL	2 2020 BUDGET	3 2020 ACTUAL	4 2021 PROPOSAL	5 \$ CHG VS 2020 BUDGET	6 % CHANGE VS 2020 BUDGET
	As of December		As of October			
1100-3420-05-0000 ANNUAL ALARM FEES-POLICE	78,584.00	69,000.00	79,390.94	69,000.00	79,000 0.00	10,000 0.00%

3 Police Expenditures (page 117, agenda packet). Due to the pandemic, there has not been the ability to
 4 travel for training, and in-person trainings have been greatly reduced. Realistically, we could afford to
 5 cut their expenditures by 25% because it seems unlikely, for at least the first 6 months of the year, in-
 6 person travel and training is not going to be feasible.

	1 2019 ACTUAL	2 2020 BUDGET	3 2020 ACTUAL	4 2021 PROPOSAL	5 \$ CHG VS 2020 BUDGET	6 % CHANGE VS 2020 BUDGET
	As of December		As of October			
1100-4210-04-5850 POL TRN: STAFF DEVELOPMENT	62,538.00	40,000.00	11,654.88	40,000.00	30,000 0.00	-10,000 0.00%
1100-4210-04-5870 POL TRN: TRAVEL	66.63	12,500.00	3,173.21	12,500.00	9,500 0.00	-3,000 0.00%

7 Public Works Expenditures - Energy & Facility Manager position (pages 130-131, agenda packet).
 8 He did not feel this position needed to be funded at exactly the same level as last year and presented his
 9 proposal changes as highlighted in red below. The net effect of keeping this position would be a \$101K
 10 increase in appropriations, which is 12.3% lower than what we have had.

	1 2019 ACTUAL	2 2020 BUDGET	3 2020 ACTUAL	4 2021 PROPOSAL	5 \$ CHG VS 2020 BUDGET	6 % CHANGE VS 2020 BUDGET
	As of December		As of October			
FACILITIES & ENERGY MANAGER						
1100-4310-03-1100 FAC & ENERGY MGR: FULL-TIME W/	0.00	79,960.00	64,424.35	0.00	80,000-79,960.00 80,000	-100.00%
1100-4310-03-2150 FAC & ENERGY MGR: LIFE/DISABILIT	0.00	800.00	615.18	0.00	800 -800.00 800	-100.00%
1100-4310-03-2200 FAC & ENERGY MGR: FICA & MEDIC.	0.00	6,120.00	4,725.86	0.00	6,120 -6,120.00 6,120	-100.00%
1100-4310-03-2301 FAC & ENERGY MGR: RETIREMENT	0.00	8,930.00	7,196.17	0.00	8,930 -8,930.00 8,930	-100.00%
1100-4310-03-2600 FAC & ENERGY MGR: WORKERS' CC	0.00	190.00	349.86	0.00	400 -190.00 400	-100.00%
1100-4310-03-5500 FAC & ENERGY MGR: OUTSIDE DUPL	0.00	1,000.00	0.00	0.00	0 -1,000.00	-100.00%
1100-4310-03-5600 FAC & ENERGY MGR: DUES/MEMBE	0.00	1,450.00	450.00	0.00	500 -1,450.00 500	-100.00%
1100-4310-03-5850 FAC & ENERGY MGR: STAFF DEVEL	0.00	2,600.00	0.00	0.00	1,600 -2,600.00 1,600	-100.00%
1100-4310-03-5870 FAC & ENERGY MGR: TRAVEL	0.00	1,000.00	0.00	0.00	500 -1,000.00 500	-100.00%
1100-4310-03-5900 FAC & ENERGY MGR: OTHER PURCH	0.00	11,000.00	200.00	0.00	1,000 -11,000.00 1,000	-100.00%
1100-4310-03-6150 FAC & ENERGY MGR: SMALL TOOLS	0.00	1,000.00	578.00	0.00	500 -1,000.00 500	-100.00%
1100-4310-03-6200 FAC & ENERGY MGR: OFFICE SUPPL	0.00	500.00	816.59	0.00	500 -500.00 500	-100.00%
1100-4310-03-6700 FAC & ENERGY MGR: BOOKS/PERIO	0.00	600.00	0.00	0.00	150 -600.00 150	-100.00%
OPERATIONS & MAINTENANCE		115,150		101,000		-12.3% from what it had been

11 Public Works Expenditures (page 134, agenda packet). This includes some streetlights and traffic control
 12 lights, noting 5 streetlights behind meters will be converted to LEDs. He explained this was a
 13 complicated calculation because the rates went up this summer on street lighting. What he has assumed
 14
 15

in this reduction is the City will get the new streetlights in place, in average by April 1, 2021, and there may be a 3/4 savings on the streetlight conversion

		1 2019 ACTUAL	2 2020 BUDGET	3 2020 ACTUAL	4 2021 PROPOSAL	5 \$ CHG VS 2020 BUDGET	6 % CHANGE VS 2020 BUDGET
		As of December		As of October			
UTILITIES							
ELECTRICITY/TELEPHONES							
1100-4350-01-5300	UTL ELEC/COMM: TELE/COMMUNIC/	1,039.39	1,110.00	250.25	1,110.00	0.00	0.00%
1100-4350-01-6220	UTL ELEC/COMM: ELECTRICITY	135,127.64	138,800.00	109,879.26	138,800.00	88,800	0.00 -50,000 0.00%

Total Revenues, Taxes-General Fund (page 179, agenda packet). He suggested we could comfortably go up to \$170K, or about a \$20K increase in revenue based on the history below.

		1 2019 ACTUAL	2 2020 BUDGET	3 2020 ACTUAL	4 2021 PROPOSAL	5 \$ CHG VS 2020 BUDGET	6 % CHANGE VS 2020 BUDGET
		As of December		As of October			
1100-3190-01-0000	LATE TAX PAYMENTS	192,715.02	150,000.00	410,649.08	150,000.00	170,000	0.00 20,000 0.00%

	Budget Amount	Actual Received	Amt over/(under)
2010	\$ 180,100	\$ 283,167	\$ 103,067
2011	\$ 210,000	\$ 267,425	\$ 57,425
2012	\$ 245,000	\$ 291,195	\$ 46,195
2013	\$ 300,000	\$ 316,038	\$ 16,038
2014	\$ 300,000	\$ 223,418	\$ (76,582)
2015	\$ 180,000	\$ 148,714	\$ (31,286)
2016	\$ 170,000	\$ 171,018	\$ 1,018
2017	\$ 170,000	\$ 320,285	\$ 150,285
2018	\$ 170,000	\$ 160,157	\$ (9,843)
2019	\$ 170,000	\$ 192,715	\$ 22,715
2020	\$ 150,000	\$ 414,581	\$ 264,581
Average	\$ 204,100	\$ 253,519	\$ 49,419

The net effect of all this would be \$169K in additional revenues budgeted, or reduced appropriations, minus \$101K to fund the Energy and Facilities Manager position, which would net another \$68K that could go towards reducing the tax rate. It is likely it would get us down to around the 2.2 or 2.3% for the projected tax increase for 2021. This is a better target in terms of these tight economic times.

Mayor McNamara's concern was with the deferred costs, except for the ongoing savings from the streetlights. He also expressed his concern about having to spend a \$101K year for the Energy & Facilities Manager's position going forward. While the other cuts may help us balance the budget this year, we may still be faced with the same issues next year and the years following. He remained confident that we can achieve our sustainability goals by redistributing the Energy & Facilities Manager's responsibilities to other staff.

Councilor Hill appreciated Assistant Mayor Below's work and said his budget suggestions were based on sound reasoning from decades of work on the revenues and actual savings that would be generated from the streetlights. She supported moving his plan forward and felt keeping the Energy & Facilities Manager's position would maintain our sustainability goals. The cuts and revenue increases proposed by Assistant Mayor Below would help reduce the proposed tax rate increase. On another note, she heard

1 from constituents regarding the closing of the pool for next year and questioned if the proposed closure
2 was budgetary or public health related.

3
4 City Manager Mulholland said the reason for the cuts to the pool in 2021 are budgetary. When staff had
5 the discussion about whether or not to open the pool in 2020, those reasons were health-related. The
6 picture is unclear on what will happen in the summer of 2021. What we are seeing now is a surge in
7 COVID-19 across the entire country and when that is going to end nobody is quite sure. We have reasons
8 to believe that one or more vaccines will be available for the adult population sometime in the spring of
9 2021 and will be readily available to those who choose to take it. Nothing prohibits us from opening the
10 pool under State law, but there are risks. At this time, we cannot make a decision on what will be done
11 for the pool's opening in 2021. However, there is no vaccine for children yet, and it is expected there will
12 not be one until towards the end of the summer or early fall. If we are going to make a decision to open
13 the pool, it has to be done in March in order to fill positions. Paul (Coats) has worked on how the pool
14 could be opened with limited operations (i.e., people would have to make reservations to use the pool)
15 and spoke about how cost revenues would be negatively affected.

16
17 Councilor Zook said it seemed to her that since all departments had to make a budget decision, this felt
18 like the right place to make those cuts. The Recreation Department is a really small department, so if a
19 staff cut was made in this department, it would have a big impact on adult and children's programming
20 extending well beyond 2021. She referenced a study done by Princeton about children gathering, noting
21 these types of gatherings turn into super spreader events for a bunch of different reasons and gave
22 examples. The under 12 population we know with 100% certainty will not be vaccinated by the summer.
23 She understood why the pool is a resource the community wants to have available, noting it will be a
24 resource that will be available again in 2022. If the worst thing that happens for any child over the next
25 12 months is that they do not get to swim in a pool, then we have all done a very good job.

26
27 Councilor Sykes supported moving forward with Assistant Mayor Below's concepts. He also wanted
28 clarity before the Council meets on December 16: 1) If individual Councilors can make motions offering
29 changes to a project budget as it now stands. Mr. Mulholland said yes; 2) If the Finance Department will
30 be keeping a running total of costs for the Council. Mr. Mulholland said yes, they are prepared to do so;
31 3) He wants to see property taxes go down as low as they can be, and; 4) He is particularly opposed to
32 layoffs.

33
34 Assistant Mayor Below said that the current Federal Administration had declined to commit to any more
35 than 100M doses of the Pfizer vaccine. As a result, Pfizer said since they have so many other
36 commitments they may not be able to have more of their vaccine available for the United States until
37 halfway through next year. There are other vaccines in the works that will hopefully be available for
38 adults by the 2nd quarter of next year. A number of leading experts have said it is very unlikely that
39 children under the age of 18 will be widely vaccinated by the fall of next year. While he was sorry to see
40 the prospect of the pool closed and noted that even if funds were put into the budget now it seems it is
41 very unlikely we are going to be in a position to hire the staff. He heard some talk that the School Board
42 may choose to drop the School Resource Officer position and thought if this did happen, the City could
43 possibly repurpose the \$60K, or half of that, back towards the pool, but still felt it was not prudent to
44 budget for the pool's opening.

45
46 Councilor Bronner concurred with Assistant Mayor Below and would like the budget to be reduced from
47 3% to at least 2.5%, or go as far below that as we could. He was of the opinion that we can kick the can

1 down the road regarding the pool's opening and make a decision in March using a Special Appropriation
2 if necessary. We will have a much better idea of how vaccines are rolling out and what the actual
3 infection rate looks like at that time.

4
5 Councilor Liot Hill concurred with Councilor Bronner and said it makes sense to take his approach by
6 revisiting this issue in March when we have more information about the vaccines and how COVID is
7 spreading. However, public health is the most important part of this discussion. She supported Assistant
8 Mayor Below's proposal and the goal of keeping the tax rate increases as low as we can.

9
10 Councilor Winny supported Assistant Mayor Below's (The Below Plan). He felt value in keeping the
11 Energy & Facilities Manager's position, noting there is still some work to be done. In terms of the pool,
12 he will be happy to look at this down the road if the public health circumstances improve.

13
14 Councilor Prentiss supported The Below Plan, as it's been called. For the pool, she noted these are very
15 uncertain times and we have to proceed with care. If it's a matter of holding off for a few months and
16 looking at this again, maybe we will have a better picture by then or maybe we won't, but we have to act
17 in the best interests of the public's health and this is one of the decisions (closing the pool in 2021), as
18 hard as it is, we may have to make. She supported keeping the strategic investment in the Energy &
19 Facilities Manager position. This is a position the City needs and explained her reasons, noting it is
20 premature to make this cut because of the struggle with climate change.

21
22 Councilor Heistad agreed with Councilor Prentiss and supported keeping the Energy & Facilities
23 Manager's position. In terms of health, he mirrored Councilor Prentiss' concerns about public health.
24 We are here to make hard decisions for the safety of the community and whatever that decision is we
25 need to know, from a medical decision, that we can safely open the pool. He supported waiting until
26 March to make a decision on this issue.

27
28 **ACTION:**

29 **No action is required by the Council. Item was for informational purposes only.**

30
31 **6. Adjournment:**

32 ***Councilor Bronner MOVED for adjournment.***

33 ***Seconded by Councilor Heistad.***

34
35 **Roll Call Vote:**

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

38 None voted Nay.

39 ****The Vote on the nomination was unanimous (9-0).***

40
41 **The meeting was adjourned at 8:14 PM.**

42
43 Respectfully submitted,

44 Dona E. Gibson

45 Recording Secretary

DRAFT

**LEBANON CITY COUNCIL
MINUTES, REGULAR SESSION
Wednesday, December 16, 2020, 7:00 p.m.
Remote Via Microsoft Teams: [LebanonNH.gov/Live](https://lebanonnh.gov/Live)**

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

MEMBERS ABSENT: None

STAFF PRESENT: City Manager Shaun Mulholland, Deputy City Manager Paula Maville, City Clerk Kristin Kenniston, City Manager Executive Assistant Beth Beraldi, Director of Planning & Zoning David Brooks, Senior Planner Tim Corwin, Lebanon Police Chief Richard Mello, Deputy Chief of Police Phillip Roberts, Finance Director Vicki Lee, Deputy Finance Director Tina Stearns, Public Works Director Jim Donison, Deputy Fire Chief/Emergency Management Director Chris Christopoulos, Airport Director Carl Gross, Parks & Recreation Director Paul Coats, HR Director Gloria Leskiewicz, Human Services Director Lynne Goodwin, Library Director Sean Fleming, Solid Waste Director Marc Morgan, Chief Assessor Rick Vincent, Kelly Crate and Meagan Henry

1. CALL TO ORDER: Mayor McNamara call the meeting to order at 7:00 PM

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

A Roll Call of City Councilors was taken and all who attended the meeting remotely are listed above.

City Manager Mulholland reviewed the procedures for the remote meeting to the public.

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

3. PUBLIC FORUM ANNOUNCEMENT: Mayor McNamara made the Public Forum announcement.

Mayor McNamara reviewed the protocols for those who would be participating in the meeting remotely and how the budget session would proceed for the Council.

4. OPEN TO PUBLIC: No one from the public came forth..

5. PUBLIC HEARING ITEMS:

A. ADOPTION OF 2021 CITY BUDGET - Public Hearing for the purpose of receiving public input and taking action to adopt the 2021 City Budget as proposed by the City Manager and taking action to authorize the issuance of bonds or notes to finance 2021 capital improvements; to authorize the City Manager to apply for Clean Water State Revolving Fund Loan(s) and to designate the City Manager as authorized representative of the City; and to vote to establish special revenue funds for the Downtown Lebanon Tax Increment Finance District and the Lebanon Airport-Tech Park Tax Increment Finance District.

Included in the agenda packet:

1. November 18, 2020 Memo from Jim Donison, Public Works Director: Project Description & Preliminary Plans for the Moulton Avenue Paving and Trail Construction Project.
2. Notice of Public Hearing as Published in the December 1 and December 8, 2020 Editions of the *Valley News*
3. December 7, 2020 letter from Curt Jacques, West Lebanon Feed & Supply.
4. "Support our Lebanon Police" digital petition signatures.
5. Upper Valley DSA/Care Not Cops Lebanon Resident petition signatures.
6. Upper Valley DSA/Care Not Cops Daytime Population petition signatures.
7. Upper Valley DSA/Care Not Cops Lebanon Resident and Daytime Population digital petition signatures.
8. December 14, 2020 letter from Citizens for Sustainable Taxes.
9. Citizens for Sustainable Taxes petition signatures.

Information available but not included herein:

1. 2021 Municipal Budget as proposed by the City Manager.

2021 CITY BUDGET ADOPTION GUIDE – DECEMBER 16, 2020

This document was provided as a guide to help facilitate adoption of the 2021 City Budget.

- In conformance with Section 419:41 of the Lebanon City Charter, the Notice of Public Hearing for the 2021 Budget adoption process was published in the Valley News on Tuesday, December 1, and Tuesday, December 8, 2020.
- Budgets are adopted by the City Council on a fund basis. A fund segregates revenues and expenditures that are legally restricted to specific uses.
- A majority of City Councilors present and voting, with a quorum of at least **five** members present, is required to approve the annual budget. The issuance or rescission of bonds or notes must be authorized by at least **six** members.
- The City Council may act on the amendments as written, or they may be modified. Amendments may parish for lack of movement and seconding, or other amendments may be introduced.
- Once the relevant Resolution (MAIN MOTION) has been moved and seconded, amendments may be introduced by being moved and seconded and voted on. If passed, the vote is then on the MAIN MOTION AS AMENDED.
- Clarity of Resolutions is imperative as the New Hampshire Department of Revenue Administration, and the City's bond counsel review the meeting minutes and actions associated with appropriation and debt issuance authorization for compliance with New Hampshire law.

Summary of City Manager's Proposed 2021 City Budget: (amendments to be introduced where applicable during proposed action)

<u>Fund</u>	<u>2021 Budget</u>	<u>\$ Chg. v. '20</u>	<u>Source of Revenues</u>	<u>2021 Budget</u>	<u>\$ Chg. v. '20</u>
General	\$34,564,490	\$927,595	Taxes	\$24,672,280	\$1,077,585
Solid Waste Disposal	\$4,498,830	\$164,000	Licenses and Permits	\$2,915,700	\$13,100
Water Treatment and Distribution	\$3,809,720	\$388,430	Intergovernmental	\$3,042,580	\$240,270
Sewage Collection and Disposal	\$7,324,210	\$565,100	Charges for Services	\$17,663,510	\$200,770
Municipal Airport	\$1,358,250	(\$82,460)	Other	\$846,080	\$271,800
Emergency Management	\$25,000	\$0	Interfund Transfers	\$3,542,080	(\$438,180)
Capital Improvements	\$9,930,720	(\$1,106,550)	Bond Proceeds	\$6,972,720	(\$3,422,550)

			TIFD's	\$428,010	\$0
Total	<u>\$61,511,220</u>	<u>\$856,115</u>	Total	<u>\$60,082,960</u>	<u>(\$2,057,205)</u>
			Applied/(Realized) Fund Balance	<u>\$1,428,260</u>	<u>\$868,320</u>
			Total Revenues and Fund Balance	<u>\$61,511,220</u>	<u>(\$1,188,885)</u>

The estimated 2021 Municipal Tax Rate is \$10.27 per \$1,000 of assessed real estate value, an increase of \$0.31 or 3.0% from 2020. A single-family home assessed for \$250,000 will have an estimated 2021 municipal tax bill of about \$2,570, an increase of \$80. Four rates make up the Total Tax Rate: Municipal, School: Local and State and County. *This budget concerns the Municipal portion only.* **Increases of 8.0% and 7.2% to water and sewer service rates, respectively, are factored into the budget.**

ORDER OF BUSINESS:

- 1. OPEN PUBLIC HEARING**
- 2. CLOSE PUBLIC HEARING**
- 3. ENACT RESOLUTIONS TO ADOPT 2021 BUDGET**

Proposed Resolutions include the following:

<u>Resolution</u>	<u>Page</u>	<u>Purpose of Action</u>
No. 1	3	To Vote on the General Fund Budget
No. 2	3	To Vote on the Solid Waste Disposal Fund Budget
No. 3	4	To Vote on the Water Treatment and Distribution Fund Budget
No. 4	4	To Vote on the Sewage Collection and Disposal Fund Budget
No. 5	5	To Vote on the Municipal Airport Fund Budget
No. 6	5	To Vote on the Emergency Management Fund Budget
No. 7	5-8	To Vote on the Capital Improvements Fund Budget
No. 8	8-10	To Vote on the Authorization of the Issuance of Bonds or Notes to Finance 2021 Capital Improvements
No. 9	10	To Vote on Authorizing the City Manager to Apply for New Hampshire Clean Water State Revolving Fund Loans for up to \$275,000 for the Huber Sludge Dewatering Press and to Designate the City Manager as Authorized Representative of the City
No. 10	10-11	To Vote to establish a special revenue fund for the Downtown Lebanon Tax Increment Finance District
No. 11	11	To Vote to establish a special revenue fund for the Lebanon Airport-Tech Park Tax Increment Finance District

PUBLIC HEARING ITEM:

ADOPTION OF 2021 CITY BUDGET – Public Hearing for the purpose of receiving public input and taking action to adopt the 2021 City Budget as proposed by the City Manager and taking action to authorize the issuance of bonds or notes to finance 2021 capital improvements; to authorize the City Manager to apply for Clean Water State Revolving Fund Loan(s) and to designate the City Manager as authorized representative of the City; and to establish special revenue funds for the Downtown Lebanon and Lebanon Airport-Tech Park Tax Increment Finance Districts.

City Manager Mulholland came forth and began this session with a PowerPoint presentation that covered the

1 following (His presentation can be found in its entirety in the City Council's November 5, 2020 agenda packet):

- 2 • Public Policy and Resource Allocation.
- 3 • Budget Objectives: Ensure the municipal tax rate for 2021 increases no more than 3%; Meet the
- 4 City's guiding principles and sustainability objectives; funding critical Capital Improvement Projects
- 5 (CIPs); maintain quality service levels to meet the public's expectations.
- 6 • Review of the City's 2020 initiatives: Going digital (95% paperless by July of 2020); Update water
- 7 investment fees to offset Capital Projects; Implement sewer development charges to produce revenue
- 8 to be used to offset Capital Projects; Continue implementation of the Fixed Asset Management
- 9 System, and; Enhancing energy efficiency and reduce energy usage (i.e., Streetlight Project, Solar
- 10 Projects, LFGTE Project, building upgrades).
- 11 • Review of the 2021 initiatives: Create transparency; Energy efficiency/greenhouse gas reduction
- 12 strategies; Study new water source/sewer system infiltration reduction; Debt stabilization plan;
- 13 Finance software replacement program/related software transition.
- 14 • How your tax dollars are spent: County (7%), Municipal (37%), School State (8%), and School
- 15 Local (48%).
- 16 • Tax rate factors: Expenditures, Revenues (other than property tax), Fund Balance used to reduce tax
- 17 rate, Assessed Valuation, Overlay (offsets tax abatements), War Service Tax Credits.
- 18 • Change in Municipal Tax Rate for years 2019-2023.
- 19 • Unassigned Fund Balance Policy and graphs depicting the changes from 2021-2025 and unassigned
- 20 fund balance. This is especially important to look at because the redline on the graph represents the
- 21 minimum of 19% Unassigned Fund Balance (UFB) Standards, which drops below the standard after
- 22 2023.
- 23 • 2020-2021 Budget Comparisons. In summary, the proposed **Total Request for 2021 is \$61,511,220**
- 24 **(an increase of 1.4% over the 2020 budget)**. There is an 11% decrease in Capital Improvement
- 25 spending. Operating Budget is up by 2.7%. There is a projected increase in the 2021 tax rate of 3%,
- 26 an 8% increase in Water Rates, and a 7.2% increase in Sewer rates.
- 27 • Cost drivers include: A 33.7% Debt Service increase; a 1.5% General Wage increase; Health
- 28 Insurance cost increase of 12.3%; Retirement Rate increases of 6.35%-25.87%; increase in Overlay
- 29 is projected to be \$100K (TBD); Reduction in various revenues due to COVID-19.
- 30 • General Fund Budgetary Impacts for 2021 represents a cost increase of 2.7% equal to \$927,595.
- 31 (Breakdown of the 2021 General Fund and % change details from the 2020 budget can be found on
- 32 pages 18 & 19, in the November 5, 2020, City Council agenda packet.)
- 33 • Revenue Projections: Taxes = 4.5% increase; Licenses & Permits = 4% increase; Intergovernmental
- 34 Revenues = 8.6% increase; Interfund Transfers = 11% decrease; and Bond Proceeds = 32.9%
- 35 decrease. (Note: Bond Proceeds are treated as revenue in that they provide funds for payment of
- 36 projects. Bonds are loans that must be paid back with interest over the period of the loan.)
- 37 • Graphs depicting the 2021 expenditures by Function, Department, Fund, Projected Revenues, and
- 38 Total Debt Service.

39
40 At the request of Dave Lindberg in MS Teams chat who questioned what the \$20K expenditure was for a low
41 barrier shelter, Mr. Mulholland said this will be used to help deal with the homeless issue, noting the region
42 is clearly in need of having one. The Haven is predominantly for Vermont residents and is not considered a
43 low barrier shelter. This will allow some seed funding at the end of the year for operations, assuming that
44 the entities who run these shelters can get one up and running providing additional CARES Act funding is
45 made available by the Federal Government. If funding does not become available and the shelter is not up
46 and running, we will have at least \$20K available to help offset those costs.

Human Services Director Lynne Goodwin came forth noting a low barrier means easy to access. This would be a year-round shelter that will not have strict requirements to exclude people from using it, such as those who are actively using substances or who have active mental health issues.

Mayor McNamara said the \$20K is not necessarily to provide a low shelter in Lebanon. This is a regional problem and should be solved on a regional basis without Lebanon bearing the entire responsibility. Because Lebanon's budget comes before anyone else's, \$20K just sets the stage for other communities to begin to step up to the plate on this (shelter), and by no means suggests this shelter will be in Lebanon. This does not obligate Lebanon to spend these funds.

Mr. Mulholland gave a slide presentation of the Debt Service, noting his goal is not to spend more in Debt Service than what is being retired. Most of the debt service is the CSO project, which is approximately \$71 Million. Of that \$71 Million, a certain portion is charged to the General Fund for road work and water/sewer line replacements to meet the CSO requirements. The Federal Government requires that municipalities separate the sewer and water lines and provided funding for this 15-20 years ago. At that time, the City chose not to accept that funding, so we are now under Administrative Order from the Environmental Protection Agency requiring us to separate the storm water from sewer lines throughout the City. CSO 13 will be constructed next summer. He further explained how the CSO projects were funded through low interest loans to municipalities and up to a 20% loan forgiveness on the principal of those loans. He also spoke about other debt service obligations.

Assistant Mayor Below noted the jump in the Debt Service payments from past CIP investments is the biggest ever between 2020 and 2021. It will continue to increase at a smaller rate for the next couple of years before leveling out and start declining slightly.

- **Unfunded Status:** The following are projects that are not being funded in the 2021 budget because the City simply does not have the funds:
 - Central Fire Station replacement;
 - Community Center;
 - Athletic Fields;
 - West Lebanon Improvements;
 - City Hall Improvements;
 - Lebanon Police Station upgrades;
 - Hanover Street Improvements;
 - Downtown Roadway reconfiguration;
 - Climate Action Plan;
 - Sidewalk extension plan, other than what has already been funded.

To alleviate the frustration being felt by people who were not able to access the City Manager's presentation, Deputy City Manager Paula Maville posted a link to the presentation on MS Teams chat, noting this is the same presentation given at CIP Work Session on October 21, 2020 and again at the Budget Work Session on November 5, 2020. The presentation can be found in the City Council's agenda packet for both sessions.

Mayor McNamara reviewed the procedures again for those who wanted to participate in budget discussions remotely.

MAYOR MCNAMARA OPENED THE PUBLIC HEARING.

A summarization of comments made by people who came forth remotely to speak on the proposed 2021 City

Budget are listed below:

Ramzi Hraibi (Ward-1): Citizens for Sustainable Taxes. For the record, he read a letter from the Citizens for Sustainable Taxes detailing their concerns. (Letter can be found on pages 194-195, in the December 16, 2020 City Council agenda packet. Petitioner's signatures (230) can be found on pages 195-230).

Daniel Nash (Ward-none given): Citizens for Sustainable Taxes. He spoke about his concerns on the City's taxes and urged the Council to adopt the two measures that have been recommended for Resolution #1(reducing the General Fund) and #7 (to deny Capital Improvements).

Al Patterson (Ward-3): Citizens for Sustainable Taxes. He spoke about his concerns regarding the City's rising tax rate and read an email he received from a fellow resident who spoke about the difficulties retirees are having in paying taxes noting they, along with other residents, may be forced to move out of the City.

Morgan Swan (Ward-1): He spoke about his support to fund the Lebanon Library renovation project and gave his reasons for defunding the LPD and diverting those funds to human services and Covid-19 relief.

CJ Conley (Ward 3): She spoke about her support of defunding the LPD and diverting those funds to human services, the homeless and Covid-19 relief, giving her reasons.

Renee Dunn (Ward-3): She supported funding the Lebanon Library renovation project.

Rory Gawler (Ward-3): Upper Valley Democratic Socialists of America (UVDSA) member. He spoke about his concerns with the City Council and defunding the LPD budget noting the UVDSA delivered almost 200 petition signatures and the Council heard from dozens of citizens over several meetings where the overwhelming majority of whom spoke were in favor of reallocating funds from LPD: yet this budget shows no meaningful reductions. He questioned what it takes to make a change in this budget process?

Carla Nordstrom (Ward-1): She has lived in Lebanon since 2001, has watched taxes increase, and felt strongly that the City has reached a breaking point of how much money we can spend. We cannot continue spending unchecked.

Luke Kruger-Howard (Ward-2): Upper Valley Democratic Socialists of America (UVDSA) member. He spoke about his support to reallocate funds from the LPD, implementing the Mobile Health Crisis Unit in 2021, and ending the school's armed resource officer (SRO).

Alexandra Pankoff (Ward 3): She spoke about her concerns and support for defunding the LPD by reallocating those funds to human services and felt the budget is not reflecting the priorities of this. She also supported removing the school's SRO and redirecting those funds toward human services, and supported the library renovation project and the low barrier shelter.

Sarah Wraight (Ward -1): She spoke about her support for funding the low barrier shelter, reallocating LPD funds to human services, shifting the budget from the school's resource officer (SRO) to other community services, and the library's renovation project.

Susan Valiante (Ward-1) She spoke about her support for the Lebanon Library renovation project and spoke about the services the library provides for Lebanon residents noting this is not a frills project.

Vicki Goodrich (Ward-3): She is a 30-year resident of Lebanon and wanted to correct a comment made earlier which was that a majority of the people voiced their opinion about cutting the LPD budget. In the Council's agenda packet tonight, there is a petition signed by over 1,400 residents of the City that are not in favor of reducing the police budget. She felt this was a loud and clear statement to the Council that this (cutting the

1 LPD budget) is not the wishes of all the residents of the City. She did not enjoy listening to bullying comments
2 by people simply because we disagree.

3
4 *David Donley (W-3)*: He questioned if the reduction in the LPD funding budget by 1.8% was a result of the
5 recent Upper Valley Democratic Socialists of America (UVDSA) presentation to the City Council. If not,
6 what was the outcome decided from that meeting moving forward and spoke about his concern for the safety
7 of our community if defunding the LPD become a reality in Lebanon.

8
9 Councilor Liot Hill informed the Council and public that the comments in chat were becoming extremely
10 inappropriate and questioned if it was possible to disable the chat function for everyone. Mr. Mulholland said
11 no. We have been trying to do this but do not have that ability, noting the activities on chat are not part of the
12 Public Hearing.

13
14 *Katherine Rentz (Ward-none given)*: She spoke on behalf of the Lebanon Library Foundation Board, as a
15 member, who supported the Lebanon Library renovation project. They have raised over \$170K and more
16 donations will be coming in to help fund this project.

17
18 *Mark Pageau (Ward-1)*: He is a firm supporter of the Lebanon Police Department and felt any cut in the LPD
19 budget would have both short and long-term ramifications. While he was impressed with UVDSA's
20 presentation for the meeting, he disagreed with many of the facts. While he supported an increase in funds to
21 social services, defunding the LPD is not the place to find that funding noting the distribution of drugs and sex
22 offenders within the community as part of his reasons. He supported the 2.5% to DHMC. He also spoke about
23 the large increases in water/sewer rates that are making living in Lebanon less feasible.

24
25 *Dave Lindberg (Ward-3)*: He spoke about his concerns on the issues that were covered over the many City
26 Council meetings, noting he is not seeing results from the City Council reflecting what the people are asking
27 for.

28
29 *Margaret French (Ward-1)*: She spoke about her support for the letter from the Citizens for Sustainable Taxes
30 and asked the Council to remember, when they think of this budget, that property tax is a regressive tax. While
31 it is not possible in the short term to change the taxing philosophy of New Hampshire, she felt it important to
32 recognize the effect of a regressive tax on the people of the City. Property taxes have increased 25% since
33 2015, while very few people's incomes have increased by that much.

34
35 *Mariana L. Liot (Ward-3)*: She spoke about her support for the Lebanon Library renovations and supported
36 the temporary closing of pool. The reality for this summer is we will still be dealing with COVID in some
37 capacity and explained her public health concerns..

38
39 *Heidi Conner (Ward-3)*: She spoke about her enthusiastic support for the Lebanon Library renovations.

40
41 *Jon Chaffee (Ward-1)*: He spoke about his support for funding the Energy & Facilities Manager position. It
42 makes no budgetary sense to defund a position which more than pays for itself and saves the City large amounts
43 money.

44
45 *Luke Slipski (Ward-1)*: He spoke about his reasons and concerns regarding the City's budget failure in
46 providing valuable resources, especially for Lebanon's residents most in need, and supported defunding the
47 LPD and the reallocation of funds to human services. Please fund the libraries, fund the mental health services
48 and put people in homes.

49
50 *Pat McGovern (Ward-2)*: She echoed Jon Chaffee's comment and supported funding to keep the Energy &
51 Facility Manager's position, expressing her opinions. Clean air and water are basic necessities, not Capital
52 projects and expenditures.

1
2 *Al Patterson (Ward-3)*: He came forth for the 2nd time and felt it important and encouraged people to take the
3 time to look into what the LPD is doing for the community, noting that for the Walmart complaint, the police
4 were there voluntarily to use their services for Toys for Tots.

5
6 *Miriam Ashton (Ward-2)*: She spoke about her support for the low barrier shelter, the library renovations, and
7 suggested a hiring freeze for the LPD. She also questioned how Lebanon residents can influence the public
8 budgeting process and requested more clarity on this process, noting some cities have participatory budgeting
9 approaches.

10
11 *Luke Kruger-Howard (Ward-2)*: He came forth for the 2nd time and spoke about his perspective regarding the
12 Defund, Not Fund petitioner's side of this argument. He objected to comments made stating the UVDSA are
13 cop bashers.

14
15 *Mark Pageau (Ward-1)*: He came forth for the 2nd time and to clarify his point on the LPD being present at
16 Walmart.

17
18 *Vassiki Chauhan (Hanover, NH resident)*: She spoke about the reallocation of funds from the LPD and asked
19 how the previous questions were being tracked and if the City Council will be responding to the public
20 comments through the course of this hearing.

21
22 **Mayor McNamara opened the Public Hearing to those on the phones who wished to speak. Hearing**
23 **none, the phone portion of this Public Hearing was closed.**

24
25 *Marina Liot (Ward-3)*: She came forth for the 2nd time and questioned if the Council will address some of the
26 questions from MS Teams chat.

27
28 Mayor McNamara informed Ms. Liot that MS Teams Chat is separate from this public meeting, even though
29 it is on MS Teams. The Council is addressing questions brought up individually, and verbally, either on the
30 phone or on MS Teams, we are not addressing comments in the Chat function.

31
32 **MAYOR MCNAMARA CLOSED THE PUBLIC HEARING AFTER HEARING NO MORE**
33 **COMMENTS FROM THE PUBLIC, EITHER BY RAISED HANDS OR BY PHONE.**

34
35 Mayor McNamara addressed Mr. Rory Gawler's question: "Since we have made such a great presentation and
36 we have these names on a petition, what more does it take to prove our case?" The Mayor explained that
37 Lebanon is a city, unlike a town. Participatory budgeting takes place in a town where you have a Town Meeting
38 once a year, the budget is discussed and voted on at that Town Meeting. Lebanon is a City where you elect
39 your nine representative and if you do not like what your representative is doing, you vote us out.

40
41 The City Council is trying to piece all of the discussions that come up, with all the varying viewpoints, to come
42 up with solutions, that may not make everyone happy, that will be the best decision(s) for the City at large.
43 His personal opinion with the UVDSA proposal was that it has not proven to him, at this point, defunding the
44 Police Department to extent the UVDSA suggested is a good idea. He was all for adequate, appropriate funding
45 of every City department, not just the police, fire or public works, but every department.

46
47 Councilor Liot Hill underscored the differences between a city and a town. What makes a town a town is the
48 Town Meeting and fundamentally it is the people of that community who make the decisions on Town Meeting
49 Day by adopting a budget. They may delegate some of that power to an Elect Board to make sure the wishes
50 of Town Meeting Day are carried out. That is "Direct Democracy." The City of Lebanon, just like 13 other
51 communities in the State of New Hampshire, is fundamentally different from a town known as a
52 "Representative Government". In Lebanon, nine (9) people, not the entire City, are elected by the people to

1 make decisions for the City on their behalf. You can let your City Councilors know what you wish, but it is
2 the nine (9) City Councilors who decide the budget for the City.

3
4 Councilor Winny noted City Councilors this year, more than any other, have heard from people who are in
5 favor or opposed to things on the budget. It is up to the Council to make the decisions on the things we want
6 to fund or not. No matter what we do, there will be some people who will be unhappy with us and there will
7 be some who may be less unhappy. We will do the best we can to represent our residents through the process,
8 but suspect this year will be extremely difficult to make almost anyone happy because so many people are
9 involved on opposite sides of so many of the items on the budget.

10
11 Mayor McNamara said none of the Council feels that when we get elected we can just do whatever we want.
12 We are always willing to listen to our constituency, but we have to balance what we hear against all the other
13 things we hear and all the things we know about the City. That balancing act is never going to keep everyone
14 happy, particularly this year which has been a contentious year.

15
16 Councilor Sykes said it has always been interesting to him that when he has asked anyone about cutting taxes,
17 everyone has replied sure. What they do not say, when he further follows up on his question, is where they
18 would like to see this happen (i.e., programs, positions, providing less services). From his perspective, it is
19 just not possible to turn the ship of state around immediately without some unexpected results or unreasonable,
20 unknown impacts. His approach this year is to take a reasoned, careful approach to answer some of these
21 questions. Folks in the City should be mindful of a couple things. 1) The Legislature in Concord has continued
22 to make tax cuts for businesses but do not necessarily cut their budget. What this does is force those costs onto
23 the City's tax bill: your property tax bill. 2) This year, Lebanon's schools received almost \$1 Million back,
24 to go against the school's budget, but he did not see a corresponding decrease in the schools' taxes.

25
26 Councilor Below noted the Council gets input in a lot of ways. It is fundamentally a balancing act to try and
27 make the best decisions we can and shared his thoughts on the following:

- 28 • Eliminating the School Resource Officer: This is primarily a School Board decision. The City does
29 share the cost with the School Board, but it is the School Board's call as to whether or not they want
30 to eliminate this position. If they decide to do this it will free up that piece of the budget for us.
- 31 • Citizens for Sustainable Taxes: Complaints about the "outrageous Fund Balance" suggests we should
32 use more of the Fund Balance to reduce the tax rate. The Fund Balance is carefully considered, and
33 while at the high end it was in anticipation of this hump the City saw coming more than six years ago.
34 We are trying to manage it so that it is affordable and sustainable in the long-term. The complaints he
35 thought point to the fact there is fundamental structural problems with over reliance of property taxes.
36 Just to be clear, New Hampshire relies on property taxes as a share of State and local income more
37 than any other State. It is regressive and people in the lower income range often spend 10% or more
38 of their income on property taxes, some pay more, just to stay in a home that they raised a family in.
- 39 • There is a disconnect on the ability to pay. When people retire and their income goes down, or is
40 limited, their property taxes tend to keep going up. He shared a table giving the tax rate history for
41 the past four years to show how the City was trying to manage this, noting the tax rate went up by 3%
42 in 2017, 2.5% in 2018, 2.6% in 2019, and in the City Manager's proposed budget, if you don't count
43 the reassessed valuation of property from the reassessment, would be about a 3% increase in 2021. If
44 anybody's taxes have gone up by more than 3.6% this year, it is not because the budget is going up,
45 or our spending is going up, it is due to the reassessment, noting the market drives the valuation that
46 we pay taxes on. There are subjective elements about the property tax and if you think your property
47 tax value is over the assessed valuation, or you would not be able to sell your house for its assessed
48 value, you should appeal your tax rate. He also spoke about the Consumer Price Index and the
49 Municipal portion of the tax rates over the past 4 years that showed the actual increase has been < 1%
50 (i.e., the City's budget has been growing <1%).
- 51 • He addressed the general proposition from the 230 residents who demanded cutting the budget over
52 the course of 5-years by a 20% reduction in the tax rate noting this is close to \$1M a year that would

1 need to cut in order to achieve this. He shared a table and referred to page 10, agenda packet to
2 demonstrate his points (i.e., cutting the CSO by more than half, and further reductions in the Capital
3 Improvement budgets). In looking at the City's departments, most of them are actually seeing a
4 reduction in spending and their Operating Budget has decreased by <1% .

- 5 • The Finance Budget is driven, in part, by increases in Health Insurance costs and a 1 time expenditure
6 for the City's software programs. It is important to note that while the Finance Budget has increased
7 compared to 2019, it is because Information Technology and health insurance have been integrated
8 into the Finance Department.
- 9 • Hypotheticals on what would be eliminated if the budget were cut by 20% are: The library would have
10 to be closed; the entire Parks & Recreation Department (having no programs whatsoever like the pool,
11 ballfield, trash removal, etc.); all repaving and paving maintenance; funding for Advance Transit;
12 funding for contracted human services would be cut in half. Even then, we would not even be at 2/3's
13 of the cuts we need. Cuts of 4% each year would really affect the quality of life in Lebanon making
14 the City a less desirable community to live in due to the loss of infrastructures and modern services
15 that people expect so property values will go down.
- 16 • City Administration has been very responsible in trying to anticipate these problems and manage them
17 so we can get to the point where we can level them out.

18
19 Councilor Prentiss thanked Assistant Mayor Below and Councilor Sykes for providing the big picture as it is
20 in New Hampshire for the reliance on property taxes, noting everyone needs to be aware there may be more
21 downshifting (costs) to municipalities and this is a problem at the State level. With the population of Lebanon
22 being around 14K, there are so many people and groups to hear from, but it is the larger population that gets
23 served and decisions are made on their behalf. Since 2010/2011, the budget process has started in March/April
24 and is spread out for almost an entire year. The meetings are open to the public and publicly noticed so there
25 are key points in the process for the public/councilors to work together to set a goal and then ask departments
26 to meet that goal. This year, we did our budget planning and started our discussion when COVID was already
27 here and actually made rescissions in the budget to put ourselves in a better position for all of the taxpayers
28 who had an interest in this discussion on one side or another. Big change requires big decisions and planning
29 to put the budget in place. We might have a fundamental difference between all of us on what are essential
30 services. Something that does not always come up is that Lebanon is incredibly generous compared to other
31 Upper Valley communities. If you look at the funds set aside every year for our human service partners and
32 Advance Transit, Lebanon has been taking care of everybody - and you will hear that from other communities.
33 As difficult as these decisions can be, it is important we remain civil to each other in these conversations and
34 it has been disappointing to hear some of the turns in the tone because she has never shown anything but respect
35 for all of you who participate in these conversations.

36
37 Mayor McNamara said rescissions were proposed, approved by the Council, and changes were made over the
38 last 7-8 months that helped get us into a better place today than we would have been. He did not want people
39 to get the idea that this process does not occur (if not weekly, but daily). We are continuously trying to work
40 on the needs of our citizenry and that is not just keeping taxes down, but continuing to make sure that this is a
41 place that is sustainable, resilient and has the quality of life that people need and desire to come and live here.

42
43 Mayor McNamara reviewed the procedure for voting on the budget for the public's benefit. The Council
44 will vote on each fund individually as listed below:

45 General Fund
46 Solid Waste Disposal
47 Water Treatment and Distribution
48 Sewage Collection and Disposal
49 Municipal Airport
50 Emergency Management
51 Capital Improvements

52 Typically, a Motion is made then a discussion takes place on that particular item. There may be one or more

1 amendments presented on those items that will be voted upon. Once all amendments for an item are voted on,
2 the Council will go back and vote on the Main Motion for that fund and then proceed to the next funding item.

3
4 Mr. Mulholland noted the Police Department budget was created back in July, so the Upper Valley Democratic
5 Socialists of America had nothing to do with the LPD budget reductions. The reductions are due to budget
6 decisions made for all departments.

7
8 Councilor Heistad thanked everyone here tonight because they see a problem and would like to have some
9 input on how the Council will address it. Yes, we have homelessness, policing issues, and mental health for
10 other people and our neighbors. These will not be going away and need to be addressed. However, we also
11 have very positive things going on in the City through our Recreation Department and the libraries and spoke
12 about the programs they offer for young people, families and seniors. As we all come together looking for
13 solutions for these problems, we can do that together and with a feeling of community. Acknowledging the
14 good things that Lebanon has done, and is doing, is a good thing to keep in mind. We do have a budget
15 problem, and for many of us the tax rate is an issue, but he is happy to vote for a reduction anywhere that seems
16 helpful. However, he does not want to see us losing the good things that we have in the City's departments,
17 which serve the general public.

18
19 Councilor Liot Hill shared her screen for her statement on the budget. She spoke about the Council's role on
20 the annual budget; the annual budget process; the review of the budget for city departments and how it fits into
21 the City's Master Plan; how Capital Improvement Projects (CIP) are reviewed and recommendations made to
22 fit into the City's 5-year CIP plan. She noted there have been decisions made by leaders of the past who
23 prioritized "short-term gains" over long-term solutions. In her first years in city government, she learned the
24 City had gone 10-years without increasing water/sewer rates. This was popular with the rate payers at the
25 time, but it was not sustainable. In a single year, we had to increase the sewer rate by 72% and the water rate
26 at a similarly high figure. In fact, we are still digging out of that hole. It is not pleasant to vote for increased
27 water/sewer rates every year, but if we are to be a sustainable community it is what we must do; otherwise, we
28 sentence future residents to spikes in rates and gave examples of unsustainable budget decisions made by
29 previous leaders (i.e., the original DHMC PILOT agreement from 20-years ago and the Lebanon Airport, which
30 was turned from a regional airport to a municipal airport). She addressed the City's achievements on the US
31 Mayors Climate Protection Agreement; investing in the City's infrastructure through the CSO projects; the
32 Kilton Library; Public Works; creating TIF Districts to fund future improvements; Non-property Tax revenues
33 through the landfill Gas-to-Energy project; installing solar arrays on municipal buildings; managing cash
34 reserves (Fund Balance) by intentionally building these reserves to smooth out the tax rate. While the global
35 pandemic does create certain contexts for the City's budget deliberations this year, there is a systemic issue
36 that creates a constraint for the City's budget. The City is home to approximately 14K people, but yet we are
37 the socioeconomic hub for a region of approximately 100K and our daytime population is between 35-45K.
38 This means we need to have Police/Fire/EMS departments larger than what you would expect for a community
39 of 14K. The wear and tear on our infrastructure is significantly greater than a community of just 14K people.
40 Yet, because the State of New Hampshire requires cities/towns to pay for municipal services with local
41 property taxes, it is the taxpayers of Lebanon who shoulder the burden of providing services to a much larger
42 population than the one that lives here. While the population of Lebanon may be 14K, the number of taxpayers
43 is approximately 5K who pay for services that benefit an entire region. This is a systemic injustice that is built
44 into our budget created by the New Hampshire Legislature.

45
46 Councilor Liot Hill supported the renovations for the Downtown Lebanon Library and keeping the Energy &
47 Facilities Manager position. For public health reasons, she did not support opening the Lebanon pool this year,
48 but this is an issue to be revisited in March/April. She believed the budget amendments offered by Assistant
49 Below are well-reasoned and offer a responsible way to fund the 2021 budget while keeping the tax rate
50 increase as low as possible. She believed the budget proposed by the City Manager, as amended by the "Below
51 Plan", will allow the City of Lebanon to advance our goals of sustainability while investing in a more
52 prosperous, inclusive community. She will be voting for the budget.

