LEBANON CITY COUNCIL
SEPTEMBER 20, 2023 - 7:00 PM
COUNCIL CHAMBERS, CITY HALL OR REMOTE VIA VIRTUAL PLATFORM
LEBANONNH.GOV/LIVE

1. Call to Order

To participate in this meeting, please join live via Microsoft Teams or call 929-229-5356 (access code: 579 121 356#). If you have trouble accessing this meeting, please email Shaun Mulholland.

The September 20, 2023 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.
- Resolution Honoring Beautification Project Sponsors
- Resolution Honoring EV-Friendly Employers

6. Approval of Minutes

A. MOTION TO approve the minutes as presented in the September 20, 2023 agenda packet.

7. Appointments: None

8. Public Hearing Items: None

9. Old Business: None

10. New Business

A. Authorization for the City Manager to renew the lease with Federal Aviation Administration for operation of the Airport Control Tower

B. Discussion with Jon Livadas (Woolen Mill Housing Project) re: Application of RSA 79-E and Potential for Historic and Affordable Housing Relief

C. Review and approval of RFP for development of 20 Spencer Street, Lebanon for Workforce Housing Units

D. Vote to Make Public Previously Sealed Non-Public Session Minutes of the City Council

11. City Manager Report

12. Council Representatives to Other Bodies Report

13. Future Agenda Items

14. Non-Public Session

15. Adjournment

Meetings are open for in-person and remote attendance. Members of the public that wish to attend remotely may do so 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 City's virtual platform or by phone. Please note: Should technical difficulties occur during the meeting that disrupts virtual or phone connection(s), the meeting will continue without remote access capabilities.

FUTURE BOARD/COMMITTEE/COMMISSION APPOINTMENTS
Board/Committee: Diversity, Equity, and Inclusion Commission
Position: Regular Member
Applicant: K. McCarthy
Assigned Councilor: TBA
Assigned Date: 09/13/2023

Board/Committee: Planning Board
Position: Regular Member
Applicant: R.Burley
City Manager: S. Mulholland
Assigned Date: 09/13/2023

Board/Committee: Planning Board
Position: Regular Member
Applicant: B. Monroe
City Manager: S. Mulholland
Assigned Date: 09/13/2023

Proposed Future Agenda Items: Dates may be tentative and this list is not considered all-inclusive.

September 26, 2023 – Community Conversation with Councilor Zook and Assistant Mayor Below

September 27, 2023 – Special Meeting (Central Fire Station Replacement Project Presentation)

October 4, 2023
New Business:
A. Early Learning Center of the Upper Valley Project Presentation
B. Acceptance of River Park Drive and Lyman Street, West Lebanon as Public Streets
C. Presentation of Zoning Amendments

October 18, 2023
New Business:
A. Review and Discussion of 2023 3rd Quarter Budget Report and Release of Collected Public Schools Impact Fees
B. Work Session: Overview and Presentations of the 2024 Capital Improvements Program (CIP) and Capital Budget

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5. Recoginitions:

- Resolution Honoring Beautification Project Sponsors
- Resolution Honoring EV-Friendly Employers

Included in this Section:

1. Resolution Honoring Beautification Project Sponsors
2. Resolution Honoring EV-Friendly Employers

Resolution Honoring

Beautification Project Sponsors

WHEREAS, the City of Lebanon recognizes the importance of creating and maintaining beautiful public spaces for the benefit and enjoyment of its residents and visitors; and

WHEREAS, beautification projects aimed at enhancing public spaces in downtown Lebanon and along Main Street in West Lebanon were initiated; and

WHEREAS, these beautification projects have greatly improved the aesthetics and overall ambiance of our community, fostering a sense of pride and well-being among the citizens; and

WHEREAS, the success of these projects would not have been possible without the generous support of these sponsors, Advance Transit, Alice Peck Day Memorial Hospital, Bee Friendly Gardeners, Claremont Savings Bank, Crafts Avenue Neighborhood, Goss Logan Insurance, Hato Viejo Coffee, Hypertherm, Lebanon Garden Club, Lebanon Permanent Firefighters Association, Mascoma Bank, Premier Property Services, Rotary Club of Lebanon, Simple Energy, subLyme Payments, The Sherman Family, West Lebanon Feed & Supply, and Woodsville Guaranty Savings Bank, who contributed through monetary donations or by actively participating in the planting and maintenance of these spaces throughout the summer and into the fall; and

WHEREAS, these sponsors have demonstrated a strong commitment to the betterment of our community, making it a more vibrant and attractive place to live, work, and visit.

NOW, THEREFORE BE IT RESOLVED, that the Lebanon City Council, on behalf of the City of Lebanon, acknowledges the invaluable contributions of these sponsors in making our city more beautiful and welcoming, fostering a sense of community pride and togetherness and extend our gratitude and appreciation to all the sponsors.

Dated this 20th day of September 2023.

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

Resolution Honoring

EV-Friendly Employers

WHEREAS, the Lebanon City Council is committed to promoting sustainable transportation options and reducing or eliminating greenhouse gas emissions; and

WHEREAS, Electric vehicles (EVs) reduce emissions by two-thirds[1] compared with gasoline vehicles, even after accounting for emissions created by electricity production, and EVs get cleaner as our electrical grid gets cleaner; and

WHEREAS, EVs save drivers money compared with comparable gas vehicles thanks to greater efficiency, lower fuel costs, and minimal maintenance; and

WHEREAS, The least expensive, safest, and most logical places to charge an EV are at home or at work, where vehicles typically sit for eight or more hours per day; and

WHEREAS, Not everyone can charge at home – especially renters and residents of multi-unit housing – which makes the availability of charging at work even more important; and

WHEREAS, Being an EV-friendly employer can help with recruiting and retaining workers who want to drive EVs; and

WHEREAS,

- Dartmouth Health provides more than 20 EV charge ports for employees at three sites (Dartmouth Hitchcock Medical Center, the Heater Road Clinic, and Alice Peck Day Hospital); and
- Hypertherm Associates provides at least seven charge ports at four of its buildings; and
- Adimab recently installed EV charging for employees; and
- Mascoma Bank offers employees an exceptionally low rate on loans to buy EVs; and
- Local car dealers including Lebanon Ford, Volvo and Volkswagen of Lebanon, and Nissan of Lebanon provide EV charging for use by employees and others; and

WHEREAS, these employers serve as role models for forward-thinking employers throughout the Upper Valley,

1 https://afdc.energy.gov/vehicles/electric_emissions.html

NOW, THEREFORE, BE IT RESOLVED by the Lebanon City Council that we, the members of the Lebanon City Council, express our gratitude to Dartmouth Health, Hypertherm Associates, Mascoma Bank, Adimab, Lebanon Ford, Volvo and Volkswagen of Lebanon, Nissan of Lebanon, and all other employers in Lebanon who make EV charging available to their employees or otherwise facilitate adoption of EVs by employees. We are grateful for their efforts to meet the needs of employees who drive EVs and to create a sustainable and greener future for our City.

ALSO, BE IT RESOLVED that the members of the Lebanon City Council express our gratitude to employers elsewhere in the Upper Valley who may employ Lebanon residents and who make some EV charging or other EV-friendly policies available to employees, including:

In Hanover, N.H. – Dartmouth College and Kendal at Hanover;
In Enfield, N.H. – Montcalm Golf Club;
In Norwich, Vt. – SolaflectEV and King Arthur Baking Company, and
In Hartford and White River Junction, Vt. -- The Town of Hartford; Norwich EV; Mascoma Bank; Key Chevrolet of White River; Upper Valley Honda, and All-Star White River at the Gilman Office Center.

LASTLY, BE IT RESOLVED that the members of the Lebanon City Council encourage other employers to take advantage of free assistance for installing workplace EV charging that is available through the federal EMPOWER program (Equitable Mobility Powering Opportunities for Workplace Electrification Readiness) by contacting EMPOWER at www.workplacecharging.com or Jessica.Wilcox@des.nh.gov.

Dated this 20th day of September 2023.

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

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Lebanon City Council
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6. Acceptance Of Minutes:

Minutes To Be Accepted

- September 6, 2023 (Regular Meeting)

MOVED, to approve the minutes as presented in the September 20, 2023 agenda packet.