ACTION:

RESOLUTION NO. 1

*** MOTION BY ASSISTANT MAYOR BELOW TO MOVE PASSAGE OF RESOLUTION NO. 1 AS AMENDED TO APPROPRIATE \$34,564,490 FOR GENERAL CITY OPERATIONS AS AMENDED BELOW:**

RESOLVED, for the purpose of authorizing and financing the General Fund budget.

BE IT FURTHER RESOLVED, by the City of Lebanon, that funds be raised and appropriated in the amount of \$34,564,490.

This resolution shall be effective January 1, 2021.

SECONDED BY COUNCILOR BRONNER.

Roll Call Vote:

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

None voted Nay.

****THE VOTE ON THE MOTION WAS UNANIMOUSLY APPROVED (9-0).***

TWO (9) PROPOSED AMENDMENTS TO RESOLUTION NO. 1

(1) MOVED BY ASSISTANT MAYOR BELOW to increase the Human Services budget by \$1,000 for the purpose of adding funds for Tri-County CAP to provide a level service of funding from 2020.

SECONDED BY COUNCILOR PRENTISS.

Councilor Sykes noted that the amount for housing (\$18K+/-) will probably be insufficient and so there may be other things the Council will need to do. He also worried there may need to be a bigger increase in Human Services, noting the delay in paying rent due to COVID-related issues will be ending shortly. His concern is this would have a big impact for residents of the City who live in apartment buildings or homes they are renting.

Roll Call Vote:

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

None voted Nay.

****THE VOTE ON THE MOTION WAS UNANIMOUSLY APPROVED (9-0).***

(2) MOVED BY ASSISTANT MAYOR BELOW to increase Interfund Transfers to General Fund Revenues by \$297,900 (Two Hundred Ninety-Seven Thousand Nine Hundred Dollars) for the 2021 Principal & Interest Payments for the Downtown Tunnel Project; source of financing is the *Downtown Lebanon Tax Increment Finance District Special Reserve Fund.

SECONDED BY COUNCILOR PRENTISS.

Mr. Mulholland explained the Interfund Transfers to General Fund Revenues, noting the law does not recognize or account for the issues of re-evaluation. The idea behind the TIF is in the new evaluation added to that district, only that new increment is what is supposed to be added to the funds and further explained the monetary impacts.

Council Sykes, as the Council's representative for the Downtown TIF District, noted they held discussions and had a unanimous vote supporting this amendment.

Roll Call Vote:

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

None voted Nay.

***THE VOTE ON THE MOTION WAS UNANIMOUSLY APPROVED (9-0).**

**Downtown Lebanon Tax Increment Finance District to be created with adoption of Resolution #10 below.*

Councilor Prentiss MOVED to extend the City Council meeting to 10:30PM.

Seconded by Councilor Liot-Hill.

Roll Call Vote:

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

None voted Nay.

***THE VOTE ON THE MOTION WAS UNANIMOUSLY APPROVED (9-0).**

The Council took a 5-minute recess and reconvened the meeting at 10:00 PM

Assistant Mayor Below had 3-pairs of additional amendments to offer and shared his screen on the Tax Rate History.

**(3) Assistant Mayor Below MOVED to allow \$118,490.00 of adjustments to the City Manager's proposed 20210 budget for the Planning Department, which would bring the tax rate down to 2.5%.
Seconded by Councilor Prentiss.**

City Manager Mulholland noted that since the budget was developed, the City received information from the New Hampshire Department of Environmental Services that the State was going to reduce the interest rates from 2.4 to 2% on the Clean Water State Revolving Fund. In addition to that, they gave us a 10% reduction in the principal as part of that program. Those two reductions will give us a savings of \$113K, bringing the rate down closer to 2.5%. The actual amount needed to bring the tax rate down to 2.5% is \$118,490. In order to achieve this goal, his recommendation was to take an additional \$5,490 out of the Planning Department budget to get us down to a 2.5% take rate.

Roll Call Vote:

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

None voted Nay.

***THE VOTE ON THE MOTION WAS UNANIMOUSLY APPROVED (9-0).**

**(4) Assistant Mayor Below MOVED to decrease the Planning and Zoning Budget by \$5,490.00.
Seconded by Councilor Prentiss.**

Roll Call Vote:

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

None voted Nay.

***THE VOTE ON THE MOTION WAS UNANIMOUSLY APPROVED (9-0).**

1 **(5) Assistant Mayor Below MOVED to decrease the Legislative-City Council budget by \$1,000.00**
2 **Seconded by Councilor Sykes.**

3
4 **Roll Call Vote:**

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

7 None voted Nay.

8 ***THE VOTE ON THE MOTION WAS UNANIMOUSLY APPROVED (9-0).**

9
10 **(6) Assistant Mayor Below MOVED to increase General Fund Revenues by \$85,000.00 as follows:**

- 11 • **Licenses and Permits: \$275,000.00 was proposed, this proposal would increase it to \$340,000**
12 **for a \$65,000.00 increase;**
- 13 • **Charges for Services from the proposed \$69,000.00 to an increase of \$79,000.00, which would**
14 **be a change of \$10,000.00;**
- 15 • **Late Payment Taxes: proposed is \$150,000, this amendment would increase it to \$160,000.00**
16 **for a \$10,000.00 increase for a total of \$85,000.00.**

17 **Seconded by Councilor Hill.**

18
19 Assistant Mayor Below spoke to his motion and showed screen shot tables that depicted his motion above.

20
21 Mayor McNamara appreciated the work done by Assistant Mayor Below but said he cannot vote for this
22 Motion. We need a certain amount of conservatism in the revenue projections and that the City Manager
23 incorporate that conservatism. He was hesitant to reduce to an amount of conservatism and further spoke
24 about his concerns.

25
26 City Manager Mulholland spoke about his concerns regarding the revenue numbers, noting the reason why
27 we always estimate revenues conservatively is because some revenues may underperform or may not come
28 in as projected. We are fortunate that the Permit Revenues actually came in higher than what we expected
29 this year, but that is the exception compared to the norm, noting other revenues came in under projections.
30 He also expressed his concern for the future Unassigned Fund Balance, noting the projections for 2023 will
31 be below 19%, which is the minimal allotment necessary to meet the standard. If the standard is not met,
32 there will not be any funds to offset taxes causing the tax rate to go up significantly, or significant cuts in the
33 budget, or a combination of the two. Looking at building projects projected for 2021 is somewhat limited so
34 it is unlikely the City will see building revenues coming in and discussed the projects affecting the building
35 permits. Whatever is brought in for excess revenues needs to go into the Unassigned Fund Balance to offset
36 taxes in subsequent years.

37
38 Councilor Liot Hill respectfully argued that what Assistant Mayor Below was proposing is a very
39 conservative projection. What we are talking about is the difference between an extremely conservative
40 projection and a very conservative projection. Both approaches would be responsible and prudent, and she
41 felt going with a very conservative projection of our revenues is well advised.

42
43 **Roll Call Vote:**

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

46 Mayor McNamara voted Nay.

47 ***THE VOTE ON THE MOTION WAS APPROVED (8-1).**

48
49 Assistant Mayor Below will not be making a motion to reduce the Lebanon Police Department's traveling
50 and training budgets for 2021.

51
52 **Councilor Liot Hill MOVED to extend the meeting to 11:00 PM.**

1 *Seconded by Councilor Bronner.*

2
3 **Roll Call Vote:**

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

6 None voted Nay.

7 **THE VOTE ON THE MOTION WAS UNANIMOUSLY APPROVED (9-0).*

8
9 **(7) Assistant Mayor Below MOVED to increase the Public Works Department Budget by \$55,660.00**
10 **for the purpose of retaining the Energy & Facility Manager position.**

11 *Seconded by Councilor Hill.*

12
13 Assistant Mayor Below spoke to his motion noting the amount proposed in the motion was less than what
14 was proposed last week because this nets against the \$50K he proposed could be reduced from the line item
15 that funds the streetlighting based on an expectation that the savings would produce about \$50K, assuming
16 the new streetlights are installed on average by or around April 1, 2021. They have heard the streetlights are
17 expected to be shipped the day after Christmas and could be installed over the winter.

18
19 Mayor McNamara spoke about his concerns about whether or not the streetlighting crews from
20 Massachusetts will be allowed to come to Lebanon because of the COVID restrictions that Massachusetts has
21 in place. He noted one option could be to fund the Energy & Facilities Manager position for three (3)
22 months to see if the Federal Government would be passing more CARES Act funding in a stimulus package
23 that would allow the City to fund this position.

24
25 The Council discussed climate change; their opposition to layoffs and the unintended consequences of those
26 layoffs; job security and the lack thereof; the need to keep or eliminate the Energy & Facilities Manager's
27 position, and; the option of voting for a 3-month extension on the Energy & Facilities Manager position.

28
29 **Roll Call Vote:**

30 Assistant Mayor Below, and Councilors Heistad, Liot Hill, Prentiss, Sykes, Winny, Zook all voting Yea.
31 Councilor Bronner and Mayor McNamara voted Nay.

32 **THE VOTE ON THE MOTION WAS APPROVED (7-2).*

33
34 **(8) Assistant Mayor Below MOVED to increase the Finance Budget by \$10,550 for the purpose of**
35 **funding Health Insurance benefits for the Energy & Facilities Manager position.**

36 *Seconded by Councilor Liot Hill.*

37
38 **Roll Call Vote:**

39 Assistant Mayor Below, and Councilors Heistad, Liot Hill, Prentiss, Sykes, Winny, Zook all voting Yea.
40 Councilor Bronner and Mayor McNamara voted Nay.

41 **THE VOTE ON THE MOTION WAS APPROVED (7-2).*

42
43 **(9) Councilor Sykes MOVED to cut \$60,000.00 from the Lebanon Police Department budget**
44 **specifically for the Police Resource Officer's position.**

45 *Seconded by Councilor Bronner.*

46
47 Councilor Sykes spoke to his motion and restated his three goals for this budget year. He spoke about his
48 reasons for cutting the School District's Resource Officer (SRO). He was told the SRO spends half his time
49 as an SRO and half of his time on general patrol. He suggested a delay, or not hiring an FTE in the police
50 department, which would save \$60K but leave the funding in place by continuing to employ the existing
51 employee that we have. The net effect on police patrol services would be a .5 FTE.

Councilor Prentiss asked where the School Board stood on this and the Mayor said the School Board approved of keeping the officer, but the Teacher's Union wanted to drop the position because they are opposed to having an armed officer in their schools.

The Council discussed being out of synch with the school budget and the City's budget; putting a hiring freeze on the LPD budget; the need for communication with the School Board regarding the SRO; what the Council's responsibility is relative to the SRO; the efficacy of school resource officers; what would be the outcome for the City if we cut our half of the funds for the SRO; the impact on the City caused by violating the hiring grant before it expires, where the City would have to pay back the Federal Government \$275,000.00. It was agreed there needs to be more discussions on these issues

Roll Call Vote:

Councilor Sykes voted Yea.

Councilor's Bronner, Zook, Heistad, Liot Hill, Winny Prentiss Assistant Mayor Below, and Mayor McNamara voted Nay.

****THE VOTE ON THE MOTION FAILED (1-8).***

The Main Motion for Resolution No. 1 was then voted on.

Councilor Bronner MOVED to extend the meeting to 11:30 PM.

Seconded by Councilor Prentiss.

Roll Call Vote:

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

None voted Nay.

****THE VOTE ON THE MOTION WAS UNANIMOUSLY APPROVED (9-0).***

RESOLUTION NO. 2

*** MOTION BY COUNCILOR PRENTISS TO MOVE PASSAGE OF RESOLUTION NO. 2 TO APPROPRIATE \$4,498,830 FOR SOLID WASTE DISPOSAL:**

RESOLVED, for the purpose of authorizing and financing the Solid Waste Disposal Fund budget.

BE IT FURTHER RESOLVED, by the City of Lebanon, that funds be raised and appropriated in the amount of \$4,498,830.

This resolution shall be effective January 1, 2021.

SECONDED BY COUNCILOR WINNY.

Roll Call Vote:

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

None voted Nay.

****THE VOTE ON THE MOTION WAS UNANIMOUSLY APPROVED (9-0).***

RESOLUTION NO. 3

*** MOTION BY COUNCILOR PRENTISS TO MOVE PASSAGE OF RESOLUTION NO. 3 AS AMENDENDED TO APPROPRIATE \$3,809,720 FOR WATER TREATMENT AND DISTRIBUTION:**

1 **RESOLVED**, for the purpose of authorizing and financing the Water Treatment and Distribution Fund
2 budget.

3
4 **BE IT FURTHER RESOLVED**, by the City of Lebanon, that funds be raised and appropriated in the
5 amount of \$3,809,720.

6
7 **This resolution shall be effective January 1, 2021.**

8
9 **SECONDED BY COUNCILOR LIOT HILL.**

10
11 **Roll Call Vote:**

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

14 None voted Nay.

15 ****THE VOTE ON THE MOTION WAS UNANIMOUSLY APPROVED (9-0).***

16
17 **ONE (1) PROPOSED AMENDMENT TO RESOLUTION NO. 3**

18
19 **(1) MOVED BY COUNCILOR LIOT HILL** to decrease the amount of funds to be raised and
20 appropriated for the Water Treatment and Distribution Fund by *\$85,430 leaving a total appropriation of
21 \$3,724,290.

22 **SECONDED BY COUNCILOR BRONNER.**

23
24 **Roll Call Vote:**

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

27 None voted Nay.

28 ****THE VOTE ON THE MOTION WAS UNANIMOUSLY APPROVED (9-0).***

29
30 **Savings is due to the lowering of the interest rate from 2.42% to 2.0% on loans received through the State*
31 *Revolving Fund for CSO 11 (Phase 2) and CSO 12.*

32
33 **RESOLUTION NO. 4**

34 *** MOTION BY COUNCILOR LIOT HILL TO MOVE PASSAGE OF RESOLUTION NO. 4 AS**
35 **AMENDED TO APPROPRIATE \$7,324,210 FOR SEWAGE COLLECTION AND DISPOSAL:**

36
37 **RESOLVED**, for the purpose of authorizing and financing the Sewage Collection and Disposal Fund
38 budget.

39
40 **BE IT FURTHER RESOLVED**, by the City of Lebanon, that funds be raised and appropriated in the
41 amount of \$7,324,210.

42
43 **This resolution shall be effective January 1, 2021.**

44
45 **ONE (1) PROPOSED AMENDMENT TO RESOLUTION NO. 4**

46
47 **(1) FURTHER MOVED BY COUNCILOR LIOT HILL** to decrease the amount of funds to be raised
48 and appropriated for the Sewer Collection and Disposal Fund by *\$195,220 leaving a total
49 appropriation of \$7,128,990.

50 **Savings is due to the lowering of the interest rate from 2.42% to 2.0% on loans received through the State*
51 *Revolving Fund for CSO 11 (Phase 2) and CSO 12.*

1 **SECONDED BY COUNCILOR PRENTISS.**

2
3 **Roll Call Vote:**

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

6 None voted Nay.

7 ****THE VOTE ON THE MOTION WAS UNANIMOUSLY APPROVED (9-0).***

8
9 **RESOLUTION NO. 5**

10 *** MOTION BY COUNCILOR BRONNER TO MOVE PASSAGE OF RESOLUTION NO. 5 TO**
11 **APPROPRIATE \$1,358,250 FOR MUNICIPAL AIRPORT OPERATIONS:**

12
13 **RESOLVED**, for the purpose of authorizing and financing the Municipal Airport Fund budget.

14
15 **BE IT FURTHER RESOLVED**, by the City of Lebanon, that funds be raised and appropriated in the
16 amount of \$1,358,250.

17
18 **This resolution shall be effective January 1, 2021.**

19
20 **SECONDED BY COUNCILOR LIOT HILL.**

21
22 **Roll Call Vote:**

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

25 None voted Nay.

26 ****THE VOTE ON THE MOTION WAS UNANIMOUSLY APPROVED (9-0).***

27
28 **RESOLUTION NO. 6**

29 *** MOTION BY COUNCILOR PRENTISS TO MOVE PASSAGE OF RESOLUTION NO. 6 TO**
30 **APPROPRIATE \$25,000 FOR EMERGENCY PREPAREDNESS:**

31
32 **RESOLVED**, for the purpose of authorizing and financing the Emergency Management Fund budget.

33
34 **BE IT FURTHER RESOLVED**, by the City of Lebanon, that funds be raised and appropriated in the amount
35 of \$25,000.

36
37 **This resolution shall be effective January 1, 2021.**

38
39 **SECONDED BY COUNCILOR BRONNER.**

40
41 **Roll Call Vote:**

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

44 None voted Nay.

45 ****THE VOTE ON THE MOTION WAS UNANIMOUSLY APPROVED (9-0).***

46
47 **RESOLUTION NO. 7 AND FIVE (5) PROPOSED AMENDMENTS TO RESOLUTION NO. 7 (taken**
48 **up as one Motion)**

49 *** MOTION BY COUNCILOR LIOT HILL TO MOVE PASSAGE OF RESOLUTION NO. 7 AS**
50 **AMENDED TO APPROPRIATE \$9,930,720 FOR CAPITAL IMPROVEMENTS AND**
51 **ACQUISITIONS:**

RESOLVED, for the purpose of authorizing and financing the Capital Improvements Fund budget.

BE IT FURTHER RESOLVED, by the City of Lebanon, that funds be appropriated in the amount of \$9,930,720 for expenditure in connection with the following Capital Improvements and Acquisitions

Department	Project Name	2021	Bonds/Note Proceeds/Debt	Existing Funds from CRF	Transfers to CIP	Other (SAD, sale proceeds, DHMC PILOT, etc)	Inter- governmental Grants/Other
AIRPORT FUND							
AIR	Runway Safety Area Improvements (estimated)	\$0	\$0	\$0	\$0	\$0	\$0
AIR	Reimbursable Agreement - Localizer Relocation	\$60,000	\$0	\$0	\$0	\$0	\$60,000
AIR	EA - Runway Safety Area Improvements	\$220,000	\$0	\$0	\$0	\$0	\$220,000
AIR	Terminal & Maintenance Building Improvements	\$830,000	\$0	\$0	\$0	\$0	\$830,000
PLN	Airport TIF District Infrastructure Improvements	\$1,929,700	\$1,929,700	\$0	\$0	\$0	\$0
	TOTAL AIRPORT	\$3,039,700	\$1,929,700	\$0	\$0	\$0	\$1,110,000
GENERAL FUND							
FACILITIES							
LIB	Lebanon Library Renovation - Design/Engr/Constr.	\$1,720,210	\$1,720,210	\$0	\$0	\$0	\$0
DPW	City Hall Renovation	\$363,910	\$363,910	\$0	\$0	\$0	\$0
DPW	Valley Cemetery - Maintenance Building Replacement	\$405,000	\$405,000	\$0	\$0	\$0	\$0
REC	Community Center	\$20,000	\$0	\$0	\$0	\$20,000	\$0
REC	Parks Storage & Maintenance Building	\$260,000	\$120,000	\$0	\$0	\$140,000	\$0
FLEET & EQUIPMENT							
FIRE	Ambulance Replacements	\$0	\$0	\$0	\$0	\$0	\$0
FIRE	Cardiac Monitor Replacement	\$180,000	\$0	\$135,000	\$0	\$45,000	\$0
FIRE	F-350 Utility Vehicle Replacement	\$75,000	\$0	\$75,000	\$0	\$0	\$0
FIRE	Staff Vehicle Replacement	\$60,000	\$0	\$0	\$0	\$60,000	\$0
DPW	DPW Fleet and Equipment Replacement	\$300,000	\$0	\$300,000	\$0	\$0	\$0
DPW	DPW Fleet Mobile Lift	\$76,000	\$76,000	\$0	\$0	\$0	\$0
ROADS & BRIDGES							
DPW	Kimball Street Infrastructure Improvements - Road, SW.	\$41,160	\$41,160	\$0	\$0	\$0	\$0
DPW	Mount Support Road/Lahaye Drive Intersection	\$250,000	\$0	\$0	\$0	\$250,000	\$0
DPW	Spencer Street Improvements	\$1,130,000	\$1,130,000	\$0	\$0	\$0	\$0
PLANS & STUDIES							
PLN	Lebanon Complete Streets/Multi-Modal Plan	\$25,000	\$0	\$0	\$25,000	\$0	\$0
DPW	Glenwood Cemetery - Columbarium	\$65,000	\$0	\$0	\$65,000	\$0	\$0
REC	Recreation Playing Fields	\$45,000	\$0	\$0	\$0	\$45,000	\$0
REC	Rail Trail Paving	\$170,000	\$170,000	\$0	\$0	\$0	\$0
	TOTAL GENERAL FUND	\$5,186,280	\$4,026,280	\$510,000	\$90,000	\$560,000	\$0
WATER FUND							
PW-WATER	Kimball Street Infrastructure Improvements - Water	\$30,870	\$30,870	\$0	\$0	\$0	\$0
PW-WATER	New Water Supply Source Study	\$145,000	\$0	\$145,000	\$0	\$0	\$0
	TOTAL WATER FUND	\$175,870	\$30,870	\$145,000	\$0	\$0	\$0
SEWER FUND							
PW-SEWER	Fleet and Equipment Replacement	\$103,000	\$0	\$103,000	\$0	\$0	\$0
PW-SEWER	Huber Sludge Dewatering Press	\$275,000	\$275,000	\$0	\$0	\$0	\$0
PW-SEWER	Lebanon Sewer System Rehabilitation	\$580,000	\$580,000	\$0	\$0	\$0	\$0
PW-SEWER	Kimball Street Infrastructure Improvements - Sewer	\$30,870	\$30,870	\$0	\$0	\$0	\$0
PW-SEWER	Mill Rd Slope Stabilization	\$100,000	\$100,000	\$0	\$0	\$0	\$0
	TOTAL SEWER FUND	\$1,088,870	\$985,870	\$103,000	\$0	\$0	\$0
SOLID WASTE FUND							
DPW-SOLID	Landfill Phase 3-4 Design and Permitting	\$100,000	\$0	\$100,000	\$0	\$0	\$0
DPW-SOLID	Landfill Gas Collection & Control System	\$290,000	\$0	\$290,000	\$0	\$0	\$0
DPW-SOLID	Landfill PFAS Preliminary Study	\$50,000	\$0	\$50,000	\$0	\$0	\$0
	TOTAL SOLID WASTE FUND	\$440,000	\$0	\$440,000	\$0	\$0	\$0
TOTAL CITY CAPITAL IMPROVEMENTS PROGRAM		\$9,930,720	\$6,972,720	\$1,198,000	\$90,000	\$560,000	\$1,110,000

BE IT FURTHER RESOLVED, by the City of Lebanon, that the City Manager is authorized to take steps necessary and appropriate to apply for and secure maximum federal and state grant funding assistance.

This resolution shall be effective January 1, 2021.

FIVE (5) PROPOSED AMENDMENTS TO RESOLUTION NO. 7

(1) FURTHER MOVED BY COUNCILOR LIOT HILL to amend the list of Capital Improvements Projects to include the Moulton Avenue Paving and Trail Construction Project which consists of the repaving of Moulton Avenue; the extension of the sidewalk on Moulton Avenue down to Route 4/Dartmouth College Highway; the installation of a pedestrian crossing at Moulton Avenue and Route 4; paving and drainage repairs to the access drive and parking lot at the Department of Public Works Administrative Building; and the construction of a pedestrian pathway to connect Route 4/Moulton Avenue to the Ruth Shepard Trail (a connection to the Northern Rail Trail).

FURTHER MOVED BY COUNCILOR LIOT HILL FOR THE PURPOSE OF, authorizing the transfer of unspent bond proceeds from the Hill Crest Acres Infrastructure Construction Project to the Moulton Avenue Paving and Trail Construction Project.

NOW THEREFORE BE IT RESOLVED, by the City of Lebanon, that New Hampshire RSA 33:3-A of the Municipal Finance Act provides that if after notes or bonds have been issued and no expenditure of the proceeds has been made for the purpose or purposes for which the debt was incurred, or if a balance remains

1 after the completion of the project or projects for which the debt was authorized, a city by a vote of 2/3 of the
2 city council may authorize the expenditure of the sum or sums on hand, including any premiums received, for
3 any purpose or purposes for which bonds or serial notes may be issued for an equal or longer period of time at
4 any time which said sum or any portion thereof remains available; provided, however, that if the sum obtained
5 by issuance of bonds or notes, as aforesaid, or any balance thereof, including any premium, is not appropriated
6 as aforesaid, then the same shall be used to pay the principal of the loan as it matures.

7
8 ***NOW THEREFORE BE IT FURTHER RESOLVED***, by the City of Lebanon, that appropriation authority
9 and associated funding derived from the issuance of bonds, is authorized to be transferred in the amount of
10 \$300,000 (Three Hundred Thousand Dollars) from the Hillcrest Acres Infrastructure Construction Project to
11 the Moulton Avenue Paving and Trail Construction Project.

12
13 ***(2) FURTHER MOVED BY COUNCILOR LIOT HILL*** to decrease the Capital Improvements Fund budget
14 by \$205,579 for the City Hall Renovations Project; and to decrease estimated revenues (bond proceeds) by the
15 same amount.

16
17 ***(3) FURTHER MOVED BY COUNCILOR LIOT HILL*** to amend the source of financing for the Rail Trail
18 Paving Project from General Obligation Debt to Sale of City Owned Properties (specifically 20 Spencer Street,
19 Lebanon), and to decrease estimated revenues (bond proceeds) by the same amount.

20
21 ***FURTHER MOVED BY COUNCILOR LIOT HILL*** that if the sale of 20 Spencer Street does not occur as
22 planned, the Rail Trail Paving Project will not move forward.

23
24 ***(4) FURTHER MOVED BY COUNCILOR LIOT HILL*** to amend the source of financing for a portion of
25 the Spencer Street Improvement Project totaling \$130,000 from General Obligation Debt to Sale of City
26 Owned Properties (specifically 20 Spencer Street, Lebanon), and to decrease estimated revenues (bond
27 proceeds) by the same amount.

28
29 ***FURTHER MOVED*** that the \$130,000 portion of the project to be funded from the sale of City owned
30 properties is for the upgrade of the sidewalk on the south side of Taylor Street between the terminus of the
31 Northern Rail Trail and the lower entrance to the Flynn Street Parking Lot to a multi-use path.

32
33 ***BE IT FURTHER MOVED*** that if the sale of 20 Spencer Street does not occur as planned, the upgrade
34 of this portion of sidewalk along Taylor Street will not be completed.

35
36 ***(5) FURTHER MOVED BY COUNCILOR LIOT HILL*** to decrease the transfer from the Fire Department
37 Capital Reserve Fund to the Capital Improvements Fund by \$60,000 for the purchase of cardiac monitors.

38
39 ***FURTHER MOVED*** that the City of Lebanon extends its sincerest gratitude to The Jack and Dorothy
40 Byrne Foundation for its donation of \$60,000 to assist with the purchase of cardiac monitors for the Lebanon
41 Fire Department.

42
43 ***SECONDED BY COUNCILOR HEISTAD.***

44
45 **Roll Call Vote:**

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

48 None voted Nay.

49 ****THE VOTE ON THE MAIN MOTION AND FIVE (5) AMENDMENTS TO RESOLUTION NO. 7***
50 ***WERE UNANIMOUSLY APPROVED (9-0).***

51
52 ***RESOLUTION NO. 8 AND THREE (3) PROPOSED AMENDMENTS TO RESOLUTION NO. 8***

(taken up as one motion)

*** MOTION BY COUNCILOR BRONNER TO MOVE PASSAGE OF RESOLUTION NO. 8 AS AMENDED TO AUTHORIZE THE ISSUANCE OF BONDS OR NOTES TO FINANCE 2021 CAPITAL IMPROVEMENTS:**

RESOLVED, by the City of Lebanon, that the City Treasurer, with the approval of the City Manager, is authorized to issue, in accordance with the Municipal Finance Act (RSA 33), a bond issue or bond issues in an amount not to exceed \$6,972,720 (Six Million Nine Hundred Seventy Two Thousand Seven Hundred Twenty Dollars) as follows:

Department	Project Name	Estimated Useful Life	Paid for by	Amount
AIRPORT FUND				
AIR	Airport TIF District Infrastructure Improvements	20 Years	Airport Fund	\$1,929,700
GENERAL FUND				
FACILITIES				
LIB	Lebanon Library Renovation - Design/Engr/Constr.	20 Years	Property Taxes	\$1,720,210
DPW	City Hall Renovation	20 Years	Property Taxes	\$363,910
DPW	Valley Cemetery - Maintenance Building Replacement	20 Years	Property Taxes	\$405,000
REC	Parks Storage & Maintenance Building	20 Years	Property Taxes	\$120,000
FLEET & EQUIPMENT				
DPW	DPW Fleet Mobile Lift	20 Years	Property Taxes	\$76,000
ROADS & BRIDGES				
DPW	Kimball Street Infrastructure Improvements - Road, SW, Curb-Drain	20 Years	Property Taxes	\$41,160
DPW	Spencer Street Improvements	20 Years	Property Taxes	\$1,130,000
PLANS & STUDIES				
REC	Rail Trail Paving	20 Years	Property Taxes	\$170,000
TOTAL GENERAL FUND				\$4,026,280
WATER FUND				
DPW-WATER	Kimball Street Infrastructure Improvements - Water	20 Years		\$30,870
TOTAL WATER FUND			Water User Fees	\$30,870
SEWER FUND				
DPW-SEWER	Huber Sludge Dewatering Press	20 Years	Sewer User Fees	\$275,000
DPW-SEWER	Lebanon Sewer System Rehabilitation	20 Years	Sewer User Fees	\$580,000
DPW-SEWER	Kimball Street Infrastructure Improvements - Sewer	20 Years	Sewer User Fees	\$30,870
DPW-SEWER	Mill Rd Slope Stabilization	20 Years	Sewer User Fees	\$100,000
TOTAL SEWER FUND				\$985,870
TOTAL CITY CAPITAL IMPROVEMENTS PROGRAM				\$6,972,720

BE IT FURTHER RESOLVED, that, except as herein otherwise provided, discretion to fix the dates, maturities, denominations, interest rate, form, and other details of said note(s) / issue(s), is hereby delegated to the City Treasurer, with the approval of the City Manager;

BE IT FURTHER RESOLVED, that, in accordance with the requirements of the Municipal Finance Act (RSA 33:2 Repayment of Loans), no loans issued to pay for public works or improvements shall exceed the expected useful life of said public works or improvements as determined by the City Council as designated in the foregoing table.

This resolution shall be effective January 1, 2021.

THREE (3) PROPOSED AMENDMENTS TO RESOLUTION NO. 8

(1) FURTHER MOVED BY COUNCILOR BRONNER to decrease the amount of bonds/notes authorized

1 to be issued by \$205,579 for the City Hall Renovations Project.

2
3 **(2) FURTHER MOVED BY COUNCILOR BRONNER** to decrease the amount of bonds/notes authorized
4 to be issued by \$170,000 for the Rail Trail Paving Project.

5
6 **(3) FURTHER MOVED BY COUNCILOR BRONNER** to decrease the amount of bonds/notes authorized
7 to be issued by \$130,000 for a portion of the Spencer Street Improvements Project inclusive of a sidewalk
8 upgrade along the south side of Taylor Street.

9
10 **SECONDED BY COUNCILOR PRENTISS.**

11
12 **Roll Call Vote:**

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

15 None voted Nay.

16 ***THE VOTE ON THE MAIN MOTION AND THE THREE (3) PROPOSED AMENDMENTS TO**
17 **RESOLUTION NO. 8 WERE UNANIMOUSLY APPROVED (9-0).**

18
19 **RESOLUTION NO. 9**

20 *** MOTION BY COUNCILOR LIOT HILL TO MOVE PASSAGE OF RESOLUTION NO. 9 TO**
21 **AUTHORIZE THE CITY MANAGER TO APPLY FOR NEW HAMPSHIRE CLEAN WATER**
22 **STATE REVOLVING FUND LOAN(S) AND TO DESIGNATE THE CITY MANAGER AS**
23 **AUTHORIZED REPRESENTATIVE OF THE CITY:**

24
25 **WHEREAS**, the City of Lebanon, after thorough consideration of the nature of its water pollution problem,
26 hereby determines that the purchase of certain equipment, namely a Huber Sludge Dewatering Press, is
27 desirable and in the public interest, as dewatering sludge is essential for efficient operation of the Wastewater
28 Treatment Plant and assists in meeting the requirements of the City's NPDES permit; and to that end, it is
29 desired to apply for assistance from the Clean Water State Revolving Fund for up to \$275,000; and

30 **WHEREAS**, the City of Lebanon, has examined and duly considered the provisions of RSA 486:14 and the
31 New Hampshire Code of Administrative Rules Chapter Env-Wq 500, which relate to loans from the Clean
32 Water State Revolving Fund, and deems it to be in the public interest to file loan applications and to authorize
33 other actions in connection therewith;

34 **NOW THEREFORE BE IT RESOLVED**, by the City of Lebanon City Council, that: 1. The City Manager
35 is hereby authorized on behalf of the City to file an application for a loan to be made in accordance with New
36 Hampshire Code of Administrative Rules Chapters Env-Wq 500; 2. That if such loan be made, the City agrees
37 to repay the loan as stipulated in the loan agreement; 3. That the City Manager is hereby authorized to furnish
38 such information and to take such other action as may be necessary to enable the City to qualify for the loan;
39 4. That the City Manager is hereby designated as the authorized representative of the City for the purpose of
40 furnishing such information, data, and documents pertaining to the City for a loan as may be required; and
41 otherwise to act as the authorized representative of the City in connection with this application. 5. That
42 certified copies of this resolution be included as part of the application to be submitted for a loan; 6. That if
43 such loan be made, the City agrees to make provisions for assuming proper and efficient operation and
44 maintenance of the facilities after completion of the construction thereof.

45
46 **This resolution shall be effective January 1, 2021.**

47
48 **SECONDED BY COUNCILOR BRONNER.**

Roll Call Vote:

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

None voted Nay.

****THE VOTE ON THE MOTION WAS UNANIMOUSLY APPROVED (9-0).***

RESOLUTION NO. 10

*** MOTION BY COUNCILOR BRONNER TO MOVE PASSAGE OF RESOLUTION NO. 10 TO ESTABLISH A SPECIAL REVENUE FUND FOR THE DOWNTOWN LEBANON TAX INCREMENT FINANCE DISTRICT:**

RESOLVED, that the Downtown Lebanon Tax Increment Finance District Special Reserve Fund be established for the purpose of accumulating resources to carry out the purposes defined in the Downtown Lebanon TIF District Development Program adopted by the City Council on July 11, 2018.

DOWNTOWN TAX INCREMENT FINANCING DISTRICT	
Revenue:	
Property Taxes	\$ 428,630
Expenditures:	
Transfer to General Fund	\$ 297,900
Future Operations & Maintenance	<u>\$ 130,730</u>
	\$ 428,630

BE IT FURTHER RESOLVED, by the City of Lebanon, that funds be raised and appropriated in the amount of \$428,630 for the purpose of authorizing and financing the Downtown Lebanon Tax Increment Finance District General Fund budget.

This resolution shall be effective January 1, 2021.

SECONDED BY COUNCILOR LIOT HILL.

Roll Call Vote:

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

None voted Nay.

****THE VOTE ON THE MOTION WAS UNANIMOUSLY APPROVED (9-0).***

RESOLUTION NO. 11

*** MOTION BY COUNCILOR PRENTISS TO MOVE PASSAGE OF RESOLUTION NO. 11 TO ESTABLISH A SPECIAL REVENUE FUND FOR THE LEBANON AIRPORT-TECH PARK TAX INCREMENT FINANCE DISTRICT:**

RESOLVED, that the Lebanon Airport-Tech Park Tax Increment Finance District Special Revenue Fund be established for the purpose of accumulating resources to carry out the purposes defined in the Lebanon Airport-Tech Park TIF District Development Program adopted by the City Council on November 6, 2019.

LEBANON AIRPORT-TECH PARK TAX INCREMENT FINANCING DISTRICT

Revenue:		
Property Taxes	\$	10
Expenditures:		
Future Operations & Maintenance	\$	10

BE IT FURTHER RESOLVED, by the City of Lebanon, that funds be raised and appropriated in the amount of \$10 for the purpose of authorizing and financing the Downtown Lebanon Tax Increment Finance District General Fund budget.

This resolution shall be effective January 1, 2021.

SECONDED BY COUNCILOR LIOT HILL.

Roll Call Vote:

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

None voted Nay.

****THE VOTE ON WAS UNANIMOUSLY APPROVED (9-0).***

B. AMEND ORDINANCE NO. 18, SALARY PLAN – A public hearing for the purpose of receiving public input and taking action to amend Ordinance No. 18, Salary Plan, Article II, Non-Affiliated & LPASE Employees, and Article III, Bargaining Unit Employees to effectuate a 1.5% General Wage Increase effective the first pay period of 2021.

1. Amend Article I to include the Lebanon Professional, Administrative, Salaried Employees (LPASE) Bargaining Unit within Article II; and
2. Implement a 1.5% General Wage Increase for all employees

AMEND ARTICLE I

By action of the Council in 2019, the wage scales for non-affiliated employees along with those represented by the LPASE bargaining unit were combined. The language provided in Article I needs to be revised to clarify the change. Language is proposed as follows:

ARTICLE I - In accordance with Sections 419:24, 25, 51 and 52 of the Charter of the City of Lebanon, as amended, City employees not covered by a recognized bargaining unit (“NonAffiliated Employees”) and those employees represented by the Lebanon Professional, Administrative, Salaried Employees (LPASE) shall be paid in accordance with Article II below and those employees covered by AFSCME Local #1348/Council 93 AFL-CIO, Lebanon Permanent Firefighters’ Association Local 3197/International Association of Firefighters’ (IAFF), or the Lebanon Police Benevolent Association (LPBA)/New England Police Benevolent Association (NEPBA) bargaining unit shall be paid in accordance with Article III below.

IMPLEMENTING GENERAL WAGE INCREASE (GWI)

Compensation for exempt (salaried) and non-exempt (hourly) non-affiliated and LPASE employees is expressed as a minimum and maximum grade range – hourly for non-exempt employees and weekly for exempt (salaried) employees. Exempt and non-exempt status is determined by application of the Fair Labor Standards Act (federal). Movement within ranges is through annual general wage and merit adjustments applicable for employees not at the top of their wage range. Where an employee falls within grade and a range, depends on individual circumstances including position requirements, qualifications, experience, skills and service time.

1
2 To be useful, it is imperative that compensation and classification systems be kept current. This is achieved
3 primarily by revising compensation ranges through regular general wage adjustments and by systematically
4 reviewing all positions on a regular basis both relative to a meaningful sampling of the labor market and
5 internally relative to other positions.
6

7 Funding is proposed in the 2021 City Budget which is scheduled for adoption on December 16, 2020.
8

9 **Process to Amend Ordinance No. 18**

10
11 Amending Ordinance No. 18 requires three separate presentations (see City Charter subsections 419:22,
12 419:24, 419:25, 419:52) followed by a public hearing and the vote of at least two-thirds (2/3) of all
13 members of the City Council – six (6) members - to adopt. The first presentation was November 18; the
14 second on December 2; and the third is December 16 with action to amend the ordinance following a
15 public hearing.
16

17 **Mayor McNamara opened the Public Hearing. Here no comments from the public, the Public**
18 **Hearing was closed.**
19

20 *Assistant Mayor Below MOVED to extend the meeting to 11:45 PM.*
21 *Seconded by Councilor Liot Hill.*
22

23 **Roll Call Vote:**

24 Assistant Mayor Below, and Councilors Bronner, Heistad, Liot Hill, Prentiss, Sykes, Winny, Zook and
25 Mayor McNamara, all voting Yea.
26 None voted Nay.

27 **The VOTE on the MOTION was unanimously approved (9-0).*
28

29 **ACTION:**

30
31 **PRESENTATION:**

32
33 *Assistant Mayor Below MOVED, that the Lebanon City Council acknowledges the third of three*
34 *presentations to amend Ordinance No. 18, Salary Plan, as follows:*
35

36 **1. AMEND ARTICLE I - In accordance with Sections 419:24, 25, 51 and 52 of the Charter of the**
37 **City of Lebanon, as amended, City employees not covered by a recognized bargaining unit (“Non-**
38 **Affiliated Employees”) and those employees represented by the Lebanon Professional,**
39 **Administrative, Salaried Employees (LPASE) shall be paid in accordance with Article II below**
40 **and those employees covered by AFSCME Local #1348/Council 93 AFL-CIO, Lebanon**
41 **Permanent Firefighters’ Association Local 3197/International Association of Firefighters’**
42 **(IAFF), or the Lebanon Police Benevolent Association (LPBA)/New England Police Benevolent**
43 **Association (NEPBA) bargaining unit shall be paid in accordance with Article III below.**
44

45 **2. Implement a 1.5% General Wage Increase for all employees**
46

47 **RESOLUTION:**

48
49 **FOR THE PURPOSE OF amending Ordinance No. 18, Salary Plan:**

50
51 **NOW THEREFORE BE IT RESOLVE; that the Lebanon City Council amends Ordinance No. 18,**
52 **Salary Plan as follows:**

1. Amend ARTICLE I - In accordance with Sections 419:24, 25, 51 and 52 of the Charter of the City of Lebanon, as amended, City employees not covered by a recognized bargaining unit ("Non-Affiliated Employees") and those employees represented by the Lebanon Professional, Administrative, Salaried Employees (LPASE) shall be paid in accordance with Article II below and those employees covered by AFSCME Local #1348/Council 93 AFL-CIO, Lebanon Permanent Firefighters' Association Local 3197/International Association of Firefighters' (IAFF), or the Lebanon Police Benevolent Association (LPBA)/New England Police Benevolent Association (NEPBA) bargaining unit shall be paid in accordance with Article III below.
2. Implement a 1.5% General Wage Increase for all employees (as depicted in the December 16, 2020 City Council agenda packet, pages 252-256).

REGULAR FULL-TIME/REGULAR PART-TIME NON-AFFILIATED & LPASE EMPLOYEES – 2021 SALARY GRADES 1.5% GWI

Grade	Position Title	Hourly		Weekly	
		Minimum	Maximum	Minimum	Maximum
1	General Intern II	\$16.77	\$22.64	-	-
2	Custodian	\$17.78	\$23.99	-	-
	Department Secretary	-	-	-	-
3	Airport Maintenance Worker	\$18.84	\$25.44	-	-
	Custodian I	-	-	-	-
4	Library Assistant	\$19.98	\$26.97	-	-
5		\$21.17	\$28.57	-	-
6	-	\$22.44	\$30.29	-	-
7	Administrative Assistant	\$23.78	\$32.45		
	Administrative Secretary			-	-
	Assessing Clerk	-	-	-	-
	Assistant City Clerk	-	-	-	-
	Assistant Human Services Director	-	-	-	-

	Communications Specialist	-	-	-	-
	Library Administrative/Technical Assistant	-	-	-	-
8	Administrative Assistant	\$25.21	\$34.04	-	-
	Benefits Coordinator/Payroll Specialist	-	-	-	-
	Deputy City Clerk	-	-	-	-
	Deputy Tax Collector	-	-	-	-
	Field Inspector**	-	-	-	-
	Electrical Inspector**	-	-	-	-
	Children's Librarians			\$1,008.55	\$1,361.65
	Outreach Librarian	-	-	-	-
	Young Adult Librarian	-	-	-	-
9	Code Health Inspector**	\$27.73	\$37.43	-	-
	Executive Assistant	-	-	-	-
	Digital Media Officer	-	-	-	-
	Information Technology Technical Specialist	-	-	-	-
	Real Estate Appraiser II**	-	-	-	-
	Associate Planner**	-	-	\$1,109.20	\$1,497.36

	Systems Librarian	-	-	-	-
	Information Technology Librarian	-	-	-	-
10	Assistant City Engineer**	\$30.50	\$41.18	-	-
	Cemetery Sexton**	-	-	-	-
	Financial Analyst	-	-	-	-
	Fleet Maintenance Supervisor**	-	-	-	-
	Maintenance Superintendent**	-	-	-	-
	Utilities Maintenance Superintendent**				
	Police Communications Supervisor**	-	-	-	-
	Tax Collector	-	-	-	-
	Human Services Director	-	-	\$1,220.15	\$1,647.20
	Recreation Program Coordinator**	-	-		
11	Technical Advisor I	\$33.59	\$45.34	-	-
	Administrative Services Manager**	-	-	\$1,343.60	\$1,813.60
	Airport Operations Supervisor**	-	-	-	-
	Assistant Recreation Director**	-	-	-	-
	Code Enforcement Director**	-	-	-	-
	Deputy Library Director	-	-	-	-
	Fire Marshall**	-	-	-	-
	Planner/GIS Coordinator**	-	-	-	-
	Senior Planner**	-	-	-	-
12	Wastewater Treatment Superintendent**	\$35.60	\$48.05	-	-
	Water Treatment Superintendent**	-	-	-	-
	City Assessor**	-	-	\$1,424.00	\$1,922.00
	City Clerk	-	-	-	-
	City Engineer**	-	-	-	-
	City Planner**	-	-	-	-
	Deputy Finance Director	-	-	-	-
	Energy & Facilities Manager**	-	-	-	-
	Police Lieutenant**	-	-	-	-
	Prosecuting Attorney	-	-	-	-
	Solid Waste Manager**	-	-	-	-
13	Airport Manager	-	-	\$1,509.21	\$2,037.39

1

	Assistant Fire Chief	-	-	-	-
	Deputy Fire Chief	-	-	-	-
	Deputy Police Chief	-	-	-	-
	Human Resources Director	-	-	-	-
	Information Systems Manager**	-	-	-	-
	Maintenance Manager**	-	-	-	-
	Recreation Director	-	-	-	-
	Police Captain**	-	-	-	-
	Systems and Information Technology Administrator	-	-	-	-
14	Assistant Director/Public Works	-	-	\$1,599.77	\$2,159.70
	Chief Assessor	-	-	-	-
	Library Director	-	-	-	-
15	Information Technology Director	-	-	\$1,695.84	\$2,289.20
16	Technical Advisor II	\$44.93	\$60.66		
	Chief of Police	-	-	\$1,797.42	\$2,426.40

	Director of Planning and Zoning	-	-	-	-
	Director of Public Works	-	-	-	-
	Finance Director	-	-	-	-
	Fire Chief	-	-	-	-
	Deputy City Manager	-	-	-	-

**denotes LPASE Positions

B. SEASONAL/TEMPORARY& STIPEND EMPLOYEES

Seasonal, temporary and part-time positions with less than 20 hours are not placed into grades. These positions are based upon comparable municipal positions and wages and/or local current market values. These positions are NOT eligible for employee benefits. Seasonal positions are up to 6 months in duration; part-time positions are less than 20 hours weekly and may be year round or by event; temporary positions vary in length of service (less than 1 year).

The following pay plan shall be in effect for the first pay period of 2021.

POSITION TITLE	HOURLY	
ELECTION POSITIONS (HOURLY)		
Ballot Clerk		\$10.15
Election Assistant		\$10.15
Supervisors of the Checklist		\$10.15
Moderator		\$12.69
Ward Clerk		\$12.69
FIRE DEPARTMENT POSITIONS		
Call Firefighter	\$11.25	\$28.54
PARK AND RECREATION POSITIONS		
Camp Counselors	\$10.15	\$12.18
Front Desk Attendants – Pool	\$10.15	\$12.18
Head Front Desk Attendants	\$11.17	\$13.70
Site Assistant	\$10.15	\$13.20
Lifeguards	\$10.15	\$12.18
Head/Lead Counselors	\$13.20	\$16.24
Site Assistant	\$10.15	\$13.20
Head & WSI Lifeguards	\$12.18	\$15.23
Head Front Desk Attendant - Pool	\$12.18	\$15.23
Outdoor Adventurer - Educator	\$12.69	\$16.24
Softball Coordinator	\$12.69	\$16.24
Camp Director	\$13.20	\$16.24
Day Camp Counselors	\$10.15	\$14.21
Arts & Craft Director	\$13.20	\$16.24
Farmers Market Coordinator	\$14.21	\$18.27
Market Assistant	\$12.18	\$15.23
Tennis Instructor	\$15.23	\$19.29
Stomp & Romp	\$15.23	\$19.29
Asst. Pool Director	\$15.23	\$19.29
Pool Director	\$16.24	\$20.30
LIBRARY POSITIONS		
Circulation Substitutes		\$13.41
Reference Librarian Substitutes		\$22.65
PUBLIC WORK POSITIONS		
Engineering Clerk	\$11.17	\$14.21

GIS Clerk - (or Intern)	\$15.23	\$17.26
Seasonal Laborers – Summer & Fall DPW, Parks & Rec. & Airport	\$16.24	\$19.29
CDL Seasonal Drivers	\$22.81	\$27.30
PLANNING POSITIONS		
Park Ranger	\$15.23	\$17.26
POLICE DEPARTMENT POSITIONS		
Crossing Guard		\$16.53
Communications Specialist	\$23.78	\$32.45
Police Administrative Aide	\$20.30	\$23.35
Parking Control Officer	\$20.30	\$23.35
Police Officers	\$26.86	\$32.39
CITY CLERK POSITIONS		
Assistant City Clerks (Part-Time/Temp. <20)	\$23.41	\$31.61
Recording Secretary	\$21.82	\$23.85
Recording Secretary Coordinator	\$22.82	\$24.36
SHARED POSITION		
General Intern I	\$13.20	\$16.75
STIPEND POSITIONS		
Sport Coaches – Seasonally (Lacrosse, Track, Youth – Basketball, Field Hockey, Football, Cheerleader Coach etc. – may vary due to Programs)	\$205	\$715
(Chair) Supervisors of the Check List	\$155	\$255
Supervisor of the Voter Checklist	\$155	\$255

- 1 **A. AFSCME LOCAL #1348/COUNCIL 93 AFL-CIO** - Employees covered by the terms and
2 conditions of the collective bargaining agreement between the City of Lebanon and AFSCME (American
3 Federation of State, County and Municipal Employees) Local #1348/Council 93 AFL- CIO, (effective
4 January 1, 2019 to December 31, 2021) shall be paid in accordance with the accompanying pay plan
5 covering the time period of the first pay period of 2021 through the last pay period of 2021, as provided
6 in that agreement, and as placed on file in the office of the City Clerk. (Last Amended 12/19/18).

AFSCME POSITIONS	
GRADE	POSITION(s)
1	Laborer
2	Utility Operator Trainee
3	Operator; Maintainer; Recycling Attendant; Construction Utility Operator I; Meter/Backflow Technician; Scale Technician
4	Light Equipment Operator; Water Treatment Plant Operator; Wastewater Treatment Plant Operator;
	Airport Maintenance Technician; Utilities Plant Operator
5	Heavy Equipment Operator; Construction Utility Operator II; Utility Operator II; Airport Maintenance Specialist; Water Plant Operator; Wastewater Plant Operator
6	Parks & Grounds Crew Foreman; Mechanic
7	Electrician; Laboratory Technician/ Utilities Plant Operator; Airport Maintenance Foreman; Utilities Maintenance Mechanic; Engineering Technician
8	Foreman
9	Chief of Quality Assurance

AFSCME LOCAL 1348 - 2021 SALARY GRADES 1.5% GWI	
<u>Minimum</u>	<u>Maximum</u>

<u>Grade</u>	<u>Step 1</u>	<u>Step 2</u>	<u>Step 3</u>	<u>Step 4</u>	<u>Step 5</u>	<u>Step 6</u>	<u>Step 7</u>
1	17.31	17.84	18.39	18.91	19.46	20.01	20.52
2	18.66	19.24	19.84	20.42	21.01	21.58	22.15
3	20.12	20.77	21.42	22.06	22.71	23.33	23.99
4	21.74	22.45	23.14	23.85	24.54	25.25	25.98
5	23.52	24.31	25.07	25.83	26.59	27.36	28.16
6	25.51	26.32	27.15	27.96	28.81	29.63	30.49
7	27.61	28.51	29.41	30.33	31.23	32.13	33.05
8	29.89	30.89	31.87	32.87	33.83	34.84	35.87
9	31.43	32.48	33.54	34.59	35.66	36.70	37.79

The January 1, 2021 GWI shall be based on the NE Urban CIP for June 2019 – June 2020, but in no case shall be less than one and one-half percent (1.5%) nor greater than three percent (3%).

B. LEBANON PERMANENT FIREFIGHTERS' ASSOCIATION LOCAL 3197 -

INTERNATIONAL ASSOCIATION OF FIREFIGHTERS (IAFF) - Employees covered by the terms and conditions of the collective bargaining agreement between the City of Lebanon and the Lebanon Permanent Firefighters' Association Local 3197/ International Association of Fire Fighters (IAFF), (effective January 1, 2019 to December 31, 2021) shall be paid in accordance with the accompanying pay plan covering the time period of the first pay period of 2021 through the last pay period of 2021, as provided in that agreement, and as placed on file in the office of the City Clerk (Last amended 12/19/18).

LEBANON PERMANENT FIREFIGHTERS/IAFF - 2020 SALARY GRADES							1.5% GWI
<u>Position Title</u>	<u>Step 1</u>	<u>Step 2</u>	<u>Step 3</u>	<u>Step 4</u>	<u>Step 5</u>	<u>Step 6</u>	<u>Step 7</u>
Firefighter - EMT	\$23.45	\$24.20	\$24.95	\$25.73	\$26.47	\$27.22	\$28.05
Firefighter - Paramedic	\$25.34	\$26.10	\$26.90	\$27.64	\$28.39	\$29.17	\$29.98
Fire Alarm Technician	\$26.57	\$27.12	\$27.67	\$28.20	\$28.75	\$29.28	\$29.83
Lieutenant	\$28.53	\$28.92	\$29.33	\$29.74	\$30.13	\$30.53	\$30.95
Fire Inspector	\$30.21	\$30.70	\$31.21	\$31.71	\$32.22	\$32.72	\$33.25
Lieutenant - Paramedic	\$30.46	\$30.87	\$31.27	\$31.66	\$32.08	\$32.47	\$32.87
Captain	\$31.50	\$31.82	\$32.19	\$32.53	\$32.87	\$33.23	\$33.59
Inspector - Paramedic	\$32.16	\$32.65	\$33.14	\$33.65	\$34.14	\$34.63	\$35.18
Captain - Paramedic	\$33.41	\$33.76	\$34.10	\$34.45	\$34.80	\$35.14	\$35.51

The January 1, 2021 GWI shall be based on the NE Urban CIP for June 2019 – June 2020, but in no case shall be less than one and one-half percent (1.5%) nor greater than three percent (3%).

C. LEBANON POLICE BENEVOLENT ASSOCIATION (LPBA)/NEW ENGLAND POLICE BENEVOLENT ASSOCIATION (NEPBA) - Employees covered by the terms and conditions of the

collective bargaining agreement between the City of Lebanon and the Lebanon Police Benevolent Association/New England Police Benevolent Association (effective January 1, 2019 to December 31, 2021) shall be paid in accordance with the accompanying pay plan covering the time period of the first pay period of 2021 through the last pay period of 2021, as provided in that agreement, and as placed on file in the office of the City Clerk. (Last Amended 12/19/18).

LEBANON POLICE BENEVOLENT ASSOCIATION - 2020 SALARY GRADES							1.5% GWI
<u>Minimum</u>							<u>Maximum</u>
<u>Position Title</u>	<u>Step 1</u>	<u>Step 2</u>	<u>Step 3</u>	<u>Step 4</u>	<u>Step 5</u>	<u>Step 6</u>	<u>Step 7</u>
Patrol Officer	\$26.86	\$27.77	\$28.72	\$29.67	\$30.59	\$31.56	\$32.39
Corporal	\$33.10	\$33.56	\$34.04	\$34.51	\$34.98	\$35.46	\$35.90
Sergeant	\$36.60	\$37.07	\$37.53	\$38.00	\$38.49	\$38.95	\$39.37

The January 1, 2021 GWI shall be based on the NE Urban CIP for June 2019 – June 2020, but in no case shall be less than one and one-half percent (1.5%) nor greater than three percent (3%).

Seconded by Councilor Bronner.

Roll Call Vote:

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

None voted Nay.

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

Councilor Liot Hill expressed her frustration again with MS Teams Chat, noting the comments have become extremely offensive and requested the City Manager to have this function removed entirely from the City Council's meetings on MS Teams.

6. ADJOURNMENT:

Councilor Bronner MOVED for adjournment.

Seconded by Councilor Prentiss.

Roll Call Vote:

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

None voted Nay.

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

The meeting was adjourned at 11:36 PM.

Respectfully submitted,
Dona E. Gibson,
Recording Secretary

**AGENDA
LEBANON CITY COUNCIL
JANUARY 6, 2021**

7. APPOINTMENTS:

APPOINTMENTS

Board/Committee Appointments as presented by City Clerk Kristin Kenniston

- Planning Board, Laurel Stavis (Regular Member)

Included in this Section:

1. Memo from City Clerk Kristin Kenniston dated December 22, 2020

OFFICE OF THE CITY CLERK

MEMORANDUM

DATE: December 22, 2020

TO: The Honorable Mayor & City Council

FROM: Kristin M. Kenniston, City Clerk

RE: **Appointments Proposed for Council Discussion/Action:**

If the Council wishes to proceed with action on the appointments below, a nomination should be made and voted on for each appointment. *Note: nominations do not need to be seconded.*

Planning Board

- **Laurel Stavis** - Reappointment as a regular member of the Lebanon Planning Board. Planning Board members are nominated by the City Manager. City Manager Mulholland is putting forth the nomination of Laurel Stavis for reappointment to the Planning Board.
Three-year term (1/21 – 1/24)

From: noreply@civicplus.com
To: [cityclerk](#); [webmaster](#)
Subject: Online Form Submission #4482 for Board Member Application
Date: Tuesday, December 22, 2020 4:33:51 PM

Board Member Application

Board Member Application

City of Lebanon board / committee member application.

Basic Requirements

- *Lebanon/West Lebanon resident (except for those boards whose membership makeup includes non-resident)*
 - *Willingness to learn*
 - *Commitment to attend meetings*
 - *Treat people fairly*
 - *Consider the best interest of the community as a whole when making decisions*
 - *Must have attended one meeting of the board that you wish to apply to within the last six months to observe the process and function of the board.*
-

(Section Break)

First Name	Laurel
Last Name	Stavis
Physical Address	19 Apple Blossom Drive
City	West Lebanon
State	NH
Zip Code	03784
Is this your mailing address?	Yes
Home Phone Number	603 359 4161
Work Number	603 359 4161
Email Address	Lstavis100@gmail.com
How long have you resided in Lebanon?	21 years

(Section Break)

Is this an application for re-appointment?	This application is for re-appointment.
For which board, committee, or commission are you applying?	Planning Board
Other Committee	<i>Field not completed.</i>
Why would you like to serve?	I have been on the Planning Board since 2017 and would like to continue to serve as Lebanon continues to grapple with unprecedented growth at a challenging time.
State a few of what you feel your qualifications are or why you wish to be appointed to this board / committee.	Having now served for three years on the Planning Board, and this year on the CIP subcommittee, I have gained a solid base of knowledge on the pressures facing Lebanon, its elected officials, planners and residents. I am also the Planning Board's representative on the West Lebanon Revitalization Committee and a second term member of the New Hampshire House of Representatives. In the last term, I served on the House Municipal and County Government Committee where I was able to represent Lebanon on key issues on planning and other matters. I hope to continue serving on this Committee, which I believe will benefit the Planning Board by providing a statewide perspective on municipal government and planning.
Certification	I hereby certify that I meet the basic requirements for applying to a Lebanon board / committee.

Email not displaying correctly? [View it in your browser.](#)

[EXTERNAL EMAIL] DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

**AGENDA
LEBANON CITY COUNCIL
JANUARY 6, 2021**

10. NEW BUSINESS:

10.A – DISCUSSION AND ADOPTION OF 2021 ANNUAL CALENDAR

BACKGROUND

In an effort to better organize the Council's annual events, a calendar has been drafted for review and consideration. Thus far, dates include City holidays, regular Council meetings, municipal election information, proposed dates for the annual work sessions (unconfirmed), a general budget work schedule (in-house), and proposed Council Budget Work Session dates (5 reserved dates in November - subject to change). If the proposed meeting schedule is acceptable, the Council is asked to take action to adopt the Calendar as presented. If changes/additions are desired, the Council is encouraged to suggest alterations for consideration by the body.

ACTION

If the proposed meeting schedule is acceptable, the Council is requested to consider the following motion:

MOVED, that the Lebanon City Council hereby adopts the Annual Calendar as proposed in the January 6, 2021 agenda packet.

Included in this Section:

1. Proposed 2021 Annual Calendar

JANUARY 2021

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
					1 HOLIDAY	2
3	4	5	6 REGULAR MEETING	7	8	9
10	11	12	13	14	15	16
17	18 HOLIDAY	19	20 REGULAR MEETING	21	22	23
24	25	26 Filing Period Begins for Council, School Board, Library Board of Trustees	27	28	29	30
31						

FEBRUARY 2021

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
	1	2	3 REGULAR MEETING	4	5	6
7	8	9 Filing Period Ends	10	11	12	13
14	15 HOLIDAY	16	17 REGULAR MEETING	18	19	20
21	22	23	24	25	26	27
28						

MARCH 2021

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
	1	2	3 REGULAR MEETING	4	5	6
7	8	9 2021 Municipal Election	10	11 Canvass of the Vote	12	13
14	15	16	17 REGULAR MEETING	18	19	20
21	22	23	24 Organizational Meeting – New Council Seated	25	26	27
28	29	30	31			

APRIL 2021

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
				1	2	3
4	5	6	7 <i>6:00pm</i> <i>Quarterly Reports</i> REGULAR MEETING	8	9	10
11	12	13	14	15	16	17
18	19	20	21 REGULAR MEETING	22	23	24
25	26	27 Annual Work Session	28	29 Annual Work Session	30	

MAY 2021

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
(Departments given instructions for 2022 Budget Process)						1
2	3	4	5 REGULAR MEETING	6	7	8
9	10	11	12 Annual Work Session	13	14	15
16	17	18	19 REGULAR MEETING	20	21	22
23	24	25	26	27	28	29
30	31 HOLIDAY					

JUNE 2021

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
(Departments working on 2022 Budget Process)		1	2 REGULAR MEETING	3	4	5
	6	7	8	9	10	11
	13	14	15	16 REGULAR MEETING	17	18
	20	21	22	23	24	25
	27	28	29	30		

JULY 2021

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
(Departments working on 2022 Budget Process)				1	2	3
4	5 HOLIDAY	6	7 REGULAR MEETING	8	9	10
11	12	13	14	15	16	17
18	19	20	21 <i>6:00pm</i> <i>Quarterly Reports</i> REGULAR MEETING	22	23	24
25	26	27	28	29	30	31

AUGUST 2021

(Departments Finalize & Submit 2022 Budget
Proposals to Manager)

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
1	2	3	4 REGULAR MEETING	5	6	7
8	9	10	11	12	13	14
15	16	17	18 REGULAR MEETING	19	20	21
22	23	24	25	26	27	28
29	30	31				

SEPTEMBER 2021

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
(Budget Review Meetings between Manager & Department Heads)			1 REGULAR MEETING	2	3	4
5	6 HOLIDAY	7	8	9	10	11
12	13	14	15 REGULAR MEETING	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30		

OCTOBER 2021

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
					1	2
3	4	5	6 <i>6:00pm</i> <i>Quarterly Reports</i> REGULAR MEETING	7	8	9
10	11 HOLIDAY	12	13	14	15	16
17	18	19	20 <i>CIP Work Session</i> REGULAR MEETING	21	22	23
24	25	26	27	28	29 PROPOSED 2022 BUDGET TO COUNCIL	30
31						

NOVEMBER 2021

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
	1	2	3 REGULAR MEETING	4 BUDGET WORK SESSION	5	6
7	8	9 BUDGET WORK SESSION	10 BUDGET WORK SESSION	11 HOLIDAY	12	13
14	15 BUDGET WORK SESSION	16 BUDGET WORK SESSION	17 REGULAR MEETING	18	19	20
21	22	23	24	25 HOLIDAY	26 HOLIDAY	27
28	29	30				

DECEMBER 2021

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
			1 REGULAR MEETING	2	3	4
5	6	7	8	9	10	11
12	13	14	15 BUDGET PUBLIC HEARING	16	17	18
19	20	21	22	23	24 HOLIDAY	25
26	27	28	29	30	31	

**AGENDA
LEBANON CITY COUNCIL
JANUARY 6, 2021**

10. NEW BUSINESS:

**10.B – APPOINTMENT OF 2021 CHAIR AND VICE-CHAIR FOR
ECONOMIC DEVELOPMENT COMMISSION**

BACKGROUND

On July 10, 2019, the City Council approved Ordinance #2019-12 to amend Chapter 31 (Boards, Committees and Commissions) of the City Code to establish the Economic Development Commission (EDC).

According to §31-46. Establishment; Membership; Qualifications, *The City Council shall annually in December of each year appoint a Chairperson and a Vice-Chairperson from the nine members of the Economic Development Commission to serve for the following calendar year.*

ACTION

MOVED, that _____ be appointed as Chair of the Economic Development Commission for calendar year 2021.

BE IT FURTHER MOVED, that _____ be appointed as Vice-Chair of the Economic Development Commission for calendar year 2021.

Included in this Section:

1. Economic Development Commission Member Roster

**City of Lebanon
Economic Development Commission
EDC**

Steve Whitman, Chair – Term Expires 11/20
50 Churchill Way
Lebanon, NH 03766
448-6379 / work: 252-0279
slw@whitsbits.com

Chip Brown – Term Expires 11/21
10 S Main Street, #10
Hanover, NH 03755
652-1499 / cell: 917-375-0746
chip@brownncr.com

Dan Nash – Term Expires 12/20
387 Poverty Lane
Lebanon, NH 03766
448-6295 / cell: 802-356-4928
advancedgeomatrics@comcast.net

David Newlove – Term Expires 2/21
10 Westview Lane
Lebanon, NH 03766
448-5326 / work: 646-2278
David.j.newlove@dartmouth.edu

Shaun Mulholland, City Manager
City of Lebanon
51 North Park Street
Lebanon, NH 03766
448-4220
shaun.mulholland@lebanonnh.gov

Councilor Karen Liot Hill
liothill@lebanonnh.gov

Asst. Mayor Clifton Below
below@lebanonnh.gov

David Brooks, Planning & Zoning Director
brooks@lebanonnh.gov

Shelley Hadfield
hadfield@lebanonnh.gov

Bill Dunn, Vice Chair – Term Expires 11/21
Mascoma Bank - 67 North Park Street
Lebanon, NH 03766
443-8635
William.dunn@mascomabank.com

Kevin Purcell – Term Expires 5/22
56 Oak Ridge Road
West Lebanon, NH 03784
kevin@purcellprop.com

Andrew Key – Term Expires 6/21
255 Dartmouth College Highway
Lebanon, NH 03766
448-3060
Andydana.key@gmail.com

Tracy Hutchins, Non-Voting Member
Upper Valley Business Alliance
2 S. Park Street
Lebanon, NH 03766
603-448-1203
tracy@uppervalleybusinessalliance.com

**AGENDA
LEBANON CITY COUNCIL
JANUARY 6, 2021**

10. NEW BUSINESS:

**10.C – PRESENTATION AND DISCUSSION OF PROPOSED
AMENDMENTS TO CHAPTER A191, CITY COUNCIL RULES**

BACKGROUND

Attached are proposed amendments to City Council Rules to include language on remote participation by members of the public, and to limit the “Open to the Public” session at the beginning of each meeting to 10 minutes.

In accordance with §A191-13 of the Rules, amendments must be presented in writing at the preceding regular meeting, prior to adoption. As such, these amendments will be presented for adoption at the January 20th meeting. Adoption requires a 2/3 vote of all members of the Council.

ACTION

No action is required at this time. Action on the amendment will be scheduled for January 20, 2021.

Included in this Section:

1. Chapter A191 Council Rules (as amended and presented on 1/6/2021)

Chapter A191

COUNCIL RULES

§ A191-1.	Council meetings.	§ A191-13.	Rules: Adoption, Amendment, & Suspension.
§ A191-2.	Temporary Chair.	§ A191-14.	Appointment of Council Representatives to Other Bodies
§ A191-3.	City Clerk.	§ A191-15.	Council appointments to City Boards, Committees, Commissions.
§ A191-4.	Legal counsel.	§ A191-16.	Constituent - Council contacts.
§ A191-5.	Robert's Rules of Order.	§ A191-17.	Confidential materials.
§ A191-6.	Raise hand to be recognized.	§ A191-18.	Attendance at Seminars, Workshops, etc.
§ A191-7.	Agenda.		
§ A191-8.	Order of business.		
§ A191-9.	Budgetary summary.		
§ A191-10.	Motion to be stated by Presiding Officer; withdrawal.		
§ A191-11.	Communications.		
§ A191-12.	Permission required to address Council.		

[HISTORY: Adopted by the City Council of the City of Lebanon 9-18-1974. Amendments noted where applicable.]

GENERAL REFERENCES

Ordinances -- See Charter § C419:22.

Enactment of ordinances -- See Ch. 115.

§ A191-1. Council meetings.

- A. The Council shall meet in regular session on the first and third Wednesday of every month at 7:00 p.m. until the conclusion of business or 10:00 p.m., whichever comes first. The 10:00 p.m. adjournment shall only be extended by a two-thirds vote of the Council. [Amended 11-7-1979; 4-15-1992; 6-23-1993; 3-30-1994; 7-19-1995; 10-18-1995; 5-21-2003]
- B. Attendance. Prior to each meeting, unless prevented by emergency, a Councilor shall notify either the Mayor, City Manager or City Clerk if he or she will be unable to attend a meeting.
- C. Remote Attendance. As long as a quorum of the Council is present in person, one or more members of the City Council at the discretion of the Mayor may participate in a meeting by electronic or other means of communication only when attendance is not reasonably practical. This procedure shall not be construed to mean that conferencing by electronic means shall be regularly used or used at every meeting of the Council but shall be used only as necessary to allow the participation of Council members who are unable to attend in person due to such circumstances as personal illness or disability, employment obligations, or a family or other emergency.

- 1) Member must notify the City Manager's office at least 24 hours in advance of the meeting, unless impractical, so that necessary communications equipment can be arranged. Inability to make the necessary technical arrangements may result in the inability of the members remote attendance.
- 2) Each part of a meeting required to be open to the public shall be audible or otherwise discernable to the public at the location specified in the meeting notice as the location of the meeting. Each member participating electronically or otherwise must be able to simultaneously hear the other members physical present or participating electronically during the meeting and shall be audible or otherwise discernable to the public in attendance at the meeting's location.
- 3) If participation is not in person, the member must state the reason such attendance is not reasonably practical, and that information must be included in the minutes of the meeting.
- 4) Sufficient security and identification procedures be employed, either at the outset of any meeting or at any time during the meeting as appropriate, to ensure that any and all members attending for discussion or voting purposes are in fact an authorized member with the right to speak and vote.
- 5) The person not in attendance shall identify the persons present (if any) in the location from which the member is participating.
- 6) If a member of the Council is participating by electronic or other means of communication, all votes must be recorded by roll call vote.
- 7) Electronic or other means of communication can include, but due to changing technology, are not limited to Telephone/Speakerphone/Conference Calls and Computer audio/video conferencing.

D. Remote Participation. Members of the public are permitted to attend and participate in meetings remotely through a live link provided on the City's website or via phone through the number provided by the meeting organizer for all Council meetings that are open to the public. At the beginning of each meeting, participants will be informed of rules for speaking on agenda items and will be called on by the Mayor in an order as determined by the Mayor.

§ A191-2. Temporary Chair.

In case of the absence of the Mayor and Assistant Mayor, the Clerk shall call the Council to order. If a quorum is found to be present, the Council shall choose one of its members to act as Chair.

§ A191-3. City Clerk. [Amended 3-30-1994]

The City Clerk or his/her designee shall be ex-officio clerk of the Council and shall keep minutes of the meeting and perform such other and further duties in the meeting as may be ordered by the presiding officer of Council. Copies of the minutes of meetings shall be furnished to each Councilor with the agenda of the next meeting.

§ A191-4. Legal counsel. [Amended 4-18-1990]

Designated legal counsel shall attend any meetings of the Council when requested by the Mayor or City Manager. Any member of the Council, upon notification to the City Manager, may call upon Counsel for an oral or written opinion to decide any question of law or parliamentary procedure.

§ A191-5. Robert's Rules of Order. [Amended 2-6-1991; 7-19-1995; 4-21-2004]

Robert's Rules of Order (most recent Edition) shall be used in all Council deliberations except as modified herein.

§ A191-6. Raise hand to be recognized.

Councilors do not have to stand to move motion or second.

§ A191-7. Agenda. [Amended 5-7-1986; 7-19-1995; 6-3-1998; 4-18-2007; 4-15-2009]

As stated in §A191-1 above, the Council shall meet in regular session on the first and third Wednesdays of every month at 7:00pm. Agendas for Council meetings are the responsibility of the City Manager and the Mayor.

Submission Deadlines:

- The first Wednesday of the month will be the date in which the agenda is set for the meeting on the first Wednesday of the next month.
- The third Wednesday of the month will be the date in which the agenda is set for the meeting on the third Wednesday of the next month.

Any Councilor wishing to have an item placed on an agenda must submit said item (in its proper format by utilizing a City Council Agenda Request Form, provided by the City Manager's Office) to the City Manager's Office by Noon on the Tuesday preceding the Wednesday on which the agenda is to be set.

Items of an urgent nature which require special attention or are in need of immediate action by the Council may be placed on any agenda at the discretion of the Mayor and/or City Manager.

§ A191- 8. Order of business. [Amended 6-21-1978; 4-7-1982; 5-7-1986; 4-6-1988; 3-27-1991; 6-23-1993; 7-19-1995; 5-15-1996; 4-16-1997; 6-7-2006; 9-3-2008; 4-1-2009]

The business of all regular meetings of the Council shall be transacted in the following order unless the Council, by a vote of at least 2/3 of the members present, suspends the rules and changes the order.

1. Call to Order.
2. Pledge of Allegiance.
3. Announcement by Mayor. Public forum. "Any member of the public who desires to speak on any agenda item may do so when the item is taken up by the Council and will be allowed to speak on the subject for not more than three minutes. (Note: Speakers are asked to state their name, ward of residence and to use the

- microphone provided.”)
4. Open to public. (Limited to 10 Minutes)
 5. Recognitions.
 6. Acceptance of Minutes:
 7. Appointments.
 8. Public Hearings
 - i. Presentation
 - ii. Mayor Opens Public Hearing
 - iii. Questions and Comments by the Public
 - iv. Mayor Closes Public Hearing
 - v. Council Deliberation & Action
 9. Old Business.
 10. New Business.
 11. City Manager Report
 12. Council Representatives to Other Bodies Report
 13. Future agenda items
 14. Nonpublic sessions.
 15. Adjourn.

§ A191-9. Budgetary summary. [Amended 3-00-1985]

On a quarterly basis, and within the months of October and November, the City Manager shall submit a budgetary summary to the City Council. Discussion of the summary shall be placed on the agenda of the next Council meeting following submissions.

§ A191-10. Motion to be stated by Presiding Officer; withdrawal. [Amended 7-19-1995]

- A. When a motion is made and seconded it shall be repeated upon request by the presiding officer before debate. At his/her discretion the presiding officer may request motions to be put in writing. A motion may not be withdrawn by the mover without the consent of the member seconding it and the approval of the Council.
- B. The presiding officer may at any time, by a majority vote of the members present, permit a member to introduce an ordinance, resolution or motion out of the regular order.

§ A191-11. Communications. [Amended 12-9-1992; 7-19-1995; 6-16-2004]

- A. Unattributed communications shall not be introduced in Council meetings. Information advocating a certain position obtained from constituent contact may be introduced at Council meetings if the name of the source is given. Electronic and written communications from any Councilor to four or more members shall constitute public comment and shall be transmitted to the City Manager's office for public record.
- B. With the exception of the Mayor's use of City letterhead, stationery, or official City insignia for resolutions or proclamations, members of the City Council may only

use such for purposes officially approved by the Council.

§ A191-12. Permission required to address Council. [Amended 4-7-1982]

Persons other than members of the Council and City officers shall be permitted to address the Council. A time limit of three minutes shall be in effect. The speaker shall not enter into a debate with any person, Mayor or Council member and shall speak only on a subject on that particular agenda item.

§ A191-13. Rules: Adoption, Amendment, & Suspension. [Amended 7-19-1995]

- A. Each newly seated Council by motion shall formally adopt the Council Rules and Regulations currently in place.
- B. These rules may be amended or new rules adopted by a 2/3 vote of all members of the Council. Any such alterations or amendments shall be submitted in writing at the preceding regular meeting and shall be placed on the calendar under the order of new business.
- C. These rules may be suspended by a 2/3 vote of those members present and voting. The purpose for suspension must be clearly stated before the vote is taken, and 2/3 of the members present and voting must declare the matter one of such priority that it would be detrimental to hold it over until the next regular meeting.

§ A191-14. Appointment of Council Representatives to Other Bodies.

The Mayor shall designate and appoint representatives from the City Council to other bodies, including City boards, committees, and commissions, as the need arises.

§ A191-15. Council Appointments to City Boards, Committees, Commissions.

- A. When vacancies occur on City boards, committees, commissions, either by resignation, removal or lapse of term, applications received by the City Clerk will be forwarded to the City Council in a timely manner in order for vacancies to be filled as quickly as possible. [Amended 4-2-2008]
- B. All appointments shall be acted upon by the City Council as authorized by the City Code, the City Charter and New Hampshire Law. [Amended 8-2-1995; 5-21-2003; 4-2-2008]
- C. The following procedure shall be followed for board, commission and committee appointments and reappointments: [Added 9-18-1996; Amended 4-2-2008]
 - 1) For initial appointment, the applicant shall fill out the standard application form. [Amended 5-21-2003; Amended 4-2-2008]
 - 2) For reappointment, the applicant can update the current form on file or complete a new updated application form. [Amended 4-2-2008]
 - 3) One member of the City Council shall interview the applicant within 30 days of

receiving the application from the City Clerk and report to the full Council prior to any nomination for appointment or reappointment. [Amended 4-2-2008]

- 4) While one city councilor is officially assigned to interview each applicant, any city councilor may interview any applicant for any position to better inform their decision.

§ A191-16. Constituent-Council contacts. [Added 5-13-1992]

Council members shall use the process outlined on the attached flow chart for constituent contacts.

§ A191-17. Confidential materials.

A. Classification.

- 1) In the event that materials need to be classified as confidential, a standard will be applied by the City administration to determine if a compelling purpose exists to require that the materials be confidential and that public disclosure of the materials would serve to undermine the interest of the City. The City administration's determination of confidentiality shall be made in accordance with RSA 91-A. [Amended 5-21-2003]
- 2) Some examples where materials would be classified as confidential would include positions in labor negotiations, personnel matters involving a right of privacy and settlement discussions of pending litigation.
- 3) In order to ensure that the government of the City of Lebanon conducts its affairs in public and not in private, and that the citizens' deliberation on public affairs in Lebanon be as fully informed as practically possible, hereby be it resolved, that the City promptly release to the public all legal opinions received hereafter by the City, including, but not limited to, memoranda from any legal counsel to the City, and opinions received by the City in private consultation with legal counsel (as allowed under RSA 91-A:2, Meetings Open to Public, I(c), Consultation with legal counsel), except that the following shall only be released at the discretion of the City Manager and City Council: [Added 5-15-2002]
 - (a) Opinions pertaining to the dismissal, promotion or compensation of any public employee or the disciplining of such employee, or the investigation of any charges against the employee; [amended 4-01-2009]
 - (b) Opinions pertaining to the hiring of any person as a public employee;
 - (c) Opinions which, if released to the public, would likely affect adversely the reputation of any person other than a City Councilor; [amended 4-01-2009]
 - (d) Opinions pertaining to the consideration of the acquisition, sale or lease of real or personal property which, if released to the public, would likely benefit a party or parties whose interests are adverse to those of the City;
 - (e) Opinions pertaining to the consideration or negotiation of claims or litigation which has been threatened in writing or filed against the City;
 - (f) Opinions pertaining to matters before quasi-judicial boards of the City;
 - (g) Opinions which, in the judgment of the City Manager and City Council,

could potentially cause harm to the City if released.

- B. Treatment of classified materials. When materials are classified as confidential, they will be identified and marked as "Confidential" and transmitted to the City Council in sealed envelopes marked as "Confidential." The reason for the confidential classification will be noted on the materials.
- C. In the event that a significant portion of a document may be made available to the public without compromising the portions of a document which are necessary to be maintained as confidential in accordance with Subsection A of this policy, then such portion(s) shall be made available to the public with only the confidential portion(s) classified. [Amended 6-19-1996; 5-21-2003]

§ A191-18. Attendance at Seminars, Workshops, etc.

Any Councilor who wishes to attend (at the expense of the City) a seminar, workshop, or other function designed to improve their ability to serve on the City Council (or their respective board, committee, or commission) must first confirm with the City Manager that funds are available for use. If funding is in place, the following options are available:

- (1) Register for the event through the City Manager's Office and request payment in advance of attendance; or
- (2) Self-register for the event and request reimbursement after attending.

If option (2) is exercised, reimbursement is only guaranteed if confirmation of funding was requested in advance of attending and proper documentation, according to the City's Purchasing Policy, is submitted with the reimbursement request.

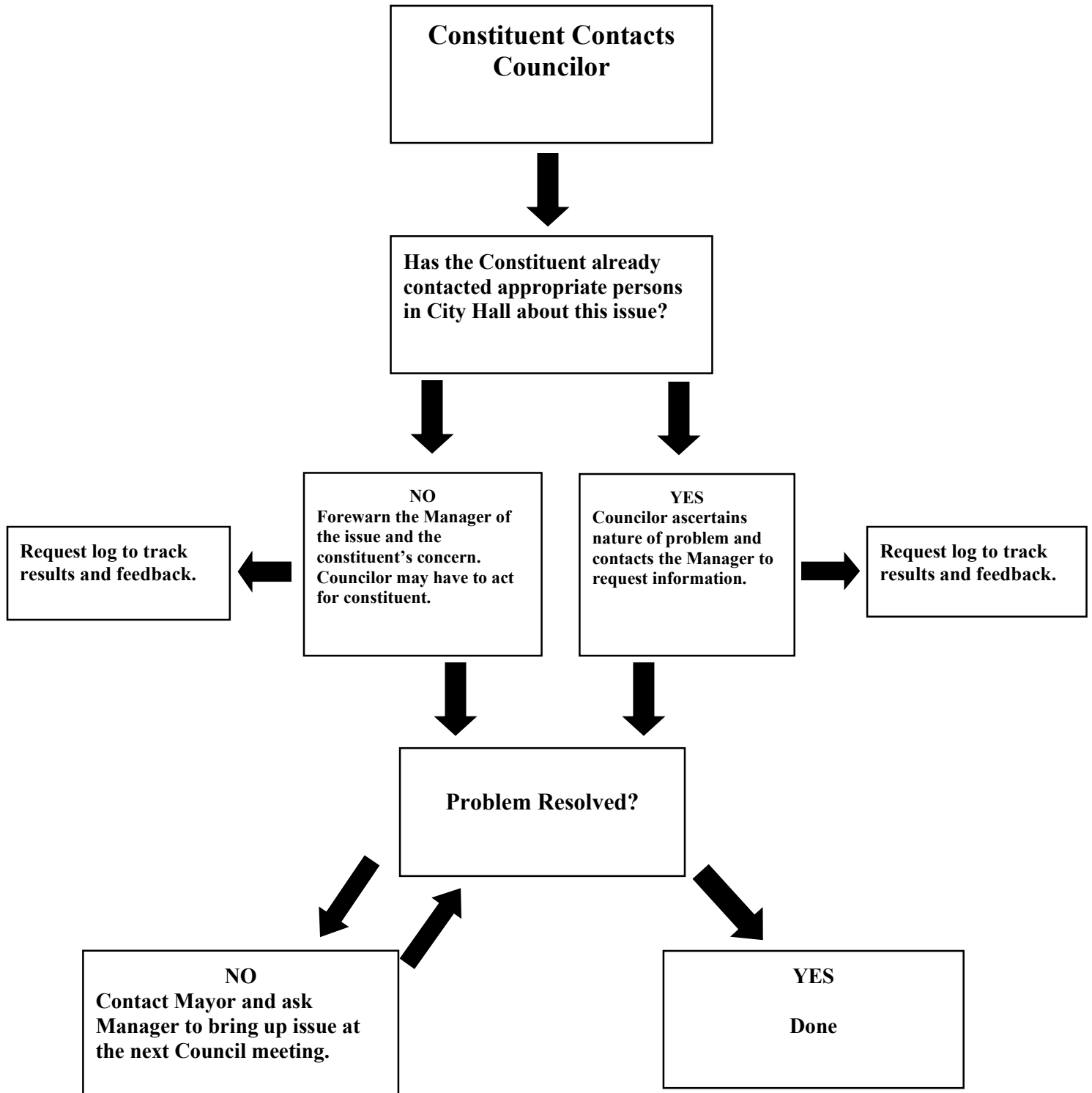
§ A191-19. Email and Computer Use

All City Councilors will be provided with City issued email addresses and computer devices to assist them in their capacity as elected officials. Use of City email addresses and/or computer devices is not mandatory. Councilors who elect to utilize City email addresses and/or computer devices must comply with and sign an acknowledgement form for compliance with any City computer use and cyber security policies.

FLOW CHART FOR CONSTITUENT-COUNCILOR CONTACTS

Council Rules, Section A191:16

[Amended 4-20-2011; 5-16-2012]



AGENDA LEBANON CITY COUNCIL JANUARY 6, 2021

10. NEW BUSINESS:

10.D – REVIEW OF PROPOSED ZONING AMENDMENTS FOR COUNCIL ADOPTION AND THOSE TO BE PLACED ON THE 2020 MUNICIPAL BALLOT

BACKGROUND

At the October 7, 2020 meeting, the City Council was presented with a number of proposed amendments to the Zoning Ordinance. The Council took action to accept the amendments as presented and forwarded them for review and comment by the Planning Board, Conservation Commission, and Zoning Board of Adjustment. Legal review has been obtained, and all boards have completed their review. Attorney Fillmore's Legal Opinion along with excerpts of meeting minutes are attached for your use. A public hearing pursuant to Section 1000.3.D of the Zoning Ordinance is requested for January 20, 2021 (scheduled as part of Council's prior action on October 7th).

The purpose of this meeting is to present the final version of the proposed amendments to be considered by the Council at the upcoming public hearing. Some of the proposed amendments are under the authority of the Council, others require placement on the Ballot for consideration by voters. All of the amendments are addressed in the attached comprehensive memorandum drafted by Planning Department Staff. As a reminder, the Council has the authority to place any of the proposed amendments on the Ballot, including those that are under the Council's sole purview.

Once the proposed amendments are finalized, they will be posted as part of the public hearing. Once posted, all applications to the Land Use Boards and all Building/Zoning Permit applications will be subject to the provisions of both the existing Zoning Ordinance and the proposed amendments. The proposed amendments will be posted on January 8, 2021.

ACTION

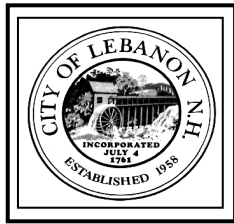
If the Council decides to move forward with the proposed amendments, the following motion is offered for consideration:

MOVED, that the Lebanon City Council hereby schedules public hearings for Wednesday, January 20, 2021, beginning at 7:00pm, remote via Microsoft Teams, for the purpose of receiving public input and taking action to:

- 1. Adopt certain amendments to Ordinance #2, the City of Lebanon Zoning Ordinance; and***
- 2. Place other proposed amendments to Ordinance #2 on the March 2021 municipal ballot for consideration by Lebanon Voters.***

Included in this Section:

1. December 28, 2020 Memo to the Lebanon City Council from Planning & Development Department Staff re: 2020-2021 Proposed Zoning Amendments which includes the following:
 - 2020-2021 Proposed Zoning Ordinance Amendments (Redlined Version, last revised December 21, 2020)
 - October 27, 2020 Legal Opinion from Attorney Christine Fillmore
 - December 28, 2020 Legal Opinion from Attorney Christine Fillmore
 - Excerpt of Planning Board meeting minutes from November 9, 2020 and November 23, 2020
 - Excerpts of Conservation Commission meeting minutes from November 12, 2020
 - Excerpt of Zoning Board of Adjustment meeting minutes from November 16, 2020



CITY OF LEBANON ~ PLANNING & DEVELOPMENT

MEMORANDUM

TO: Lebanon City Council

CC: Shaun Mulholland, City Manager
Paula Maville, Deputy City Manager

FROM: Planning & Development Department Staff

RE: 2020-2021 Proposed Zoning Amendments

DATE: December 28, 2020

Honorable Mayor and City Councilors,

Since the City Council kicked-off the zoning amendment process on October 7th, the Planning & Development Department has coordinated with legal counsel and has met with the Land Use Boards for review and comment on the proposed changes to the Zoning Ordinance. Staff has made some revisions to the amendments (as described below) based on the comments and input from legal counsel and the Land Use Boards.

The draft text amendments are highlighted in the attached red-lined excerpt of the Zoning Ordinance, dated last revised 12/21/20. New or revised text is blue and underlined. Text to be deleted is shown as ~~red with a strike-out~~. Note that terms that are defined in Appendix A of the Zoning Ordinance appear in ***bold italics***.

An overview of the proposed amendments is set forth below and is broken into those amendments that require approval by referendum vote, and those that may be adopted by the City Council. Please note that miscellaneous minor amendments that appear throughout the attached redline – such as correcting punctuation, and correcting references in the Zoning Ordinance necessitated by other amendments – are not specifically reviewed in this memo.

OVERVIEW OF AMENDMENTS

A. BALLOT AMENDMENTS (*page references are to the attached redline*) – The following proposed amendments require approval by referendum vote per Section 1000.4.A of the Zoning Ordinance:

- 1. Amend Section 308.3 and add new Section 308.4** to allow additional building height of up to ten (10) ft. in the R-1 District by Conditional Use Permit, provided that the additional height is for the purpose of accommodating parking underneath the building. At the suggestion of the Planning Board, proposed Section 308.4 requires an enhanced building setback of two (2) feet for every one (1) foot of additional building height so authorized by Conditional Use Permit. For example, if the Planning Board were to approve a building height of 50 ft. (which is 5 ft. more than the existing 45 ft. maximum), the minimum required setbacks would be increased by 10 ft. for the structure. (*see p. 16 of the redline*)

2. **Amend Section 310.2, the R-3 District Table of Uses** to change “house of worship” from a use allowed by Special Exception to a permitted use. This change is consistent with all other districts that allow house of worship where, in those districts, “house of worship” is designated a permitted use and does not require a Special Exception or Conditional Use Permit. (*see p. 17 of the redline*)
3. **Add new Section 310.4 (“Dwelling Unit Density”)** to clarify that the permitted density in the R-3 District for senior housing complexes and PURDs is based on one dwelling unit per 10,000 sq. ft. of lot area. (*see p. 17 of the redline*)

B. COUNCIL AMENDMENTS:

1. **Amend Section 303, the Light Industrial (IND-L) District regulations**, as follows (*see p. 7 of the redline*):
 - a. Amend Section 303.2, the IND-L District Table of Uses, as follows:
 - i. Add “inpatient rehabilitation facility” (*see proposed definition in Appendix A, p. 28 of the redline*) as a use allowed by Conditional Use Permit from the Planning Board.
 - ii. Change “retail product pickup” from a use allowed by Conditional Use Permit to a permitted use.
 - iii. Within “Uses by Conditional Use Permit”, replace “office for 50 or more employees” with “office”.
 - b. Remove Section 303.6 (“Flex Buildings”). The “flex building” concept is redundant to Sections 302.2 and 302.3 which already allow accessory uses and mixed-use buildings, respectively, “by right”.
2. **Amend Section 303A, the Industrial – Rail Access (IND-RA) District regulations**, as follows:
 - a. Amend Section 303A.2, the IND-RA District Table of Uses to (i) adjust the “excavation of natural earth material” use for consistency with similar uses in the IND-H and RL-2 Districts, and with Section 606 (“Excavation of Natural Earth Material”), and (ii) replace “office building” with “office”. (*see p. 8 of the redline*)
 - b. Amend the IND-RA District regulations, Sections 303A.3, 4, and 5 to clarify that “waivers” of the minimum yard requirements may be authorized by Conditional Use Permit where necessary to allow rail access (Section 303A.3), and to clarify the verbiage of Sections 303A.4 and 5. (*see p. 9 of the redline*)
3. **Amend Section 304.2, the IND-H District Table of Uses** to adjust the “excavation of natural earth material” use for consistency with similar uses in the IND-RA and RL-2 Districts, and with Section 606 (“Excavation of Natural Earth Material”). (*see p. 10 of the redline*)
4. **Amend Section 305.2, the GC District Table of Uses**, as follows (*see p. 11 of the redline*):
 - a. Change “retail product pickup” from a use allowed by Conditional Use Permit to a permitted use.

- b. Change “indoor recreational facility” from a use allowed by Conditional Use Permit to a permitted use.
- c. Change “funeral establishment” to “funeral home” for consistency of terminology.
- d. Remove “alternative treatment center (cultivation location only)”, in connection with the proposal to combine the definitions of “alternative treatment center” and “alternative treatment center (cultivation location only)” (*see Appendix A, p. 27 of the redline*)

5. Amend Section 305A.2, the GC-1 District Table of Uses to (*see p. 12 of the redline*):

- a. Remove “alternative treatment center (cultivation location only)”, in connection with the proposal to combine the definitions of “alternative treatment center” and “alternative treatment center (cultivation location only).” (*see p. 12 of the redline; see also Appendix A, p. 27 of the redline*)
- b. Add “inpatient rehabilitation facility” (*see proposed definition in Appendix A, p. 28 of the redline*) as a use allowed by Conditional Use Permit from the Planning Board.

6. Amend Section 306, the Central Business (CB) District regulations, as follows (*see p. 13 of the redline*):

- a. Amend Section 306.2, the CB District Table of Uses to (i) remove “vehicular sales,” and (ii) change “funeral establishment” to “funeral home.” (*see p. 13 of the redline*)
- b. Amend Section 306.3, the CB District Table of Area, Dimensions and Coverage to (i) allow a reduction of the minimum rear yard requirement by Conditional Use Permit from the Planning Board instead of by Special Exception from the Zoning Board of Adjustment, and (ii) as a clean-up item related to the recent adoption of the LD District regulations, remove the language allowing increased building height in downtown Lebanon (as the areas described are now located in the LD District).

7. Amend Section 307, the Lebanon Downtown (LD) District regulations as follows:

- a. Amend Sections 307.6.A & B to clarify verbiage. (*see p. 15 of the redline*)
- b. Amend Section 307.6.C to designate Mechanic Street a secondary street and to designate Mascoma Street a primary street. These designations relate to Sections 307.6.A & B which require a certain portion of the first floor of a building to be reserved for non-residential uses. The requirements for a secondary street (Section 307.6.B) are more flexible, only apply to buildings of a certain size, and may be “waived” by Conditional Use Permit from the Planning Board. (*see p. 15 of the redline*)

At the suggestion of the Zoning Board, new Section 307.C.3 is proposed to clarify that only those portions of the streets identified in Sections 307.C.1 & 2 that are in fact located within the LD District are so designated as primary street or secondary streets (e.g. only that portion of Mechanic Street located within the LD District is designated a “secondary street”). Staff also suggests edits to Section 307.6.C.1 to clarify that the entirety of West Park Street and North Park Street are located within the LD District. (*see p. 15 of the redline*)

- c. Amend Section 307.8.B to allow the “waiver” of the minimum story height requirements by Conditional Use Permit. (*see p. 16 of the redline*)
- d. Amend Section 307.9.B to allow parking in the front yard by Conditional Use Permit for properties with pre-existing improved surfaces in the front yard, provided that parking cannot be accommodated elsewhere on the lot. (*see p. 16 of the redline*)
- 8. **Amend Section 311B.4 (“Parking Requirements”)** to clarify that the minimum number of parking spaces that must be provided for each dwelling unit in the Professional Business (PB) District shall be as set forth in Section 607.2 (“Table of Minimum Off-Street Parking Requirements”). (*see p. 17 of the redline*)
- 9. **Amend Section 313.2, the RL-2 District Table of Uses** to adjust the “excavation of natural earth material” use for consistency with similar uses in the IND-RA and IND-H Districts, and with Section 606 (“Excavation of Natural Earth Material”). Note that the City’s legal counsel agrees that this amendment is not a substantive change to the RL-2 District Table of Uses and, therefore, does not require placement on the ballot per Section 1000.4.A (*see p. 18 of the redline*)
- 10. **Amend Section 314.1 (“Purpose”)** to update the RL-3 District purpose statement by removing verbiage that is inconsistent with the remainder of the purpose statement and with the Master Plan. Note that the City’s legal counsel agrees that this amendment is not a change to the RL-3 District Table of Uses or to the RL-3 District Table of Area, Dimensions and Coverage and, therefore, does not require placement on the ballot per Section 1000.4.A (*see p. 18 of the redline*)
- 11. **Amend Section 315.2, the MC District Table of Uses** to (*see p. 19 of the redline*):
 - a. Add “inpatient rehabilitation facility” (*see proposed definition in Appendix A, p. 28 of the redline*) as a use allowed by Conditional Use Permit from the Planning Board.
 - b. Adjust uses for consistency with the medical center complex requirements set forth in Section 506.
- 12. **Amend Section 501.4.D (“Uses Allowed in a Commercial or Industrial PUD”)** (*see p. 21 of the redline*). Currently, hotels, restaurants, personal services, and retail are permitted uses in an Industrial PUD, but may occupy no more than 25% of the total “building coverage”. The proposed amendment changes “building coverage” to “gross floor area” which is a more logical metric and will avoid encouraging large, sprawling, one-story buildings which is the inadvertent result of using “building coverage” as the metric.