DRAFT

LEBANON CITY COUNCIL
REGULAR SESSION MINUTES
Wednesday, September 6, 2023, 7:00 p.m.
Council Chambers
Remote Via Microsoft Teams: LebanonNH.gov/Live

MEMBERS PRESENT:	Mayor Tim McNamara, Assistant Mayor Clifton Below, Erling Heistad, Karen Liot Hill, Christian Simon, George Sykes, Douglas Whittlesey, Devin Wilkie, and Karen Zook
MEMBERS ABSENT:	
STAFF PRESENT:	City Manager Shaun Mulholland, Finance Director Vicki Lee, Deputy Finance Director Alesia Williams, GIS Coordinator Mark Goodwin, HR Specialist Jim Alexander, Planning Department Administrative Assistant Crystal Taplin

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

2. **PLEDGE OF ALLEGIANCE:** Councilor Heistad led the Council in the Pledge.
   - City Manager Shaun Mulholland announced the meeting criteria for the public.

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

4. **OPEN TO PUBLIC:**
   - Mr. Andrew Boisvert, 168 Bank Street Extension – Riverside, came forth and spoke about his concerns with the bad sewer smell that almost drove him out of his home. This is not only affecting his home, but also his neighbors. He spoke to the Lebanon Water Department several times throughout the years and was told multiple times that it was being worked on. His grandmother also called multiple times and spoke with different people until her passing. In order to mitigate the sewer smell, he has had to run the washing machine which has caused his water bill to go through the roof.

City Manager Mulholland noted they have done a number of things regarding this issue and have increased the types of chemicals, which they have now maximized for safety. He also spoke about looking into a portable filtration unit and has an upcoming meeting with the Department of Public Works (DPW) to see what they are looking at, noting they do not have a price on that yet and will notify anyone who is affected by this issue once he finds out more information.

5. **RECOGNITIONS: NONE**

6. **ACCEPTANCE OF MINUTES:**
   - August 16, 2023 (Work Session)

Amendments: REMOVE: Councilors Wilkie and Simon from the present list as they were not present for the Work Session portion of this meeting.

   - August 16, 2023 (Regular Meeting)

Amendments: None

***Councilor Heistad MOVED* to approve the August 16, 2023 (Work Session) and the August 16, 2023 (Regular Session) minutes as amended and presented in the September 16, 2023 agenda packet**

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

7. APPOINTMENTS:

- Library Board of Trustees, Renee Dunn (Alternate Member)

Councilor Wilkie *MOVED to Nominate Renee Dunn as an Alternate Member of the Library Board of Trustees.*
The Vote on the NOMINATION was approved (9-0)

- Planning Board, Jeremy Rutter (Reappointment Regular Member)

The Planning Board *made the request to Nominate Jeremy Rutter for Reappointment as a Regular Member of the Planning Board.*
The Vote on the NOMINATION was approved (9-0)

- Zoning Board, Jeremy Katz (Reappointment Regular Member)

Councilor Liot Hill *MOVED to Nominate Jeremy Katz for Reappointment as a Regular Member of Zoning Board.*
The Vote on the NOMINATION was approved (9-0)

8. PUBLIC HEARING ITEMS: NONE

9. OLD BUSINESS

A. Clarification Regarding the Lebanon Open Space Trust (L.O.S.T.) Fund and the Conservation Commission's Authority

City Manager Mulholland reviewed and paraphrased portions of the background and history of the Open Space (L.O.S.T.) Fund in order to clarify what the Council is being asked to do. He noted that the Conservation Commission has been doing what they were supposed to be and there is not a real problem here. City Attorney Matt Decker and he reviewed this item and came to the conclusion that a formal motion needs to be made, noting that what this motion and resolution does is clarify the errors made and incorrectly reiterated by the Mayor at the time twice.

Included in agenda packet *(Pages 82-122)*

1. Draft Resolution of Clarification for Lebanon Open Space Trust (LOST) Fund
2. City Council minutes of September 7, 1988
3. City Council minutes of January 18, 2006
4. July 26, 2023 Memorandum from Attorney Matt Decker of Drummond Woodsum.

BACKGROUND

The City Council created the Lebanon Open Space Trust (LOST) Fund during 1987/1988 in connection with the approval of a Boston Lot Forestry Plan. The Council approved the establishment of the LOST Fund on September 7, 1988. Subsequent action by the City Council approved the transfer of 100% of the Current Use land use change tax to be deposited into the Fund.

On January 18, 2006, the City Council made the following motion:

Motion made by Councilor Moses for discussion purposes that the City Council expand the purpose of the LOST fund per RSA 36-A and annually and review the resulting budget, and that the existing 100% allocation of current use penalty monies to the LOST fund will continue. Seconded by Councilor Hill.

Mayor Dean reiterated the motion twice during the discussion. The reiterations of the motion are different than the original motion made and seconded. See highlights below showing the difference.

"Councilor Moses moved that the Council expand the purpose of the LOST Fund per RSA 36-A and annually review and approve the resulting budget, and that the existing 100% allocation of current use penalty monies to the LOST fund will continue.

There being no further discussion, a vote was held, and the motion passed by a vote of five in favor, two opposed (Mayor Dean and Councilor Nash)."

The minutes seem to indicate the City Council intended to clarify that the LOST Fund is a conservation fund permitted under the provisions of RSA 36-A:5, I. The motion does not clearly specify this, however.

RSA 36-A:5 Appropriations Authorized. –

I. A town or city, having established a conservation commission as authorized by RSA 36-A:2, may appropriate money as deemed necessary for the purpose of this chapter. The whole or any part of money so appropriated in any year and any gifts of money received pursuant to RSA 36-A:4 may be placed in a conservation fund and allowed to accumulate from year to year. Money may be expended from said fund by the conservation commission for the purposes of this chapter without further approval of the town meeting.
II. The town treasurer, pursuant to RSA 41:29, shall have custody of all moneys in the conservation fund and shall pay out the same only upon order of the conservation commission. The disbursement of conservation funds shall be authorized by a majority of the conservation commission. Prior to the use of such funds for the purchase of any interest in real property or for a contribution to a qualified organization for the purchase of property interest under RSA 36-A:4a, I(b), the conservation shall hold a public hearing with notice in accordance with RSA 675:7.
III. In the municipality that has adopted the provisions of RSA 79-A:25, II, the specified percentage of the revenues received pursuant to RSA 79-A shall be placed in the conservation fund.

As Lebanon is a city, it does not have a town meeting. The City Council is the legislative body of the City. The motion approved on January 18, 2006 to "annually review and approve the resulting budget", is contrary to the provisions of the statute.

The City Manager in cooperation with the City's legal counsel has generated a resolution to clarify and correct the record relative to the LOST Fund and the Conservation Commission's authority thereto. The Conservation Commission has been operating in accordance with the provisions of the statutes since 1988. The resolution does not change the authority of the Conservation Commission; it merely clarifies the intent and validates that the Conservation Commission has been carrying out its functions appropriately.

Resolution – Lebanon City Council

Lebanon Open Space Trust (LOST) Fund

BE IT HEREBY RESOLVED by the Lebanon City Council, that:

WHEREAS, on July 15, 1987, the City Council reviewed a "Boston Lot Forestry Plan" proposed by the Conservation Commission, which included a recommendation by the Conservation Commission that income from tree harvesting in the Boston Lot "be placed in a Conservation Fund" for four specific projects:

1. **Blaze and mark the bounds at Boston Lot.**
2. **Improve access at Boston Lot for timber removal and subsequent recreational uses.**
3. **Complete a survey map for the Farnum Hill Reserve and Goodwin Park.**
4. **Purchase land or development rights of marginal land for conservation and/or recreational uses (wetlands, ridgetops, geologic features, etc.); and**

WHEREAS, on July 15, 1987, the City Council adopted a motion "that the City Council adopt the Boston Lot Forestry Plan and authorize the Conservation Commission to implement it"; and

WHEREAS, as of July 15, 1987, RSA 36-A:5, which authorizes New Hampshire municipalities to appropriate moneys for the establishment and maintenance of a conservation commission and to place such appropriated moneys in a conservation fund, was silent as to the manner in which money may be expended from a conservation fund; and

WHEREAS, effective July 24, 1987, RSA 36-A:5 was amended to specify that money in a conservation fund may be expended "by the conservation commission" and "without further approval of the town meeting" (a/k/a the municipal legislative body); and