Subsequent to the Council’s October 7th kick off, staff added another change to Section 501.4.D which is intended to expand the types of residential uses that may be permitted in a Commercial or Industrial PUD to include one- and two-family dwellings, in addition to multi-family dwellings. This change is designed to give both a developer and the Planning Board additional flexibility to allow residential uses that are appropriate for a particular site and development. The proposed amendment was reviewed by legal counsel and the Land Use Boards.

- 13. **Amend Section 508.4.D (“Sectors, Allowed Uses”)** to expand the types of residential uses that may be included as part of a Planned Business Park. This change is designed to give both a developer and the Planning Board additional flexibility in providing residential uses (which are required to be included as part of a Planned Business Park) that are appropriate for a particular site and development. The proposed amendment to

Section 508.4.D was added by staff immediately following the Council's October 7th kick off and was reviewed by legal counsel and the Land Use Boards (*see p. 22 of the redline*)

- 14. Add new Section 608.4.1.e ("Multi-Tenant Buildings")** to allow the existing sign area for existing multi-tenant buildings to be used as the permitted sign area for the building, as an alternative to the building sign area formulas set forth in Section 608.4.1.a. (*see p. 24 of the redline*)
- 15. Amend Appendix A to add definition of "inpatient rehabilitation facility"** (*see p. 28 of the redline*). At the request of the City Council, a definition for "inpatient rehabilitation facility" has been developed by staff, with assistance from the Planning Board. The proposed definition is intended to reflect how the term "inpatient rehabilitation facility" is used in connection with the federal Medicare/Medicaid programs and, at the request of the Planning Board, to ensure that it cannot be interpreted as including drug and alcohol addiction treatment facilities.
- 16. Miscellaneous amendments** to Sections 201 ("Yard Requirements"), 201.1 ("Reduction for an Average Front Yard"), 201.4 ("Fences, Hedges and Walls"), 201.7 ("Driveways and Parking Areas"), 203.1 ("Exceptions to Height Requirements"), 203.3 ("Accessory Wind Energy Facilities"), 203.4 ("Telecommunication Facilities"), 203.5 ("Bonding and Security for Towers and Similar Structures"), 204 ("Lots in Two Zoning Districts"), 206 ("Sight Distance at Street Intersections"), 208 ("Off-Street Loading"), 213 ("Impact Fees"), 301 ("Zoning Map"), 302 ("Uses"), 402 ("Flood Plain District"), 409 ("Landfill Reclamation District"), 501.2 ("Planned Unit Residential Development (PURD)"), 501.3 ("Planned Unit Recreational Developments"), 506 ("Medical Center Complexes"), 601 ("Special Design Standards"), 602 ("Non-Commercial Swimming Pools and Hot Tubs"), 607 ("Parking"), 608.8 ("Non-Conforming Signs"), 610 ("Accessory Dwelling Unit (ADU)"), 611 ("The Keeping of Chickens"), Appendix A ("Definitions"), and all other miscellaneous editorial edits and typographical corrections depicted in the attached redline.

SCHEDULE

At the January 6, 2021 City Council meeting, staff will review the changes to the draft amendments that were made as a result of the Land Use Board and legal review, and will ask the Council to schedule a public hearing for the Council's meeting on January 20, 2021.

Following the public hearing, the City Council may adopt Amendments B.1 through B.16 above per Section 1000.4.B of the Zoning Ordinance (although it should be noted that the Council has the ability to place *any* proposed amendment on the March ballot for voter approval - see Section 1000.4.A of the Zoning Ordinance). Amendments requiring approval by referendum vote per Section 1000.4.A of the Zoning Ordinance (i.e. Amendments A.1 through A.3) will be placed on the March 2021 ballot.

ATTACHMENTS

- Redline excerpt of current Zoning Ordinance (redline last revised December 21, 2020)
- Legal opinion from Christine Fillmore, Esq., dated October 27, 2020
- Legal opinion from Christine Fillmore, Esq., dated December 28, 2020
- Excerpt of Planning Board meeting minutes from November 9, 2020 and November 23, 2020
- Excerpts of Conservation Commission meeting minutes from November 12, 2020
- Excerpt of Zoning Board of Adjustment meeting minutes from November 16, 2020

ZONING ORDINANCE



Ordinance #2

CITY OF LEBANON, NEW HAMPSHIRE

ADOPTED:

January 16, 2013

LAST AMENDED:

~~*March 10,*~~

~~*2020*~~ *, 2021*

ARTICLE II

GENERAL PROVISIONS

[...]

SECTION 201 YARD REQUIREMENTS.

Except as otherwise provided herein, no building or structure other than accessory structures and buildings of 130 sq. ft. or less per Section 201.8 below shall occupy any part of any yard required by Article III, except that ~~the ordinary projections of sills, cornices, pilasters, chimneys and eaves~~ architectural details may extend not more than two (2) feet into any required yard.

201.1 Reduction for an Average Front Yard.

The required front yard may be reduced to the average front yard of the existing buildings on the same side of the street in the same block, provided that there are at least two (2) such buildings and provided that all such buildings are within 300 feet of the premises (as measured along the street line). This reduction shall not be allowed for lots fronting on a state highway ~~or major thoroughfare~~.

[...]

201.4 Fences, Hedges and Walls.

Fences, hedges and walls may be located within minimum required yards, but ~~Fences, hedges or walls if located within~~ required front yards they shall not exceed 3 ½ feet in height unless ~~the set back at least is~~ 15 feet from the right-of-way. The Board of Adjustment, as a special exception, may allow fences, hedges and walls of a greater height. This section shall not apply to fences and walls erected for agricultural (e.g., the confinement of animals), safety or security purposes in the industrial, commercial or rural lands districts.

[...]

201.7 Driveways and Parking Areas.

Driveways may occupy required **yard** areas. Parking areas may occupy required yard areas provided they maintain at least a 5 ft. setback from all lot lines, except that (i) parking areas in the front yard are prohibited in the LD District per Section 307.9.B, and (ii) Parking areas parking areas in the front yard in the residential districts and, the R-O District and the R-O-1 District, shall be set back no less than the lesser of the minimum front yard requirement or the building line, but in no case less than five (5) feet.

[...]

SECTION 203 HEIGHT REQUIREMENTS.203.1 Exceptions to Height Requirements.

Except as provided in Section 407 for structures near the airport or in the airport approach zone, the following structures may exceed the maximum height limitations of Article III by not more than 20 percent:-

A. Flagpoles.

- B. Rooftop features including ~~c~~Chimneys, spires, ~~silos~~, towers, lightning rods, heating, ventilation and air-conditioning equipment, elevator shafts, accessory solar energy facilities or similar structures/equipment. ~~The Board of Adjustment may allow a greater height for silos in the RL Districts by special exception granted pursuant to Section 801.3.~~
- C. Radio or TV antennae or satellite dish for private, non-commercial reception.
- D. Accessory wind energy facilities, except as provided in Section 203.3.
- E. Silos, except that the Board of Adjustment may allow a greater height for silos in the RL Districts by *special exception* granted pursuant to Section 801.3.

[...]

203.3 Accessory Wind Energy Facilities.

Accessory wind energy facilities may exceed the ~~above~~ Section 203.1 exception to the maximum height limits in RL Districts (Sections 312, 313 and 314) by special exception, except as provided in Section 407 (the more restrictive Section applies).

[...]

203.4 Telecommunication Facilities.

- A. Location of Telecommunication Facilities:

[...]

- 3. Facilities Other Than Collocation or Modification. **Telecommunication facilities** requiring a new dedicated tower or other structure, or which otherwise do not fit within paragraphs A.1 or A.2 above, shall be:
 - a. Permitted in the Industrial, General Commercial, and Medical Center zoning districts by Conditional Use Permit;
 - b. Allowed by Special Exception ~~and Conditional Use Permit~~ in the RL zoning districts [...]

[...]

- D. ~~Conditional Use Permits and~~ Procedure:

- 1. Unless specifically exempted under Subsection A.1 of this Section, **telecommunications facilities** are permitted only after obtaining a **conditional use permit** ~~from the Planning Board and/or, where required, a special exception~~ as required under Subsection A.3 from the Zoning Board. All such uses must comply with other applicable ordinances and regulations of the City of Lebanon, State of New Hampshire, and Federal Government.
- 2. Telecommunications facilities requiring a new dedicated tower or other structure, or which otherwise do not fit within Subsections A.1 or A.2, shall obtain site plan approval from tThe Planning Board which shall act upon

the [site plan](#) application in accordance with the procedural requirements of ~~its~~ [the](#) Site Plan Review Regulations, provided that regional notification requirements contained in RSA 12-K:7 must also be followed.

[...]

203.5 Bonding and Security for Towers and Similar Structures.

Whenever ~~either the Zoning Board of Adjustment or~~ Planning Board [or the Zoning Board \(in the event that site plan review is not required\)](#) approves an application to construct a tower or similar structure which, if abandoned and unmaintained, could present a hazard to health or safety from a potential fall or collapse, including but not limited to broadcast antennas or towers under Section 203.2, telecommunications towers under Section 203.4, or wind energy facilities under Section 203.3, the respective Board shall require the applicant to provide a bond or other security to the City in an amount sufficient to cover the costs of removal and disposal of such structure. The Board shall set the form and amount of the security. Any engineer, attorney, or other consultant engaged by the Board to determine the adequacy of the form and amount of security shall be at the applicant's expense. The Board shall also require the applicant to submit proof of appropriate liability insurance with respect to the proposed structure prior to construction.

SECTION 204 LOTS IN TWO ZONING DISTRICTS.

Where a district boundary line divides a lot of record at the time such district boundary line is established, the regulations for either district of such lot may extend up to thirty feet (one hundred feet in rural lands districts) into the other district, provided the lot has frontage on a street in the district which is being extended, and provided that the lot has not been altered by subdivision, merger, or lot line adjustment subsequent to the establishment of the district boundary. ~~Determinations under this section shall be made by the Zoning Administrator, subject to appeal under Section 801.1.~~

[...]

SECTION 206 SIGHT DISTANCE AT STREET [AND DRIVEWAY](#) INTERSECTIONS.

There shall be no obstruction to vision between the heights of three (3) feet and ten (10) feet above the **street** surface within ~~the~~ [any](#) triangular area formed by the intersection of two **street lines** and a third line joining them at points 25 feet away from their intersection, [or by the intersection of a driveway and a street line and a third line joining them at points 25 feet away from their intersection](#). The Board of Adjustment may grant a **special exception** to this requirement, pursuant to Section 801.3, in the commercial and industrial districts only.

[...]

SECTION 208 [OFF-STREET LOADING \(Reserved\)](#).

~~Off street loading facilities shall be provided for all institutional, commercial and industrial uses. These facilities shall be located so that delivery vehicles are parked completely outside of the street right of way, and shall comply with the requirements of the Site Plan Review Regulations as applicable.~~

[...]

SECTION 213 IMPACT FEES.

[...]

213.3 Definitions.

The following definitions shall be considered to pertain to this Section (213) only:

[...]

E. New development means an activity that results in:

- (1) The creation of a new dwelling unit or units or new manufactured housing
~~or in the habitable portion of a residential building~~; or
- (2) The conversion of a legally existing use, or additions thereto, which would result in a net increase in the number of dwelling units; or
- (3) Construction resulting in a new non-residential building or a net increase in the gross floor area of any non-residential building; or

[...]

213.5 Standards and Basis of Assessment.

[...]

D. In the case of new development created by conversion or modification of an existing use, the impact fee shall be based upon the net positive increase in the impact fee assessed for the new use for each category of impact fee assessment as compared to the highest impact fee that was or would have been assessed for each category of impact fee assessment for the previous use in existence on or after the effective date of this Ordinance.

[...]

213.9 Appeals under This Section.

A. A party aggrieved by a decision made by the ~~Code Enforcement Officer~~Zoning Administrator relating to administrative decisions in the assessment or collection of impact fees authorized by this Section may appeal such decision to the Planning Board within 30 days of the administrative decision, and not afterward.

[...]

ARTICLE III

USE DISTRICTS

[...]

SECTION 301 ZONING MAP.

301.1 Establishment.

The districts and the boundaries of such districts shall be as shown on a map entitled "OFFICIAL ZONING MAP OF THE CITY OF LEBANON, NEW HAMPSHIRE." ~~together with all notations, references and other matter and things set forth and/or attached thereto.~~ This map, which was adopted on July 19, 1978, and amended several times thereafter, is hereby re-adopted. ~~It shall be known as the Official Zoning Map of the City of Lebanon and shall be certified by the Mayor and City Clerk.~~ Said map is to be prepared and updated maintained by the City of Lebanon Planning ~~Office~~ & Development Department, and amendments thereto shall be certified by the City Clerk.

[...]

301.3 Final Authority.

Regardless of the existence of purported copies of the Official Zoning Map~~y~~ which may from time to time be published, the Official Zoning Map which is on file with the City Clerk shall be the final authority on current zoning.

[...]

SECTION 302 USES.

302.1 Permitted Uses. In the districts described herein, only those uses listed as "permitted uses" shall be permitted. Uses listed as "special exception" may be allowed, but only at the discretion of the Board of Adjustment pursuant to Section 801.3. Uses listed as "conditional use permit" may be allowed, but only at the discretion of the Planning Board pursuant to Section 302.4. It is the intent of this Ordinance that no other uses be allowed. All uses shall comply with the dimensional requirements of the "Table of Area, Dimensions and Coverage" of the zoning district in which the use is located. Uses not listed are neither permitted nor allowed by special exception nor allowed by **conditional use** permit.

[...]

SECTION 303 LIGHT INDUSTRIAL DISTRICT (IND-L).

[...]

303.2 Table of Uses.

<u>Permitted Uses</u>	<u><i>Special Exception Uses</i></u> (see Section 801.3)
<u>Commercial/Non-Residential</u> 1. Airport 2. Bus terminal 3. Essential service 4. Health club 5. Light industry 6. Local government use 7. Outdoor storage per Section 303.4 (less than 20%) 8. Plumbing, electrical or carpentry shop 9. Publishing/printing 10. Research laboratory 11. Renewable energy system per Section 612 12. <u>Retail product pickup</u> 12.13. <u> </u> Retail showroom per Section 303.5 (less than 10%) 13.14. <u> </u> Trucking terminal 14.15. <u> </u> Warehouse <u>Planned Developments</u> 15.16. <u> </u> Industrial PUD per Section 501 16.17. <u> </u> Planned business park per Section 508	<u>Commercial/Non-Residential</u> 1. Care and treatment of animals 2. Contractor's yard 3. Educational facility , college/university 4. Educational facility, vocational school 5. Group day care facility per Section 604 <u>Uses by Conditional Use Permit</u> (see Section 302.4) <u>Commercial/Non-Residential</u> 1. Car wash 2. <u>Inpatient rehabilitation facility</u> 2.3. <u> </u> Office building for 50 or more employees 3.4. <u> </u> Outdoor storage per Section 303.4 (more than 20%) 4.5. <u> </u> Retail showroom per Section 303.5 (between 10-20%) Retail product pickup

[...]

~~303.6~~ ~~Flex Buildings.~~

~~Flex buildings (i.e. multi-use buildings) having no more than 30% of the floor area occupied by independent office uses are permitted, provided the principal use of the building is for a permitted use.~~

[...]

SECTION 303A INDUSTRIAL - RAIL ACCESS DISTRICT (IND-RA).

[...]

303A.2 Table of Uses.

<u>Permitted Uses</u>	<u>Special Exception Uses</u> (see Section 801.3)
<u>Commercial/Non-Residential</u> 1. Bituminous paving plant 2. Concrete mixing plant 3. Contractor's yard 4. Essential service 5. Health club 6. Light industry 7. Local government use 8. Outdoor storage and sales 9. Recycling facility 10. Research laboratory 11. Renewable energy system per Section 612 12. Retail showroom per Section 303A.5 13. Warehouse	<u>Commercial/Non-Residential</u> 1. Bulk petroleum and liquid propane gas storage 2. Excavation of natural earth material per Section 606 and/or processing of natural earth material. Natural resource extraction and/or processing facility (timber, stone, or soil) 3. Intermodal transportation facility 4. Educational facility, vocational school 5. Group day care facility per Section 604
	<u>Uses by Conditional Use Permit</u> (see Section 302.4)
<u>Planned Developments</u> 14. Industrial PUD per Section 501 15. Planned business park per Section 508	<u>Commercial/Non-Residential</u> 1. Office building

303A.3 Table of Areas, Dimensions, and Coverage.**IND - RA DISTRICT**

Minimum Lot Requirements					Maximum Limitations	
Area	Frontage	Front Yard	Side Yard	Rear Yard	Building Coverage	Height
2 acres	200'	30' (*)	20' (*)	20' (*)	50%	65'

*~~Setback will be waived for~~ This restriction may be relaxed by **conditional use permit**, if the Planning Board finds, in addition to the standards set forth in Section 302.4, that such relaxation is required to allow access to or use of rail service. ~~these portions of the lot where rail access is along the property line.~~

303A.4 Special Setback Restrictions.

Principal structures on lots in the IND-RA district which abut a residential zoning district ~~lines will~~ shall be set back a minimum of 75 feet from the property line or lines which abut the residential zone.

303A.5 Retail Showrooms.

Showrooms and on-premises sales may be allowed as part of a ~~manufacturing~~ light industry or ~~warehouse or distribution facility~~ provided that: (1) such showrooms are limited in floor area to no more than 10% of the total acreage of the lot on which they are located or a maximum of 20,000 square feet, whichever is smaller, and, (2) the goods being displayed are the same as those being manufactured/stored/distributed on the premises.

[...]

SECTION 304 HEAVY INDUSTRIAL DISTRICT (IND-H).

[...]

304.2 Table of Uses.

<u>Permitted Uses</u>	<u>Special Exception Uses</u> (see Section 801.3)
<u>Commercial/Non-Residential</u> 1. Contractor's yard 2. Essential service 3. Recycling facility 4. Renewable energy system per Section 612 5. Sanitary landfill 6. Sawmill per Section 304.5	<u>Commercial/Non-Residential</u> 1. Bulk storage of petroleum products 2. Junkyard per Section 605 3. Removal of natural materials <u>Excavation of natural earth material per Section 606 and/or processing of natural earth material</u>
<u>Planned Developments</u> 7. Industrial PUD per Section 501 8. Planned business park per Section 508	<u>Uses by Conditional Use Permit</u> (see Section 302.4)
	<u>Commercial/Non-Residential</u> 1. Bituminous paving plant 2. Concrete mixing plant 3. Stone crushing plant

[...]

SECTION 305 GENERAL COMMERCIAL DISTRICT (GC).[...]305.2 Table of Uses.

<u>Permitted Uses</u>	<u>Special Exception Uses</u> (see Section 801.3)
<u>Residential</u> 1. Dwelling unit(s) above first floor 2. Multi-family dwelling (see Section 305.5)	<u>Commercial/Non-Residential</u> 1. Alternative treatment center per Section 613 2. Alternative treatment center (cultivation location only) per Section 613 3.2 Bus terminal 4.3 Educational facility, college/university 5.4 Essential service 6.5 Truck terminal
<u>Commercial/Non-Residential</u> 3. Amusements (indoor) 4. Car wash 5. Community center 6. Drive-in restaurant, refreshment stand 7. Drive-through facility 8. Drycleaning pick-up station 9. Financial institution 10. Funeral establishment <u>home</u> 11. Group day care facility per Section 604 12. Health club 13. Hotel 14. House of worship 15. Laundromat 16. Local government use 17. Membership club 18. Motel 19. Movie theater 20. Office 21. Personal service 22. Publishing/printing 23. Radio or TV studio 24. <u>Recreational facility, indoor</u> 24-25. <u>Renewable energy system</u> per Section 612 25-26. <u>Restaurant</u> , sandwich shop 27. <u>Retail product pickup</u> 26-28. <u>Retail store</u> 27-29. <u>Service station</u> 28-30. <u>Vehicular repair</u> 29-31. <u>Vehicular sales</u>	<u>Uses by Conditional Use Permit</u> (see Section 302.4)
<u>Planned Developments</u> 30-32. <u>Commercial PUD</u> per Section 501	<u>Commercial/Non-Residential</u> 1. Care and treatment of animals 2. Contractor's yard 3. Craftsman's shop 4. Plumbing, electrical or carpentry shop 5. Produce stand 6. Recreational facility, indoor 7.6 <u>Recreational facility, outdoor</u> 8. Retail product pickup 9.7 <u>Warehouse</u> 10-8. <u>Wholesale sales</u>

[...]

SECTION 305A GENERAL COMMERCIAL ONE DISTRICT (GC-1).

[...]

305A.2 Table of Uses.

<u>Permitted Uses</u>	<u>Uses by Conditional Use Permit</u> (see Section 302.4)
<u>Residential</u> 1. Multi-family dwelling (see Section 305A.4) <u>Commercial/Non-Residential</u> 2. Dwelling unit(s) above first floor 3. Essential service 4. Financial institution 5. Group day care facility per Section 604 6. Office 7. Personal service 8. Renewable energy system per Section 612 <u>Planned Developments</u> 9. Commercial PUD per Section 501	<u>Commercial/Non-Residential</u> 1. Alternative treatment center per Section 613 2. Alternative treatment center (cultivation location only) per Section 613 3.2. Drycleaning pick-up station 4.3. Educational facility, college/university <u>4. Inpatient rehabilitation facility</u> 5. Light industry 6. Research laboratory 7. Restaurant , sandwich shop 8. Retail store

[...]

SECTION 306 CENTRAL BUSINESS DISTRICT (CB).

[...]

306.2 Table of Uses.

<u>Permitted Uses</u>	<u>Special Exception Uses</u> (see Section 801.3)
<u>Residential</u> Dwelling unit(s) above first floor Multi-family dwelling (see Section 306.5) Senior housing complex	<u>Commercial/Non-Residential</u> Craftsman's shop Drive-through facility Educational facility, college/university Group day care facility per Section 604 Vehicular sales
<u>Commercial/Non-Residential</u> Amusements (indoor) Community center - Drycleaning pick-up station Financial institution - Funeral establishment <u>home</u> Health club Hotel - House of worship - Laundromat - Library or museum Local government use Membership club Motel <u>Museum</u> 17.18. <u>Office</u> 18.19. <u>Personal service</u> 19.20. <u>Radio or TV studio</u> 20.21. <u>Renewable energy system</u> per Section 612 21.22. <u>Restaurant</u>, sandwich shop 22.23. <u>Retail store</u> 23.24. <u>Social service center</u> 24.25. <u>Theater, concert hall, movie theater</u>	<u>Uses by Conditional Use Permit</u> (see Section 302.4)
<u>Planned Developments</u> 25.26. <u>Commercial PUD</u> per Section 501	<u>Commercial/Non-Residential</u> Essential service - Other uses per Section 306.4 Parking facility - Publishing/printing Recreational facility, indoor Recreational facility, outdoor

306.3 Table of Area, Dimensions and Coverage.**CB DISTRICT**

Minimum Lot Requirements					Maximum Limitations	
Area	Frontage	Front Yard	Side Yard	Rear Yard	Building Coverage	Height
3,000 square feet	50'	NONE	NONE	10' (*)	NONE	45'**

*May be reduced or eliminated by ~~special exception~~[conditional use permit](#).

~~**55' is allowed for any property within the Central Business District that is located in downtown Lebanon and is adjacent to the Mascoma River; and/or is adjacent to one or more of the following primary streets: North, South, East, and West Park Streets, Hanover Street, High Street, Mechanic Street, Mascoma Street, Bank Street, Campbell Street, and Spencer Street; and/or is adjacent to any other street that intersects one of the afore-mentioned primary streets.~~

[...]

SECTION 307LEBANON DOWNTOWN DISTRICT (LD).

[...]

307.6 Non-Residential Uses.A. Buildings with Frontage on Primary Streets.

1. If a **building** is located on a **lot** with **principal frontage** on a primary **street**, a minimum of 1,000 square feet or 1/3 of the **gross floor area**, whichever is less, of the **street level story** of the **building**, shall be ~~devoted~~ reserved for a non-residential use or uses, and such combined uses shall have both a depth and width of not less than 20 feet along the primary **street**.

[...]

B. Buildings with Frontage on Secondary Streets.

[...]

1. Notwithstanding the above requirements, the Planning Board may waive the requirement for non-residential uses on **the street level story** and permit residential uses on the ~~complete~~ entire **street level story** in these locations by **conditional use permit** pursuant to Section 302.4 provided the applicant demonstrates that:

[...]

C. Definitions. For purposes of this subsection, primary and secondary **streets** are defined as follows:

1. Primary Streets. The Downtown Mall, Taylor Street within 500 feet of the Downtown Mall, Hanover Street from Hough Street to Church Street, Mascoma Street, ~~Mechanic Street~~, Court Street, West Park Street ~~from Hanover Street to Court Street~~, and North Park Street ~~from Court Street to Campbell Street~~.
2. Secondary Streets. Hanover Street from NH Route 120 to Hough Street, ~~Mascoma Street~~, Foundry Street, Church Street, High Street, Mechanic Street, Water Street, East Park Street, Bank Street, Taylor Street more than 500 feet from the Downtown Mall, Campbell Street, and Spencer Street.
3. For any street that is located in more than one zoning district, the above designation as a primary or secondary street shall only apply to the segment of the street located within the LD District.

[...]

307.8 Building Height.

[...]

- B. Minimum Story Height. The **street level story** of a **building** shall not be less than twelve (12) feet in height as measured between finished floors. All other **stories** shall be no less than ten (10) feet in height as measured between finished floors. The Planning Board may waive these requirements by **conditional use permit** pursuant to Section 302.4.

307.9 Driveways, Parking Areas, and Circulation Areas.

[...]

- B. No **parking area** or circulation area for vehicles shall be located in the **front yard**. For improved surfaces in existence as of (insert date of ordinance adoption), the Planning Board may waive these requirements by **conditional use permit** pursuant to Section 302.4 if the Board find that there is no other location on the **lot** to provide parking. Where a **lot** abuts more than one **street**, this restriction shall only apply to the **front yard** along the **principal frontage**.

[...]

SECTION 308 RESIDENTIAL ONE DISTRICT (R-1).

[...]

308.3 Table of Area, Dimensions and Coverage.**R-1 DISTRICT****Minimum Lot Size**

Class	Area	Width	Additional Area per D.U. After Two	Maximum Height
1	10,000 sq.ft.	75'	3,000 sq.ft.	45' <u>or 55' per Section 308.4</u>
2	15,000 sq.ft.	75'	5,000 sq.ft.	45' <u>or 55' per Section 308.4</u>
3	40,000 sq.ft.	100'	15,000 sq.ft.	45' <u>or 55' per Section 308.4</u>

[...]

308.4 Building Height. By **conditional use permit** per Section 302.4, the maximum **building height** for a proposed **building** may be increased up to 10 additional feet if the increase in **building height** is for the purpose of accommodating a **parking structure** underneath or within the proposed **building**, and provided that the **building** is set back from the **setback line** a minimum distance equal to two (2) feet for every one (1) foot of additional **building height** over 45 feet.

[...]

SECTION 310 RESIDENTIAL THREE DISTRICT (R-3).

[...]

310.2 Table of Uses.

<u>Permitted Uses</u>	<u>Special Exception Uses</u> (see Section 801.3)
<u>Residential</u> 1. One-family dwelling 2. Accessory dwelling unit (ADU) per Section 610 <u>Commercial/Non-Residential</u> 3. Home business per Section 600 4. Home-based agricultural business per Section 600B.2 (lots 5 acres or more) and per Section 600B.3 (lots greater than 10 acres) 5. Hospital 6. House of worship 6.7. Public education facility 7.8. Public recreation facility 8.9. Public safety facility 9.10. Renewable energy system per Section 612 <u>Planned Developments</u> 10.11. PURD per Section 501	<u>Residential</u> 1. Two family dwelling by conversion of existing one family dwelling 2. Senior housing complex <u>Commercial/Non-Residential</u> 3. Cemetery 4. Essential service 5. Group day care facility per Section 604 6. Home-based agricultural business per Section 600B.2 (lots less than 5 acres) and per Section 600B.3 (5–10 acre lots) 7. House of worship 8.7. Nursing home

[...]

310.4 Dwelling Unit Density.

For **senior housing complexes** and PURDs per Section 501.2 (“Planned Unit Residential Development (PURD)”), one (1) **dwelling unit** is permitted per each 10,000 sq. ft. of **lot area**. Density for **senior housing complexes** may be increased per Section 603 (“Senior Housing Complexes”).

SECTION 311B PROFESSIONAL BUSINESS DISTRICT (PB).

[...]

311B.4 Parking Requirements.

Parking shall be as set out in Section 607.4 of this Ordinance except that parking shall be provided on site for any dwelling unit(s) [per Section 607.2 \(“Table of Minimum Off-Street Parking Requirements”\)](#). Such on-site parking shall not occupy the front yard and shall be screened from abutting properties.

[...]

SECTION 313 RURAL LANDS TWO DISTRICT (RL-2).

[...]

313.2 Table of Uses.

<u>Permitted Uses</u>	<u>Special Exception Uses</u> (see Section 801.3)
<u>Residential</u> One-family dwelling Accessory dwelling unit (ADU) per Section 610 <u>Commercial/Non-Residential</u> Agriculture Home business per Section 600 - House of worship Public recreation facility Renewable energy system per Section 612 <u>Planned Developments</u> Manufactured home park per Section 503 Manufactured home subdivision per Section 504 (or manufactured home PURD) - PRec per Section 501 - PURD per Section 501	<u>Commercial/Non-Residential</u> Care and treatment of animals - Cemetery Essential service Group day care facility per Section 604 Home-based contractor's yard per Section 600A Produce stand - Radio or TV tower or other communication equipment - Recreational camping park per Section 505 Recreational facility, indoor Recreational facility, outdoor RemovalExcavation of natural earth materials per Section 606

SECTION 314 RURAL LANDS THREE DISTRICT (RL-3).314.1 Purpose.

These are areas ~~of the City~~ within ~~which the City that are critical areas for development,~~ ~~or~~ development should be restricted until it has been further studied and detailed plans developed. ~~In the first instance these~~ ~~These~~ are critical areas where slopes of over twenty-five percent (25%) may be found, wetlands and a seasonably high water-table exist or have poor highway access to the rest of the community. ~~Also the~~ ~~These~~ areas almost uniformly have severe restrictions for on-site disposal of sewage and any extensive development, including driveways, may present problems in grades and control of erosion. The primary ~~purpose-use~~ of these areas should be for forestry ~~and with~~ only limited development for single family residential purposes on large lots. ~~The second type in this classification are areas that are reserved for future expansion when the necessary utilities and road systems are designed or in place.~~

SECTION 315 MEDICAL CENTER DISTRICT (MC).

[...]

315.2 Table of Uses.

<u>Permitted Uses</u>	<u>Uses by Conditional Use Permit</u> (see Section 302.4)
<u>Commercial/Non-Residential</u> 1. Essential service 2. Group day care facility per Section 604 <u>and Section 506.3.5</u> 3. Health club 4. Hospice 5. Medical center complex per Section 506 6. Medical office building 7. Medical research facility 8. Renewable energy system per Section 612 9. Retail product pickup <u>Planned Developments</u> 10. Commercial PUD per Section 501	<u>Commercial/Non-Residential</u> 1. Drive-through facility 2. <u>Inpatient rehabilitation facility</u> 2.3. <u>Financial institution per Section 506.3.5</u> 3.4. <u>Motel</u> 4.5. <u>Hotel</u> 5.6. <u>Office</u> 6.7. <u>Parking facility</u> 7.8. <u>Personal service per Section 506.3.5</u> 9. <u>Recreational facility, indoor per Section 506.3.5</u> 8.10. <u>Recreational facility, outdoor per Section 506.3.5</u> 9.11. <u>Restaurant per Section 506.3.5</u> 10.12. <u>Retail store per Section 506.3.5</u>

315.3 Table of Area, Dimensions and Coverage.**MC DISTRICT**

Minimum Lot Requirements					Maximum Limitations	
Lot Area	Lot Frontage	Front Yard	Side Yard	Rear Yard	Height	Building Coverage
75,000 sq.ft.	200'	40'	20'	20'	60', <u>except as required by (See Section 315.4 and as permitted by Section 506.2)</u>	50%

[...]

ARTICLE IV

OVERLAY DISTRICTS

[...]

SECTION 402 FLOODPLAIN DISTRICT.

[...]

402.2 Floodplain District Regulations.

Within the Flood Plain District, all requirements of the Flood Damage Prevention Ordinance of June 4, 1980, [City Code Chapter 74](#), as amended, shall be complied with.

402.3 Floodplain Official.

[The Floodplain Official is responsible for administering and enforcing Section 402.2. The City Engineer will normally serve as the Floodplain Official. See City Code Chapter 74-15.](#)

[...]

SECTION 409 LANDFILL RECLAMATION DISTRICT

[...]

409.3 Permitted Uses.

The following uses are permitted in a closed or capped waste disposal area:

[...]

- C. ***Accessory uses*** to the secondary permitted recreational use, such as control or maintenance buildings and structures to allow food sales. ~~More than one accessory use is permitted if all such accessory uses remain incidental and subordinate to the principal recreational use.~~

[...]

ARTICLE V

SUBDIVISIONS AND PLANNED DEVELOPMENTS

[...]

SECTION 501 PLANNED UNIT DEVELOPMENT (PUD).

[...]

501.2 Planned Unit Residential Development (PURD).

- A. Objectives. The objectives of the PURD provisions of this ordinance are as follows:

[...]

1. To establish a connected network of conservation lands, trails, and working farm and forest land throughout the City by linking the Open Spaces and trails within the ~~subdivision~~ development, to conservation lands, important natural resources and trails on adjoining lands wherever possible, and as particularly found in the Lebanon *Master Plan* and *Natural Lebanon*.

[...]

C. Uses Allowed in a PURD.

1. Residential Uses. A PURD may include dwelling units in ~~one-family detached~~, one-family ~~attached~~, two-family and multi-family dwellings. A mix of dwelling types may be permitted at the reasonable discretion of the Planning Board. In a manufactured home PURD only manufactured homes are permitted and shall be on individual lots.

[...]

501.3 Planned Unit Recreational Developments.

[...]

D. Uses Allowed in a PRec.

1. Residential Uses. A PRec shall provide a minimum of 15 dwelling units. A PRec may include dwelling units in one-family ~~detached, one-family attached~~, two-family and multi-family dwellings or appropriate mixes thereof, at the discretion of the Planning Board. In a PRec at least 75 percent of the land area used for building development shall be devoted to residential uses.

[...]

501.4 Commercial or Industrial Planned Unit Developments.

[...]

- D. Uses Allowed in a Commercial or Industrial PUD. Any non-residential use permitted in the Industrial, CB, GC, or GC-1 Districts may be allowed in a Commercial PUD.

Any non-residential use permitted or allowed by special exception or **conditional use** permit in the IND-L District may be allowed in an Industrial PUD. Additionally, no more than 25 percent of the gross floor area ~~building coverage~~ in an Industrial PUD may be allocated to **hotels**, restaurants, personal services and retail sales necessary to serve the needs of the other businesses in the PUD (or of their employees).

Dwelling units in one-family, two-family and multi-family dwellings or appropriate mixes thereof ~~Multi-family dwellings~~ may be allowed in Commercial or Industrial PUDs, at the discretion of the Planning Board, provided that the Board determines that such residential uses are compatible within the proposed PUD. The density of residential uses allowed pursuant to this section shall be determined based on a maximum of 25% of the net land area of the PUD not planned for open space, roads, or utilities and calculated at a density of 13 dwelling units per acre. Where allowed, such ~~multi-family~~ dwelling units may be clustered together and/or

distributed within the Commercial or Industrial PUD in mixed-use buildings at the discretion of the Planning Board.

[...]

SECTION 506 MEDICAL CENTER COMPLEXES.

[...]

506.3 Allowed Uses

In addition to a hospital, the following uses are allowed within the Medical Center Complex:

3. Congregate Living Facilities/Dormitory - A congregate living facility or dormitory is a housing facility provided by the Medical Center Complex which provides housing for ten or more of their adult health care students and/or staff in single or double living quarters. [...]
5. Any of the following uses, as defined in this Ordinance, when all or substantially all of the business will be with and for the patients, and the visitors of those patients, the employees and the staff of the building and facilities located within the medical center complex.
 - a. Personal service.
 - b. Retail store.
 - c. Restaurant.
 - d. ~~Branch bank~~ Financial institution.
 - e. Indoor/outdoor recreational facilities.
 - f. Group day care facility.

[...]

SECTION 508 PLANNED BUSINESS PARKS.

[...]

508.4 Sectors, Allowed Uses.

[...]

- D. Dwelling units in one-family, two-family and multi-family dwellings or appropriate mixes thereof at the discretion of the Planning Board. ~~Multi-family dwellings~~ shall be provided for in all Planned Business Parks. The maximum number of dwelling units allowed pursuant to this section shall be based on a minimum of 15% and a maximum of 25% of the net land area of the Park not planned for open space, roads, or utilities and calculated at a density of 13 dwelling units per acre. Such ~~multi-family~~ dwelling units may be clustered together and/or distributed within the Park at the discretion of the Planning Board.

[...]

ARTICLE VI

ADDITIONAL STANDARDS FOR SPECIFIC USES

[...]

SECTION 601 SPECIAL DESIGN STANDARDS.

[...]

601.1 Architecture.

Remodeling for conversions shall not alter the appearance of the exterior of the structure in a manner that is not compatible with the architectural character of the existing building; of abutting properties; or of the neighborhood. New construction ~~of offices~~ shall be compatible with the architectural character or the abutting properties and neighborhoods.

[...]

601.7 (Reserved) ~~Mixed Uses.~~

~~In the R-2, R-O and R-O-1 Districts, a converted building may have both residential and office uses.~~

[...]

SECTION 602 NON-COMMERCIAL SWIMMING POOLS AND HOT TUBS.

[...]

602.4 Water Supply.

- A. If the water for such pool/tub is supplied from a private well, there shall be no cross-connection with the public water supply system.
- B. If the water for such pool/tub is supplied from the public water supply system, the inlet shall be above the overflow level of said pool. Backflow prevention devices shall be installed ~~as required by the Department of Public Works~~ when determined to be required by the City.

[...]

602.6 Permits.

- A. Every non-commercial swimming pool or hot tub shall have a permit from the Zoning Administrator.
- B. No permit shall be granted for the installation or construction of such swimming pool unless the plans shall meet the minimum construction requirements of the City and unless the City ~~Engineer, or a licensed professional engineer of the State of New Hampshire~~ has ~~certified~~ determined that the drainage of such pool is adequate and will not interfere with the public water supply system, with existing sanitary facilities or with the public streets.

[...]

SECTION 607 PARKING

[...]

607.7 Off-Street Loading.

Off-street loading facilities shall be located so that delivery vehicles are parked completely outside of the **street** right-of-way, and shall comply with the requirements of the Site Plan Review Regulations as applicable.

SECTION 608 SIGNS.

[...]

608.4 Non-Residential Uses.

- A. Non-Residential Uses in Commercial and Industrial Districts. Signage for non-residential uses in the **commercial** and **industrial districts** shall be subject to the following requirements:

1. Maximum Permitted Sign Area.

[...]

e. Multi-Tenant Buildings. The maximum **sign area** permitted for a **multi-tenant building** in existence as of (insert date of ordinance adoption) is the greater of either:

i. the total **sign area** allowed pursuant to Section 608.4.A.1.a; or

~~ii.~~ the total **sign area** of all existing legal **signs** on the **building** as of (insert date of ordinance adoption). For any vacant tenant spaces as of (insert date of ordinance adoption), the **sign area** utilized by the immediate prior tenant may be included in the calculation of permitted **sign area** under this subsection.

[...]

608.8 Non-Conforming Signs.

[...]

- A. Loss of Legal Non-Conforming Status. A legal non-conforming **sign** shall lose its legal non-conforming status if it is altered, reconstructed, replaced, or expanded, ~~or relocated~~. A mere change in copy is not an alteration or replacement for purposes of this Section.

[...]

SECTION 610ACCESSORY DWELLING UNIT (ADU)

Accessory dwelling units are intended as an option for homeowners to offer separate and independent living space for their extended families, or to offer small **dwelling units** as rentals to offset the expense of maintaining the **dwelling**. ~~The appearance and character of the existing or proposed new dwelling shall remain single family in nature. An accessory dwelling unit is only allowed on lots with a detached one-family dwelling, and only one such accessory unit is permitted per lot. As an alternative, if allowed in the respective Zoning District, a property owner can seek a conversion of the unit to either a standard two-family or a multi-family dwelling.~~

An **accessory dwelling unit** shall comply with the following criteria:

A. An ADU is only allowed on lots with a detached one-family dwelling, and only one such ADU is permitted per lot.

B. ~~A.~~ The appearance and character of the existing or proposed ADU shall remain single family in nature.

A.C. The property owner must occupy either the ~~primary~~principal ~~residence~~dwelling unit or the **ADU** as their permanent residence. A temporary leave of absence by the property owner is allowed, provided the owner-occupied unit is not rented or occupied by anyone other than the property owner during the temporary leave or absence.

Prior to the issuance of a zoning/building permit, the owner shall record in the Grafton County Registry of Deeds an acknowledgment of the above owner-occupancy requirement, in a form satisfactory to the Zoning Administrator, in order to put prospective buyers on notice of the prohibition against renting out both units.

B. The **ADU** must be located in the same **building** as the ~~primary~~principal ~~residence~~dwelling unit unless the **lot** meets or exceeds the minimum required lot size for the respective zoning district. ~~If the lot meets or exceeds the required minimum lot size, the ADU may be located in a separate detached structure such as a garage or barn, provided the existing structure conforms with the minimum required yard setbacks requirements for the respective zoning district. An ADU may also be in a new structure.~~

C. If the **ADU** is located within or by an addition to the existing ~~one~~single-family **dwelling**, an interior door shall be provided between the principal **dwelling unit** and the **ADU**.

D. If the **ADU** is located within or by an addition to the existing ~~single~~one-family **dwelling**, the **ADU** must be connected to the same utilities (except telephone and television) as the ~~principal dwelling unit~~existing dwelling. ~~If the ADU is located in a detached structure, then connections to municipal utilities (i.e. municipal water/sewer) must be separate.~~

If applicable, the owner must seek a permit from the State of NH Dept. of Environmental Services Subsurface Systems Bureau, in accordance with NH RSA 485-A:38, for any increased load on an existing sewage disposal system as a result of the addition of an **ADU** to the **lot**.

E. If the gross living area of the ~~primary~~principal ~~dwelling unit~~residence is 1,500 square feet or less, the gross living area of the **ADU** may be no greater than 50% of the gross living area of the ~~primary~~principal ~~dwelling unit~~residence. ~~If the~~

gross living area of the primary principal dwelling unit is greater than 1,500 square feet, but less than 3,000 square feet, the gross living area of the ADU shall not exceed 750 square feet. If the primary principal dwelling unit is greater than 3,000 square feet, the gross living area of the ADU can exceed 750 square feet provided the **ADU** is no greater than 25% of the **gross living area** of the primary principal dwelling unit.

- F. A detached **ADU**, if permitted under paragraph B above, shall maintain a proportional mass, size, and height to ensure it is not taller than the primary principal residence building on the lot. Detached ADU height shall not exceed the height of the primary principal building residence as measured to the eave line, with a maximum eave height of ten (10) feet for single-story and sixteen (16) feet for two-story detached ADUs.
- G. Any necessary additional entrances or exits to the primary principal residence building, to serve the **ADU**, shall be located to the side or rear of the **building**. All new or altered **structures**, intended to be used as an **ADU**, must be located behind the **building line** of the existing primary principal residence building except ~~when the~~ by special exception if the Zoning Board finds that the placement of the **ADU** on the **lot** will not adversely affect the character of the neighborhood; traffic on roads and highways; safety of pedestrians, and will not create a hazard or nuisance to abutting property owners.
- H. In addition to the two (2) on-site **parking spaces** required for the primary principal residence, one (1) additional on-site **parking space** for the **ADU** must be provided. ~~and no more than two (2) ADU on-site spaces are allowed. The additional parking space shall comply with the parking standards contained in the Zoning Ordinance and the City of Lebanon's Driveway Regulations.~~

I. ~~I.~~ An ADU located within the principal building shall have an interconnected fire alarm system.

~~A zoning/building permit application for the ADU must be approved and issued prior to its construction, and a certificate of occupancy, specifying that the dwelling unit is an ADU, must be obtained prior to its occupancy. The ADU constructed within a primary residence shall have an interconnected fire alarm system. All ADU's shall meet all life safety and building codes.~~

SECTION 611

THE KEEPING OF CHICKENS.

[...]

The keeping of chickens shall be permitted for all **one-** and/or **two-family dwellings**, provided the following standards are met (these standards do not apply to chickens kept in the rural lands zoning districts where **agriculture** is a permitted use):

[...]

- A. A coop shall be provided ~~if chickens shall be kept outdoors~~ within a **secure enclosure**. All chickens shall be kept outdoors within the secure enclosure at all times. The **secure enclosure** and **coop** shall be maintained in a humane and sanitary manner.

[...]

APPENDIX A

DEFINITIONS [...]

ALTERNATIVE TREATMENT CENTER: An “Alternative Treatment Center” as defined in RSA 126-X:1, I, ~~namely, a not-for-profit entity registered under RSA 126-X:7 that acquires, possesses, cultivates, manufactures, delivers, transfers, transports, sells, supplies, and dispenses cannabis, and related supplies and education materials, to qualifying patients and~~ ***Alternative Treatment Centers.***

ALTERNATIVE TREATMENT CENTER (CULTIVATION LOCATION ONLY): ~~A~~and/or a “cultivation location” as defined in RSA 126-X:1, IV, ~~namely, a locked and enclosed site under the control of an~~ ***Alternative Treatment Center*** where cannabis is cultivated, secured with one or more locks or other security devices in accordance with RSA 126-X and the Department of Health and Human Service’s administrative rules.

[...]

BUILDING COVERAGE: That percentage of the lot area covered by buildings. In determining the percentage of building coverage of a lot, ~~porches or carports open at the sides but roofed, and~~ all principal and ***accessory buildings*** shall be included.

[...]

BUSINESS CENTER OR PLAZA: A grouping of any commercial or industrial uses in ~~one or more~~ buildings, for example, retail, office, restaurant, entertainment, storage or manufacturing uses, sharing common access and parking facilities.

BUSINESS STORE FRONT: That portion of the side of a structure occupied by a business use which faces the main street or major point of access. If the business use faces two main streets or major points of access, then said business shall be deemed to have two business store fronts. If the business use faces three or more main streets or major points of access, then said business shall designate only two faces which shall be deemed business store fronts.

[...]

CENTRALIZED WATER SYSTEM: A water system that does not connect to the municipal water system and that is designed to serve as the water system for an entire development. Such a system shall be approved by the NHWSPCD and the City of Lebanon. Such systems, if approved, are permitted in the RL Districts only.

[...]

DWELLING, ONE-FAMILY: A dwelling with one (1) dwelling unit ~~detached or free-standing dwelling other than a manufactured home, designed for and occupied by one family only.~~

DWELLING, TWO-FAMILY: A ~~detached dwelling designed for or occupied by two families living independently of each other in individual attached~~ with two (2) dwelling units.

DWELLING, MULTI-FAMILY: A dwelling ~~designed for or occupied by~~ with three (3) or more families, with the number of families in residence not exceeding the number of ***dwelling units*** provided.

DWELLING UNIT, ONE-FAMILY ATTACHED: A dwelling unit designed for and occupied by one family only and separated from another dwelling unit on one or two sides by a vertical party wall.

EXCAVATION OF NATURAL EARTH MATERIAL: The removal of natural material is the removal of loam, sand, gravel, stone or other fill material for sale in commercial quantities, or for use in another location.

[...]

~~**FLEX BUILDING:** A building capable of adapting to use by multiple occupants and normally located in an industrial area.~~

[...]

~~**MAJOR THOROUGHFARE:** A major thoroughfare shall mean any public way which handles an average daily traffic volume greater than 750 vehicles.~~

[...]

MIXED USE: A development or ~~principle~~-principal building having two (2) or more of the uses allowed within the Zoning District in which it is located.

[...]

PARKING SPACES, OFF-STREET: For the purpose of these regulations, an off-street parking space shall consist of a space adequate for parking an automobile with room for opening doors on both sides, together with properly related access to a public street or alley and maneuvering room. Except for a two-family dwelling or a one-family dwelling with an ADU, ~~r~~Required off-street parking areas for three or more automobiles shall have individual spaces marked, and shall be so designed, maintained, and regulated that no parking or maneuvering incidental to parking shall be on any public street, walk, or alley, and so that any automobile may be parked without moving another.

[...]

INPATIENT REHABILITATION FACILITY: A medical facility licensed by the State of New Hampshire to provide intensive rehabilitative services to patients with complex conditions requiring daily therapy and, in some instances, overnight stays. Such facilities must be primarily focused on providing hospital-level care and intensive rehabilitation after an illness, injury or surgery. The term “inpatient rehabilitation facility” shall not include a hospital or nursing home. The term “inpatient rehabilitation facility” shall also not include a drug and/or alcohol rehabilitation facility unless such drug and/or alcohol rehabilitative services are incidental and secondary to the primary rehabilitative services provided to a patient after an illness, injury or surgery.

~~**REMOVAL OF NATURAL MATERIAL:** The removal of natural material is the removal of loam, sand, gravel, stone or other fill material for sale in commercial quantities, or for use in another location.~~

[...]

~~**SHOPPING MALL:** A group of stores and shops including retail office and/or restaurant/entertainment uses located along an open or enclosed pedestrian walkway sharing common access and parking facilities. [...]~~

October 27, 2020

David Brooks, Director of Planning and Zoning
City of Lebanon
51 N. Park Street
Lebanon, NH 03766

RE: Zoning Ordinance Amendments Draft of Oct. 15, 2020

Mr. Brooks:

This is a legal opinion as required by Section 1000.3(B)(2) of the Lebanon Zoning Ordinance concerning a set of proposed text amendments and one proposed map amendment. I reviewed a staff memorandum regarding these proposed amendments dated September 29, 2020 and a draft of these amendments dated October 15, 2020, and now provide this opinion based on those documents.

The Ordinance requires this legal review to cover: (a) whether such amendments are within the authority delegated to the City under State law; (b) whether the form is appropriate; and (c) whether, from an administrative point of view, the amendments can be administered and enforced.

In this case, the answer to these three questions is "yes" and I discern no legal or administrative issues of concern.

Sincerely,



C. Christine Fillmore

December 28, 2020

David Brooks, Director of Planning and Zoning
City of Lebanon
51 N. Park Street
Lebanon, NH 03766

RE: 2020 Zoning Ordinance Amendments Draft

Mr. Brooks:

This is a legal opinion as required by Section 1000.3(B)(2) of the Lebanon Zoning Ordinance concerning a set of proposed text amendments and one proposed map amendment. I reviewed a staff memorandum regarding these proposed amendments dated September 29, 2020, a draft of these amendments dated October 15, 2020, a revised draft dated December 21, and additional revised language provided to me by email on December 23, and now provide this updated opinion based on those documents.

The Ordinance requires this legal review to cover: (a) whether such amendments are within the authority delegated to the City under State law; (b) whether the form is appropriate; and (c) whether, from an administrative point of view, the amendments can be administered and enforced.

In this case, the answer to these three questions is "yes" and I discern no legal or administrative issues of concern.

Sincerely,



C. Christine Fillmore

- Section 6.7.3.a – *establishing a maximum lighting uniformity ratio for parking areas of no greater than 4:1*

Mr. Corwin explained the need for a Conditional Use Permit for off-site parking, which would be across Foundry Street from the apartments. The majority of Staff comments have been satisfied already, and some may become conditions of approval. The Engineer's comments need to be satisfied, and there are presently 12 conditions.

The Board's questions and comments were addressed.

- The building will not pose a problem for the roundabout.
- Only one property will be taken for the construction of the roundabout.
- Parking in the Foundry Street lot would be overnight and weekends when the businesses are closed.
- There should not be an issue with noise and the amount of glass facing the street, which is intended to increase light and make use of new glass technology that controls sound.
- The northern stair tower is not enclosed for a more open appearance. The south tower is closed for protection from the weather.
- The property does not slope toward the river but toward Mechanic Street, eliminating run off to the river.
- The design is consistent with the Master Plan, connecting inhabitants to the street and City features.
- Outside entrances are better from a public health perspective.
- One car per unit is planned, and Advance Transit stops nearby. Additional parking is available nearby.
- The roundabout would be better for visibility and safety.
- All necessary permits regarding river and shoreline protection have been filed with the State.
- Blacksmith Street is an additional access point for the former Kleen Laundry facility.

There was no public comment.

Mr. Brooks stated there was enough time on November 23 to continue reviewing the project.

***A MOTION by Kathie Romano to continue the hearing of One Mechanic Street, LLC and FSP LLC, 1 Mechanic Street (Tax Map 91, Lot 264) and 0 Foundry Street (Tax Map 91, Lot 262), zoned L to November 23, 2020 at 6:30 p.m.
Seconded by Jeremy Rutter***

Roll Call Vote:

Voting in Favor – Ms. Chewing, Ms. Stavis, Mr. Garland, Mr. Amaro, Mr. Rutter, Ms. Liot Hill, Ms. Monroe, Ms. Romano

Voting Against – Mr. Hall

****The MOTION was approved (8-1).***

4. Study Items

- A. Zoning Ordinance Amendments:** Review and comment to City Council on proposed amendments to the Zoning Ordinance

Chair Garland noted that the Zoning Ordinances are City Council regulations.

Mr. Corwin explained each proposed amendment, and the Board members commented and asked questions. The primary goal of the amendments is to eliminate ambiguity. There were two items of particular interest:

- Allowing an increase in building height from 45' to 55' in the R-1 Zone to allow for parking under the building. Board members discussed the potential impact on residential neighborhoods with small homes.
- Permitting a rehabilitation hospital in a light industrial area. City nursing homes are allowed in residential zones, but hospitals are excluded. Rehabilitation facilities have to be licensed as hospitals. There are a number of such light industrial zones around the City.

A MOTION by Kathie Romano to extend the meeting until 9:45 p.m.

Seconded by Laurel Stavis

Roll Call Vote:

Voting in Favor – Mr. Garland, Mr. Amaro, Mr. Rutter, Ms. Liot Hill, Ms. Monroe, Ms. Romano, Ms. Chewning, Ms. Stavis

Voting Against – Mr. Hall

****The MOTION was approved (8-1).***

Some additional items were discussed. In the definitions at the end of the proposed amendments, Ms. Monroe suggested adding water to the items included in “excavation of natural earth material.”

The change from “building coverage” to “gross floor area” relates to planned unit developments, not residential areas.

Matthew Hall left the meeting at 9:28 PM.

5. Other Business

Chair Garland brought up the current policy of taking two meetings, one for completeness and a presentation, then another meeting for the hearing. The Board members were asked to consider going back to one meeting. Mr. Corwin added that the idea was to allow the public to have access to the meeting, giving them a second opportunity if they had technical issues for the first meeting. Most people can access a phone to join, and there haven't been any reported issues to date. The Board could revisit the policy of hearing smaller applications on a single night.

Mr. Brooks noted that on October 13 the Board approved the creation of a public street along Spring Street West and a boundary line adjustment had to be revoked. The Board voted to approve the layout for a turnaround, and the mylar needs to be recorded. A motion is needed to authorize Chair Garland to sign the plat for the Spring Street West and Guernsey Trust approved application.

A MOTION by Kathie Romano for Chair Garland to sign the plat.

Seconded by Laurel Stavis

Roll Call Vote:

Voting in Favor – Mr. Garland, Mr. Amaro, Mr. Rutter, Ms. Liot Hill, Ms. Monroe, Ms. Romano, Ms. Chewning, Ms. Stavis

****The MOTION was approved (8-0)***

It was suggested that the Board hear more feedback on the Zoning Amendments on November 23rd. A Board member asked for more specifics regarding Section 602 on the topic of swimming pools and fencing. Clarification is needed on the pool size, which was not specified.

6. Approval of Minutes

- Upper Valley Lake Sunapee Regional Planning Commission (B. Garland/L. Stavis)
- UV Subcommittee of the Connecticut River Joint Commissions (B. Garland)
- Upper Valley Transportation Management Association (VACANT)
- Mascoma River Local Advisory Committee (K. Romano)
- Steering Committee for the Implementation of the Master Plan (B. Garland/K. Chewning /VACANT/J. Monroe)

Chair Garland noted that the Board should be reviewing impact fees. Mr. Brooks stated he had reached out to Bruce Mayberry for assistance with updating the impact fees. It is usually done every 2-3 years, and it has been 3-years since the last update. In 2021, SCIMP could work toward a fresh approach to tallying up what has been accomplished and considering next steps.

- West Lebanon Revitalization Advisory Committee (L. Stavis)
- Planning & Development Department – Task Status (D. Brooks/ M. Goodwin/T. Corwin/R. Owens)

Mr. Brooks noted that Staff sent out the meeting and review schedule for 2021, which is a continuation of the present schedule for meetings and development review.

A MOTION by Kathie Romano to adopt the proposed meeting schedule for 2021.

Seconded by Joan Monroe

Roll Call Vote:

Voting in Favor – Mr. Rutter, Ms. Liot Hill, Ms. Monroe, Ms. Romano, Ms. Chewning, Ms. Stavis, Mr. Hill, Mr. Garland

****The MOTION was approved (8-0).***

Ms. Monroe suggested that a one-page printout of the definitions of workforce housing and affordable housing would be helpful to the Board.

A MOTION by Kathie Romano to extend the meeting to 9:45 PM.

Seconded by Jeremy Rutter

Roll Call Vote:

Voting in Favor – Mr. Rutter, Ms. Liot Hill, Ms. Romano, Ms. Chewning, Ms. Stavis, Mr. Garland

Voting Against – Ms. Monroe, Mr. Hall

****The MOTION was approved (6-2).***

4. Other Business

- B. Zoning Ordinance Amendments: Review and comment to City Council on proposed amendments to the Zoning Ordinance - Continued Discussion

Mr. Corwin addressed the Board's feedback regarding the rehabilitation facilities discussion and the staff had prepared a new proposed definition for an inpatient rehabilitation facility:

INPATIENT REHABILITATION FACILITY: A medical facility licensed by the State of New Hampshire to provide intensive rehabilitative services to patients with complex conditions requiring daily therapy and, in some instances, overnight stays. Such facilities must be primarily focused on providing hospital-level care and intensive rehabilitation after an illness, injury or surgery. The term “inpatient rehabilitation facility” shall not include a *hospital* or *nursing home*.

Mr. Corwin suggested such facilities be allowed in the same zones where a hospital is currently allowed including in the R3 zone and the Medical Center districts. He also suggested that they be allowed in the GC1 district.

Chair Garland inquired about this type of facility in regard to parking and traffic.

Chip Brown, who is a realtor in Lebanon, stated that there is no large amount of traffic. A typical facility would have 25-40 beds, with patients staying for roughly two weeks at a time. He was approached to find a site in Lebanon, but DHMC has tied up the Medical Center District, and few parcels in the R3 are large enough. It made sense to consider the Route 120 corridor which is mostly light industrial and provides larger sites.

Ms. Romano expressed the concern over bringing in a drug rehab facility and asked if there is a short-term definition that precludes long term treatment of a month or more. Mr. Brown stated that the operator he is working with is developing these facilities around the country, and they have nothing to do with drug rehabilitation. Typically, they are concerned with stroke, intensive therapy, and a high level of care. The City should define it. Ms. Stavis suggested that the City could craft something that would preclude substance abuse rehabilitation. Mr. Corwin stated that Staff could explore ways of doing that in consultation with legal counsel. It was agreed that Staff would pursue it.

5. Approval of Minutes

A. October 26, 2020

Page 2, line 28 –correlated color temperature, or CCT

Page 2, line 41 – change homeowners to property owners

Page 3, lines 23-24, add local and state officials, and stakeholders

Page 3, lines 30-31 – to read, “There is a question of the status of funds approved for demolition that has not happened.”

A MOTION by Matthew Hall to approve the minutes of the October 26, 2020 meeting as amended. Seconded by Jeremy Rutter.

Roll Call Vote:

Voting in Favor – Mr. Garland, Mr. Hall, Ms. Romano, Mr. Rutter, Ms. Chewning, , Ms. Monroe. Mr. Winny, Ms. Stavis

****The MOTION was approved (8-0).***

6. Adjournment

Mr. Lacey said that perhaps Audley's proposal could be changed to doing some restoration work on the land instead of walking paths. Mr. Stevens asked if it was worth meeting some of the Commission members out at Two Rivers to talk about what they are looking for. Mr. Goodwin will set up a meeting between some Commission members and Mr. Stevens.

C. Zoning Ordinance Amendments: Review and comment to City Council on proposed amendments to the Zoning Ordinance

***Mr. Lacey MOVED to extend the meeting for 30 minutes.
Seconded by Mr. Heistad.***

Roll Call Vote:

**Ernst Oidtmann, Christopher Johnson, Erling Heistad, Sarah Riley, Donald Lacey, Bruce James, Susan Almy, Darla Bruno and Barbara Hirai all voting Yea.
None voted Nay.**

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

Mr. Tim Corwin, with the City of Lebanon Planning Department spoke about the proposed changes to the current ordinances. The Planning Department performs an annual review of the ordinances every year. The Conservation Commission is charged with looking at specific areas that are an interest to the Conservation Commission. Mr. Corwin pointed the Commission to a proposed amendment to Section 308 which is an R1 Residential District. The proposed amendment is to the maximum height of 45 feet for a building's height which, with a special permit could go up to 55 feet if the builder plans to put parking underneath the building. Mr. Corwin explained the new amendment's criteria.

Ms. Almy commented that she was not sure how there was an incentive to the builder if they lost width in the building to gain height for a parking garage. Mr. Corwin said they could take a closer look at that provision. Other Commission members asked various questions on the proposed amendments to the ordinances.

Ms. Almy asked about Section 314.1 which states the primary use of Rural Lands 3 District would be forestry or to develop single family residences on large lots. She said that they had been trying for a long time to keep large lots out of that region of the City so as not to interfere with animal crossing and the flow of water in the area. She felt that the amendment would change that to allow only single-family houses on large lots to be built there. It creates issues for animals crossing and the flow of water per house. Mr. Corwin said it was just meant to remove inconsistent language in the ordinance.

Mr. Corwin collected the comments that the Commission members made and will incorporate them into the red line and take them before the City Council in January. No Motion was needed by the Commission members.

***Ms. Almy MOVED to extend the meeting to 9:15PM.
Seconded by Mr. Heistad.***

Roll Call Vote:

Ernst Oidtmann, Christopher Johnson, Erling Heistad, Sarah Riley, Donald Lacey, Bruce James, Susan Almy, and Barbara Hirai all voting Yea.

None voted Nay.

*** *The Vote on the MOTION passed (8-0).***

Mr. Corwin said he was very interested in the Commission members comments or concerns about the ordinance amendments that may not pertain to conservation. The members could e-mail him with their thoughts.

5. COMMITTEE REPORTS:

A. Conservation Lands Monitors: Mr. Heistad said he was up on Signal Hill and took down 8 trees that had fallen across the trail. They also pulled out a lot of buckthorn up there. Mr. Goodwin said there should be some mowing going on up there as well.

4. STUDY ITEMS CONT.:

D. Open Space Plan Update: Mr. Goodwin has received input and questions from the Commission members on the Open Space Plan and the proposed edit to the document. The edits will be sent to the editor to work on the Plan. One major change that is being looked at is developed versus undeveloped land percentages.

5. COMMITTEE REPORTS CONT.:

B. Lebanon Biodiversity Group: Mr. Lacey sent some reports to the state for the special permits for invasive species removal at Mill Road and Baker Crossing. Snowmobilers plowed about a 30-foot-wide path the length of Baker Crossing. This raises the question, who is supposed to be maintaining the field at Baker Crossing?

C. Workshops & Educational Opportunities: Some members of the Commission attended the annual meeting of the New Hampshire Association of Conservation Commissions. Ms. Almy, Mr. Lacey, Ms. Hirai, Ms. Darla Bruno and Vice Chair Riley attended and will send their notes to the other Commission members who could not attend.

Mr. Heistad MOVED to extend the meeting by 15 minutes.
Seconded by Mr. Heistad.

Roll Call Vote:

Ernst Oidtmann, Christopher Johnson, Erling Heistad, Sarah Riley, Donald Lacey, Bruce James, Susan Almy, and Barbara Hirai all voting Yea.
None voted Nay.

*** *The Vote on the MOTION passed (8-0).***

6. OTHER BUSINESS:

A. Resident Stewardship Volunteer Program: Vice Chair Riley had drafted a letter to the City Council and City Manager to let them know about how much more the trails are being used by the public and stressed the need to keep any City funding that is in place for the maintenance of the conservation trails. The members of the Commission liked the letter and all agreed that it should be sent by email to the City Council and City Manager.

III. DECISION

Now therefore be it resolved, the Lebanon Zoning Board of Adjustment, on this **16th day of November, 2020**, hereby **GRANTS** a Special Exception pursuant to Section 310.2 to allow a home-based agricultural business per Section 600B.2 on a lot of less than 5 acres at **5 Light Street (Tax Map 91, Lot 164)**, zoned R-3, as set forth above and per testimony, plans, and materials submitted, and per the following conditions:

1. The applicant shall obtain a building permit per Section 600B.4 of the Zoning Ordinance and shall comply with all applicable local, state, and federal regulations in the use of the property.

Seconded by Mr. McDonough.

Roll Call Vote

Mr. McDonough, Mr. Nash, and Chair Koppenheffer all voting Yea.

None voted Nay.

**The Vote on the Motion was unanimously approved (3-0).*

4. OTHER BUSINESS

A. Zoning Ordinance Amendments: Review and comment to City Council on proposed amendments to the Zoning Ordinance

The Chair introduced the task of the Board related to the proposed amendments to the Zoning Ordinance. Judging the substance of the zoning amendments is the work of the Planning Board. The Zoning Board is tasked with determining if the ordinance can be applied to applications; that there is limited ambiguity. The wording at face value has to be understandable and allow the Board to apply the rules and guide their decisions. Per Section 1000 of the Zoning Ordinance, draft amendments are sent forward from the City Council, are reviewed by City's legal counsel and are then sent to the Planning Board and the Zoning Board for review and input. The Board is invited to make comments about the substance, as they have a right to offer input as citizens of Lebanon. Staff provided clarity and will further research any questions the Board proposes.

Mr. Nash saw no process related issues. He spoke about the definition of single family attached on page 21 of 29 in the packet. Mr. Corwin is going to review that discussion to confirm they are not missing something in making the changes. The thought is that including the language, an attached single family, does not change anything. It would still be a permitted use, within a PURD. The thought was to get rid of a confusing term. It is a cleanup and elimination of language that is already contemplated on the PURD. It still allows town houses without being in an R-1 zone.

Regarding the LD Zone and CBD zone, one of the purposes of these zones was to allow dense downtown districts. By pushing the buildings further back from the side lot lines based on the height of buildings, they are minimizing the ability to have dense downtown housing. That may detract from the ability to realize some of the TIFs that they wanted and the City's ability to fund some of the downtown development projects. Staff replied that they are not proposing any changes to building height and setback for the Lebanon Downtown District. There are minimum story heights that are required, and they are proposing to allow the Planning Board to waive those requirements by conditional use permit. In the R-1 district, instead of the current maximum height of 45 feet, they are proposing to allow the Planning

Board to grant a conditional use permit allowing the height up to 55 feet, but enhanced setbacks from the lot line would apply at that time.

Primary and secondary streets in Section 307.6 were discussed. A minimum of ground floor square footage would be reserved for non-residential use on primary streets. Mascoma Street is designated a primary street. It does not end at the intersection of High Street but continues across High Street up to Hanover street. Chair Koppenheffer stated that the definition of primary street should be modified to Mascoma Street, designating different sections of the street. In the future, someone might want to put in a commercial use in an area where it currently is not allowed but would be required by the new definition.

Mr. Corwin to pass the Board's comments to the City Council.

5. STAFF COMMENTS-NONE

6. ADJOURNMENT

***Mr. Nash MOVED to adjourn the meeting at 7:29 PM.
Seconded by Mr. McDonough.***

Roll Call Vote

Mr. McDonough, Mr. Nash, and Chair Koppenheffer all voting Yea.

None voted Nay.

****The Motion passed unanimously (3-0).***

Respectfully Submitted,
Linda Billings
Recording Secretary

**AGENDA
LEBANON CITY COUNCIL
JANUARY 6, 2021**

10. NEW BUSINESS:

**10.E – DISCUSSION AND SET PUBLIC HEARING FOR FEBRUARY 3, 2021:
COMPLETE DISCONTINUANCE OR RECLASSIFICATION OF
A PORTION OF BARDEN HILL ROAD**

BACKGROUND

Patch Forest, LLC purchased 950 contiguous acres along the entire easterly side of Meriden Road between their current farm at Walhowdon Way and the Plainfield and Enfield town lines to expand their current maple sugaring operation. To facilitate the planned expansion, in February 2020, Patch Forest, LLC put forth a request to the City Council for discontinuance of several Class VI roads (or portions thereof) that traverse these 950 acres. Parcels owned by Patch Forest, LLC in this area include Tax Map 167, Lot 20; Tax Map 169, Lots 4 & 5; Tax Map 194, Lots 11, 15, & 25; and Tax Map 196, Lots 2, 4 & 5. The roads (or portions thereof) requested to be discontinued are known as Atherton, Durkee, McCallister, and Barden Hill.

At its February 5, 2020 meeting, the City Council reviewed the requests for discontinuance and scheduled public hearings for March 4. On March 4, at the request of the attorney for the Patch family, no action was taken on the requests in favor of obtaining more information by a land surveyor hired by Patch Forest, LLC to complete additional research. Before the close of the hearing, Mayor McNamara informed the Patch family, along with their attorney and land surveyor, that the Council would be reconvening the Class VI Roads Advisory Committee and these roads would be reviewed by the Committee for recommendations to the Council.

At its April 15, 2020 meeting, the City Council took action to reconvene the Class VI Roads Advisory Committee and the committee began reviewing the roads in August.

Attached hereto is a memorandum from Planning Staff regarding the Class VI Roads Advisory Committee's review of Barden Hill Road. Based on information available to the Committee (and as stated in the attached memorandum) they are not recommending discontinuance, but instead are recommending that the road be reclassified to a Class A Trail, with specific trail use restrictions as permitted by NH RSA 231-A:4.

The Council now has before it a need to decide if Barden Hill Road will be discontinued as requested by Patch Forest, LLC or reclassified as recommended by the Class VI Roads Advisory Committee. Before a decision can be rendered on discontinuance, a public hearing must be scheduled and held. A public hearing is not required to consider reclassification, but historically, has been the practice of the Council.

ACTION

Action by the Council is one of three possibilities:

1. Set a public hearing for consideration of discontinuance only:

MOVED, that the Lebanon City Council hereby schedules a public hearing for Wednesday, February 3, 2021, beginning at 7:00pm, remote via Microsoft Teams, for the purpose of receiving public input and taking action on a request to discontinue in its entirety and relinquish any right, title, or future interest in Class VI Road #14 (Barden Hill Road), located on the easterly side of Meriden Road, as shown on the Draft Class VI Roads Map dated January 31, 2020.

2. Set a public hearing for consideration of reclassification only:

MOVED, that the Lebanon City Council hereby schedules a public hearing for Wednesday, February 3, 2021, beginning at 7:00pm, remote via Microsoft Teams, for the purpose of receiving public input and taking action upon a recommendation by the Class VI Roads Advisory Committee to reclassify Class VI Road #14 (Barden Hill Road), located on the easterly side of Meriden Road, as shown on the Draft Class VI Roads Map dated January 31, 2020, to a Class A Municipal Trail.

2. Set a public hearing for consideration of discontinuance or reclassification:

MOVED, that the Lebanon City Council hereby schedules a public hearing for Wednesday, February 3, 2021, beginning at 7:00pm, remote via Microsoft Teams, for the purpose of receiving public input and taking action on one of two options for the future use of Class VI Road #14 (Barden Hill Road), located on the easterly side of Meriden Road, as shown on the Draft Class VI Roads Map dated January 31, 2020. Options include:

- 1. Discontinuance in its entirety with the relinquishment of any right, title, or future interest; or***
- 2. Reclassification to a Class A Municipal Trail.***

Included in this Section:

For Discontinuance:

1. January 30, 2020 Letter from Patch Forest, LLC re: Request for Discontinuance of Class VI Roads (known as Barden Hill, Atherton, Durkee, McCallister)
2. August 18, 2020 Letter from Patch Forest, LLC re: Petition to Discontinue a short segment of Barden Hill Road
3. January 31, 2020 Draft Class VI Road Map

For Reclassification:

1. January 6, 2021 Memo from Planning Staff re: Class VI Road Committee Review of Barden Hill Road

Information available but not included in this Section:

1. [February 5, 2020 City Council Agenda Packet](#)
2. [March 4, 2020 City Council Agenda Packet](#)
3. [August 6, 2020 Class VI Roads Committee Agenda Packet](#)
4. [August 20, 2020 Class VI Roads Committee Agenda Packet](#)
5. [September 3, 2020 Class VI Roads Committee Agenda Packet](#)
6. [September 17, 2020 Class VI Roads Committee Agenda Packet](#)
7. [November 5, 2020 Class VI Roads Committee Agenda Packet](#)

Patch Forest, LLC Request for Discontinuance

Patch Forest LLC
40 Patch Road
Lebanon, NH 03766



January 30, 2020

To the Lebanon City Council:

We, the members of Patch Forest LLC, respectfully request that, pursuant to RSA 231:43, the Lebanon City Council vote to formally discontinue the so-called Class VI roads, or any portions thereof (if any legally exist today), on our tracts of land located on the easterly side of Meriden Road. These tracts of land are identified as Parcels 167-20, 169-4, 169-5, 194-11, 194-15, 194-25, 196-2, 196-4 and 196-5. This would include be any and all parts of the so-called Atherton, Durkee, McCallister and Barden Hill Roads. We had originally requested that the City of Lebanon discontinue these roads by (hand-delivered) letter to the Lebanon City Manager on July 10, 2018. That letter stated:

"July 10, 2018

To the City Manager:

Patch Forest LLC purchased about 950 contingent acres in Lebanon that is connected to our already approximate 270 acres. The latter we have had for 8 generations and plan to continue the family tradition as we have three sons returning to work on the property. We plan to expand our current sugar bush (over 6000 taps) on this property. First, we are logging the new property and then will run sap lines throughout. Our goal is to put approximately 30-50,000 taps onto the new property. Historically, in our sugar bush we have had sugar lines cut, equipment tampered with and other destructive behavior. We are requesting that the City of Lebanon discontinue the Class VI roads on our property (see the attached map). This would allow us to run sugar lines across those roads. Please let us know if you want more information."

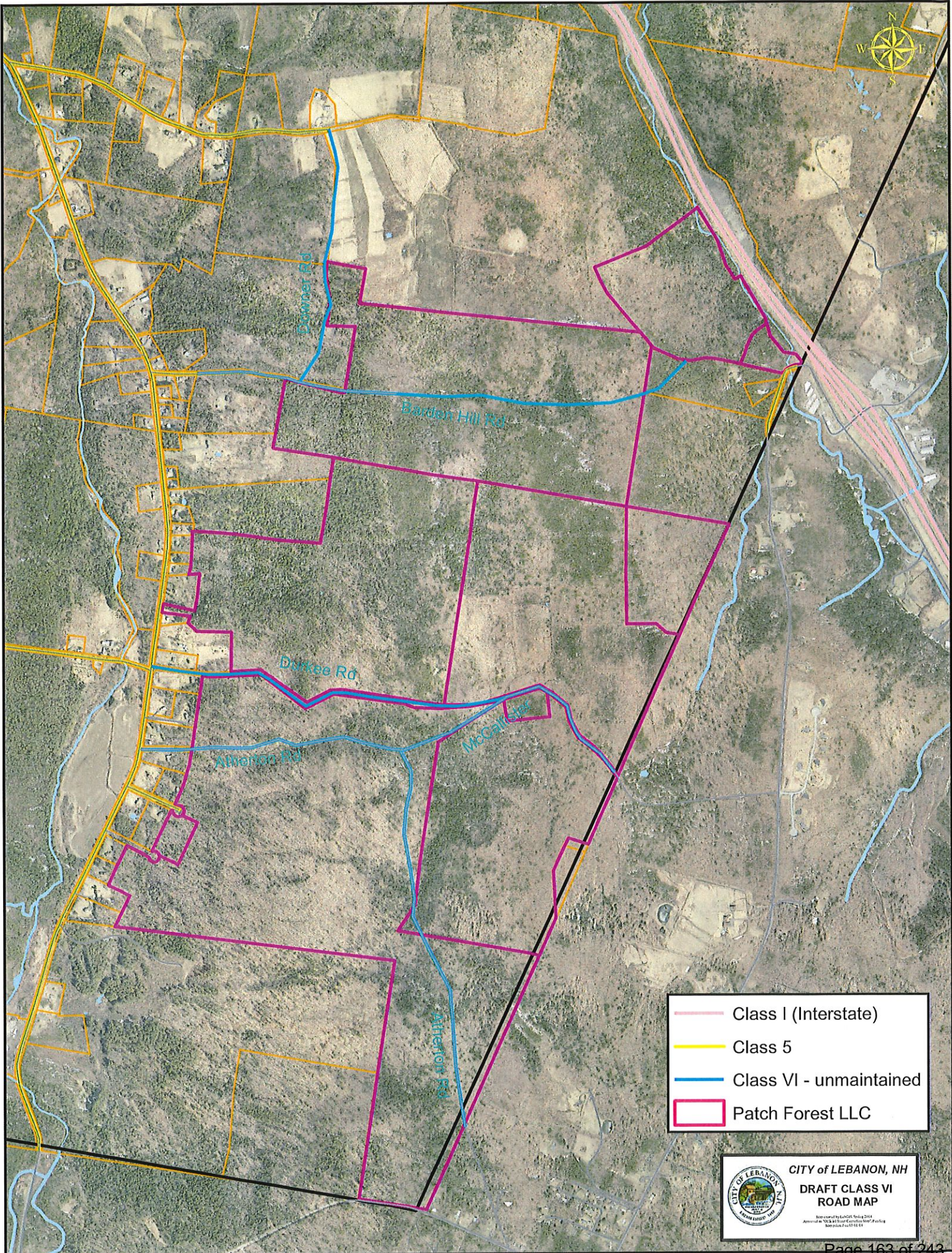
We just want to say that we have made arrangement with the snowmobile club to add a snowmobile trail below our sap lines. The snowmobile trail has crossed over our land for generations. This new trail would certainly be an upgrade for the public to use.

We plan to maintain this forest for generations as we have farmed the abutting land for 8 generations with the 9th generation on the way. All three of the next generation are returning to work on the farm. Cody returned after his graduation from Dartmouth in 2015. Joshua and Arthur have their undergraduate and masters' degrees in engineering and have just left their full time jobs to work in this sugar bush.

Sincerely,

A handwritten signature in blue ink, which appears to read "Barbara Patch", is written over the typed name.

Barbara Patch

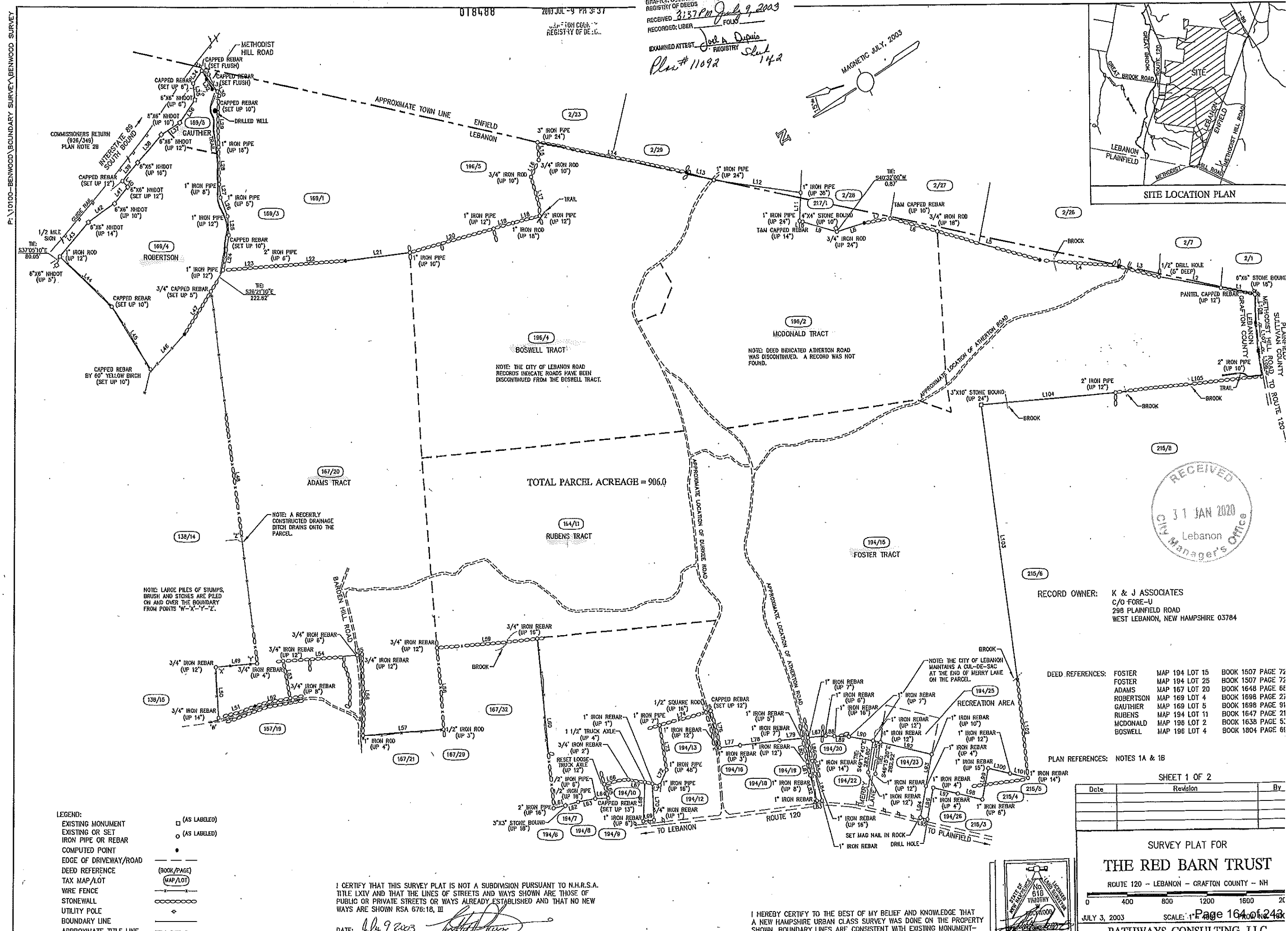
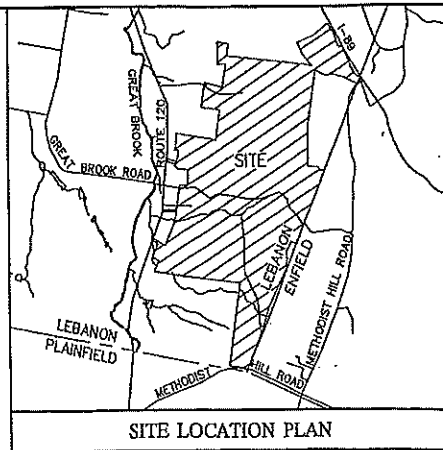


- Class I (Interstate)
- Class 5
- Class VI - unmaintained
- Patch Forest LLC



CITY of LEBANON, NH
DRAFT CLASS VI
ROAD MAP

Map created by GeoDOT, Spring 2014
Approved by NH & RI State Constitutions' Funding
Map posted 7/23/15



RECORD OWNER: K & J ASSOCIATES
C/O FORE-U
298 PLAINFIELD ROAD
WEST LEBANON, NEW HAMPSHIRE 03784

DEED REFERENCES:	FOSTER	MAP	194	LOT	15	BOOK	1507	PAGE	72
	FOSTER	MAP	194 <td>LOT</td> <td>25</td> <td>BOOK</td> <td>1507</td> <td>PAGE</td> <td>72</td>	LOT	25	BOOK	1507	PAGE	72
	ADAMS	MAP	167	LOT	20	BOOK	1648	PAGE	68
	ROBERTSON	MAP	169	LOT	4	BOOK	1698	PAGE	27
	GAUTHIER	MAP	169	LOT	5	BOOK	1698	PAGE	91
	RUBENS	MAP	194	LOT	11	BOOK	1647	PAGE	21
	WCDONALD	MAP	196	LOT	2	BOOK	1638	PAGE	5
	BOSWELL	MAP	196	LOT	4	BOOK	1804	PAGE	61

PLAN REFERENCES: NOTES 1A & 1B

SHEET 1 OF 2

Date	Revision	By

SURVEY PLAT FOR
THE RED BARN TRUST

ROUTE 120 - LEBANON - GRAFTON COUNTY - NH

1000	2000	3000	4000	5000	6000	7000	8000	9000	10000
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Page 164 of 242

JULY 3, 2003 SCALE: 1" = 400' Page 16 of 20

I CERTIFY THAT THIS SURVEY PLAT IS NOT A SUBDIVISION PURSUANT TO N.H.R.S.A. TITLE LXIV AND THAT THE LINES OF STREETS AND WAYS SHOWN ARE THOSE OF PUBLIC OR PRIVATE STREETS OR WAYS ALREADY ESTABLISHED AND THAT NO NEW WAYS ARE SHOWN RSA 676:18, III

DATE: 4/4/9/2003 

I HEREBY CERTIFY TO THE BEST OF MY BELIEF AND KNOWLEDGE THAT
A NEW HAMPSHIRE URBAN CLASS SURVEY WAS DONE ON THE PROPERTY
SHOWN. BOUNDARY LINES ARE CONSISTENT WITH EXISTING MONUMENT-

Patch Forest, LLC
40 Patch Road
Lebanon, NH 03766



August 18, 2020

Lebanon City Council
20 West Park Street
Lebanon, NH 03766

Hand-Delivered

Re: Petition to Discontinue a short segment of the Barden Hill Road

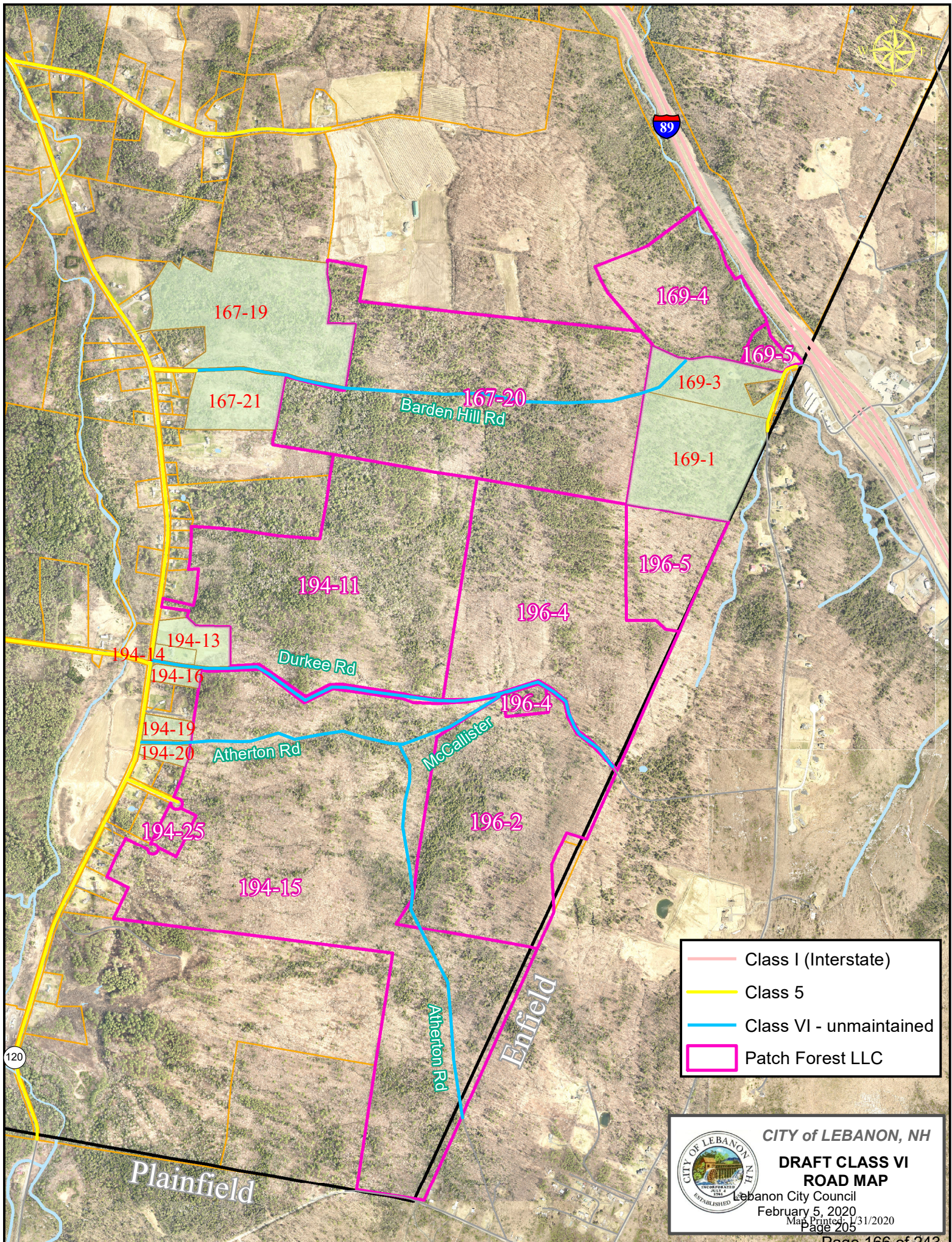
Dear Mayor McNamara and Members of the City Council:

By petition dated July 24, 2020, Patch Forest, LLC requested that the City Council discontinue the short segment of Barden Hill Road on its property which runs easterly to the old Barden Farm foundation. We wish to withdraw that petition, and request that the City of Lebanon to keep the status of Barden Hill Road in that location as is.

This does not apply to our petition to discontinue the so-called Barden Hill Road Extension, in which we were joined by Glen and Anita Kimball. We continue to request that the City Council take formal action to discontinue this "highway." Our surveyor, Chris Rollins, LLS, found no evidence of a layout and no evidence whatsoever to indicate that a public road has existed there.

Patch Forest LLC

By: Barbara Patch
Barbara Patch, Member
Duly authorized



- Class I (Interstate)
- Class 5
- Class VI - unmaintained
- Patch Forest LLC



CITY of LEBANON, NH
DRAFT CLASS VI ROAD MAP
Lebanon City Council
February 5, 2020
Map Printed 1/31/2020
Page 205

**Class VI Roads
Advisory
Committee
Recommendation
for
Reclassification**



CITY OF LEBANON ~ PLANNING & DEVELOPMENT

MEMORANDUM

TO: Lebanon City Council
CC: Shaun Mulholland, City Manager
Paula Maville, Deputy City Manager

FROM: Planning Staff
RE: Class 6 Road Committee Review of the Barden Hill Road

DATE: January 6, 2021

Honorable Mayor and City Councilors,

The Class 6 Committee (C6) has completed a review of the unmaintained section of the Barden Hill right-of-way, including a determination that it is indeed a public right-of-way, extending from the Class V maintained section, eastwardly to the intersection with Methodist Hill Rd. The review process involved the application of an assessment template, including the following components:

- Documenting evidence supporting the assertion of a public right-of-way.
- A review of any record of discontinuance
- Ascertaining the current physical condition of the right-of-way, as well as potential future uses.
- Generating a roadway classification recommendation for the City Council. The choices of roadway classifications include a discontinuance, or a designation of one of the following: Class B Trail, Class A Trail, Class VI Road, or Class V Road.

Following the template application, a review of additional relevant information, and inclusive of feedback from residents providing input during the review process, the C6 Committee generated the following motion to be provided to the City Council: ***Mr. Heistad MOVED*** that the Class VI Roads Advisory Committee recommend that the Lebanon City Council reclassify Barden Hill Road, a class VI Road, as a Class A Municipal Trail as defined in RSA 231-A:1(1), extending from the intersection of Barden Hill Road, Barden Road and Downer Road, easterly over the top of Methodist Hill to the Methodist Hill Road near Exit 16 off Interstate 89, and as shown on the City of Lebanon Draft Class VI Roads Map, printed May, 2014. The Committee further recommends that Barden Hill Road be subject to the following public trail use restrictions: Permitted means of travel shall be a) feet, skis, snowshoes, and horses, b) bicycles, ridden appropriately for a multipurpose trail, when the city deems that the conditions of the trail warrant their use, and c) snowmobiles, ridden appropriately for a multipurpose trail, when snow cover is adequate to warrant their use. Notwithstanding these permissions, none of these uses shall be allowed in a manner or in conditions that will encourage erosion or otherwise damage the trail. All other

wheeled or motorized vehicles, on or off road, shall be prohibited, excepting the allowed vehicular uses of abutting landowners for access to uses of their land as set forth in RSA 231-A:1(1). The Public Works Director shall cause to be posted legible signs at the entrance to the trail describing the restrictions contained herein, as provided by RSA 231-A:4.

** The Vote on the MOTION passed (5-0)*

The C6 Committee review of Barden Hill occurred during the August 6th, August 20th, September 3rd, and September 17th, 2020 meetings. The agenda packet for those meetings, including photos, maps, resident letters of input, etc., can be found at the following links: [C6 August 6th](#), [C6 August 20th](#), [C6 September 3rd](#), and [C6 September 17th](#). A summary subset of the agenda packets is provided as attachments to this memo, including photos, maps and the assessment template. The motion generated during the September 17th meeting was reconsidered during the November 5th C6 meeting, including the generation of a modified motion containing specific use restriction language. The motion provided within the memo is from the November 5th meeting.

The Patch Forest Trust, joined by Glen and Anita Kimball, owners of parcels that abut Barden Road have a pending request before the City Council for the Barden Hill right-of-way to be discontinued. Their original discontinuance request was to include the entire segment extending from the Class V section of Barden Hill Road, eastwardly to the historic intersection with Churchill Way. The request was amended to only include the section of right-of-way from the intersection of the Downer Road (C6), eastwardly to the historic intersection with Churchill Way.

The City Council was scheduled to consider the request during the March 4th, 2020 meeting, but at the request of the attorney representing the Patch family, continued the discussion to a future date. In preparation for future discussion(s), the City Council during the April 15th, 2020 meeting requested the C6 Committee be restarted and complete their review of Lebanon Class VI roads, including the four associated with the Patch Forest Trust discontinuance request. The Class VI Committee initiated bi-weekly meetings in August, 2020, completing the review and specific recommendation as articulated within this memo.