WHEREAS, on September 7, 1988, at a City Council public hearing "for the purpose of discussing the establishment of the Lebanon Open Space Trust Fund", the Chairman of the Conservation Commission, with reference to the July 15, 1987 City Council Meeting Minutes, asserted that "the [conservation] fund had already been approved by the City Council last fall when establishing the Boston Lot Forestry Plan" and requested "that the Council's vote of last fall stand and that the name of the trust fund be established as the L.O.S.T. fund"; and WHEREAS, on September 7, 1988, the City Council adopted a motion "that the name of the fund used to collect donations for conservation land and easements be established as the L.O.S.T. (Lebanon Open Space Trust) fund." and,

WHEREAS, the Council's actions in 1987 and 1988 appear to have defined the permitted uses of the LOST Fund more narrowly than the purposes of a "conservation fund" as set forth in RSA 36-A; and

WHEREAS, on January 18, 2006, the City Council reviewed a request by the Conservation Commission to expand the purposes of the LOST Fund consistent with RSA 36-A to include "maintenance, research and all manner of conservation related items", as part of which the Commission Chairperson represented that "…the Conservation Commission intends to submit a proposed budget and come back to the Council on an annual basis with a proposed budget for the expanded LOST fund; this would be part of the regular budget cycle, and the Commission hopes this would satisfy the oversight concerns that some Councilors have raised."; and

WHEREAS, on January 18, 2006, the City Council adopted a motion "that the Council expand the purpose of the LOST Fund per RSA 36-A and annually review and approve the resulting budget, and that the existing 100% allocation of current use penalty monies to the LOST fund will continue." (emphasis added); and

WHEREAS, RSA 36-A:5 specifies that money appropriated into a conservation fund by the municipal legislative body (a.k.a., the City Council) may be expended by the Conservation Commission "for the purposes of this chapter [RSA 36-A] without further approval of the town meeting [i.e. legislative body]"; and

WHEREAS, the actions taken by the City Council in 1987, 1988, and 2006, and the context within which such actions were taken, have caused uncertainty regarding the authorized purpose(s) for use of money in the LOST Fund, and regarding the Council's role in oversight of spending from the LOST Fund.

NOW THEREFORE,

1. The purpose of this resolution is to clarify the purpose of the LOST Fund, and the City Council's oversight thereof, as follows:

a. The LOST Fund is a "Conservation Fund" as permitted by RSA 36-A:5, I.

b. The City Council, in its role as the legislative body of the City of Lebanon, has the general authority under RSA 36-A:5, I, to appropriate money into the LOST Fund, and has the specific authority under RSA 36-A:5, III and RSA 79-A:25, II, to specify a percentage of revenues from current use taxation under RSA 79-A to be placed into the LOST Fund. In exercising its authority to appropriate money into the LOST Fund, the City Council may request a proposed budget or other information from the Conservation Commission detailing the Conservation Commission's needs and plans for money to be appropriated. The Council's review of the proposed budget shall be only for appropriation purposes, and such review shall not constrain the Conservation Commission's spending of money from the LOST Fund for the purposes of RSA 36-A.

c. Per RSA 36-A:5, I, the Conservation Commission has the general authority to expend money from the LOST Fund "for the purposes of this chapter [RSA 36-A]" without further review or approval of the Council, in the Council's capacity as the City's legislative body.

d. The Council, in its capacity as the City's governing body, retains authority within RSA 36- A to review and approve certain actions of the Conservation Commission. See, e.g., RSA 36-A:4, I ("Said commission may acquire in the name of the city or town, subject to the approval of the local governing body, by purchase, the fee in such land or water rights…."). With regard to Conservation Commission actions requiring governing body approval, money shall not be expended from the LOST Fund for such purpose unless or until the Council has approved such action.

e. The Council's motion in 2006 to "expand the purpose of the LOST Fund per RSA 36-A" was not intended to, and did not have the effect of, granting the Conservation Commission any optional powers under RSA 36-A in general, or under RSA 36-A:4-a specifically.

2. The Conservation Commission continues to operate, and the individual members of the Conservation Commission past and present have operated and continue to operate, within the authority granted to them under State Law and City Code. The Commission and its volunteer members have served, and continue to serve, the people of this City in an exemplary manner.

BE IT FURTHER RESOLVED that this resolution be written upon the minutes of the Lebanon City Council meeting.

Dated this ~~16 day of August, 2023~~ 6th day of September, at Lebanon, New Hampshire

City Clerk Jaseya Ewing

DATED SIGNED: TBD

ACTION:

Councilor Liot Hill MOVED, that the Lebanon City Council hereby approves the Resolution clarifying the status and intent of the Lebanon Open Space Trust (LOST) Fund to be a "Conservation Fund" as permitted by RSA 36-A:5, I, and the Conservation Commission's role and authority relative to the LOST Fund, as presented in the September 6, 2023 City Council Agenda Packet with one change amending the motion further that the resolution referred to in the motion shall include the date, August 16 shall be dated September 6th 2023, replacing the date listed as August 16th, 2023.

Seconded by Councilor Heistad.

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

10. NEW BUSINESS

A. Dog Licensing Civil Forfeiture Update

Included in the agenda packet: ***(Pages 123-126)***

1. September 6, 2023 Memo from City Clerk Jaseya Ewing, re: Dog Licensing – Civil Forfeiture Notice – Returns

City Manager Shaun Mulholland reviewed the Dog Licensing Civil Forfeiture Update.

BACKGROUND

In accordance with NH RSA 466:14, at the June 21, 2023 City Council Meeting, City Clerk Jaseya Ewing presented the Dog Licensing Warrant for Civil Forfeiture Notice to the Council for approval. NH RSA 466:16 requires the City Clerk to report back to the Council on or before August 31st with the number of owners who received and paid the civil forfeiture, the number of dogs in the City which have been seized and held, and the number of owners who have received summons to a district or municipal court for failure to pay the civil forfeiture or license their dog.

Please see the attached memo from City Clerk Jaseya Ewing providing the numbers as required by RSA 466:16.

ACTION: ***No Council Action is required, item for discussion purposes only.***

B. Review and Discussion of 2023 2nd Quarter Budget Report and Release of Public School Impacts Fees

Included in the agenda packet: ***(Pages 127-164)***

1. September 6, 2023 memo from the Finance Department RE: 2nd Quarter Financial

Report (June 30, 2023)

2. General Fund 2nd Quarter Report
3. Landfill 2nd Quarter Report
4. Water 2nd Quarter Report
5. Wastewater 2nd Quarter Report
6. Airport 2nd Quarter Report
7. Memorandum of Understanding between the City of Lebanon and The Lebanon School District, SAU 88

Finance Director Vicki Lee and Deputy Finance Alesia Williams first reviewed the Release of Collected Public Schools Impact Fees.

Release Of Collected Public Schools Impact Fees

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

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

To date $822,664.96 has been disbursed to the Lebanon School District.

7/17/2013	$83,690.78	7/15/2015	$1,627.50	2/7/2018	$41,262.70
11/6/2013	$14,651.99	11/4/2015	$936.00	9/5/2018	$12,564.45
5/21/2014	$19,407.00	3/2/2016	$3,156.00	2/6/2019	$1,833.10
8/6/2014	$2,122.75	5/18/2016	$864.00	8/7/2019	$8,822.20
2/18/2015	$723.00	5/17/2017	$5,230.00	4/15/2020	$40,432.02
5/20/2015	$2,819.00	12/6/2017	$6,140.75	7/15/2020	$123,709.65
12/2/2020	$57,567.42	1/21/2021	$102,409.40	8/4/2021	$12,695.86
1/19/2022	$9,035.45	4/20/2022	$3,216.15	10/19/2022	$261,738.35

7/17/2013	$83,690.78	11/6/2013	$14,651.99	5/21/2014	$19,407.00
8/6/2014	$2,122.75	2/18/2015	$723.00	5/20/2015	$2,819.00
7/15/2015	$1,627.50	11/4/2015	$936.00	3/2/2016	$3,156.00
5/18/2016	$864.00	5/17/2017	$5,230.00	12/6/2017	$6,140.75
2/7/2018	$41,262.70	9/5/2018	$12,564.45	2/6/2019	$1,833.10
8/7/2019	$8,822.20	4/15/2020	$40,432.02	7/15/2020	$123,709.65
12/2/2020	$57,567.42	1/21/2021	$102,409.40	8/4/2021	$12,695.86
1/19/2022	$9,035.45	4/20/2022	$3,216.15	10/19/2022	$261,738.35

2/1/2023	$2,185.00	4/19/2023	$3,824.44

This request is for the City Council to authorize disbursement of $3,142.57 in collected Public School Impact Fees (through 06/30/2023) to the Lebanon School District.

Council Discussions: NONE

<u>ACTION:</u>
Councilor Wilkie *MOVED, that in accordance with Section 213.10 (Administration of Impact Fees) of the Lebanon Zoning Ordinance, and the November 22, 2021 Memorandum of Understanding between the City of Lebanon and the Lebanon School District, SAU 88, the City Council hereby authorizes the disbursement of $3,142.57 in collected Public Schools Impact Fees to the Lebanon School District to be applied toward the construction, renovation, improvement or expansion of K-12 school buildings and related building systems, equipment, and furnishings*

Seconded by Councilor Heistad.

****The Vote on the Motion was approved (8-0).*** Councilor Whittlesey was not present at the time this vote was taken.

2nd Quarter 2023 Budget Report

Finance Director Vicki Lee and Deputy Finance Director briefly reviewed the 2nd quarter budget report which represents, in summary form, the year-to-date expenditures/revenues activity through June 30, 2023.

Finance Director Vicki Lee noted that on the chart on page 129 of the agenda packet this shows the expenditures by departments. In general, there is nothing outstanding. ***(All the remaining Charts and supplemental information can be found on pages 129-164, Council agenda packet.)***

ACTION: None need by the Council. For informational purposes only.

C. Annual review and re-adoption of City Council Policy CC-100, Cash Management & Investment

Included in the agenda packet: ***(Pages 165-175)***
1. September 6, 2023, Memo from Vicki Lee, Finance Director, re: Review and Adoption of the 2023 Cash Management and Investment Policy
2. City Council Policy CC-100, Cash Management, and Investment Policy

Vicki Lee, Finance Director and Alesia Williams, Deputy Finance Director gave an annual review for the re-adoption of City Council Policy CC-100, Cash Management & Investment

BACKGROUND
The purpose of the City's Cash Management and Investment Policy is to ensure that the administration of the City's cash management system is handled at its highest public trust. Finance Director Vicki Lee is charged with oversight of the City's cash management system.

The Policy applies to all cash, cash equivalents (assets that are readily convertible into cash), and investments in the custody of the City Treasurer in accordance with State law. This Policy does not apply to cash, cash equivalents, and investments in the custody of the Trustees of Trust Funds and the Board of Trustees of the Library who must formally adopt their own Investment Policies that are reviewed and confirmed at least annually for all investments made by them (or by their agents) for trust funds in their custody (NH RSA 31:25 and 202-A:23).

The custody and investment of City funds are to be made in a manner that provides maximum security of principal invested, meets the cash flow needs of the City and conforms to applicable State law. Funds in the custody of the Trustees of the Trust Funds are with Citizens Bank; City funds in the custody of the City Treasurer are with Mascoma Bank.

New Hampshire RSA 47:6 requires the City Council to review and adopt an investment policy at least annually. The Council last reviewed and re-adopted the Cash Management and Investment Policy August 3, 2022. No changes are proposed to the Policy.

Before taking a vote on the Motion for the Annual review and re-adoption of City Council Policy CC-100, Cash Management & Investment City Manager Mulholland first wanted to reviewe Item D. Annual review of City Council Policy CC-101, Fund Balance as listed in Item D below.

D. Annual review of City Council Policy CC-101, Fund Balance

Included in the agenda packet: : ***(Pages 176-181)***

1. City Council Policy #CC-101, Fund Balance Policy

City Manager Mulholland reviewed the background of the Annual City Council Policy CC-101, Fund Balance

BACKGROUND

A fund segregates resources (revenues) and requirements (expenditures) that are legally restricted to specific uses. Budgets are adopted by the City Council on a fund basis. Funds other than the General Fund exist primarily to ensure and demonstrate compliance with limitations on the use of existing resources or as enterprises. The General Fund, as the chief operating fund of the City, has a broader mandate, which may include accumulating sufficient financial resources for contingencies. Accordingly, the Fund Balance Policy is limited to the General Fund.

The purpose of the Policy is to provide adequate financial resources to ensure the continued orderly operation of government and the provision of services to residents and the continued stability of the tax or rate structure that can be threatened by uncertainty emanating from a number of areas including economic uncertainty, unanticipated changes in federal and state policies, imposition of federal and state mandates, unanticipated expenditures resulting from natural disasters or other unforeseen circumstances, errors in estimating expenditures and revenues, potential drain on resources from funds facing financial difficulties, and disparities in timing between revenue collections and expenditures.

The current Fund Balance Policy suggests a range of 19.0% to 24.0% of gross current General Fund budgeted expenditures. The result is consistent with how the New Hampshire Department of Revenue Administration (DRA) calculates its fund balance retention guidelines (middle ranges) minus the uncertainty of factoring in Net Required County, Local Education and State Education Tax Efforts which are not known until the annual tax rate setting process in October.

The Fund Balance Policy is reviewed annually by the City Council, but unlike the Cash Management and Investment Policy it is not required to be readopted. The current Fund Balance Policy was adopted by the City Council June 20, 2018, and reviewed on June 19, 2019, July 15, 2020, August 4, 2021, and August 3, 2022.

City Manager Mulholland noted that we are now into what he refers to as the post-CSO era. GASB and NH DRA (Department of Revenue Administration) recommend to all towns and municipalities that they maintain an Unassigned Fund Balance 5-17% of total appropriations. They also offer another criterion for consideration, having a minimum of two months' worth of a city's general fund expenditures or two months' worth of a city revenues. All he is proposing is a change in the Fund Balance Policy to be more in line with the DRA standards, which would be a maximum of 17% instead of the 24% (19%-24%) the City has now. He is not quite ready to do this because he has to crunch a few more numbers. His recommendation for the Council was to not act on this tonight but simply hold off until he can provide more data/context, then this should be approved on an annual basis.

Council Discussions:
Mayor McNamara noted that 19%-24% was actually arranged when Mr. Jarvi originally crunched his numbers to try to get the Fund Balance up to stabilize the tax rate. Even during those years, the DRA was not recommending 19%-24%, it was a number we generated ourselves.

When asked when the numbers may be available, City Manager Mulholland said it will not be earlier than September 19, 2023.

Councilor Sykes spoke about the previous concerns regarding tax spikes (i.e., CSO Project). He requested more details at the next meeting regarding why that worked, how it worked, and why we feel comfortable with not continuing with that kind of a program as we continue to fight some serious expenses in the City.

City Manager Mulholland explained this would not be ready by the next meeting because he needs to make this easier for the Council to understand. It will make more sense, when this is presented to the Council, if the other factors are included, noting that if we stay at 19% the tax rates are going to go up significantly or there will need to be dramatic cuts in the City's budget. The purpose of the Fund Balance is to deal with emergencies, and we had emergencies this year (i.e., Human Services budget went over; DPW Budget went over due to the disasters we had in July (+/- $500K); we have the next few months with a very active hurricane season and could see more significant damages that are not planned or budgeted for). All of this has to be in context when we discuss this, and with the other pieces that go along with (this policy), our tax base is not growing at the rate we expect it to be.

<u>ACTION</u>: No action is required at this time for the annual review of the Fund Balance Policy which has not been amended since changes were last incorporated and adopted on June 20, 2018.

NOTE: The Action below was taken out of order from what was listed in the agenda packet.

Moving back to the *City Council Policy CC-100, Cash Management, and Investment Policy,* Finance Director Vicki Lee, noted that New Hampshire RSA 47:6 requires the City Council to review and adopt an investment policy at least annually. There are no changes from the policy you adopted last year, but needs the Council's Motion to pass as is.

<u>ACTION:</u>
Councilor Wilkie MOVED, that the Lebanon City Council adopts City Council Policy CC-100, Cash Management, and Investment, as presented in the September 6, 2023, City Council Agenda packet, to be effective upon passage.

Seconded by Councilor Sykes.

***The Vote on the Motion was approved (8-0).* Councilor Whittlesey was not present at the time this vote was taken.**

E. Exemption of Zoning Requirements for City of Lebanon to Establish an Emergency Winter Shelter at 160 Mechanic Street

Included in the agenda packet: ***(Pages 182-183)***

City Manager Mulholland reviewed the background of the Exemption of Zoning Requirements for City of Lebanon to Establish an Emergency Winter Shelter at 160 Mechanic Street, noting the property has now been purchased by the City.