ACTION ITEM

The City Council can choose between advancing the discontinuance process as requested by the Patch Forest Trust and Kimball family, or the reclassification of Barden Rd from the current Class VI roadway designation, to a Class A Trail, as recommended by the Class VI Roads Committee. If the Council decides to pursue the request for a discontinuance, a public hearing is required to be set; a reclassification to a Class A Trail does not require a public hearing but has historically been the practice of the City Council. Feedback provided to City staff during the January 6th City Council meeting will inform the preparation of agenda materials for a public hearing event, if the City Council desires to move in that direction.

ATTACHMENT

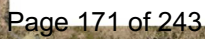
Attachment #1 = SE Quadrant Overview Map

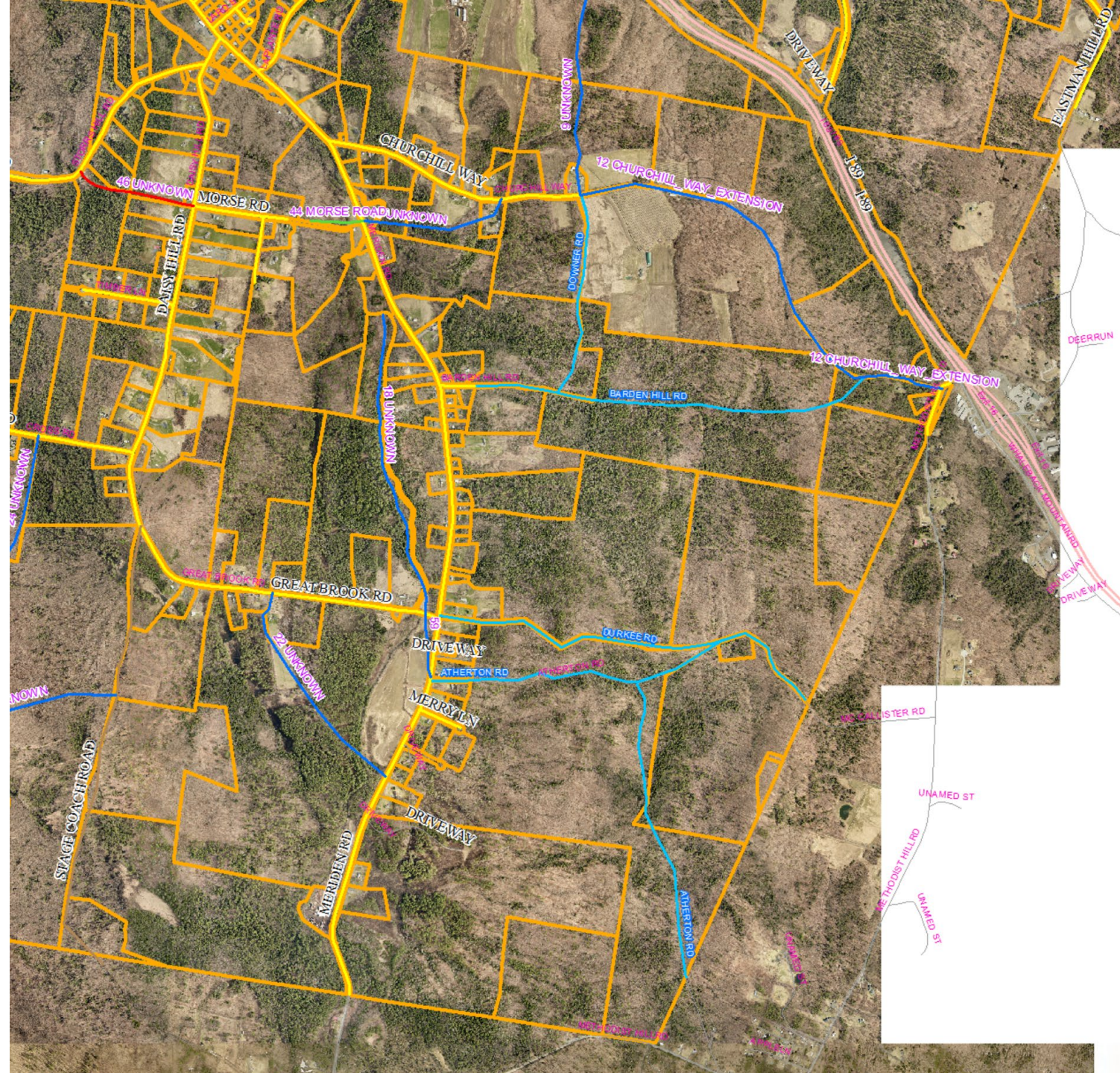
Attachment #2 = Photos

Attachment #3 = Historic Maps

Attachment #4 = C6 Right-of-Way Template

Attachment #5 = City Attorney Public Highway Summary







Barden Hill Rd

Photo # 2-7

Description:

- Approx. 0.43 miles East from pavement section
- East of cellar hole & snowmobile junction - View East
- Snow machines travel east/west on this segment



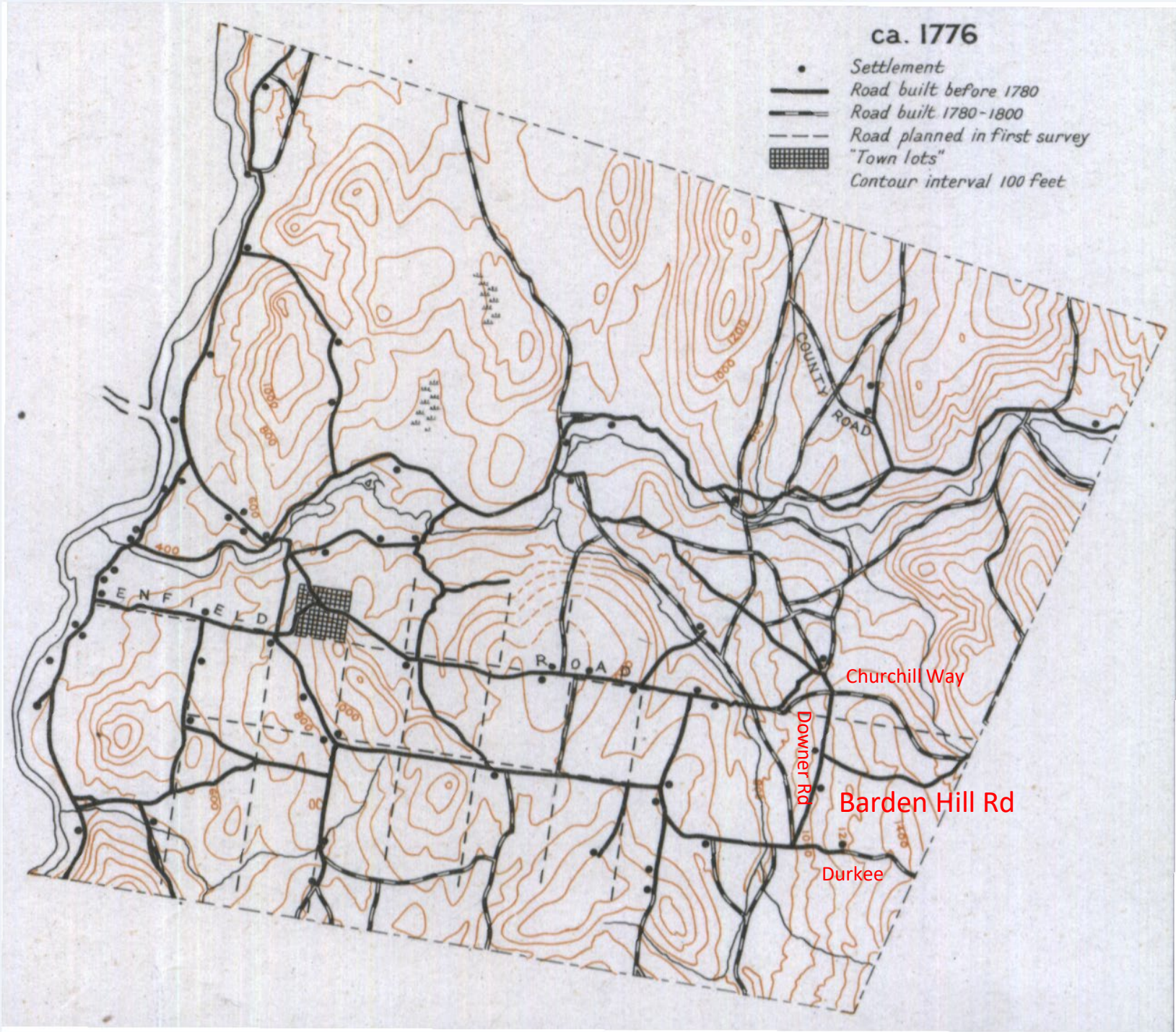
Barden Hill Rd

Photo # 2-6

Description:

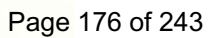
- Intersection of Barden & Churchill Way
- View West up Barden Hill Rd
- Iron Pin on property boundary visible to left of large sugar maple (pink ribbon)
- Discontinued Churchill Way heading Northerly, out of photo view, off to right side

Torbet Map - 1776



Red Labels on map placed
for reference by LebGIS

By Robert Leavitt,
1964



CLASS VI ROAD ASSESSMENT TEMPLATE

(Sheet 1 – Legal Status)



Road Name: Barden Hill – East (Cellar Hole East of Downer intersection to intersection with discontinued Churchill Way)

Step 1 – Evidence Supporting Creation of the Road

CREATION OF THE ROAD	Yes	No
Layout (a record of the governing body's layout of the road)		X
Evidence of Prescription (prior to 1968) - To include map, field, deed, historical documentation, etc)	X	
Dedication and Acceptance (e.g. Subdivision Layout)		X
Deeded Ownership Deed on record at City Clerks office		X

Step 1A – Evidence of Prescription

Map Evidence

1855 W.C. Eaton	
1892 Hurd Atlas	
USGS Map(s)	
Torbert Maps	X
Other: Leavitt, 1964	x

Field Evidence

ROW Evidence	X
Stone Walls	
Cellar Holes	
Other	

Deed Evidence

Yes	no
-----	----

Historical Documentation

Downs History Book	
R. Carroll History Book	
Oscar Jewell Inventory	
NH DOT Archives	
Other	

Governing Body Documentation

Governing Body Votes (e.g. to change status, etc)	
Reference Regulations (e.g. weight limits, etc)	
Other	

General Comment(s)

Step 2 – Evidence of Discontinuance

Discontinuance Documentation

Lebanon City Clerk	
Town Meeting Minutes	
Registry of Deeds	
Other	



CLASS VI ROAD ASSESSMENT TEMPLATE

(Sheet 2 – Condition & Use Status)



Road Name: Barden Hill – East (Cellar Hole East of Downer intersection to intersection with discontinued Churchill Way)

Step 3 – Current Condition of Road

	Yes	No
Historical ROW distinguishable	X	
Supports Hiking	X	
Supports Biking		X
Passable by Auto		X
Passable by 4x4		X

Evidence of Road Mis-Use

	Yes	No
Excessive Rutting		
Littering		
Wheeled Vehicle Use		
Other (e.g. stream erosion, etc.,)		

Step 4 – Current Road Usage

	Yes	No
Snowmobile		X
Pedestrian Hiking Trail		X
Wheeled Vehicle Use		X
Landowner(s) Access (accessing abutting props.)		X
Access (supporting hunting, maintenance, etc)		X
Other		

Step 5 – Potential Future Uses

	Yes	No
Hiking / Foot Trail Network	X	
Biking Network	X	
Emergency Roadway Access		
Lebanon Road Network		
Other (Snowmobile)	X	



CLASS VI ROAD ASSESSMENT TEMPLATE

(Sheet 3 – Status of Recommendation)



Road Name: Barden Hill – East (Cellar Hole East of Downer intersection to intersection with discontinued Churchill Way)

Step 6 – Outreach Activity

	Yes	No
Feedback garnered from residents related to existing and potential future use	X	
Informal Public Meetings for discussion	X	
Informal Abutter Notification related to meetings and discussions	X	
City Department Feedback	X	
Formal Abutter Notification prior to Council Public Hearing		
Other		

Step 7 – Class VI Road Committee Recommendation

Status Recommendation	Yes	No
Discontinuance		X
Class B Trail		X
Class A Trail	X	
Class VI Road		X
Class V Road		X

Step 8: Action Items

	Yes	No
Signage to be installed		
Gates / Barriers to be installed		
Funding Source Identified to support action items		
Coordination amongst vested/interested parties		
Abutter Notice		



CLASS VI ROAD ASSESSMENT TEMPLATE

(Sheet 1 – Legal Status)



Road Name: Barden Hill – West (Rte 120 - to - Cellar hole, East of Downer intersection)

Step 1 – Evidence Supporting Creation of the Road

CREATION OF THE ROAD	Yes	No
Layout (a record of the governing body's layout of the road)		X
Evidence of Prescription (prior to 1968) - To include map, field, deed, historical documentation, etc)	X	
Dedication and Acceptance (e.g. Subdivision Layout)		X
Deeded Ownership Deed on record at City Clerks office		X

Step 1A – Evidence of Prescription

Map Evidence

1855 W.C. Eaton	X
1892 Hurd Atlas	X
USGS Map(s)	X
Torbert Maps	X
Other Wailing 1860	X

Field Evidence

ROW Evidence	X
Stone Walls	x
Cellar Holes	X
Other	

Deed Evidence

Yes	no
-----	----

Historical Documentation

Downs History Book	
R. Carroll History Book	
Oscar Jewell Inventory	
NH DOT Archives	
Other	

Governing Body Documentation

Governing Body Votes (e.g. to change status, etc)	
Reference Regulations (e.g. weight limits, etc)	
Other	

General Comment(s)
1937 Pine Blister map

Step 2 – Evidence of Discontinuance

Discontinuance Documentation

Lebanon City Clerk	
Town Meeting Minutes	
Registry of Deeds	
Other	



CLASS VI ROAD ASSESSMENT TEMPLATE

(Sheet 2 – Condition & Use Status)



Road Name: Barden Hill – West (Rte 120 - to - Cellar hole, East of Downer intersection)

Step 3 – Current Condition of Road

	Yes	No
Historical ROW distinguishable	X	
Supports Hiking	X	
Supports Biking	X	
Passable by Auto	X	
Passable by 4x4	X	

Evidence of Road Mis-Use

	Yes	No
Excessive Rutting		X
Littering		X
Wheeled Vehicle Use		X
Other (e.g. stream erosion, etc.,)		

Step 4 – Current Road Usage

	Yes	No
Snowmobile	?	
Pedestrian Hiking Trail	X	
Wheeled Vehicle Use	X	
Landowner(s) Access (accessing abutting props.)	X	
Access (supporting hunting, maintenance, etc)	X	
Other		

Step 5 – Potential Future Uses

	Yes	No
Hiking / Foot Trail Network	X	
Biking Network	X	
Emergency Roadway Access		X
Lebanon Road Network		X
Other	X	



CLASS VI ROAD ASSESSMENT TEMPLATE

(Sheet 3 – Status of Recommendation)



Road Name: Barden Hill – West (Rte 120 - to - Cellar hole, East of Downer intersection)

Step 6 – Outreach Activity

	Yes	No
Feedback garnered from residents related to existing and potential future use	X	
Informal Public Meetings for discussion	X	
Informal Abutter Notification related to meetings and discussions	X	
City Department Feedback	X	
Formal Abutter Notification prior to Council Public Hearing		
Other		

Step 7 – Class VI Road Committee Recommendation

Status Recommendation	Yes	No
Discontinuance		X
Class B Trail		X
Class A Trail	X	
Class VI Road		X
Class V Road		X

Step 8: Action Items

	Yes	No
Signage to be installed		
Gates / Barriers to be installed		
Funding Source Identified to support action items		
Coordination amongst vested/interested parties		
Abutter Notice		



TO: Lebanon City Council
FROM: Matthew C. Decker
DATE: December 29, 2020
RE: Public Highways

FOR PUBLIC REFERENCE

The following summary of relevant statutes and case law is intended to assist the Lebanon City Council and the residents of Lebanon in their review of reports and recommendations from the Class VI Roads Advisory Committee as well as petitions to discontinue public highways. This is a general summary of basic law, and does not discuss possible exceptions to the basic law.

Definition of “Public Highway”

- A public highway is an easement held in trust by government for the use of the public. The underlying land is usually, although not always, owned by abutting landowners. *See* New Hampshire Municipal Association, *A Hard Road to Travel: New Hampshire Law of Local Highways, Streets, and Trails*, Chapter 1, p. 17, 2015 Ed.
- The law limits the public to “viatic use” of a highway. “Viatic use” means any use reasonably incidental to the purpose of traveling. *Lydston v. Rockingham Cty. Light & Power Co.*, 75 N.H. 23 (1908).

Creation of Public Highways

- RSA 229:1 lists four ways a public highway may be created:
 - (1) Layout (“laid out in the mode prescribed therefor by statute”)
 - The layout process is defined at RSA 231:8 *et seq.* and includes a petition to the town select board or city council, a public hearing, a written “return” containing a description of the highway, and a payment of damages to the landowner(s) over whose land the highway passes.
 - (2) Deeded ownership (“roads which have been constructed for or are currently used for motor vehicle, bicycle, or pedestrian public travel over land which has been conveyed to a city or town or to the state by deed of a fee or easement interest”)
 - (3) Dedication and acceptance (“roads which have been dedicated to the public use and accepted by the city or town in which such roads are located”)
 - (4) Prescription (“roads which have been used as such for public travel... for 20 years prior to January 1, 1968”)

Creation by Prescription

- “To establish a highway by prescription, it must appear that the general public used the way continuously without interruption for a period of twenty years prior to 1968, under a claim of right without the owner’s permission.” *Gill v. Gerrato*, 156 N.H. 595, 596 (2007) (citations omitted).
- Evidence supporting prescription has been held to include, but is not limited to:
 - Photographs and testimony from community residents;
 - References to the road as a public highway in historical documents;
 - Historic maps;
 - The existence of cellar holes along the road;

- Stone walls lining the road;
 - Use of the road to access a commercial entity; and
 - Municipal maintenance. *See Hard Road to Travel* at Ch. 2, pp. 46-47.
- “[A] highway established by prescription is not as a matter of law restricted in width to the track of actual travel. In a case of prescription, the easement is not necessarily limited to the travelled path and the ditches on each side, but where the road has been fenced out for many years about the usual width, and there is nothing to control it, a jury would be justified in finding the whole space between the fences to be a public highway. The space between the wrought road and its exterior limits may be needed for various purposes, as for furnishing earth and other materials for making the road, constructing culverts and watercourses, making changes in the travelled path, and avoiding obstructions by snow... and for these and other reasons the space given to highways is very generally much more than what is occupied by the travelled path, and... it is competent for a jury to find, from ancient fences and other circumstances, that the true limits of a highway extend beyond the wrought road.” *Hoban v. Bucklin*, 88 N.H. 73 (1936) (citations and quotations omitted).

Conversion of Public Highways to Trails

- RSA 231-A allows municipalities to reclassify Class V or VI public highways into municipal trails. Trails remain full public rights-of-way, but subject to public trail use restrictions.
- Reclassification of highways to trails allows municipalities to restrict development on abutting parcels and restrict public uses (e.g. prohibitions of motor vehicles, wheeled vehicles, or OHRVs, or restrictions to specified modes of travel such as horse, bicycle or foot). RSA 231-A:4.
 - With “Class A” trails, abutting landowners can continue to use the trail for vehicular access for “such nondevelopment uses as agriculture and forestry, or for access to any building or structure existing prior to its designation as a trail” and the owner’s access “shall be exempt from applicable public trail use restrictions”. RSA 231-A:1, I.
 - With “Class B” trails, abutting landowners have no special rights and must obey any trail use restrictions imposed on the public. RSA 231-A:1, II.

Discontinuance

- Once a public highway is established, the rights last indefinitely, unless a formal public decision is made to discontinue them. *Blagbrough Family Realty Trust v. A&T Forest Products, Inc.*, 155 N.H. 29 (2007).
- “Highway discontinuance is not favored in the law... and the burden is upon the party who asserts discontinuance to prove it by clear and satisfactory evidence.” *Davenhall v. Cameron*, 116 N.H. 695, 697 (1976); *see also Town of Goshen v. Casagrande*, 170 N.H. 548, 551 (2018).
- Public highways cannot be lost by adverse possession. *See* RSA 236:30; *Windham v. Jubinville*, 92 N.H. 102 (1942).
- “For all the same reasons that highway continuance is favored in the law, it is probably best to avoid complete discontinuances of highways unless absolutely necessary. It is often the case that the public right of way will be useful in the future. The only time complete discontinuance should be considered is when there is some specific alternative use in mind for the land... If the only goal is to save on town maintenance costs, consider discontinuing the highway subject to gates and bars instead. That is the purpose of the Class VI classification, and the right of way will be preserved for future use, if necessary.” *Hard Road to Travel*, Ch.4, at p. 76.

**AGENDA
LEBANON CITY COUNCIL
JANUARY 6, 2021**

10. NEW BUSINESS:

**10.F – DISCUSSION AND SET PUBLIC HEARING FOR FEBRUARY 3, 2021:
COMPLETE DISCONTINUANCE OR RECLASSIFICATION OF
DURKEE ROAD**

BACKGROUND

Patch Forest, LLC purchased 950 contiguous acres along the entire easterly side of Meriden Road between their current farm at Walhowdon Way and the Plainfield and Enfield town lines to expand their current maple sugaring operation. To facilitate the planned expansion, in February 2020, Patch Forest, LLC put forth a request to the City Council for discontinuance of several Class VI roads (or portions thereof) that traverse these 950 acres. Parcels owned by Patch Forest, LLC in this area include Tax Map 167, Lot 20; Tax Map 169, Lots 4 & 5; Tax Map 194, Lots 11, 15, & 25; and Tax Map 196, Lots 2, 4 & 5. The roads (or portions thereof) requested to be discontinued are known as Atherton, Durkee, McCallister, and Barden Hill.

At its February 5, 2020 meeting, the City Council reviewed the requests for discontinuance and scheduled public hearings for March 4. On March 4, at the request of the attorney for the Patch family, no action was taken on the requests in favor of obtaining more information by a land surveyor hired by Patch Forest, LLC to complete additional research. Before the close of the hearing, Mayor McNamara informed the Patch family, along with their attorney and land surveyor, that the Council would be reconvening the Class VI Roads Advisory Committee and these roads would be reviewed by the Committee for recommendations to the Council.

At its April 15, 2020 meeting, the City Council took action to reconvene the Class VI Roads Advisory Committee and the committee began reviewing the roads in August.

Attached hereto is a memorandum from Planning Staff regarding the Class VI Roads Advisory Committee's review of Durkee Road. Based on information available to the Committee (and as stated in the attached memo) they are not recommending discontinuance, but instead are recommending that the road be reclassified to a Class A Trail, with specific trail use restrictions as permitted by NH RSA 231-A:4.

The Council now has before it a need to decide if Durkee Road will be discontinued as requested by Patch Forest, LLC or reclassified as recommended by the Class VI Roads Advisory Committee. Before a decision can be rendered on discontinuance, a public hearing must be scheduled and held. A public hearing is not required to consider reclassification, but historically, has been the practice of the Council.

ACTION

Action by the Council is one of three possibilities:

1. Set a public hearing for consideration of discontinuance only:

MOVED, that the Lebanon City Council hereby schedules a public hearing for Wednesday, February 3, 2021, beginning at 7:00pm, remote via Microsoft Teams, for the purpose of receiving public input and taking action on a request to discontinue in its entirety and relinquish any right, title, or future interest in Class VI Road #19 (Durkee Road), located on the easterly side of Meriden Road, as shown on the Draft Class VI Roads Map dated January 31, 2020.

2. Set a public hearing for consideration of reclassification only:

MOVED, that the Lebanon City Council hereby schedules a public hearing for Wednesday, February 3, 2021, beginning at 7:00pm, remote via Microsoft Teams, for the purpose of receiving public input and taking action upon a recommendation by the Class VI Roads Advisory Committee to reclassify Class VI Road #19 (Durkee Road), located on the easterly side of Meriden Road, as shown on the Draft Class VI Roads Map dated January 31, 2020, to a Class A Municipal Trail.

2. Set a public hearing for consideration of discontinuance or reclassification:

MOVED, that the Lebanon City Council hereby schedules a public hearing for Wednesday, February 3, 2021, beginning at 7:00pm, remote via Microsoft Teams, for the purpose of receiving public input and taking action on one of two options for the future use of Class VI Road #19 (Durkee Road), located on the easterly side of Meriden Road, as shown on the Draft Class VI Roads Map dated January 31, 2020. Options include:

- 1. Discontinuance in its entirety with the relinquishment of any right, title, or future interest; or***
- 2. Reclassification to a Class A Municipal Trail.***

Included in this Section:

For Discontinuance:

1. January 30, 2020 Letter from Patch Forest, LLC re: Request for Discontinuance of Class VI Roads (known as Barden Hill, Atherton, Durkee, McCallister)
2. January 31, 2020 Draft Class VI Road Map

For Reclassification:

1. January 6, 2021 Memo from Planning Staff re: Class VI Road Committee Review of Durkee Road

Information available but not included in this Section:

1. [February 5, 2020 City Council Agenda Packet](#)
2. [March 4, 2020 City Council Agenda Packet](#)
3. [August 6, 2020 Class VI Roads Committee Agenda Packet](#)
4. [August 20, 2020 Class VI Roads Committee Agenda Packet](#)
5. [September 3, 2020 Class VI Roads Committee Agenda Packet](#)
6. [September 17, 2020 Class VI Roads Committee Agenda Packet](#)
7. [November 5, 2020 Class VI Roads Committee Agenda Packet](#)

Patch Forest, LLC Request for Discontinuance

Patch Forest LLC
40 Patch Road
Lebanon, NH 03766



January 30, 2020

To the Lebanon City Council:

We, the members of Patch Forest LLC, respectfully request that, pursuant to RSA 231:43, the Lebanon City Council vote to formally discontinue the so-called Class VI roads, or any portions thereof (if any legally exist today), on our tracts of land located on the easterly side of Meriden Road. These tracts of land are identified as Parcels 167-20, 169-4, 169-5, 194-11, 194-15, 194-25, 196-2, 196-4 and 196-5. This would include be any and all parts of the so-called Atherton, Durkee, McCallister and Barden Hill Roads. We had originally requested that the City of Lebanon discontinue these roads by (hand-delivered) letter to the Lebanon City Manager on July 10, 2018. That letter stated:

"July 10, 2018

To the City Manager:

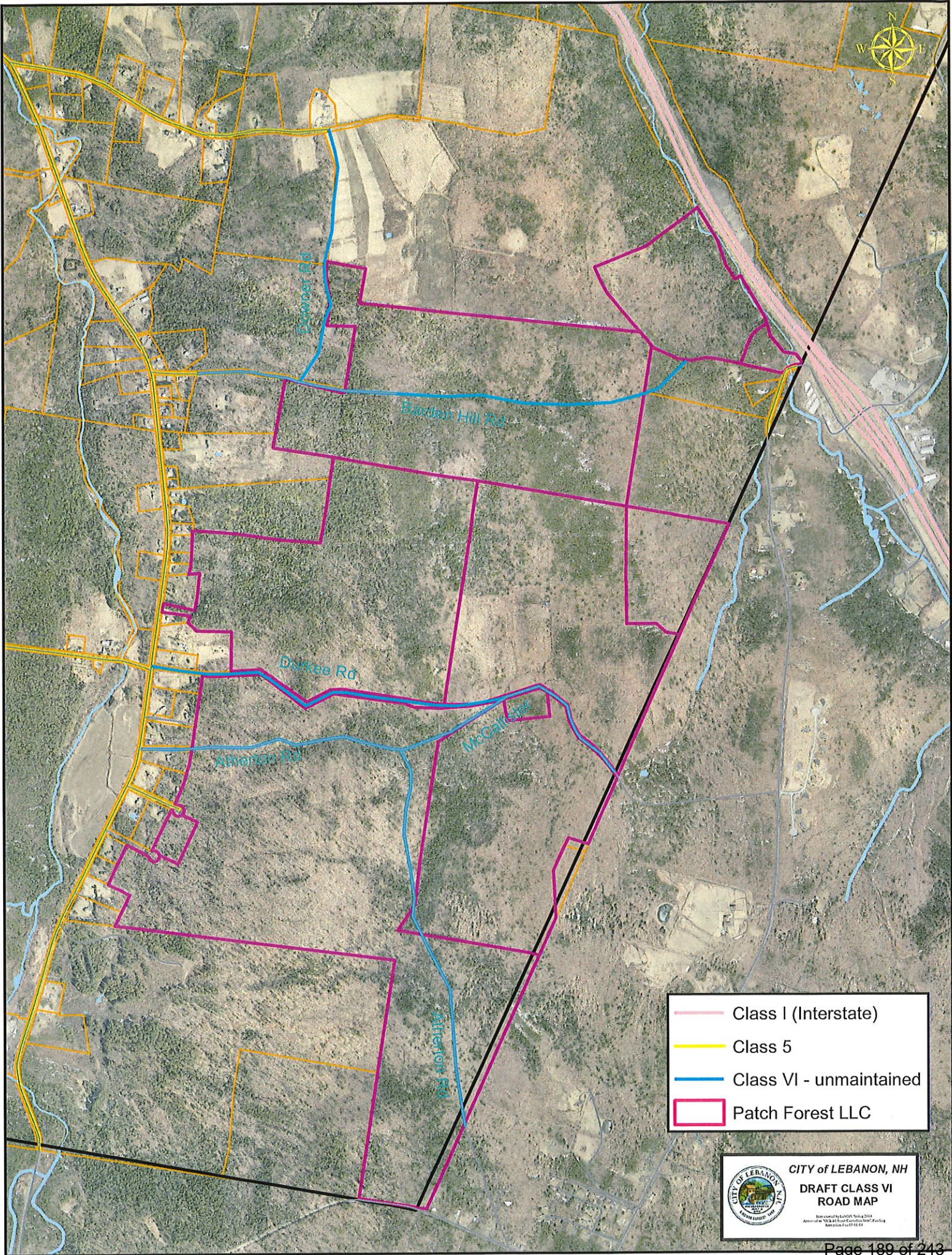
Patch Forest LLC purchased about 950 contingent acres in Lebanon that is connected to our already approximate 270 acres. The latter we have had for 8 generations and plan to continue the family tradition as we have three sons returning to work on the property. We plan to expand our current sugar bush (over 6000 taps) on this property. First, we are logging the new property and then will run sap lines throughout. Our goal is to put approximately 30-50,000 taps onto the new property. Historically, in our sugar bush we have had sugar lines cut, equipment tampered with and other destructive behavior. We are requesting that the City of Lebanon discontinue the Class VI roads on our property (see the attached map). This would allow us to run sugar lines across those roads. Please let us know if you want more information."

We just want to say that we have made arrangement with the snowmobile club to add a snowmobile trail below our sap lines. The snowmobile trail has crossed over our land for generations. This new trail would certainly be an upgrade for the public to use.

We plan to maintain this forest for generations as we have farmed the abutting land for 8 generations with the 9th generation on the way. All three of the next generation are returning to work on the farm. Cody returned after his graduation from Dartmouth in 2015. Joshua and Arthur have their undergraduate and masters' degrees in engineering and have just left their full time jobs to work in this sugar bush.

Sincerely,

Barbara Patch



- Class I (Interstate)
- Class 5
- Class VI - unmaintained
- Patch Forest LLC



CITY of LEBANON, NH

**DRAFT CLASS VI
ROAD MAP**

Map created by GeoDOT, Spring 2014
Approved as NH & RI State Constituent Map? Funding
Map posted 7/23/15

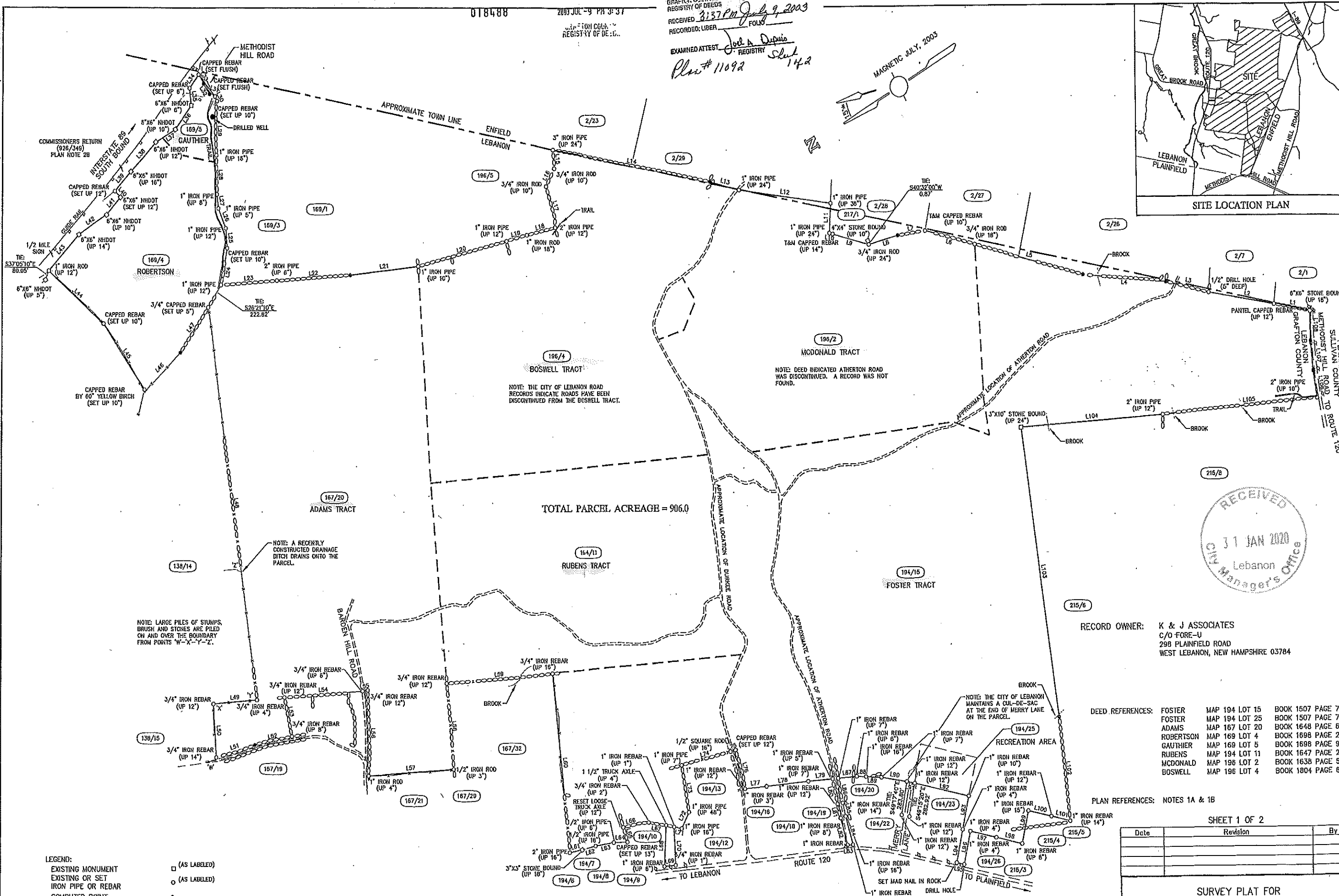
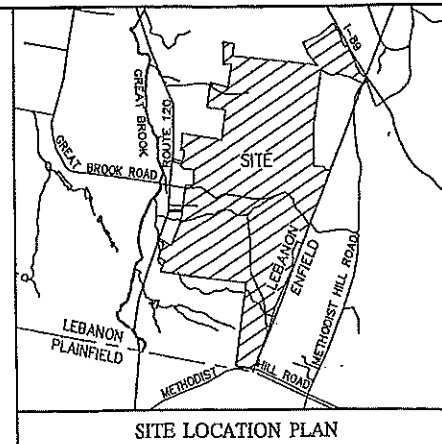
P: 10100-BENWOOD BOUNDARY SURVEY BENWOOD SURVEY

018488

2003 JUL -9 PM 3:37
JUL 9 2003
REGISTRY OF DEEDS
RECEIVED 3:37 PM JUL 9 2003
RECORDED: LIBER
EXAMINED ATTEST: *Joel A. Dupuis*
REGISTRY
Plan # 11092 Sheet 14.2

GRAPHIC OF DEEDS
RECEIVED 3:37 PM JUL 9 2003
RECORDED: LIBER
EXAMINED ATTEST: *Joel A. Dupuis*
REGISTRY
Plan # 11092 Sheet 14.2

MAGNETIC JULY 2003



TOTAL PARCEL ACREAGE = 906.0



RECORD OWNER: K & J ASSOCIATES
C/O FORE-U
298 PLAINFIELD ROAD
WEST LEBANON, NEW HAMPSHIRE 03784

DEED REFERENCES: FOSTER MAP 194 LOT 15 BOOK 1507 PAGE 72
FOSTER MAP 194 LOT 20 BOOK 1507 PAGE 72
ADAMS MAP 167 LOT 25 BOOK 1648 PAGE 68
ROBERTSON MAP 169 LOT 4 BOOK 1698 PAGE 21
GAUTHIER MAP 169 LOT 5 BOOK 1698 PAGE 91
RUBENS MAP 194 LOT 11 BOOK 1647 PAGE 21
MCDONALD MAP 196 LOT 2 BOOK 1638 PAGE 51
BOSWELL MAP 196 LOT 4 BOOK 1804 PAGE 61

PLAN REFERENCES: NOTES 1A & 1B

SHEET 1 OF 2

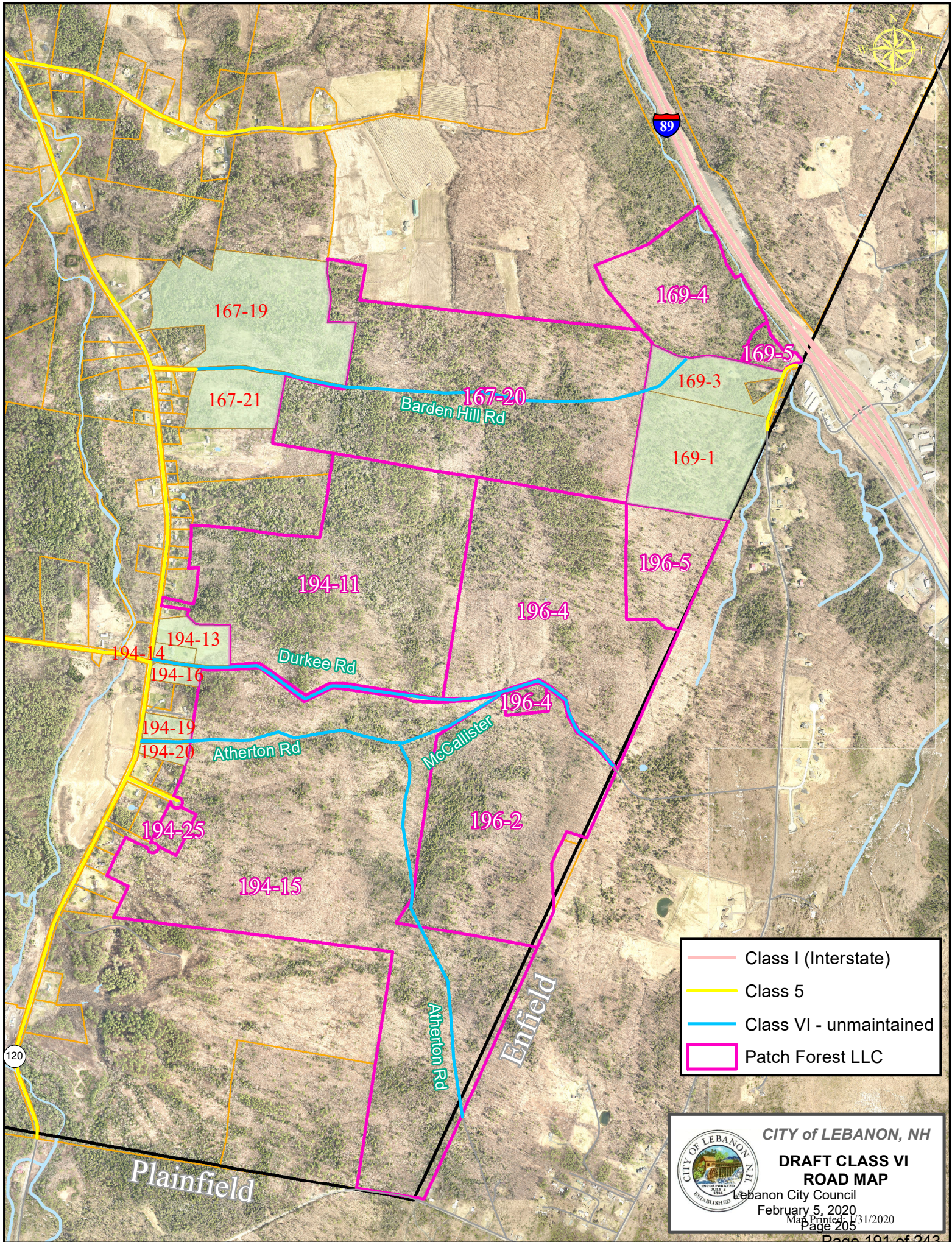
LEGEND:
EXISTING MONUMENT (AS LABELED)
EXISTING OR SET IRON PIPE OR REBAR (AS LABELED)
COMPUTED POINT
EDGE OF DRIVEWAY/ROAD (BOOK/PAGE)
DEED REFERENCE (MAP/LOT)
TAX MAP/LOT
WIRE FENCE
STONEWALL
UTILITY POLE
BOUNDARY LINE
APPROXIMATE TITLE LINE

I CERTIFY THAT THIS SURVEY PLAT IS NOT A SUBDIVISION PURSUANT TO N.H.R.S.A. TITLE LXIV AND THAT THE LINES OF STREETS AND WAYS SHOWN ARE THOSE OF PUBLIC OR PRIVATE STREETS OR WAYS ALREADY ESTABLISHED AND THAT NO NEW WAYS ARE SHOWN RSA 676:18, III

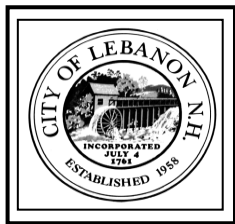
DATE: *Jul 9 2003*

I HEREBY CERTIFY TO THE BEST OF MY BELIEF AND KNOWLEDGE THAT A NEW HAMPSHIRE URBAN CLASS SURVEY WAS DONE ON THE PROPERTY SHOWN. BOUNDARY LINES ARE CONSISTENT WITH EXISTING MONUMENT-

SURVEY PLAT FOR
THE RED BARN TRUST
ROUTE 120 - LEBANON - GRAFTON COUNTY - NH
JULY 3, 2003 SCALE: 1" = 400'
Page 190 of 243
PATHWAYS CONSULTING, LLC



Class VI Roads Advisory Committee Recommendation for Reclassification



CITY OF LEBANON ~ PLANNING & DEVELOPMENT

MEMORANDUM

TO: Lebanon City Council
CC: Shaun Mulholland, City Manager
Paula Maville, Deputy City Manager

FROM: Planning Staff
RE: Class 6 Road Committee Review of the Durkee Road

DATE: January 6, 2021

Honorable Mayor and City Councilors,

The Class 6 Committee (C6) has completed a review of the Durkee Road right-of-way, including a determination that it is indeed a public right-of-way. The review process involved the application of an assessment template, including the following components:

- Documenting evidence supporting the assertion of a public right-of-way.
- A review of any record of discontinuance
- Ascertaining the current physical condition of the right-of-way, as well as potential future uses.
- Generating a roadway classification recommendation for the City Council. The choices of roadway classifications include a discontinuance, or a designation of one of the following: Class B Trail, Class A Trail, Class VI Road, or Class V Road.

Following the template application, a review of additional relevant information, and inclusive of feedback from residents providing input during the review process, the C6 Committee generated the following motion to be provided to the City Council: ***Mr. Heistad MOVED that the Class VI Roads Advisory Committee recommend that the Lebanon City Council reclassify Durkee Road, a class VI Road, as a Class A Municipal Trail as defined in RSA 231-A:1(1), extending from the Meriden Road (Route 120) to McCallister Road in Enfield, at the Enfield town boundary, and as shown on the City of Lebanon Draft Class VI Roads Map, printed May, 2014. The Committee further recommends that Durkee Road be subject to the following public trail use restrictions: Permitted means of travel shall be a) feet, skis, snowshoes, and horses, b) bicycles, ridden appropriately for a multipurpose trail, when the city deems that the conditions of the trail warrant their use, and c) snowmobiles, ridden appropriately for a multipurpose trail, when snow cover is adequate to warrant their use. Notwithstanding these permissions, none of these uses shall be allowed in a manner or in conditions that will encourage erosion or otherwise damage the trail. All other wheeled or motorized vehicles, on or off road, shall be prohibited, excepting the allowed vehicular uses of abutting landowners for access to uses of their land as set forth in RSA 231-***

A:1(1). The Public Works Director shall cause to be posted legible signs at the entrance to the trail describing the restrictions contained herein, as provided by RSA 231-A:4.

**** The Vote on the MOTION passed (5-0***

The C6 Committee review of Durkee Road occurred during the October 1st, 2020 meeting. The agenda packet for that discussion, including photos, maps, letters of input, etc., can be found at the following link: [C6 October 1st, 2020](#). A summary subset of the agenda packet is provided as attachments to this memo, including photos and map(s). The motion generated during the October 1st meeting was reconsidered during the November 5th C6 meeting, including the generation of a modified motion containing specific use restriction language. The motion provided within the memo is from the November 5th meeting.

The Patch Forest Trust, owners of several parcels that abut Durkee Road have a pending request before the City Council for the Durkee Rd right-of-way to be discontinued. The City Council was scheduled to consider such during the March 4th, 2020 meeting, but at the request of the attorney representing the Patch family, continued the discussion to a future date. In preparation for future discussion(s), the City Council during the April 15th, 2020 meeting requested the C6 Committee be restarted and complete their review of Lebanon Class VI roads, including the four associated with the Patch Forest Trust discontinuance request. The Class VI Committee initiated bi-weekly meetings in August, 2020, completing the review and specific recommendation as articulated within this memo.

ACTION ITEM

The City Council can choose between advancing the discontinuance process as requested by the Patch Forest Trust, or the reclassification of Durkee Rd from the current Class VI roadway designation, to a Class A Trail, as recommended by the Class VI Roads Committee. If the Council decides to pursue the request for a discontinuance, a public hearing is required to be set; a reclassification to a Class A Trail does not require a public hearing but has historically been the practice of the City Council. Feedback provided to City staff during the January 6th City Council meeting will inform the preparation of agenda materials for a public hearing event, if the City Council desires to move in that direction.