BACKGROUND

On July 19, 2023, the City Council authorized the purchase of 160 Mechanic Street, Lebanon. The authorized purchase of this location was primarily to ensure the State of New Hampshire acquires the required right-of-way area for a planned 2029 transportation project (roundabout intersection) that is part of the improvements to the Mechanic Street corridor.

A *Point-In-Time Count* was completed in January of this year and showed 16 unsheltered individuals "living" in the Lebanon area. As our understanding of the homelessness situation in Lebanon becomes clearer, it is apparent that the City could assist greatly in meeting the needs of our unsheltered population by providing an emergency winter shelter to bring those individuals in from the cold.

As such, City Administration has been working with staff from the Haven to review the feasibility of establishing a temporary emergency winter shelter at this location. Estimates for the rehab of the building along with operational needs are being developed.

The 160 Mechanic Street property is located in the Residential-Two (R-2) Zoning District. The shelter, if established, it would be operational for 120 days out of the year, be City owned and maintained, and would therefore be classified as a Governmental Land Use under the provisions of NH RSA 674:54. Governmental Land Use is not a use that is permitted within the R-2 zone. Section 214 of the Zoning Ordinance requires that Governmental Land Uses proposed by the City be subject to the requirements of the Zoning Ordinance unless expressly exempted from it by vote of the City Council. This requires a waiver from the City Council to allow us to renovate this structure for a governmental purpose.

When asked if this would require a Planning Board review, The City Manager said yes, it is a formal application and explained the process.

In the interest of time, as we hope to have the shelter operational at some point in December, we are asking the Council to exempt the use from the requirements of the Zoning Ordinance, understanding that the public will have an opportunity to comment at a public hearing before the Planning Board currently scheduled for September 25, 2023.

To better inform the neighborhood, a Community Conversation will be held on Monday, September 11, 2023 at the River Valley Community College, 6:00-7:30 PM. Participating in the conversation will be City Manager Mulholland, Human Services Director Lynne Goodwin, Director of Shelter and Community Programs for the Haven Cherry Sullivan, and Executive Director of the Haven Michael Redmond. On September 25th, 2023 this will be coming before the regular Planning Board meeting.

Council and City Manager Discussions:

- The Council discussed the different ways to get this information out to the public regarding the community conversation meeting at River Valley Community College on Sept 11.
- Expected budget for renovation would be +/-$134K, but a few more things need to be added to 160 Mechanic St. (i.e., asbestos tiles need to be removed from the floor.)
- What will be going before the Planning Board is for a "Seasonal Use." In order to get a year-round waiver, we would need to get a waiver from the Fire Marshal's Office for a full sprinkler system, which would be quite costly. However, there will be a two-person fire watch.
- The City Manager is not planning on asking the Council for a supplemental appropriation. He plans on absorbing the additional costs through the existing budget, noting the tax rates are going to be high enough as they are. He will make do with what he has available and may need to make cuts in other places in the budget.

  The goal is, as talked about last spring, to move expeditiously to have a plan in place for an Emergency Shelter by December of this year, before it gets cold, so we can get people off the street. If the Council has concerns, we have another meeting on September 20, 2023, but if we go beyond that point, he (City Manager Mulholland) will not be able to meet the deadline window.

Mayor McNamara noted he would feel differently about this if it were to be a permanent shelter, but given this is an Emergency Shelter for this winter (120 days) he was inclined to support this effort.

City Manager Mulholland will email the final budget agreement from the Upper Valley Haven when it becomes available. The plan is that the Upper Valley Haven will "operate" this shelter, and the City will "manage the building." The draft agreement has been written and a final agreement will be forthcoming. It will take a minimum of 4 four people to run this shelter (24/7) and we are looking at 12-15 beds maximum. The bathrooms need to be renovated, heating units need replacing, and asbestos removal is needed. The operational items will be a budget item for 2024.

<u>ACTION</u>:
Councilor Sykes MOVED* that *in accordance with Section 214 of the Lebanon Zoning Ordinance, the City Council exempts the property located at 160 Mechanic St., Tax Map 105, Lot 27 from all zoning requirements; however in accordance with RSA 674:54 the City Manager is directed to prepare all necessary documentation to notify the Planning Board of the planned emergency shelter so it can hold the required public hearing.

Seconded by Assistant Mayor Below.

Councilor Sykes spoke about his reasons why he felt the City needs to have this Emergency Shelter, noting the City is not/will not be getting aid from and Federal/State Governments.

Councilor Liot Hill concurred with Councilor Sykes and spoke about her reasons regarding the need for this Emergency Shelter. She read into the record a letter from the Granite State Organization project, dated September 3, 2023 as follows:

> "We are a local interfaith group with representatives from several faith communities and the Upper Valley housing crisis is a priority concern. The lack of housing affects us all. People are

unable to accept employment because they can't afford nearby housing. Low-income families who are struggling to pay rent. Most acutely, the unhoused crisis does not belong to one town or city, but it is a regional issue.

We believe it is time to treat the problem as such. Besides the Haven in Vermont and the shelter in Claremont, there are no nearby shelters on the New Hampshire side of the river. This shelter would make a difference, and surrounding communities should contribute financially to this project. New Hampshire GOP members are from Lebanon, West Lebanon, Meriden and Hanover, and we want to support your efforts.

We encourage you to move this project forward and ask you to advise us on how we can help make a Lebanon shelter a reality.

With best retards, the Upper Valley Chapter of Granite State Organizing Projects. Co-signers were acknowledged.

Mayor McNamara also read into the record a letter dated September 5, 2023 from the LISTEN Center as follows:

" Dear Mayor McNamara and members of the Council,

We are writing to share our enthusiastic support for the establishment of the Emergency Winter Shelter at 160 Mechanic St. in Lebanon. As such, we urge the City council, in accordance with Section 214, to exempt the aforementioned property from all zoning requirements so that the City Manager and Planning Board may move forward with this vital initiative.

We, at LISTEN partnered with members of our regions Housing First Committee, and conducted a community-wide survey of individuals and families experiencing homelessness. Our data showed 28 unsheltered individuals living in Lebanon. These are our neighbors with no choice but to live in the woods or in their cars. This number does not include people who are housed in unsecure housing or couch surfing. That's also an increase in what we found during our January 2023 point in time count, which found 11 individuals from Lebanon who are unsheltered each day.

Our homeless neighbors are faced with uncertainty of where they might safely rest that night. They will also face the unknown of how to escape the cold, even for a night, and an Emergency Winter Shelter located at 160 Mechanic Street could literally mean the difference between life and death. These are Lebanon residents who are unsheltered and experiencing homelessness.

On behalf of the LISTEN Community Services in Lebanon and the Lebanon residents we serve, Thank you for your consideration. We look forward to hearing the Council's just decision pertaining to the welfare of our unhoused, unsheltered neighbors.

Sincerely,
Rob Roy McGregor, Executive Director, LISTEN
Angela Zhang, Lebanon Resident Programs Director of Listen Community Services."

Hearing no further comments from the City Council or the public, the Council took the following vote.

***The Vote on the Motion was approved (8-0).* Councilor Whittlesey was not present at the time this vote was taken.**

F. Review and Discussion of Economic Development Commission and Downtown TIF Advisory Board Recommendation for Redevelopment of 20 Spencer Street

Included in the agenda packet:
All supportive documents, maps, and other informational materials can be found on Pages 184-205 in the September 6, 2023 Council agenda packet)

1. July 26, 2023 DRAFT Minutes of the Economic Development Commission Meeting
2. Draft RFP for 20 Spencer Street
3. Draft Appendices to RFP for 20 Spencer Street
4. Draft Selection Process & Criteria – RFP 20 Spencer Street

BACKGROUND
In 2016 the City initiated the Downtown Visioning Study which included the former DPW facility located at 20 Spencer Street, approximately 1.92 acres of land. This location was selected as one of the areas to be redeveloped as part of the visioning study. The property is located within the Downtown Tax Increment Finance District. The City Council requested the EDC and the Downtown TIF Advisory Board to develop and RFP to redevelop the property.

The City issued an RFP for the redevelopment in August of 2019. Two proposals were submitted, one of which was from the Braverman Company, LLC. The proposal involved the construction of a multifamily apartment building with as many as 94 units. Forty-five of those units were proposed to be workforce housing (80-100% AMI). The units would be a combination of 1 & 2 bedrooms. The Braverman Company proposed to purchase the property for $1.5 million.