ATTACHMENT

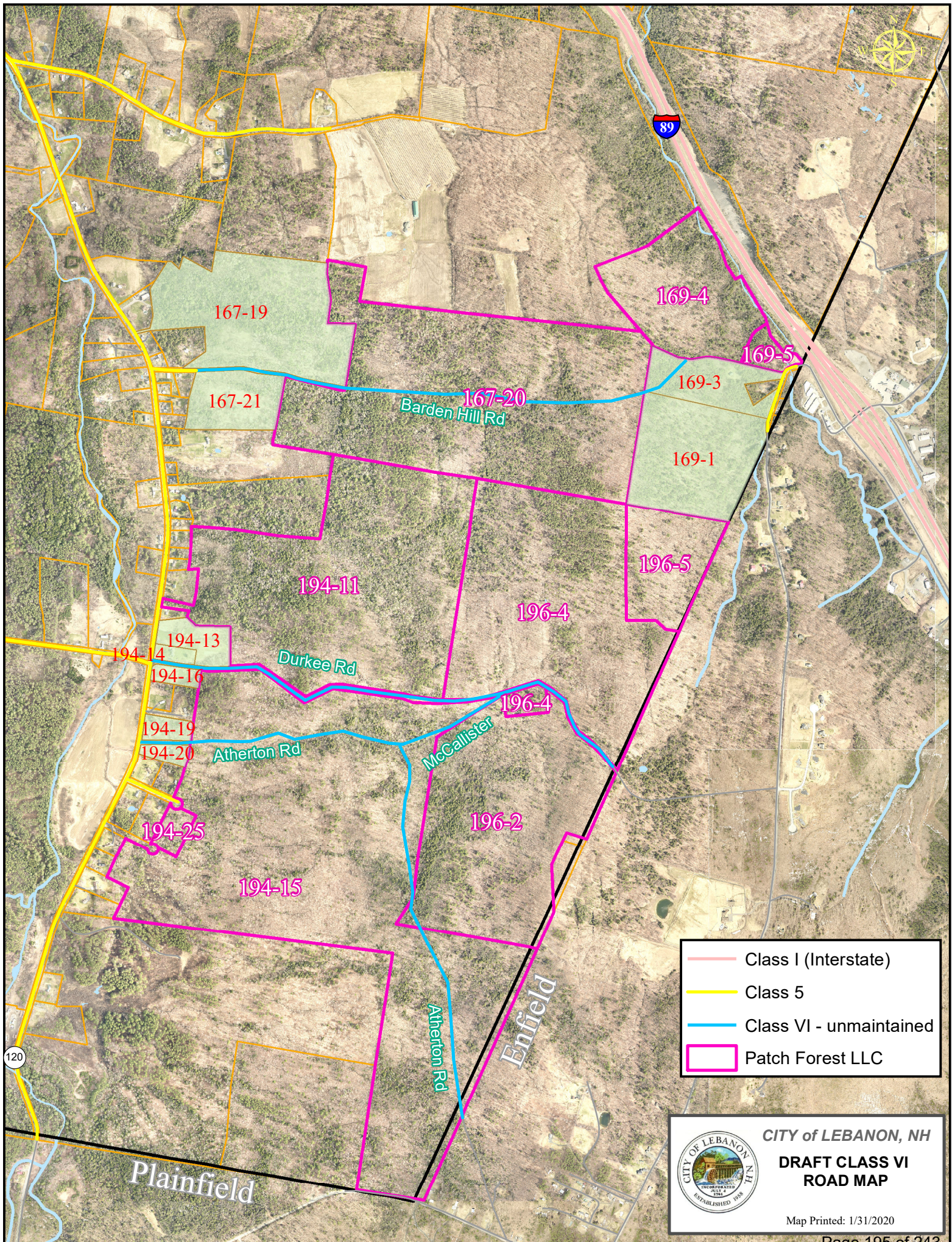
Attachment #1 = SE Quadrant Overview Map

Attachment #2 = Photos

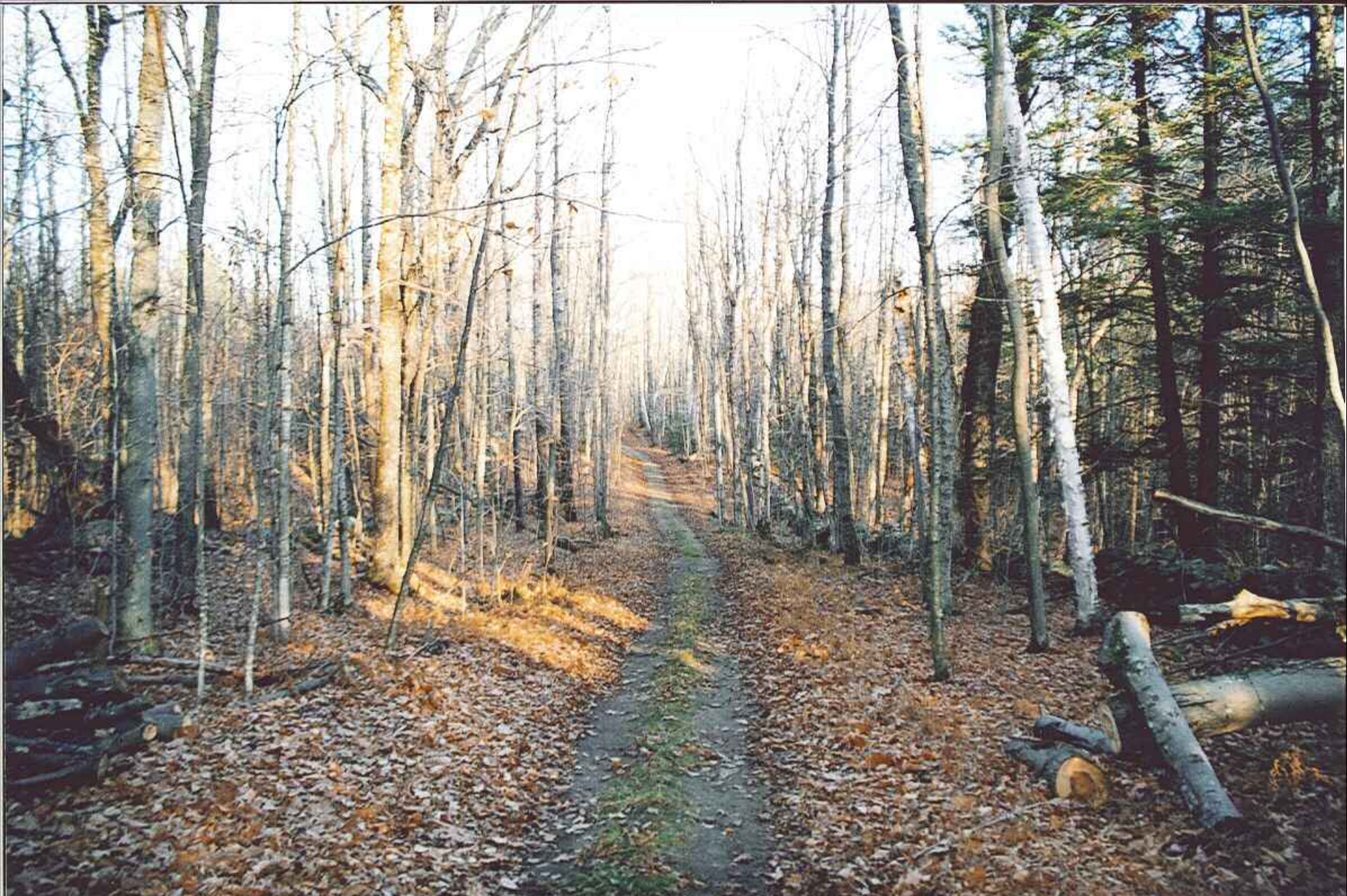
Attachment #3 = Historic Map(s)

Attachment #4 = C6 Right-of-Way Template

Attachment #5 = City Attorney Public Highway Summary







1855 Eaton Map



1860 Walling Map



CLASS VI ROAD ASSESSMENT TEMPLATE

(Sheet 1 – Legal Status)



Road Name: Durkee Rd

Step 1 – Evidence Supporting Creation of the Road

CREATION OF THE ROAD	Yes	No
Layout (a record of the governing body's layout of the road)		X
Evidence of Prescription (prior to 1968) - To include map, field, deed, historical documentation, etc)	X	
Dedication and Acceptance (e.g. Subdivision Layout)		X
Deeded Ownership Deed on record at City Clerks office		X

Step 1A – Evidence of Prescription

Map Evidence

1855 W.C. Eaton	X
1892 Hurd Atlas	x
USGS Map(s)	X
1930 Torbert Map	X
Other: DPW ATLAS	X

Field Evidence

ROW Evidence	Y
Stone Walls	Y
Cellar Holes	Y
Other: monumentation	Y

Deed Evidence

Yes?	No?
------	-----

Historical Documentation

C. Downs History Book	
R. Carroll History Book	
B. Leavitt works	X
Oscar Jewell Inventory	
NH DOT Archives	
Other	

Governing Body Documentation

Governing Body Votes (e.g. to change status, etc)	
Reference Regulations (e.g. weight limits, etc)	
Other	

General Comment(s)

Step 2 – Evidence of Discontinuance

Discontinuance Documentation

Lebanon City Clerk	N
Town Meeting Minutes	N
Registry of Deeds	N
Other	N



CLASS VI ROAD ASSESSMENT TEMPLATE

(Sheet 2 – Condition & Use Status)



Road Name: Durkee Rd

Step 3 – Current Condition of Road

	Yes	No
Historical ROW distinguishable	X	
Supports Hiking	X	
Supports Biking	X	
Passable by Auto		X
Passable by 4x4	X	

Evidence of Road Mis-Use

	Yes	No
Excessive Rutting (gullying)		
Littering		
Wheeled Vehicle Use		
Other:		

Step 4 – Current Road Usage

	Yes	No
Snowmobile (*portions Eastern Section (?))		
Pedestrian Hiking Trail		
Wheeled Vehicle Use (portions)		
Landowner(s) Access (accessing abutting props.)		
Access (supporting maintenance, etc)		
Other: X-Country Ski		

Step 5 – Potential Future Uses

	Yes	No
Hiking / Foot Trail Network	X	
Biking Network (NOTE: with proper maintenance)	X?	
Emergency Roadway Access		X?
Lebanon Road Network		X
Other		



CLASS VI ROAD ASSESSMENT TEMPLATE

(Sheet 3 – Status of Recommendation)



Road Name: Durkee Rd

Step 6 – Outreach Activity

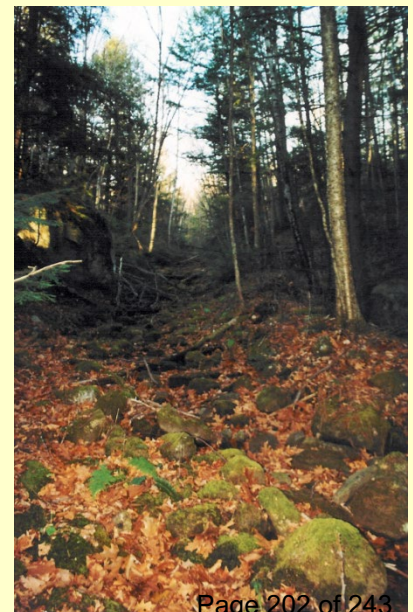
	Yes	No
Feedback garnered from residents related to existing and potential future use	X	
Informal Public Meetings for discussion	X	
Informal Abutter Notification related to meetings and discussions	X	
City Department Feedback	X	
Formal Abutter Notification prior to Council Public Hearing		
Other		

Step 7 – Class VI Road Committee Recommendation

Status Recommendation	Yes	No
Discontinuance		
Class B Trail		
Class A Trail	x	
Class VI Road		
Class V Road		

Step 8: Action Items

	Yes	No
Signage to be installed		
Gates / Barriers to be installed (** South End)		
Funding Source Identified to support action items		
Coordination amongst vested/interested parties (*Snowmobile club; Recreation Dept; Airport)		
Abutter Notice		



TO: Lebanon City Council
FROM: Matthew C. Decker
DATE: December 29, 2020
RE: Public Highways

FOR PUBLIC REFERENCE

The following summary of relevant statutes and case law is intended to assist the Lebanon City Council and the residents of Lebanon in their review of reports and recommendations from the Class VI Roads Advisory Committee as well as petitions to discontinue public highways. This is a general summary of basic law, and does not discuss possible exceptions to the basic law.

Definition of “Public Highway”

- A public highway is an easement held in trust by government for the use of the public. The underlying land is usually, although not always, owned by abutting landowners. *See New Hampshire Municipal Association, A Hard Road to Travel: New Hampshire Law of Local Highways, Streets, and Trails*, Chapter 1, p. 17, 2015 Ed.
- The law limits the public to “viatic use” of a highway. “Viatic use” means any use reasonably incidental to the purpose of traveling. *Lydston v. Rockingham Cty. Light & Power Co.*, 75 N.H. 23 (1908).

Creation of Public Highways

- RSA 229:1 lists four ways a public highway may be created:
 - (1) Layout (“laid out in the mode prescribed therefor by statute”)
 - The layout process is defined at RSA 231:8 *et seq.* and includes a petition to the town select board or city council, a public hearing, a written “return” containing a description of the highway, and a payment of damages to the landowner(s) over whose land the highway passes.
 - (2) Deeded ownership (“roads which have been constructed for or are currently used for motor vehicle, bicycle, or pedestrian public travel over land which has been conveyed to a city or town or to the state by deed of a fee or easement interest”)
 - (3) Dedication and acceptance (“roads which have been dedicated to the public use and accepted by the city or town in which such roads are located”)
 - (4) Prescription (“roads which have been used as such for public travel... for 20 years prior to January 1, 1968”)

Creation by Prescription

- “To establish a highway by prescription, it must appear that the general public used the way continuously without interruption for a period of twenty years prior to 1968, under a claim of right without the owner’s permission.” *Gill v. Gerrato*, 156 N.H. 595, 596 (2007) (citations omitted).
- Evidence supporting prescription has been held to include, but is not limited to:
 - Photographs and testimony from community residents;
 - References to the road as a public highway in historical documents;
 - Historic maps;
 - The existence of cellar holes along the road;

- Stone walls lining the road;
 - Use of the road to access a commercial entity; and
 - Municipal maintenance. *See Hard Road to Travel* at Ch. 2, pp. 46-47.
- “[A] highway established by prescription is not as a matter of law restricted in width to the track of actual travel. In a case of prescription, the easement is not necessarily limited to the travelled path and the ditches on each side, but where the road has been fenced out for many years about the usual width, and there is nothing to control it, a jury would be justified in finding the whole space between the fences to be a public highway. The space between the wrought road and its exterior limits may be needed for various purposes, as for furnishing earth and other materials for making the road, constructing culverts and watercourses, making changes in the travelled path, and avoiding obstructions by snow... and for these and other reasons the space given to highways is very generally much more than what is occupied by the travelled path, and... it is competent for a jury to find, from ancient fences and other circumstances, that the true limits of a highway extend beyond the wrought road.” *Hoban v. Bucklin*, 88 N.H. 73 (1936) (citations and quotations omitted).

Conversion of Public Highways to Trails

- RSA 231-A allows municipalities to reclassify Class V or VI public highways into municipal trails. Trails remain full public rights-of-way, but subject to public trail use restrictions.
- Reclassification of highways to trails allows municipalities to restrict development on abutting parcels and restrict public uses (e.g. prohibitions of motor vehicles, wheeled vehicles, or OHRVs, or restrictions to specified modes of travel such as horse, bicycle or foot). RSA 231-A:4.
 - With “Class A” trails, abutting landowners can continue to use the trail for vehicular access for “such nondevelopment uses as agriculture and forestry, or for access to any building or structure existing prior to its designation as a trail” and the owner’s access “shall be exempt from applicable public trail use restrictions”. RSA 231-A:1, I.
 - With “Class B” trails, abutting landowners have no special rights and must obey any trail use restrictions imposed on the public. RSA 231-A:1, II.

Discontinuance

- Once a public highway is established, the rights last indefinitely, unless a formal public decision is made to discontinue them. *Blagbrough Family Realty Trust v. A&T Forest Products, Inc.*, 155 N.H. 29 (2007).
- “Highway discontinuance is not favored in the law... and the burden is upon the party who asserts discontinuance to prove it by clear and satisfactory evidence.” *Davenhall v. Cameron*, 116 N.H. 695, 697 (1976); *see also Town of Goshen v. Casagrande*, 170 N.H. 548, 551 (2018).
- Public highways cannot be lost by adverse possession. *See* RSA 236:30; *Windham v. Jubinville*, 92 N.H. 102 (1942).
- “For all the same reasons that highway continuance is favored in the law, it is probably best to avoid complete discontinuances of highways unless absolutely necessary. It is often the case that the public right of way will be useful in the future. The only time complete discontinuance should be considered is when there is some specific alternative use in mind for the land... If the only goal is to save on town maintenance costs, consider discontinuing the highway subject to gates and bars instead. That is the purpose of the Class VI classification, and the right of way will be preserved for future use, if necessary.” *Hard Road to Travel*, Ch.4, at p. 76.

**AGENDA
LEBANON CITY COUNCIL
JANUARY 6, 2021**

10. NEW BUSINESS:

**10.G – DISCUSSION AND SET PUBLIC HEARING FOR FEBRUARY 3, 2021:
COMPLETE DISCONTINUANCE OR RECLASSIFICATION OF
ATHERTON ROAD**

BACKGROUND

Patch Forest, LLC purchased 950 contiguous acres along the entire easterly side of Meriden Road between their current farm at Walhowdon Way and the Plainfield and Enfield town lines to expand their current maple sugaring operation. To facilitate the planned expansion, in February 2020, Patch Forest, LLC put forth a request to the City Council for discontinuance of several Class VI roads (or portions thereof) that traverse these 950 acres. Parcels owned by Patch Forest, LLC in this area include Tax Map 167, Lot 20; Tax Map 169, Lots 4 & 5; Tax Map 194, Lots 11, 15, & 25; and Tax Map 196, Lots 2, 4 & 5. The roads (or portions thereof) requested to be discontinued are known as Atherton, Durkee, McCallister, and Barden Hill.

At its February 5, 2020 meeting, the City Council reviewed the requests for discontinuance and scheduled public hearings for March 4. On March 4, at the request of the attorney for the Patch family, no action was taken on the requests in favor of obtaining more information by a land surveyor hired by Patch Forest, LLC to complete additional research. Before the close of the hearing, Mayor McNamara informed the Patch family, along with their attorney and land surveyor, that the Council would be reconvening the Class VI Roads Advisory Committee and these roads would be reviewed by the Committee for recommendations to the Council.

At its April 15, 2020 meeting, the City Council took action to reconvene the Class VI Roads Advisory Committee and the committee began reviewing the roads in August.

Attached hereto is a memorandum from Planning Staff regarding the Class VI Roads Advisory Committee's review of Atherton Road. Based on information available to the Committee (and as stated in the attached memo) they are not recommending discontinuance, but instead are recommending that the road be reclassified to a Class A Trail, with specific trail use restrictions as permitted by NH RSA 231-A:4.

The Council now has before it a need to decide if Atherton Road will be discontinued as requested by Patch Forest, LLC or reclassified as recommended by the Class VI Roads Advisory Committee. Before a decision can be rendered on discontinuance, a public hearing must be scheduled and held. A public hearing is not required to consider reclassification, but historically, has been the practice of the Council.

ACTION

Action by the Council is one of three possibilities:

1. Set a public hearing for consideration of discontinuance only:

MOVED, that the Lebanon City Council hereby schedules a public hearing for Wednesday, February 3, 2021, beginning at 7:00pm, remote via Microsoft Teams, for the purpose of receiving public input and taking action on a request to discontinue in its entirety and relinquish any right, title, or future interest in Class VI Road #20 (Atherton Road), located on the easterly side of Meriden Road, as shown on the Draft Class VI Roads Map dated January 31, 2020.

2. Set a public hearing for consideration of reclassification only:

MOVED, that the Lebanon City Council hereby schedules a public hearing for Wednesday, February 3, 2021, beginning at 7:00pm, remote via Microsoft Teams, for the purpose of receiving public input and taking action upon a recommendation by the Class VI Roads Advisory Committee to reclassify Class VI Road #20 (Atherton Road), located on the easterly side of Meriden Road, as shown on the Draft Class VI Roads Map dated January 31, 2020, to a Class A Municipal Trail.

2. Set a public hearing for consideration of discontinuance or reclassification:

MOVED, that the Lebanon City Council hereby schedules a public hearing for Wednesday, February 3, 2021, beginning at 7:00pm, remote via Microsoft Teams, for the purpose of receiving public input and taking action on one of two options for the future use of Class VI Road #20 (Atherton Road), located on the easterly side of Meriden Road, as shown on the Draft Class VI Roads Map dated January 31, 2020. Options include:

- 1. Discontinuance in its entirety with the relinquishment of any right, title, or future interest; or***
- 2. Reclassification to a Class A Municipal Trail.***

Included in this Section:

For Discontinuance:

1. January 30, 2020 Letter from Patch Forest, LLC re: Request for Discontinuance of Class VI Roads (known as Barden Hill, Atherton, Durkee, McCallister)
2. January 31, 2020 Draft Class VI Road Map

For Reclassification:

1. January 6, 2021 Memo from Planning Staff re: Class VI Road Committee Review of Atherton Road

Information available but not included in this Section:

1. [February 5, 2020 City Council Agenda Packet](#)
2. [March 4, 2020 City Council Agenda Packet](#)
3. [August 6, 2020 Class VI Roads Committee Agenda Packet](#)
4. [August 20, 2020 Class VI Roads Committee Agenda Packet](#)
5. [September 3, 2020 Class VI Roads Committee Agenda Packet](#)
6. [September 17, 2020 Class VI Roads Committee Agenda Packet](#)
7. [November 5, 2020 Class VI Roads Committee Agenda Packet](#)

Patch Forest, LLC Request for Discontinuance

Patch Forest LLC
40 Patch Road
Lebanon, NH 03766



January 30, 2020

To the Lebanon City Council:

We, the members of Patch Forest LLC, respectfully request that, pursuant to RSA 231:43, the Lebanon City Council vote to formally discontinue the so-called Class VI roads, or any portions thereof (if any legally exist today), on our tracts of land located on the easterly side of Meriden Road. These tracts of land are identified as Parcels 167-20, 169-4, 169-5, 194-11, 194-15, 194-25, 196-2, 196-4 and 196-5. This would include be any and all parts of the so-called Atherton, Durkee, McCallister and Barden Hill Roads. We had originally requested that the City of Lebanon discontinue these roads by (hand-delivered) letter to the Lebanon City Manager on July 10, 2018. That letter stated:

"July 10, 2018

To the City Manager:

Patch Forest LLC purchased about 950 contingent acres in Lebanon that is connected to our already approximate 270 acres. The latter we have had for 8 generations and plan to continue the family tradition as we have three sons returning to work on the property. We plan to expand our current sugar bush (over 6000 taps) on this property. First, we are logging the new property and then will run sap lines throughout. Our goal is to put approximately 30-50,000 taps onto the new property. Historically, in our sugar bush we have had sugar lines cut, equipment tampered with and other destructive behavior. We are requesting that the City of Lebanon discontinue the Class VI roads on our property (see the attached map). This would allow us to run sugar lines across those roads. Please let us know if you want more information."

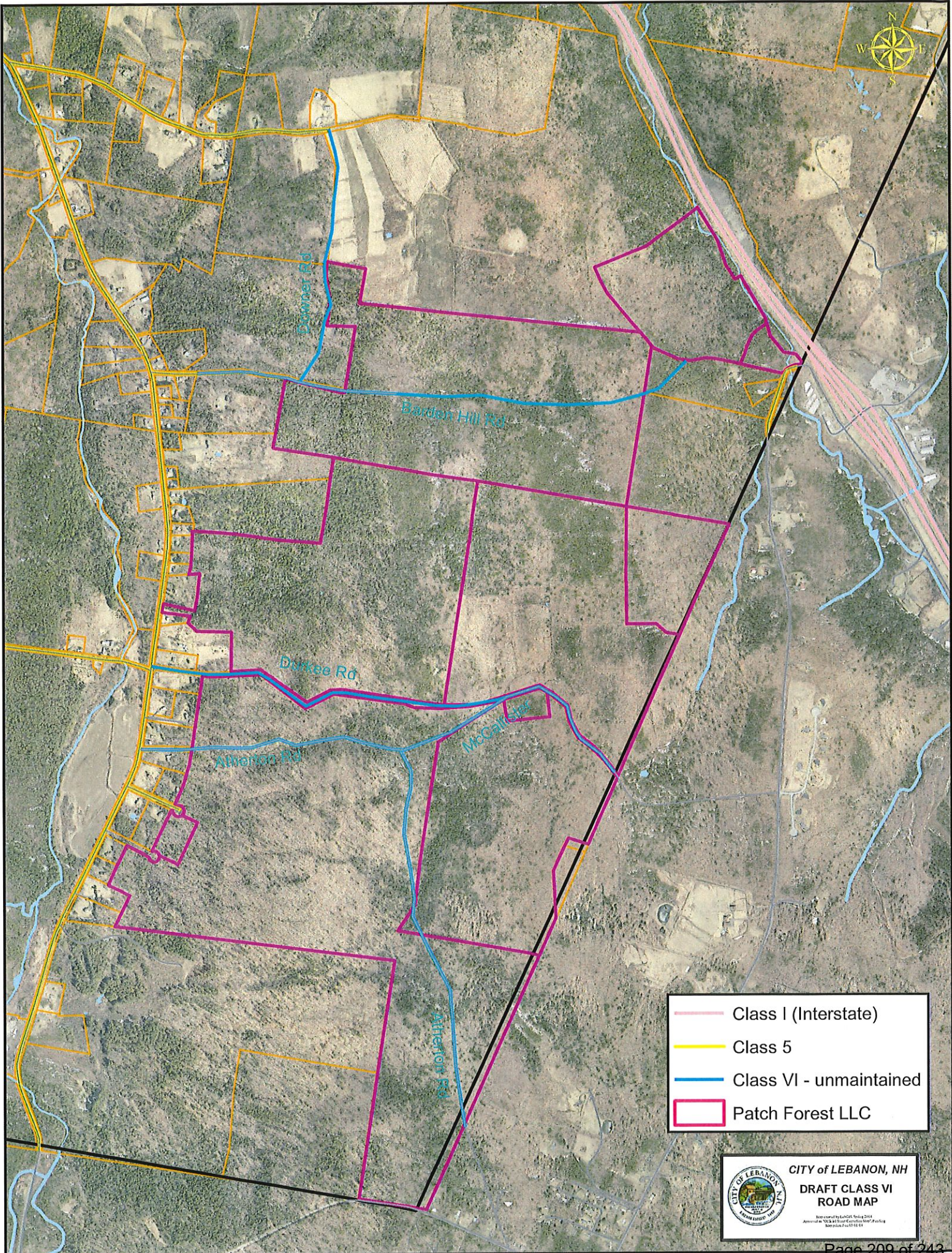
We just want to say that we have made arrangement with the snowmobile club to add a snowmobile trail below our sap lines. The snowmobile trail has crossed over our land for generations. This new trail would certainly be an upgrade for the public to use.

We plan to maintain this forest for generations as we have farmed the abutting land for 8 generations with the 9th generation on the way. All three of the next generation are returning to work on the farm. Cody returned after his graduation from Dartmouth in 2015. Joshua and Arthur have their undergraduate and masters' degrees in engineering and have just left their full time jobs to work in this sugar bush.

Sincerely,

A handwritten signature in blue ink, reading "Barbara Patch", is written over the typed name.

Barbara Patch



- Class I (Interstate)
- Class 5
- Class VI - unmaintained
- Patch Forest LLC



CITY of LEBANON, NH
DRAFT CLASS VI
ROAD MAP

Map created by GeoDOT, Spring 2014
Approved as NH & RI State Constituent Map? Funding
Map posted 7/20/14

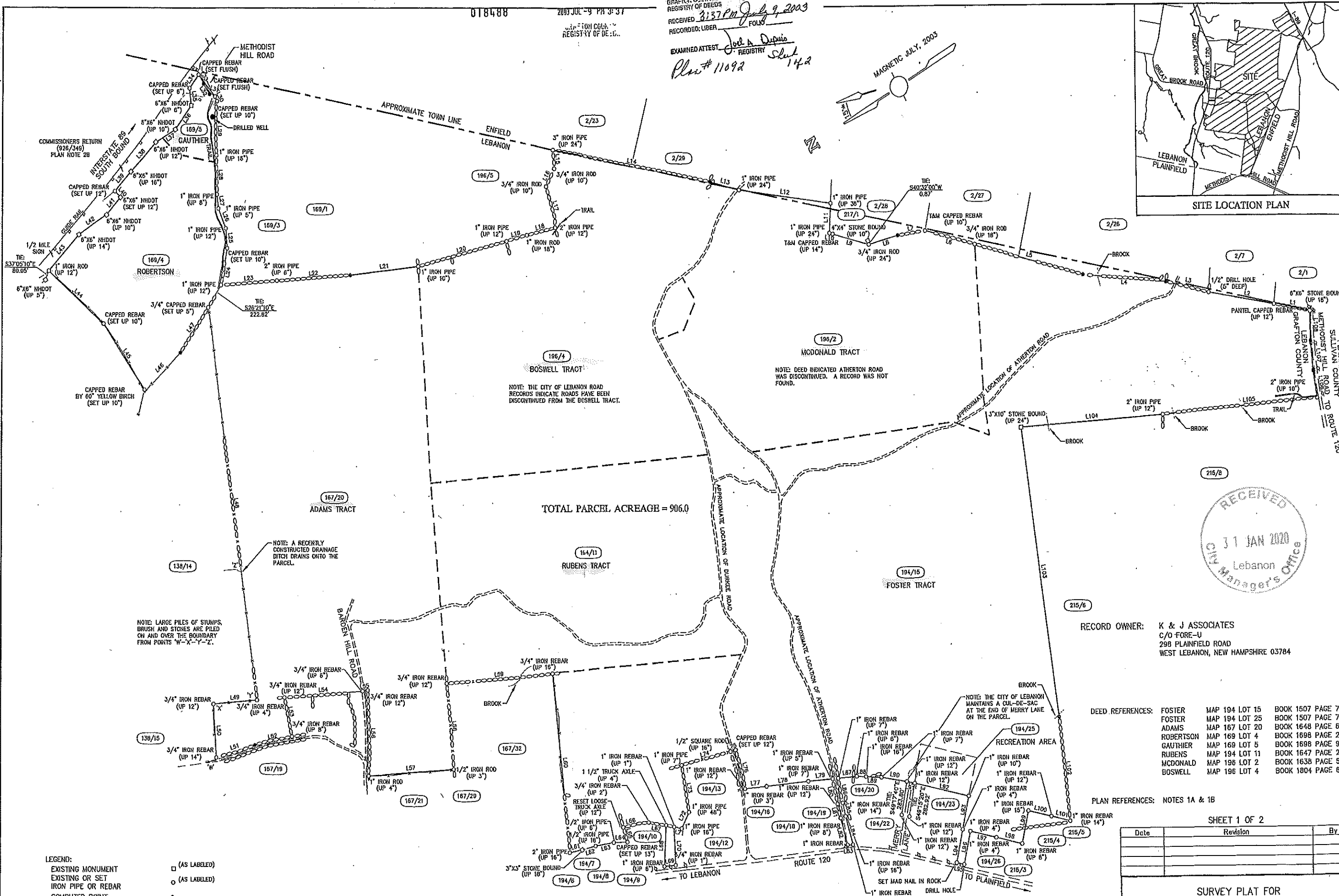
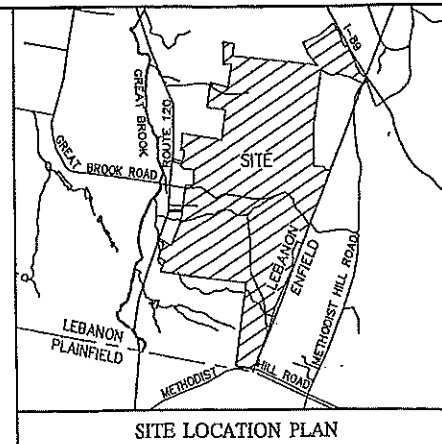
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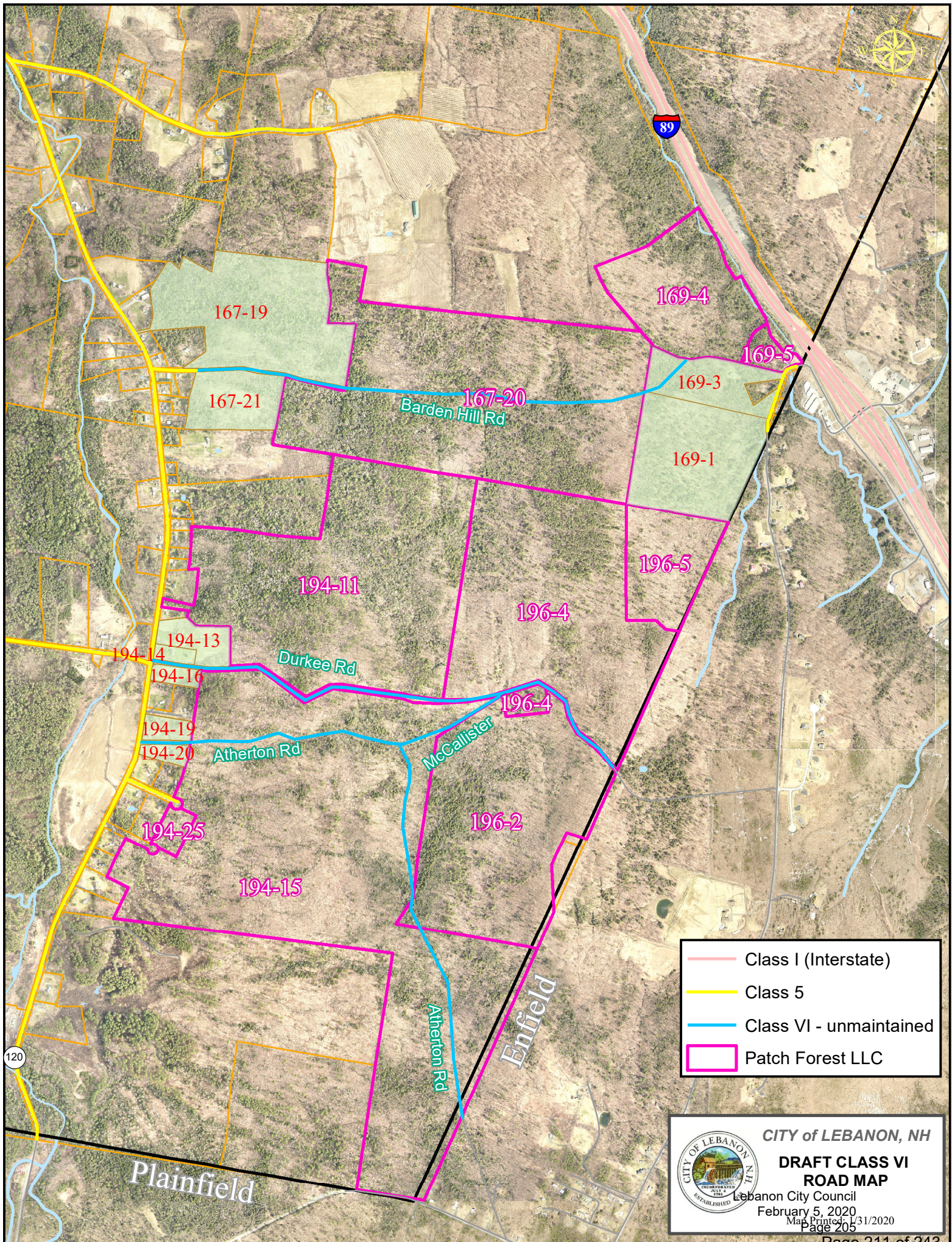
018488

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MAGNETIC JULY, 2003





- Class I (Interstate)
- Class 5
- Class VI - unmaintained
- Patch Forest LLC



CITY of LEBANON, NH
DRAFT CLASS VI ROAD MAP
Lebanon City Council
February 5, 2020
Map Printed 1/31/2020
Page 205

Class VI Roads Advisory Committee Recommendation for Reclassification



CITY OF LEBANON ~ PLANNING & DEVELOPMENT

MEMORANDUM

TO: Lebanon City Council
CC: Shaun Mulholland, City Manager
Paula Maville, Deputy City Manager

FROM: Planning Staff
RE: Class 6 Road Committee Review of the Atherton Road

DATE: January 6, 2021

Honorable Mayor and City Councilors,

The Class 6 Committee (C6) has completed a review of the Atherton Road right-of-way, including a determination that it is indeed a public right-of-way. The review process involved the application of an assessment template, including the following components:

- Documenting evidence supporting the assertion of a public right-of-way.
- A review of any record of discontinuance
- Ascertaining the current physical condition of the right-of-way, as well as potential future uses.
- Generating a roadway classification recommendation for the City Council. The choices of roadway classifications include a discontinuance, or a designation of one of the following: Class B Trail, Class A Trail, Class VI Road, or Class V Road.

Following the template application, a review of additional relevant information, and inclusive of feedback from residents providing input during the review process, the C6 Committee generated the following motion to be provided to the City Council: ***Mr. Heistad MOVED that the Class VI Roads Advisory Committee recommend that the Lebanon City Council reclassify Atherton Road, a class VI Road, as a Class A Municipal Trail as defined in RSA 231-A:1(1), extending from the Meriden Road (Route 120) to the Enfield town boundary, and as shown on the City of Lebanon Draft Class VI Roads Map, printed May, 2014. The Committee further recommends that Atherton Road be subject to the following public trail use restrictions: Permitted means of travel shall be a) feet, skis, snowshoes, and horses, b) bicycles, ridden appropriately for a multipurpose trail, when the city deems that the conditions of the trail warrant their use, and c) snowmobiles, ridden appropriately for a multipurpose trail, when snow cover is adequate to warrant their use. Notwithstanding these permissions, none of these uses shall be allowed in a manner or in conditions that will encourage erosion or otherwise damage the trail. All other wheeled or motorized vehicles, on or off road, shall be prohibited, excepting the allowed vehicular uses of abutting landowners for access to uses of their land as set forth in RSA 231-A:1(1). The Public Works Director shall cause***

to be posted legible signs at the entrance to the trail describing the restrictions contained herein, as provided by RSA 231-A:4.

** The Vote on the MOTION passed (5-0)*

The C6 Committee review of Atherton occurred during the October 15th, 2020 and November 5th, 2020 meetings. The agenda packets for each meeting, including photos, maps, resident letters of input, etc., can be found at the following links: [C6 October 15th](#) & [C6 November 5th](#). A summary subset of the agenda packet is provided as attachments to this memo, including photos and map(s).

The Patch Forest Trust, owners of several parcels that abut Atherton Road have a pending request before the City Council for the Atherton Rd right-of-way to be discontinued. The City Council was scheduled to consider such during the March 4th, 2020 meeting, but at the request of the attorney representing the Patch family, continued the discussion to a future date. In preparation for future discussion(s), the City Council during the April 15th, 2020 meeting requested the C6 Committee be restarted and complete their review of Lebanon Class VI roads, including the four associated with the Patch Forest Trust discontinuance request. The Class VI Committee initiated bi-weekly meetings in August, 2020, completing the review and specific recommendation as articulated within this memo.

ACTION ITEM

The City Council can choose between advancing the discontinuance process as requested by the Patch Forest Trust, or the reclassification of Atherton Rd from the current Class VI roadway designation, to a Class A Trail, as recommended by the Class VI Roads Committee. If the Council decides to pursue the request for a discontinuance, a public hearing is required to be set; a reclassification to a Class A Trail does not require a public hearing but has historically been the practice of the City Council. Feedback provided to City staff during the January 6th City Council meeting will inform the preparation of agenda materials for a public hearing event, if the City Council desires to move in that direction.

ATTACHMENT

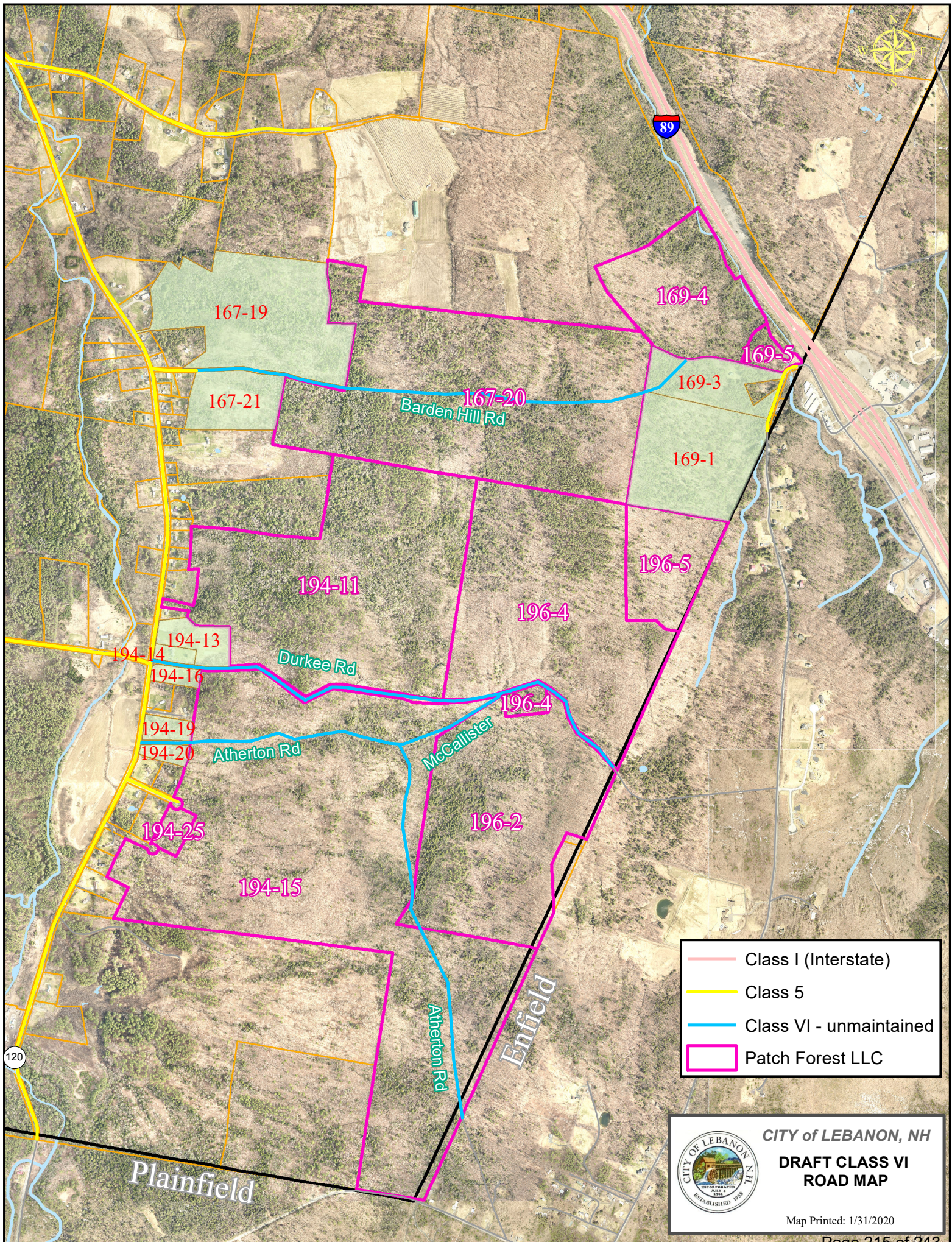
Attachment #1 = SE Quadrant Overview Map

Attachment #2 = Photos

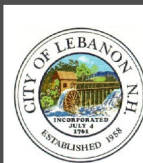
Attachment #3 = Historic Map(s)

Attachment #4 = C6 Right-of-Way Template

Attachment #5 = City Attorney Public Highway Summary



- Class I (Interstate)
- Class 5
- Class VI - unmaintained
- Patch Forest LLC



CITY of LEBANON, NH

**DRAFT CLASS VI
ROAD MAP**

Map Printed: 1/31/2020



Photo 5-8
Lower Atherton- Looking west toward route 120



Photo 6-7
Atherton Looking east



Photo 6-6
Incised Section

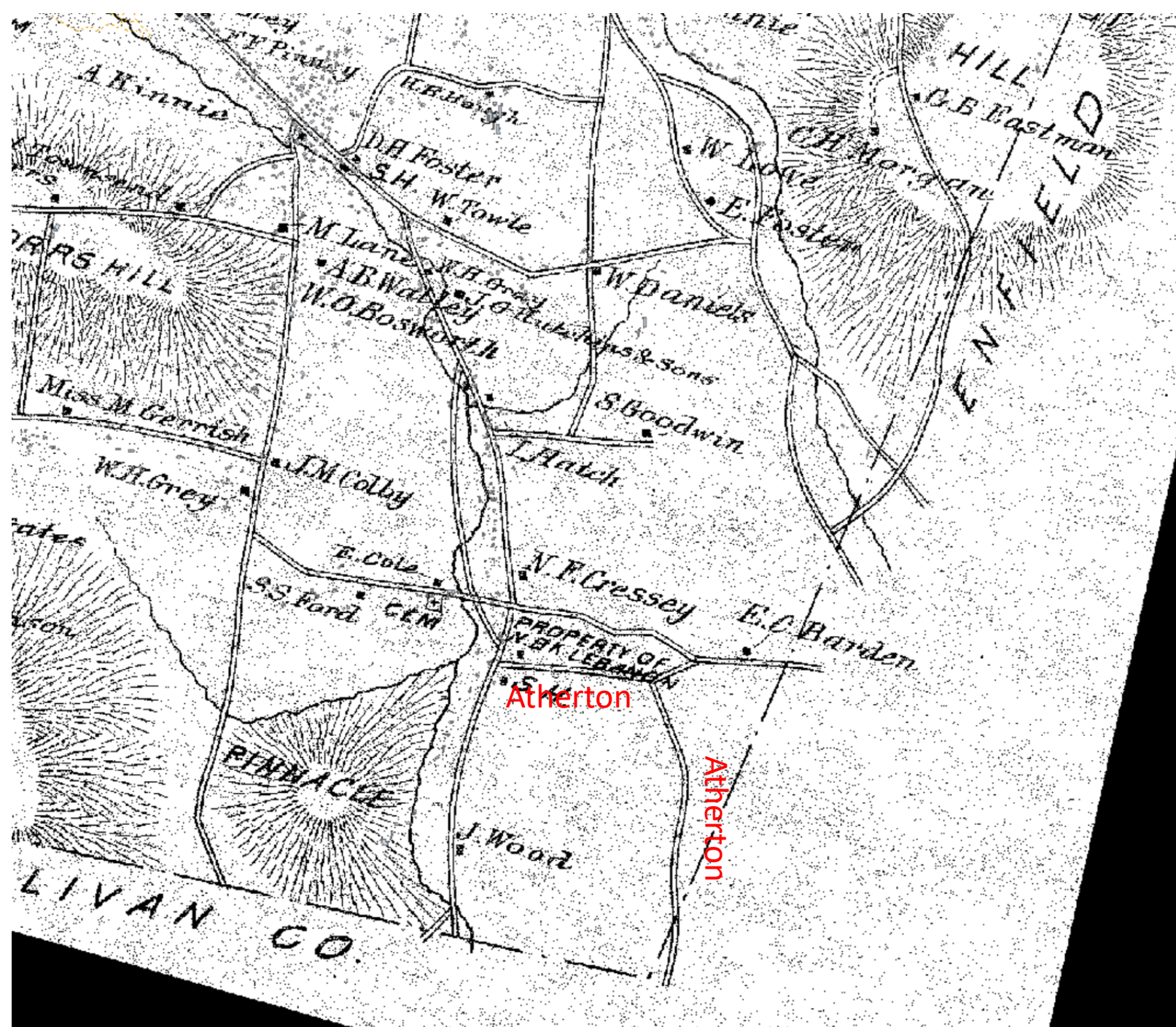


Photo 9-15
Enfield end off Methodist Hill Rd

1860 Walling Map



1892 Hurd Map



CLASS VI ROAD ASSESSMENT TEMPLATE

(Sheet 1 – Legal Status)



Road Name: Atherton Rd

Step 1 – Evidence Supporting Creation of the Road

CREATION OF THE ROAD	Yes	No
Layout (a record of the governing body's layout of the road)		
Evidence of Prescription (prior to 1968) - To include map, field, deed, historical documentation, etc)	x	
Dedication and Acceptance (e.g. Subdivision Layout)		
Deeded Ownership Deed on record at City Clerks office		

Step 1A – Evidence of Prescription

Map Evidence

1855 W.C. Eaton	X
1892 Hurd Atlas	X
USGS Map(s)	x
1930 Torbert Map	X
Other (Walling 1860)	X

Field Evidence

ROW Evidence	X
Stone Walls	Limited (West end)
Cellar Holes	N
Other	

Historical Documentation

Downs History Book	
R. Carroll History Book	
Oscar Jewell Inventory	
NH DOT Archives	

Deed Evidence

Yes	No
-----	----

Governing Body Documentation

Governing Body Votes (e.g. to change status, etc)	
Reference Regulations (e.g. weight limits, etc)	
Other	Yes

General Comment(s) :

- 1937 Pine Blister Map
- **Connection to Enfield C6 Road**

Step 2 – Evidence of Discontinuance

Discontinuance Documentation

Lebanon City Clerk	N
Town Meeting Minutes	N
Registry of Deeds	



CLASS VI ROAD ASSESSMENT TEMPLATE

(Sheet 2 – Condition & Use Status)



Road Name: Atherton

Step 3 – Current Condition of Road

	Yes	No
Historical ROW distinguishable?	X	
Supports Hiking (** severe erosion on western section but NW / SE section excellent)	x	
Supports Biking	partial	Part.
Passable by Auto		x
Passable by 4x4		x

Evidence of Road Mis-Use

	Yes	No
Excessive Rutting	y	
Littering		x
Wheeled Vehicle Use		x
Other (stream erosion)	x	

Step 4 – Current Road Usage

	Yes	No
Snowmobile (*portions N/S segments)	part.	
Pedestrian Hiking Trail	light	
Wheeled Vehicle Use		x
Landowner(s) Access (accessing abutting props.)		x
Access (supporting hunting, maintenance, etc)		x

Step 5 – Potential Future Uses

	Yes	No
Hiking / Foot Trail Network	X	
Biking Network (section(s) would need work)	X	
Emergency Roadway Access		X
Lebanon Road Network		X
Other		



CLASS VI ROAD ASSESSMENT TEMPLATE

(Sheet 3 – Status of Recommendation)



Road Name: Atherton

Step 6 – Outreach Activity

	Yes	No
Feedback garnered from residents related to existing and potential future use	x	
Informal Public Meetings for discussion	x	
Informal Abutter Notification related to meetings and discussions	x	
City Department Feedback	x	
Formal Abutter Notification prior to Council Public Hearing		na

Step 7 – Class VI Road Committee Recommendation

Status Recommendation	Yes	No
Discontinuance		
Class B Trail		
Class A Trail	x	
Class VI Road		
Class V Road		

Step 8: Action Items

	Yes	No
Signage to be installed	X(?)	
Gates / Barriers to be installed	tbd	
Funding Source Identified to support action items	city	
Coordination amongst vested/interested parties		
Abutter Notice	x	



TO: Lebanon City Council
FROM: Matthew C. Decker
DATE: December 29, 2020
RE: Public Highways

FOR PUBLIC REFERENCE

The following summary of relevant statutes and case law is intended to assist the Lebanon City Council and the residents of Lebanon in their review of reports and recommendations from the Class VI Roads Advisory Committee as well as petitions to discontinue public highways. This is a general summary of basic law, and does not discuss possible exceptions to the basic law.