The former DPW structures on the property were demolished by the City in 2021. A number of environmental issues remained on the site including previously undetected quantities of PCBs. The PCB contaminated soil was removed and transferred to an appropriate disposal site out of state. The site soils still contain levels of Arsenic higher than what is permitted by state standards. However, this only applies to drinking water. The site is served by City water and sewer. There is nothing from the environmental perspective that prohibits development of the site at this point. The total cost of demolition and site clean-up were just under $1 million.

The Braverman Company withdrew from the project in January of 2023. Ken Braverman, the company principal, felt that the economics were not feasible for the project at this time. The cost of capital, construction, and the shortage of construction labor resulted in his decision to withdraw from the partnership with the City.

On June 7, 2023, the City Council requested the EDC and the Downtown TIF Advisory Board to make recommendations as to what the next steps should be to redevelop the property. The Council suggested the EDC & TIF Advisory Board incorporate the Council's Strategic Objectives, Priorities and Strategic Plans into their discussion and review of 20 Spencer Street and the back parking lots, along with looking into what non-profit organizations can bring to the table and how this would potentially affect City property taxes.

The EDC and TIF Advisory Boards held meetings to discuss recommendations and On July 27, 2023, the

EDC voted the following:

Motion by Mr. Brown that the Economic Development Committee recommends that the City Council approve the RFP developed by the Economic Development Committee to go out in September and come back within approximately 120 days, while also pursuing a parallel track to solicit proposals from the non-profit housing community.

Second by Mr. Purcell.

****The Vote on the MOTION was approved by the EDC (5-0-0)***

Mr. William (Bill) Dunn reviewed and explained the background behind this project and how the Council's, the EDCs, and TIF District priorities have shifted somewhat over time. He also spoke about EDC's perspective and the reasons they modified the original RFP (Request for Proposals) to reflect what they thought felt was the City Council's current standards from an economic perspective. While the EDC/TIF District Committees understand that the Council has focused on different types of housing, he suggested the Council might want to consider running parallel tracks because if a professional RFP is put out, this might limit options from other respondents that might be either supportive for housing, workforce housing, low income housing, or other options that might be out there (i.e., someone might want to start a shoe factory, or other suggestions by those who may want to develop that property, etc.). We do not expect that any decision be made on this property tonight but ask that you bless us in sending out the revised RFP and see what we get back, which will then come before the Council for your review.

Council Discussions:

Councilor Liot Hill noted that at the EDC meeting, where this discussion took place, we heard from Deputy City Manager David Brooks that this RFP process might be a little to time intensive for some of the nonprofit organizations so we talked about putting this revised RFP out to see who might respond to this parallel track. We do have a few developers who have been interested in looking at the downtown parking lot, so we believed that there would be some potential responses while at the same time inviting the nonprofit community to submit proposals. She thought this would bring back to the Council as many ideas, potential opportunities, and concepts as possible, and would give us (the Council) realistic options. If no one from the nonprofit community responds, we will also know that is not an option.

In response to Mayor McNamara's question regarding if there were any concerns from the EDC that would disincentivize one group over another to submit proposals if a parallel track was pursued, Mr. Dunn noted that when the EDC was working on the parking lots they heard from developers and fielded some informal proposals from social groups, but they have nothing to present to Council at this time. One of the difficulties associated with this entire project is that everybody thinks it has to be housing, and it doesn't. I am also being reminded that the EDC's mission is to also support our businesses who keep saying they need more housing and places for workers to live. The EDC is not pushing for housing, it is pushing for options, and we'd like as many options as possible to bring back to the Council. By opening the process up, or running parallel tracks, he thought it would be more inclusionary and we would probably get more options. At first, he was focused on economic development opportunities but was reminded that if we put through such a rigorous RFP to the development world, we would almost defacto not be inviting other people into the process and further explained his reasons. Informally, the RFP that is going out has been modified to reflect some of the City's new goals and will go out to development communities, which can then be shared with any other nonprofit organization, housing authority, social group, or anybody else who has a concept for this project. The action item for the Council to consider included the wording to allow the City Manager to have those conversations and then bring those concepts back to you.

Councilor Liot Hill explained what had been added into the revised RFP noting that while we want to consider all options, housing has been identified as a big priority for the City Council and further explained the reasons why the RFP has been revised.

In response to Mayor McNamara's question, Mr. Dunn noted that no one would be disqualified for not being 100% compliant (with the RFP). This time, for example, if we see two projects that have very different end goals or accomplishments, then the EDC and TIF will dissect and try to weigh the pros/cons of each of these for the Council's review.

Mr. Dan Nash, member of the EDC, agreed with Mr. Dunn and felt that having all options should be on the table, noting that if he is looking through the EDC lens it is different than strictly looking through the housing lens and explained his reasoning. He was in favor of moving this forward. His biggest question, after talking to Deputy City Manager Brooks: Who is the Council targeting for workforce housing? He also felt the AMI (Adjust Median Income) needs to be increased to try to serve that workforce.

Councilor Wilkie was not sure if he was comfortable with this revised RFP and discussed his reasons why he felt the need for lower income affordable housing should be a priority for the Council.

Councilor Liot Hill also spoke about affordable housing being a high priority, but noted that community's benefit from mixed use activities, especially in downtowns. Housing is not the only aim to consider in this context, particularly in the downtown area and further explained her viewpoints, noting she supports housing and all affordable housing but would like to see all the possible options. She would like to see this move forward tonight.

Assistant Mayor Below felt the Council needs to be realistic about what might be possible. He spoke about the Braverman proposal for workforce housing, which fell through probably because it did not pencil in due to the economic climate, and other projects taking place in the City. He was skeptical of the parallel efforts and explained his reasons why. The Council has not decided whether to go the route of issuing a new RFP or trying to work with a nonprofit developer like the (Lebanon) Housing Authority to really focus on what would be subsidized housing to make a project pencil in for people at the lower income spectrum. The City does not have a lot of sites like this one (20 Spencer Street) and we do have a significant amount of costs that went into this project, but a lot of those costs the City caused decades ago and whether we ever redeveloped the site or not, the work needed to be done. The need (for housing) is for a nonprofit developer like the (Lebanon) Housing Authority or Twin Pines, but they don't have the ability to speculate on an opportunity in a way that private developers might, and it takes a lot of time and effort to put together a project and make it work. He did not feel it would be productive to try to pursue the revised draft RFP and explained his reasons, noting he was skeptical of whether, in this economic environment, somebody on the for-profit side of the spectrum can put together a mix of market rate and affordable workforce housing that will pencil in and actually help our housing in the next few years.

Mr. Dunn reiterated again that one of the things he runs into all the time is that folks are confusing the EDC mission with housing and it's not about that at all. The EDC's mission is to explore opportunities and ultimately submit their findings to the Council and gave examples. He suggested the Council allow the EDC/TIF to send the revised RFP out to see what we get back, and then let the City Manager engage in conversation with the other entities who might not respond. Within the EDC, we are simply trying to do our mission and you folks can discuss amongst yourselves what options you might want to see move forward or those that you might want to say no to.

Councilor Sykes was against market rate housing and spoke about his reasons regarding the need for housing on the lower income spectrum. No truly affordable housing project is going to be penciled out for a private developer and it will always take some involvement of the City to help make this happen. He explained his thoughts and concerns about the housing market and bringing properties back into the City's tax roll. He would not like this project being kicked down the road, but 120 days was not kicking this project down the road too far.

Mayor McNamara spoke about his concerns regarding housing and the need for a continuum of housing options. He hoped there are some creative proposals brought forward that might look at that continuum of housing and gave examples (i.e., Owner-occupied housing and looking at folks who do not qualify for subsidized housing but cannot afford to purchase a home - the missing middle).

Councilor Wilkie gave his reasons why Lebanon cannot compare ourselves to our regional neighbors. As far as the EDC goes, it is unlikely we are going to see a housing proposal that meets the needs we want from the private market. He is anticipating that workforce housing through the Lebanon Housing Authority or Twin Pines would be a realistic housing approach, noting 120 days would give the Council more time to decide if we are looking for housing or economic development and explained his reasoning. He was leaning very strongly in favor of not-for-profit housing.

Councilor Heistad was encouraged to hear concerns for the lower end of our economic market and spoke about the upcoming generation(s) and the prospects of them finding housing and staying in Lebanon. We need places that are affordable enough so that kids can get a new job or come back and start a new life here and stay in Lebanon and further explained his reasons. He felt the Council needed to look at the bigger picture rather than just one group of people who need housing.