Definition of “Public Highway”

- A public highway is an easement held in trust by government for the use of the public. The underlying land is usually, although not always, owned by abutting landowners. *See* New Hampshire Municipal Association, *A Hard Road to Travel: New Hampshire Law of Local Highways, Streets, and Trails*, Chapter 1, p. 17, 2015 Ed.
- The law limits the public to “viatic use” of a highway. “Viatic use” means any use reasonably incidental to the purpose of traveling. *Lydston v. Rockingham Cty. Light & Power Co.*, 75 N.H. 23 (1908).

Creation of Public Highways

- RSA 229:1 lists four ways a public highway may be created:
 - (1) Layout (“laid out in the mode prescribed therefor by statute”)
 - The layout process is defined at RSA 231:8 *et seq.* and includes a petition to the town select board or city council, a public hearing, a written “return” containing a description of the highway, and a payment of damages to the landowner(s) over whose land the highway passes.
 - (2) Deeded ownership (“roads which have been constructed for or are currently used for motor vehicle, bicycle, or pedestrian public travel over land which has been conveyed to a city or town or to the state by deed of a fee or easement interest”)
 - (3) Dedication and acceptance (“roads which have been dedicated to the public use and accepted by the city or town in which such roads are located”)
 - (4) Prescription (“roads which have been used as such for public travel... for 20 years prior to January 1, 1968”)

Creation by Prescription

- “To establish a highway by prescription, it must appear that the general public used the way continuously without interruption for a period of twenty years prior to 1968, under a claim of right without the owner’s permission.” *Gill v. Gerrato*, 156 N.H. 595, 596 (2007) (citations omitted).
- Evidence supporting prescription has been held to include, but is not limited to:
 - Photographs and testimony from community residents;
 - References to the road as a public highway in historical documents;
 - Historic maps;
 - The existence of cellar holes along the road;

- Stone walls lining the road;
 - Use of the road to access a commercial entity; and
 - Municipal maintenance. *See Hard Road to Travel* at Ch. 2, pp. 46-47.
- “[A] highway established by prescription is not as a matter of law restricted in width to the track of actual travel. In a case of prescription, the easement is not necessarily limited to the travelled path and the ditches on each side, but where the road has been fenced out for many years about the usual width, and there is nothing to control it, a jury would be justified in finding the whole space between the fences to be a public highway. The space between the wrought road and its exterior limits may be needed for various purposes, as for furnishing earth and other materials for making the road, constructing culverts and watercourses, making changes in the travelled path, and avoiding obstructions by snow... and for these and other reasons the space given to highways is very generally much more than what is occupied by the travelled path, and... it is competent for a jury to find, from ancient fences and other circumstances, that the true limits of a highway extend beyond the wrought road.” *Hoban v. Bucklin*, 88 N.H. 73 (1936) (citations and quotations omitted).

Conversion of Public Highways to Trails

- RSA 231-A allows municipalities to reclassify Class V or VI public highways into municipal trails. Trails remain full public rights-of-way, but subject to public trail use restrictions.
- Reclassification of highways to trails allows municipalities to restrict development on abutting parcels and restrict public uses (e.g. prohibitions of motor vehicles, wheeled vehicles, or OHRVs, or restrictions to specified modes of travel such as horse, bicycle or foot). RSA 231-A:4.
 - With “Class A” trails, abutting landowners can continue to use the trail for vehicular access for “such nondevelopment uses as agriculture and forestry, or for access to any building or structure existing prior to its designation as a trail” and the owner’s access “shall be exempt from applicable public trail use restrictions”. RSA 231-A:1, I.
 - With “Class B” trails, abutting landowners have no special rights and must obey any trail use restrictions imposed on the public. RSA 231-A:1, II.

Discontinuance

- Once a public highway is established, the rights last indefinitely, unless a formal public decision is made to discontinue them. *Blagbrough Family Realty Trust v. A&T Forest Products, Inc.*, 155 N.H. 29 (2007).
- “Highway discontinuance is not favored in the law... and the burden is upon the party who asserts discontinuance to prove it by clear and satisfactory evidence.” *Davenhall v. Cameron*, 116 N.H. 695, 697 (1976); *see also Town of Goshen v. Casagrande*, 170 N.H. 548, 551 (2018).
- Public highways cannot be lost by adverse possession. *See* RSA 236:30; *Windham v. Jubinville*, 92 N.H. 102 (1942).
- “For all the same reasons that highway continuance is favored in the law, it is probably best to avoid complete discontinuances of highways unless absolutely necessary. It is often the case that the public right of way will be useful in the future. The only time complete discontinuance should be considered is when there is some specific alternative use in mind for the land... If the only goal is to save on town maintenance costs, consider discontinuing the highway subject to gates and bars instead. That is the purpose of the Class VI classification, and the right of way will be preserved for future use, if necessary.” *Hard Road to Travel*, Ch.4, at p. 76.

**AGENDA
LEBANON CITY COUNCIL
JANUARY 6, 2021**

10. NEW BUSINESS:

**10.H – DISCUSSION AND SET PUBLIC HEARING FOR FEBRUARY 3, 2021:
COMPLETE DISCONTINUANCE OR RECLASSIFICATION OF
MCCALLISTER ROAD**

BACKGROUND

Patch Forest, LLC purchased 950 contiguous acres along the entire easterly side of Meriden Road between their current farm at Walhowdon Way and the Plainfield and Enfield town lines to expand their current maple sugaring operation. To facilitate the planned expansion, in February 2020, Patch Forest, LLC put forth a request to the City Council for discontinuance of several Class VI roads (or portions thereof) that traverse these 950 acres. Parcels owned by Patch Forest, LLC in this area include Tax Map 167, Lot 20; Tax Map 169, Lots 4 & 5; Tax Map 194, Lots 11, 15, & 25; and Tax Map 196, Lots 2, 4 & 5. The roads (or portions thereof) requested to be discontinued are known as Atherton, Durkee, McCallister, and Barden Hill.

At its February 5, 2020 meeting, the City Council reviewed the requests for discontinuance and scheduled public hearings for March 4. On March 4, at the request of the attorney for the Patch family, no action was taken on the requests in favor of obtaining more information by a land surveyor hired by Patch Forest, LLC to complete additional research. Before the close of the hearing, Mayor McNamara informed the Patch family, along with their attorney and land surveyor, that the Council would be reconvening the Class VI Roads Advisory Committee and these roads would be reviewed by the Committee for recommendations to the Council.

At its April 15, 2020 meeting, the City Council took action to reconvene the Class VI Roads Advisory Committee and the committee began reviewing the roads in August.

Attached hereto is a memorandum from Planning Staff regarding the Class VI Roads Advisory Committee's review of McCallister Road. Based on information available to the Committee (and as stated in the attached memo) they are not recommending discontinuance, but instead are recommending that the road be reclassified to a Class A Trail, with specific trail use restrictions as permitted by NH RSA 231-A:4.

The Council now has before it a need to decide if McCallister Road will be discontinued as requested by Patch Forest, LLC or reclassified as recommended by the Class VI Roads Advisory Committee. Before a decision can be rendered on discontinuance, a public hearing must be scheduled and held. A public hearing is not required to consider reclassification, but historically, has been the practice of the Council.

ACTION

Action by the Council is one of three possibilities:

1. Set a public hearing for consideration of discontinuance only:

MOVED, that the Lebanon City Council hereby schedules a public hearing for Wednesday, February 3, 2021, beginning at 7:00pm, remote via Microsoft Teams, for the purpose of receiving public input and taking action on a request to discontinue in its entirety and relinquish any right, title, or future interest in Class VI Road #21 (McCallister Road), located on the easterly side of Meriden Road, as shown on the Draft Class VI Roads Map dated January 31, 2020.

2. Set a public hearing for consideration of reclassification only:

MOVED, that the Lebanon City Council hereby schedules a public hearing for Wednesday, February 3, 2021, beginning at 7:00pm, remote via Microsoft Teams, for the purpose of receiving public input and taking action upon a recommendation by the Class VI Roads Advisory Committee to reclassify Class VI Road #21 (McCallister Road), located on the easterly side of Meriden Road, as shown on the Draft Class VI Roads Map dated January 31, 2020, to a Class A Municipal Trail.

2. Set a public hearing for consideration of discontinuance or reclassification:

MOVED, that the Lebanon City Council hereby schedules a public hearing for Wednesday, February 3, 2021, beginning at 7:00pm, remote via Microsoft Teams, for the purpose of receiving public input and taking action on one of two options for the future use of Class VI Road #21 (McCallister Road), located on the easterly side of Meriden Road, as shown on the Draft Class VI Roads Map dated January 31, 2020. Options include:

- 1. Discontinuance in its entirety with the relinquishment of any right, title, or future interest; or***
- 2. Reclassification to a Class A Municipal Trail.***

Included in this Section:

For Discontinuance:

1. January 30, 2020 Letter from Patch Forest, LLC re: Request for Discontinuance of Class VI Roads (known as Barden Hill, Atherton, Durkee, McCallister)
2. January 31, 2020 Draft Class VI Road Map

For Reclassification:

1. January 6, 2021 Memo from Planning Staff re: Class VI Road Committee Review of McCallister Road

Information available but not included in this Section:

1. [February 5, 2020 City Council Agenda Packet](#)
2. [March 4, 2020 City Council Agenda Packet](#)
3. [August 6, 2020 Class VI Roads Committee Agenda Packet](#)
4. [August 20, 2020 Class VI Roads Committee Agenda Packet](#)
5. [September 3, 2020 Class VI Roads Committee Agenda Packet](#)
6. [September 17, 2020 Class VI Roads Committee Agenda Packet](#)
7. [November 5, 2020 Class VI Roads Committee Agenda Packet](#)

Patch Forest, LLC Request for Discontinuance

Patch Forest LLC
40 Patch Road
Lebanon, NH 03766



January 30, 2020

To the Lebanon City Council:

We, the members of Patch Forest LLC, respectfully request that, pursuant to RSA 231:43, the Lebanon City Council vote to formally discontinue the so-called Class VI roads, or any portions thereof (if any legally exist today), on our tracts of land located on the easterly side of Meriden Road. These tracts of land are identified as Parcels 167-20, 169-4, 169-5, 194-11, 194-15, 194-25, 196-2, 196-4 and 196-5. This would include be any and all parts of the so-called Atherton, Durkee, McCallister and Barden Hill Roads. We had originally requested that the City of Lebanon discontinue these roads by (hand-delivered) letter to the Lebanon City Manager on July 10, 2018. That letter stated:

"July 10, 2018

To the City Manager:

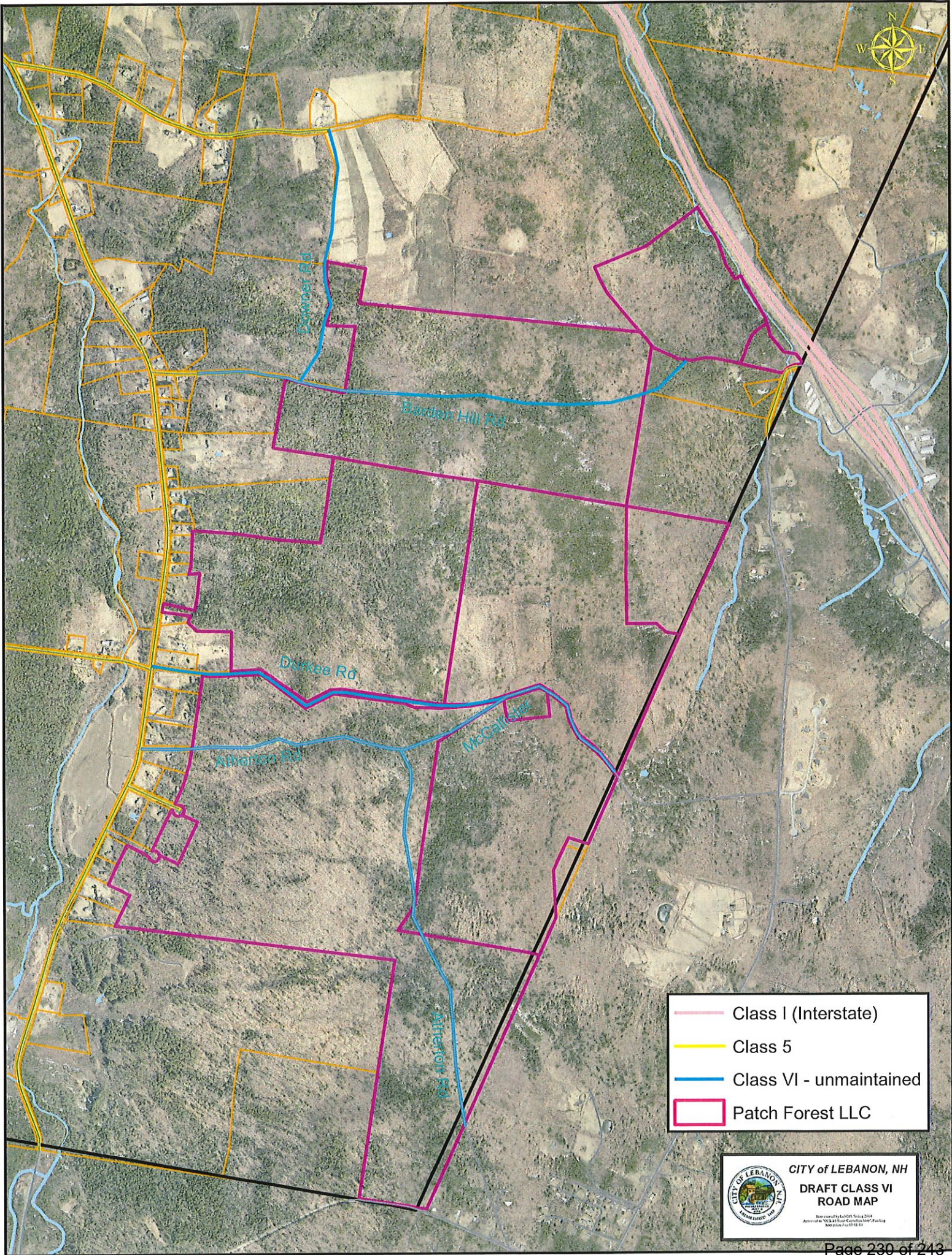
Patch Forest LLC purchased about 950 contingent acres in Lebanon that is connected to our already approximate 270 acres. The latter we have had for 8 generations and plan to continue the family tradition as we have three sons returning to work on the property. We plan to expand our current sugar bush (over 6000 taps) on this property. First, we are logging the new property and then will run sap lines throughout. Our goal is to put approximately 30-50,000 taps onto the new property. Historically, in our sugar bush we have had sugar lines cut, equipment tampered with and other destructive behavior. We are requesting that the City of Lebanon discontinue the Class VI roads on our property (see the attached map). This would allow us to run sugar lines across those roads. Please let us know if you want more information."

We just want to say that we have made arrangement with the snowmobile club to add a snowmobile trail below our sap lines. The snowmobile trail has crossed over our land for generations. This new trail would certainly be an upgrade for the public to use.

We plan to maintain this forest for generations as we have farmed the abutting land for 8 generations with the 9th generation on the way. All three of the next generation are returning to work on the farm. Cody returned after his graduation from Dartmouth in 2015. Joshua and Arthur have their undergraduate and masters' degrees in engineering and have just left their full time jobs to work in this sugar bush.

Sincerely,

Barbara Patch



- Class I (Interstate)
- Class 5
- Class VI - unmaintained
- Patch Forest LLC



CITY of LEBANON, NH

DRAFT CLASS VI
ROAD MAP

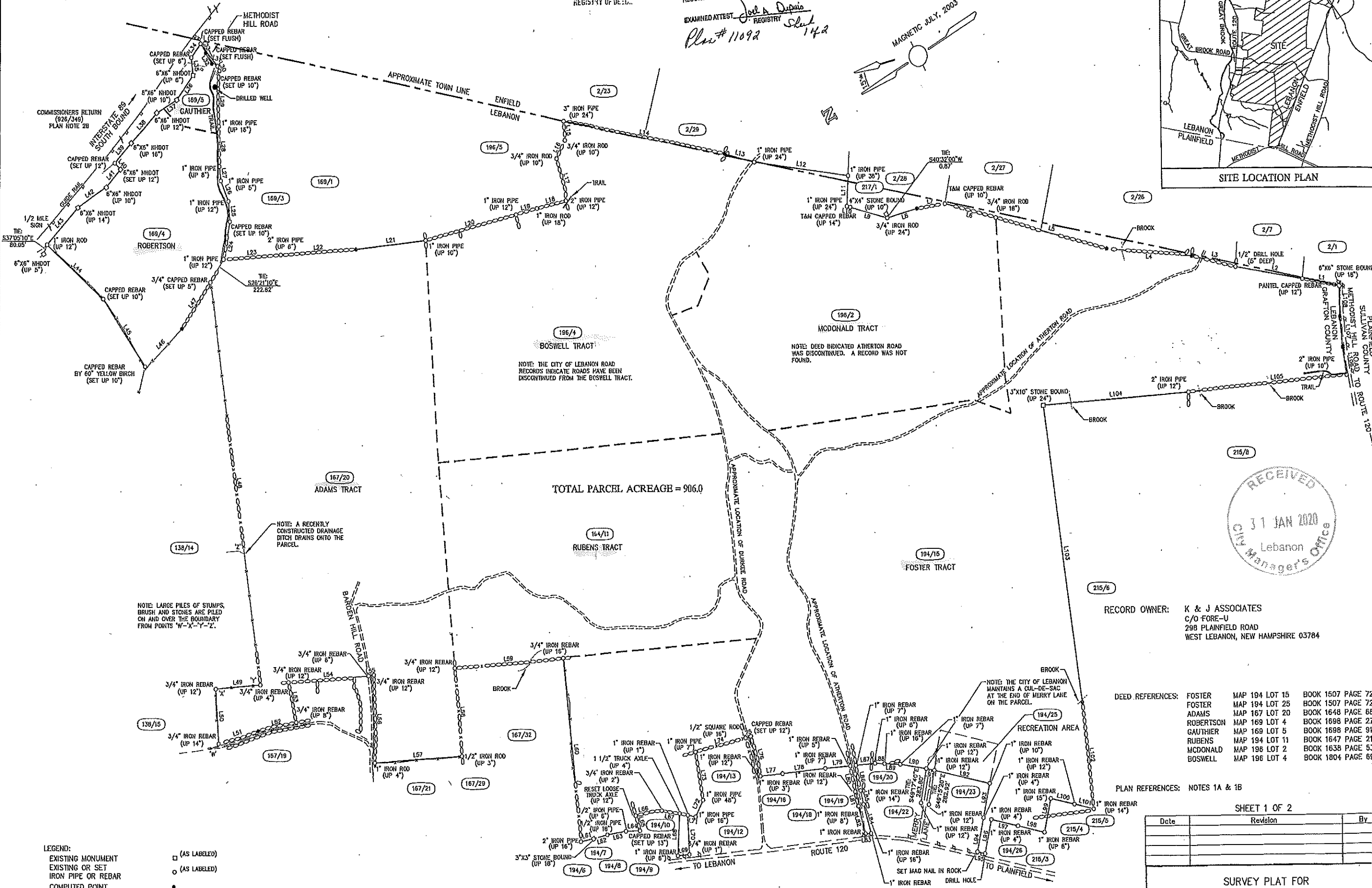
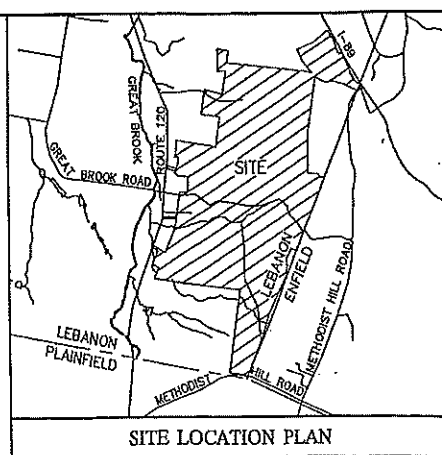
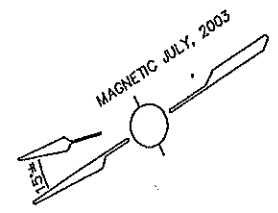
Map created by GeoDOT, Spring 2014
Approved as NH & RI State Constituent Map? Funding
Map posted 7/20/15

P: 10100-BENWOOD BOUNDARY SURVEY BENWOOD SURVEY

018488

2003 JUL -9 PM 3:37
JUL 9 2003
REGISTRY OF DEEDS
RECEIVED 3:37 PM July 9, 2003
RECORDED: LIBER
EXAMINED ATTEST: *Joel A. Dupuis*
REGISTRY
Plan # 11092 Sheet 14.2

GRAPHIC OF DEEDS
RECEIVED 3:37 PM July 9, 2003
RECORDED: LIBER
EXAMINED ATTEST: *Joel A. Dupuis*
REGISTRY
Plan # 11092 Sheet 14.2



RECORD OWNER: K & J ASSOCIATES
C/O FORE-U
298 PLAINFIELD ROAD
WEST LEBANON, NEW HAMPSHIRE 03784

DEED REFERENCES:

FOSTER	MAP 194 LOT 15	BOOK 1507 PAGE 72
FOSTER	MAP 194 LOT 25	BOOK 1507 PAGE 72
ADAMS	MAP 167 LOT 20	BOOK 1648 PAGE 68
ROBERTSON	MAP 169 LOT 4	BOOK 1698 PAGE 21
GAUTHIER	MAP 169 LOT 5	BOOK 1698 PAGE 91
RUBENS	MAP 194 LOT 11	BOOK 1647 PAGE 21
MCDONALD	MAP 196 LOT 2	BOOK 1638 PAGE 51
BOSWELL	MAP 196 LOT 4	BOOK 1804 PAGE 61

PLAN REFERENCES: NOTES 1A & 1B

SHEET 1 OF 2

- LEGEND:
- EXISTING MONUMENT (AS LABELED)
 - EXISTING OR SET IRON PIPE OR REBAR (AS LABELED)
 - COMPUTED POINT
 - EDGE OF DRIVEWAY/ROAD (BOOK/PAGE)
 - DEED REFERENCE (MAP/LOT)
 - TAX MAP/LOT
 - WIRE FENCE
 - STONEWALL
 - UTILITY POLE
 - BOUNDARY LINE
 - APPROXIMATE TITLE LINE

I CERTIFY THAT THIS SURVEY PLAT IS NOT A SUBDIVISION PURSUANT TO N.H.R.S.A. TITLE LXIV AND THAT THE LINES OF STREETS AND WAYS SHOWN ARE THOSE OF PUBLIC OR PRIVATE STREETS OR WAYS ALREADY ESTABLISHED AND THAT NO NEW WAYS ARE SHOWN RSA 676:18, III

DATE: *July 9 2003*

I HEREBY CERTIFY TO THE BEST OF MY BELIEF AND KNOWLEDGE THAT A NEW HAMPSHIRE URBAN CLASS SURVEY WAS DONE ON THE PROPERTY SHOWN. BOUNDARY LINES ARE CONSISTENT WITH EXISTING MONUMENT-

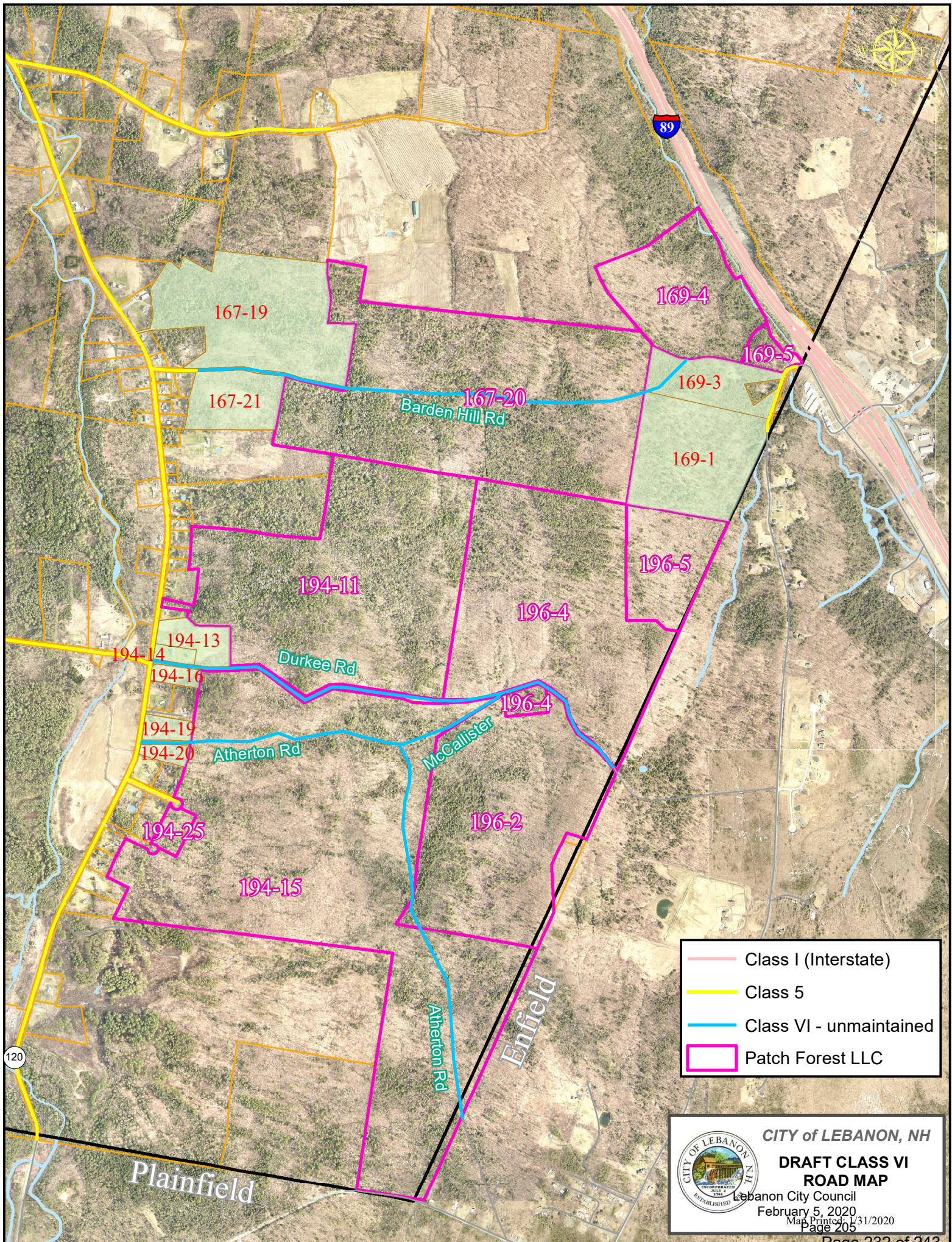
SURVEY PLAT FOR
THE RED BARN TRUST
ROUTE 120 - LEBANON - GRAFTON COUNTY - NH

0 400 800 1200 1600 2000

JULY 3, 2003 SCALE: 1" = 400'

Page 231 of 243

PATHWAYS CONSULTING, LLC



- Class I (Interstate)
- Class 5
- Class VI - unmaintained
- Patch Forest LLC



CITY of LEBANON, NH

DRAFT CLASS VI ROAD MAP

Lebanon City Council

February 5, 2020

Map Printed 1/31/2020

Page 205

Page 232 of 243

Class VI Roads Advisory Committee Recommendation for Reclassification



CITY OF LEBANON ~ PLANNING & DEVELOPMENT

MEMORANDUM

TO: Lebanon City Council
CC: Shaun Mulholland, City Manager
Paula Maville, Deputy City Manager

FROM: Planning Staff
RE: Class 6 Road Committee Review of the McCallister Road

DATE: January 6, 2021

Honorable Mayor and City Councilors,

The Class 6 Committee (C6) has completed a review of the McCallister Road right-of-way, including a determination that it is indeed a public right-of-way. The review process involved the application of an assessment template, including the following components:

- Documenting evidence supporting the assertion of a public right-of-way.
- A review of any record of discontinuance
- Ascertaining the current physical condition of the right-of-way, as well as potential future uses.
- Generating a roadway classification recommendation for the City Council. The choices of roadway classifications include a discontinuance, or a designation of one of the following: Class B Trail, Class A Trail, Class VI Road, or Class V Road.

Following the template application, a review of additional relevant information, and inclusive of feedback from residents providing input during the review process, the C6 Committee generated the following motion to be provided to the City Council: ***Mr. Heistad MOVED that the Class VI Roads Advisory Committee recommend that the Lebanon City Council reclassify McCallister Road, a class VI Road, as a Class A Municipal Trail as defined in RSA 231-A:1(1), extending from Atherton Road to the Enfield town boundary, at McCallister Road in Enfield and as shown on the City of Lebanon Draft Class VI Roads Map, printed May, 2014. The Committee further recommends that McCallister Road be subject to the following public trail use restrictions: Permitted means of travel shall be A) by foot, skis, snowshoes, and horses, B) bicycles, ridden appropriately for a multipurpose trail, when and where the city deems that the conditions of the trail warrant their use, and C) snowmobiles, ridden appropriately for a multipurpose trail, when snow cover is adequate to warrant their use. Notwithstanding these permissions, none of these uses shall be allowed in a manner or in conditions that will encourage erosion or otherwise damage the trail. All other wheeled vehicles or motorized vehicles, on or off road, shall be prohibited, excepting the allowed vehicular uses of abutting landowners for access of their land as set forth in RSA 231-***

A:1(1). The Public Works Director shall cause to be placed legible signs at the entrance to the trail describing the restrictions contained herein, as provided by RSA 231-A:4.

**** The Vote on the MOTION passed (6-0***

The C6 Committee review of McCallister occurred during the December 3rd, 2020 meeting. The agenda packet for that discussion, including maps, residents letters of input, etc., can be found at the following link: [C6 December 3rd, 2020](#). A summary subset of the agenda packet is provided as attachments to this memo, including maps and the assessment template.

The Patch Forest Trust, owners of several parcels that abut McCallister Road have a pending request before the City Council for the McCallister Rd right-of-way to be discontinued. The City Council was scheduled to consider the request during the March 4th, 2020 meeting, but at the request of the attorney representing the Patch family, continued the discussion to a future date. In preparation for future discussion(s), the City Council during the April 15th, 2020 meeting requested the C6 Committee be restarted and complete their review of Lebanon Class VI roads, including the four associated with the Patch Forest Trust discontinuance request. The Class VI Committee initiated bi-weekly meetings in August, 2020, completing the review and specific recommendation as articulated within this memo.

ACTION ITEM

The City Council can choose between advancing the discontinuance process as requested by the Patch Forest Trust, or the reclassification of McCallister Rd from the current Class VI roadway designation, to a Class A Trail, as recommended by the Class VI Roads Committee. If the Council decides to pursue the request for a discontinuance, a public hearing is required to be set; a reclassification to a Class A Trail does not require a public hearing but has historically been the practice of the City Council. Feedback provided to City staff during the January 6th City Council meeting will inform the preparation of agenda materials for a public hearing event, if the City Council desires to move in that direction.

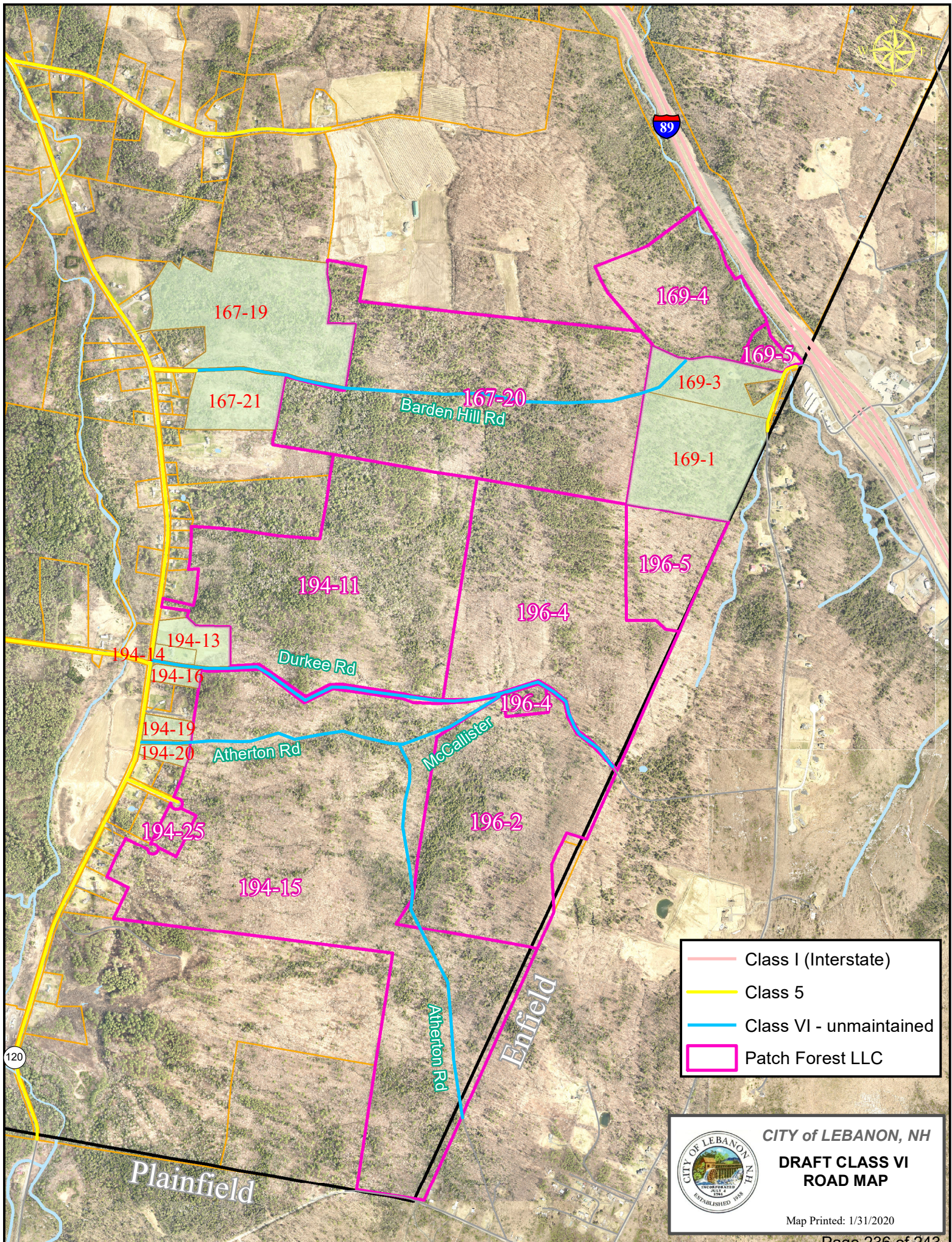
ATTACHMENT

Attachment #1 = SE Quadrant Overview Map

Attachment #2 = Historic Map(s)

Attachment #3 = C6 Right-of-Way Template

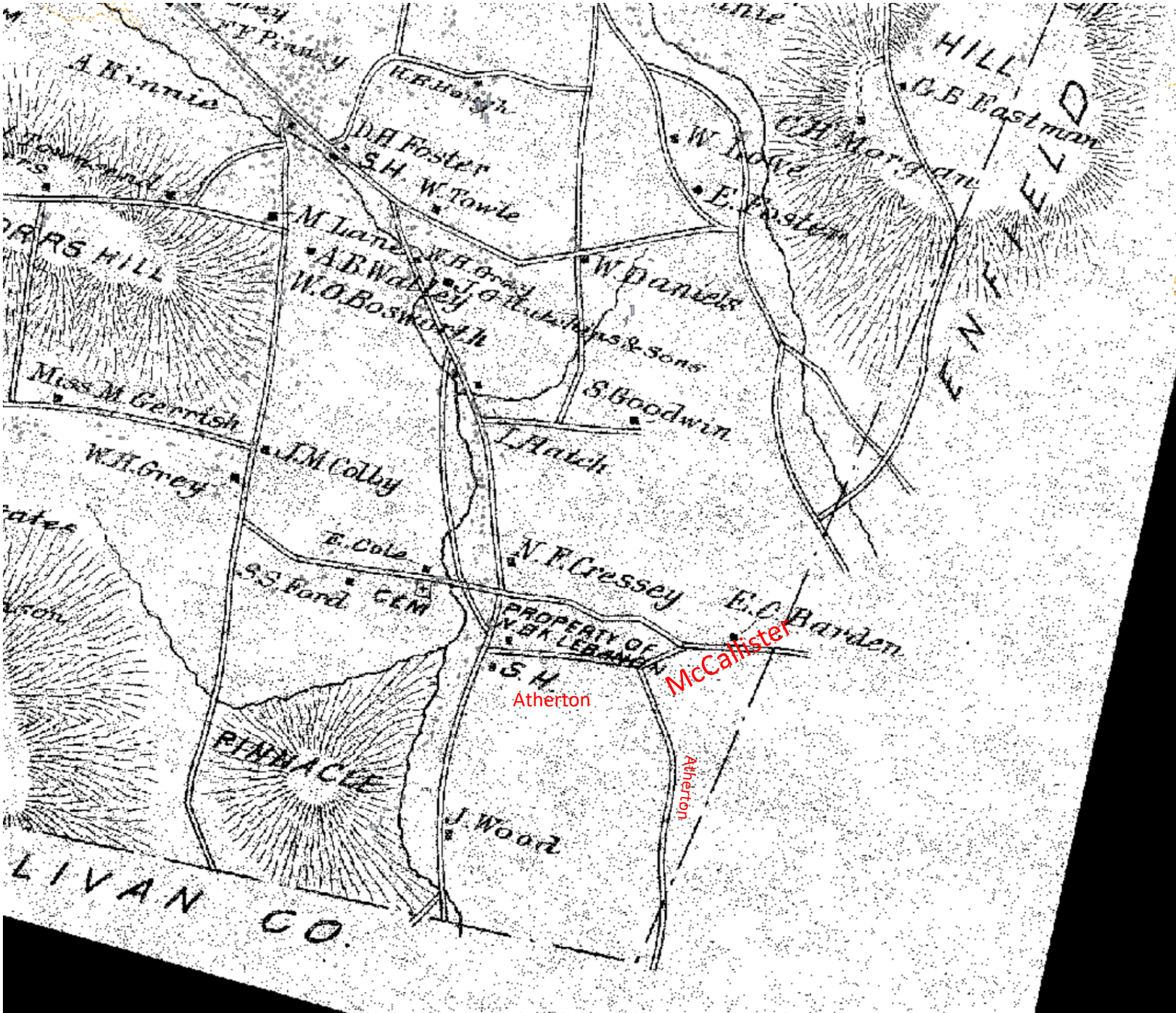
Attachment #4 = City Attorney Public Highway Summary



1860 Walling Map



1892 Hurd Map



CLASS VI ROAD ASSESSMENT TEMPLATE

(Sheet 1 – Legal Status)



Road Name: McCallister

Step 1 – Evidence Supporting Creation of the Road

CREATION OF THE ROAD	Yes	No
Layout (a record of the governing body's layout of the road)		
Dedication and Acceptance (e.g. Subdivision Layout)		
Evidence of Prescription (prior to 1968) - To include map, field, deed, historical documentation, etc)	Y	

Step 1A – Evidence of Prescription

Map Evidence

Torbet Map Series	Y
1855 W.C. Eaton	N
1860 Wailing	Y
1892 Hurd Atlas	Y
USGS Map(s)	Y
1930 Torbert Map	
City Historian Map(s)	Y
Other	

Field Evidence

ROW Evidence	Y
Stone Walls	remnant
Cellar Holes	
Other:	

Deed Reference* or Survey Plan * Abutting parcels

Yes X	No
-------	----

Historical Documentation

Downs History Book	
R. Carroll History Book	
Oscar Jewell Inventory	
NH DOT Archives	
Other	

Governing Body Reference

Public Meeting Minutes	
Maintenance or Admin management task	
Other	

Map Comment(s) :

Step 2 – Evidence of Discontinuance

Discontinuance Documentation

Town Record Volumes	
Town / City Meeting Minutes	



CLASS VI ROAD ASSESSMENT TEMPLATE

(Sheet 2 – Condition & Use Status)



Road Name: McCallister

Step 3 – Current Field Condition of Road

	Yes	No
Historical ROW distinguishable?	X	
Erosion Issues	X	
Vegetation Overgrowth	minor	
Supports Hiking	X	
Supports Biking	X	
Passable by Auto		X
Passable by 4x4		X

Step 4 – Current Users

	Yes	No
Snowmobile		X
Pedestrian Hikers	limited	
Mountain Bike		X
Wheeled Vehicle Use		X
Abutter Access – Driveway or Thru-way		X
Abutter Access – Forest & Ag. Use	X	
Other		

Evidence of Road Mis-Use

e.g. unpermitted uses,
visible damage such as
excessive rutting, etc.

	Yes	No
		X

Step 5 – Potential Future Uses

	Yes	No
Hiking / Foot Trail Network	X	
Biking Network	X	
Emergency Roadway Access		X
Lebanon Road Network		X
Other (snowmobile potential)	X	



CLASS VI ROAD ASSESSMENT TEMPLATE

(Sheet 3 – Status of Recommendation)



Road Name: McCallister

Step 6 – Outreach Activity

	Yes	No
Abutters Notified	X	
Public Meeting Posting Requirements	X	
City Department Feedback	X	

Step 7 – Class VI Road Committee Recommendation

Status Recommendation	Yes	No
Discontinuance		
Class B Trail		
Class A Trail	X	
Class VI Road		
Class V Road		

Step 8: Potential Maintenance Considerations

	Yes	No
Signage to be installed	X	
Gates / Barriers to be installed		
Other:		



TO: Lebanon City Council
FROM: Matthew C. Decker
DATE: December 29, 2020
RE: Public Highways

FOR PUBLIC REFERENCE

The following summary of relevant statutes and case law is intended to assist the Lebanon City Council and the residents of Lebanon in their review of reports and recommendations from the Class VI Roads Advisory Committee as well as petitions to discontinue public highways. This is a general summary of basic law, and does not discuss possible exceptions to the basic law.

Definition of “Public Highway”

- A public highway is an easement held in trust by government for the use of the public. The underlying land is usually, although not always, owned by abutting landowners. *See New Hampshire Municipal Association, A Hard Road to Travel: New Hampshire Law of Local Highways, Streets, and Trails*, Chapter 1, p. 17, 2015 Ed.
- The law limits the public to “viatic use” of a highway. “Viatic use” means any use reasonably incidental to the purpose of traveling. *Lydston v. Rockingham Cty. Light & Power Co.*, 75 N.H. 23 (1908).

Creation of Public Highways

- RSA 229:1 lists four ways a public highway may be created:
 - (1) Layout (“laid out in the mode prescribed therefor by statute”)
 - The layout process is defined at RSA 231:8 *et seq.* and includes a petition to the town select board or city council, a public hearing, a written “return” containing a description of the highway, and a payment of damages to the landowner(s) over whose land the highway passes.
 - (2) Deeded ownership (“roads which have been constructed for or are currently used for motor vehicle, bicycle, or pedestrian public travel over land which has been conveyed to a city or town or to the state by deed of a fee or easement interest”)
 - (3) Dedication and acceptance (“roads which have been dedicated to the public use and accepted by the city or town in which such roads are located”)
 - (4) Prescription (“roads which have been used as such for public travel... for 20 years prior to January 1, 1968”)

Creation by Prescription

- “To establish a highway by prescription, it must appear that the general public used the way continuously without interruption for a period of twenty years prior to 1968, under a claim of right without the owner’s permission.” *Gill v. Gerrato*, 156 N.H. 595, 596 (2007) (citations omitted).
- Evidence supporting prescription has been held to include, but is not limited to:
 - Photographs and testimony from community residents;
 - References to the road as a public highway in historical documents;
 - Historic maps;
 - The existence of cellar holes along the road;

- Stone walls lining the road;
 - Use of the road to access a commercial entity; and
 - Municipal maintenance. *See Hard Road to Travel* at Ch. 2, pp. 46-47.
- “[A] highway established by prescription is not as a matter of law restricted in width to the track of actual travel. In a case of prescription, the easement is not necessarily limited to the travelled path and the ditches on each side, but where the road has been fenced out for many years about the usual width, and there is nothing to control it, a jury would be justified in finding the whole space between the fences to be a public highway. The space between the wrought road and its exterior limits may be needed for various purposes, as for furnishing earth and other materials for making the road, constructing culverts and watercourses, making changes in the travelled path, and avoiding obstructions by snow... and for these and other reasons the space given to highways is very generally much more than what is occupied by the travelled path, and... it is competent for a jury to find, from ancient fences and other circumstances, that the true limits of a highway extend beyond the wrought road.” *Hoban v. Bucklin*, 88 N.H. 73 (1936) (citations and quotations omitted).

Conversion of Public Highways to Trails

- RSA 231-A allows municipalities to reclassify Class V or VI public highways into municipal trails. Trails remain full public rights-of-way, but subject to public trail use restrictions.
- Reclassification of highways to trails allows municipalities to restrict development on abutting parcels and restrict public uses (e.g. prohibitions of motor vehicles, wheeled vehicles, or OHRVs, or restrictions to specified modes of travel such as horse, bicycle or foot). RSA 231-A:4.
 - With “Class A” trails, abutting landowners can continue to use the trail for vehicular access for “such nondevelopment uses as agriculture and forestry, or for access to any building or structure existing prior to its designation as a trail” and the owner’s access “shall be exempt from applicable public trail use restrictions”. RSA 231-A:1, I.
 - With “Class B” trails, abutting landowners have no special rights and must obey any trail use restrictions imposed on the public. RSA 231-A:1, II.

Discontinuance

- Once a public highway is established, the rights last indefinitely, unless a formal public decision is made to discontinue them. *Blagbrough Family Realty Trust v. A&T Forest Products, Inc.*, 155 N.H. 29 (2007).
- “Highway discontinuance is not favored in the law... and the burden is upon the party who asserts discontinuance to prove it by clear and satisfactory evidence.” *Davenhall v. Cameron*, 116 N.H. 695, 697 (1976); *see also Town of Goshen v. Casagrande*, 170 N.H. 548, 551 (2018).
- Public highways cannot be lost by adverse possession. *See* RSA 236:30; *Windham v. Jubinville*, 92 N.H. 102 (1942).
- “For all the same reasons that highway continuance is favored in the law, it is probably best to avoid complete discontinuances of highways unless absolutely necessary. It is often the case that the public right of way will be useful in the future. The only time complete discontinuance should be considered is when there is some specific alternative use in mind for the land... If the only goal is to save on town maintenance costs, consider discontinuing the highway subject to gates and bars instead. That is the purpose of the Class VI classification, and the right of way will be preserved for future use, if necessary.” *Hard Road to Travel*, Ch.4, at p. 76.