Councilor Simon concurred with what everyone else was saying and did not feel 120 days was an unreasonable amount of time to throw the net out to see what we get back. He was in favor of moving forward with a revised RFP.

City Manager Mulholland noted that if the goal of the Council is to get the maximum tax value of the property, he highly recommended they approve the revised RFP. If we are trying to achieve pieces of our Strategic Plan, then we should highly consider the workforce concept and he read excerpts of the Strategic Plan. The only way workforce housing is being built in any quantity is when it is subsidized by the government (i.e., Would that be State, Federal, or municipality?). He spoke with Hypertherm and Novo Nordisk about what their needs/problems were, and they both said they need housing. He also spoke about how unaffordable the City was to live in for blue-collar workers, and why the City's businesses cannot hire people, which is due to housing that is unaffordable or non-existent. He felt if nonprofits would not respond to the RFP because they will have to put money together to do this, he suggested the Council decide which way they want to go.

Mr. Dunn spoke again about what the EDC is doing and gave examples, noting he was advocating for the ability to go out and look for solutions and felt the City Manager needs to be instrumentally involved in that (process).

After more discussions regarding affordable housing and the mission of the EDC, City Manager Mulholland felt the Council needed to take a step back and figure out where they want to go.

ACTION:

***Councilor Liot Hill MOVED,* that the Lebanon City Council authorizes the City Manager to initiate the RFP as proposed by the EDC for the redevelopment of 20 Spencer St. allowing 120 days for respondents to submit proposals AND/OR authorizes the City Manager to work with not- for-profit housing organizations to develop proposals for workforce housing to be considered by the City Council.**

Seconded by Councilor Simon.

Council Discussions before final vote:

After more extensive discussions and comments from Councilor Liot Hill, Assistant Mayor Below, Mayor McNamara, Councilor Whittlesey, and Councilor Sykes regarding the revised RFP from the EDC, affordable housing, and what the Council's direction should be for 20 Spencer Street and workforce housing in the future, the Council voted as follows:

***The Vote on the Motion FAILED (4-5)*. Voting against: Councilors Sykes, Zook, Heistad, Wilkie, and Assistant Mayor Below,

REVISED MOTION:

***Assistant Mayor Below MOVED,* that the Lebanon City Council authorizes the City Manager to work with non-profit housing organizations to develop proposals for workforce housing to be considered by the City Council**
Seconded by Councilor Sykes

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

City Manager Mulholland will draft a proposal for the Council to review, noting we need to be very clear what the Council wants.

11. City Manager Report:
City Manager Shaun Mulholland updated the Council on the following:

- CDS (Congressionally Directed Spending) Grant for the sidewalk project from the American Legion to the intersection of Slayton Hill Road on Mechanic Street: Reduced to $1M that is before Congress, instead of $3M.
- Community Conversation dates: Will take place quarterly. Invite will be sent to Councilors. City Councilors will facilitate meetings.
  - September 26, 2023, 7:00 PM: Assistant Mayor Below and Councilor Zook to facilitate.
  - October 24, 2023, 7:00 PM: Councilors Simon/Whittlesey to facilitate.
- Gas Hearing
- 10-Year Plan

12. COUNCIL REPRESENTATIVES TO OTHER BODIES: NONE

13. FUTURE AGENDA ITEMS: NONE

14. NON-PUBLIC SESSION:

A. NH RSA 91-A:3, II(c) – "Matters which, if discussed in public, would likely affect adversely the reputation of any person, other than a member of the public body itself..."

Councilor Wilkie MOVED ***to Enter a Non-Public Session for the purpose of discussing NH RSA 91-A:3, II(c) – "Matters which, if discussed in public, would likely affect adversely the reputation of any person, other than a member of the public body itself..."***

Seconded by Councilor Liot Hill

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

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

Staff Present: City Manager Mulholland and Human Resources Specialist Jim Alexander.

City Council entered into Non-Public Session at 9:45 PM

Councilor Wilkie MOVED to come out of the Non-Public Session.
Seconded by Councilor Whittlesey

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

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

City Council came out of the Non-Public Session at 10:02 PM

THE COUNCIL WAS NOW BACK IN PUBLIC SESSION.

15. SEALING OF THE MINUTES OF NON-PUBLIC SESSION

Councilor Whittlesey MOVED **to SEAL THE MINUTES of the September 6, 2023 Non-Public Session because it was determined that divulgence of this information likely would affect adversely the reputation of any person other than a member of this board.**

Seconded by Councilor Liot Hill.

Roll Call Vote

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

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

16. ADJOURNMENT:

Councilor Whittlesey MOVED for adjournment.
Seconded by Councilor Wilkie.

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

The meeting was adjourned at 10:03 PM.

Respectfully submitted,
Dona E. Gibson
Recording Secretary

Agenda
Lebanon City Council
September 20, 2023

10. New Business:

10.A – Authorization for the City Manager to Enter into and Execute a Lease Agreement with the Federal Aviation Administration

Background

The Federal Aviation Administration (FAA) entered a ground lease with the City of Lebanon in 1961 to construct and operate an Air Traffic Control Tower (ATCT) at the Lebanon Municipal Airport. The most recent lease term began on July 1, 1974 and ended on June 30, 1998. The lease provided the option for the FAA to renew to lease on a year-to-year basis provided that the occupancy does not extend beyond June 30, 2023.

The terms of the lease include, but are not limited to:

- The use of the leased property will be for the operation and maintenance of air traffic control facilities.
- The ground lease is for 0.33 acres more or less.
- The allowance for adjustment to the amount of land or facility layout.
- The lease is retroactive to July 1, 2023.
- The term of lease is 20 years (expiring September 30, 2043).
- The lease is a no cost lease for the federal government.

Action

If the Council decides to move forward with the lease agreement, the following motion is offered for consideration:

MOVED, that the Lebanon City Council hereby authorizes the City Manager to enter into and execute a lease agreement with the Federal Aviation Administration (Tenant) for approximately 0.33 acres of land at the Lebanon Municipal Airport for the operation of the Airport Control Tower.

Agenda
Lebanon City Council
September 20, 2023

10. New Business:

10.B – Discussion with Jon Livadas (Woolen Mill Housing Project) re: Application of RSA 79-E and Potential for Historic and Affordable Housing Relief

Background

Jon Livadas of LWM Residential, LLC is requesting time with the City Council to informally review and discuss potential tax relief under the provisions of NH RSA 79-E as it relates to Historic Structure Rehabilitation and Affordable Housing.

Action

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

Included in this Section:

1. August 21, 2023, Email from Jon Livadas re: 79E Informal Review of Potential Request
2. September 12, 2023, Memo from 106 Associates to the Lebanon Heritage Commission re: Historic Status and Opinion on Secretary's Standards – Lebanon Woolen Mill Complex, 1 Foundry Street
3. City Council Policy CC-105, Community Revitalization Tax Relief Incentive Program Guidelines, as adopted on August 4, 2021

From: Jon Livadas <jon.livadas@outlook.com>
Sent: Monday, August 21, 2023 11:50 AM
To: Shaun Mulholland <Shaun.Mulholland@lebanonnh.gov>
Subject: [EXTERNAL] 79E informal review of potential request

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

Hi Shaun,

Good chatting with you. Please use this email as my formal request to discuss the potential for historic and affordable abatement years for the 79E legislation. In addition to the 5 for a qualifying structure and 2 for new residential units we are hoping that by following the standards for historic rehabilitation (without having it listed on the historic places) would result in 4 years of additional abatement across the entire property. Furthermore we are interested in discussing adding affordable units to our program for additional abatement.

Thank you,
Jon

Jon
302.598.3492

106 Associates
11 Ward Street
Burlington, VT 05401
(802) 777-1572
scottnewman@106associates.com

MEMORANDUM

Date: September 12, 2023

To: Lebanon Heritage Commission

Re: Historic Status and Opinion on Secretary's Standards
Lebanon Woolen Mill Complex, 1 Foundry Street

My firm has been asked by Jon Livadas to provide comment regarding eligibility of the Lebanon Woolen Mill Complex for listing in the National Register of Historic Places (NRHP), and whether the proposed project meets the Secretary of the Interior's Standards for Rehabilitation. With respect to the National Register, the National Park Service (NPS) has formally concurred with 106 Associates recommendation that the mill complex is eligible for listing in the NRHP via its concurrence with a historic tax-credit application Part 1. The purpose of a Part 1 is precisely to seek the opinion of the NPS on a property's National Register eligibility. Tax-credit rules require that a professional architectural historian prepare and submit a comprehensive evaluation of the property with a recommendation on NR eligibility. 106 Associates' Part 1 report included a detailed history of the mill since its construction, placing it in its historic context in the development of the Lebanon and the growth of its textile industry. It also included a detailed descriptive and photographic survey of the buildings. The package of Part 1 documentation is extensive and can be accessed at the following link:

https://1drv.ms/f/s!AlkhtEgpPLEIg_tH7JGieTTdVBuNdQ?e=dfDl3I

The NPS response to the Part 1 application is attached to this memorandum. The box checked in Section 2 of the response form indicates the nature of the request, in this case a "preliminary determination for individual listing in the National Register. The box checked at the bottom of the page indicates the NPS response, stating the property "appears to meet the National Register criteria for Evaluation and will likely be listed in the National Register of Historic Places if nominated by the State Historic Preservation Officer according to the procedures set forth in 36 CFR Part 60". This form constitutes proof of NR eligibility by the federal government agency (NPS) responsible for National Register listings.

With respect to compliance with the Secretary of the Interior's Standards for Rehabilitation, it is important to contextualize the buildings in the complex which comprises three structures: the main mill, the connected boiler house, and the office/garage. The main mill located alongside the river is the largest and most historically significant building in the complex, where the river power was harnessed in a succession of engineering achievements, and the textiles were produced by generations of Lebanon residents. The connected boiler building, and iconic brick smokestack testify to the evolving use of power to heat the plant. Having been closely involved with plan development, it is our opinion that the buildings will be rehabilitated consistent with the Secretary's Standards. Both will be preserved along with most of their important historical components despite facing a wide range of technical and financial challenges owing to their deteriorated condition and years of deferred maintenance. Adapting an industrial building to residential use can be extremely difficult in best case circumstances, made more challenging by the size and condition of this mill and facing today's construction costs. All considered, I am confident the current rehabilitation plans meet the requirements of the Secretary's Standards.

The third building on the site, the office/garage, is secondary to the history and operation of the mill. The garage has been extensively altered and would require highly intrusive and cost-prohibitive structural and hazardous material remediation which would substantially degrade any remaining historic significance. This is known based on a structural assessment of the building undertaken by Engineering Ventures, and a hazardous materials assessment undertaken by Credere Associates. The same hazmat assessment reported that the basement and lower walls of the attached 1940s office building are saturated with toxic dry-cleaning chemicals, for which remediation would be exceptionally difficult and expensive. It is our opinion that removal of this altered and secondary building is fully justified by the serious structural and hazmat circumstances as reported in professional assessments, and that this work meets the Secretary's Standards.

Sincerely,

Scott Newman
Principal, 106 Associates
Historic Preservation Consulting

RECEIVED
MAR 16 2022
NATIONAL PARK SERVICE
TAX INCENTIVE PROGRAM

NPS Form 10-168 (Rev. 2019)
National Park Service
OMB Control No. 1024-0009

HISTORIC PRESERVATION CERTIFICATION APPLICATION
PART 1 – EVALUATION OF SIGNIFICANCE

Instructions: This page must bear the applicant's original signature and must be dated. The National Park Service certification decision is based on the descriptions in this application form. In the event of any discrepancy between the application form and other, supplementary material submitted with it (such as architectural plans, drawings and specifications), the application form takes precedence. A copy of this form will be provided to the Internal Revenue Service.	NPS Project Number 44654

1. Historic Property Name Lebanon Woolen Mill

Street 1 Foundry Street

City Lebanon County Grafton State NH Zip 03766

Name of Historic District or National Register property

☐ National Register district ☐ certified state or local district ☐ potential district ☐ National Register property

2. Nature of Request (check only one box)

☐ certification that the building contributes to the significance of the above-named historic district or National Register property for rehabilitation purposes.

☐ certification that the building contributes to the significance of the above-named historic district for a charitable contribution for conservation purposes.

☐ certification that the building does not contribute to the significance of the above-named district or National Register property.

☒ preliminary determination for individual listing in the National Register.

☐ preliminary determination that a building located within a potential historic district contributes to the significance of the district.

☐ preliminary determination that a building outside the period or area of significance contributes to the significance of the district.

3. Project Contact (if different from applicant)

Name Scott Newman Company 106 Associates

Street 11 Ward Street City Burlington State VT

Zip 05401 Telephone (802) 777-1572 Email Address scottnewman@106associates.com

4. Applicant

I hereby attest that the information I have provided is, to the best of my knowledge, correct. I further attest that [check one or both boxes, as applicable]:

☒ I am the owner of the above-described property within the meaning of "owner" set forth in 36 CFR § 67.2 (2011), and/or

☐ if I am not the fee simple owner of the above described property, the fee simple owner is aware of the action I am taking relative to this application and has no objection, as noted in a written statement from the owner, a copy of which (i) either is attached to this application form and incorporated herein, or has been previously submitted, and (ii) meets the requirements of 36 CFR § 67.3(a)(1) (2011).

For purposes of this attestation, the singular shall include the plural wherever appropriate. I understand that knowing and willful falsification of factual representations in this application may subject me to fines and imprisonment under 18 U.S.C. § 1001, which, under certain circumstances, provides for imprisonment of up to 8 years.

Name Jon Livadas Signature (Sign in ink) Date 12/13/2021

Applicant Entity LWM Residential LLC SSN or TIN 87-2815737

Street 1 Guyenne Road City Wilmington State DE

Zip 19807 Telephone (302) 598-3492 Email Address jon.livadas@outlook.com

NPS Official Use Only

The National Park Service has reviewed the Historic Preservation Certification Application – Part 1 for the above-named property and has determined that the property:

☐ contributes to the significance of the above-named district or National Register property and is a "certified historic structure" for rehabilitation purposes.

☐ contributes to the significance of the above-named district and is a "certified historic structure" for a charitable contribution for conservation purposes.

☐ does not contribute to the significance of the above-named district or National Register property.

Preliminary Determinations:

☒ appears to meet the National Register Criteria for Evaluation and will likely be listed in the National Register of Historic Places if nominated by the State Historic Preservation Officer according to the procedures set forth in 36 CFR Part 60.

☐ does not appear to meet the National Register Criteria for Evaluation and will likely not be listed in the National Register.

☐ appears to contribute to the significance of a potential historic district, which will likely be listed in the National Register of Historic Places if nominated by the State Historic Preservation Officer.

☐ appears to contribute to the significance of a registered historic district if the period or area of significance as documented in the National Register nomination or district documentation on file with the NPS is expanded by the State Historic Preservation Officer.

☐ does not appear to qualify as a certified historic structure.

3/30/22

Date National Park Service Authorized Signature (Sign in ink)

☒ NPS Comments Attached

City of Lebanon
New Hampshire

COUNCIL POLICY

COMMUNITY REVITALIZATION TAX RELIEF INCENTIVE PROGRAM GUIDELINES

Policy Number	Effective Date	Last Revision	Page No.
CC-105	**08/04/2021**		Page **1** of **4**
Approved by:	City Council	DocuSigned by: Timothy J. McNamara F08A405F81504ED...	

Section 1.0: Purpose

This document details the guidelines City Council will be utilizing when considering applications for the Community Revitalization Tax Relief Incentive Program, commonly known as 79-E. The guidelines are intended to assist applicants as they develop their applications allowing them to take full advantage of the program and meet the City's community revitalization goals.

Section 2.0: Scope

The guidelines apply to applicants, City Staff in the Planning & Development Department, the City Manager's Office, the Downtown Tax Increment Financing District Advisory Board, and the City Council.

Section 3.0: Definitions

Workforce Housing – (as provided in New Hampshire RSA 674:58, IV) means housing which is intended for sale and which is affordable to a household with an income of no more than 100 percent of the median income for a 4-person household for Grafton County as published annually by the United States Department of Housing and Urban Development. "Workforce housing" also means rental housing which is affordable to a household with an income of no more than 60 percent of the median income for a 3-person household for Grafton County as published annually by the United States Department of Housing and Urban Development.

Section 4.0: Policy Detail

In February 2016, the City Council adopted the provisions of the Community Revitalization Tax Relief Incentive Program pursuant to NH RSA 79-E to encourage rehabilitation of existing buildings and structures in downtown Lebanon and downtown West Lebanon. At that time, the City Council established a Downtown Lebanon 79-E District and a Downtown West Lebanon 79-E District.

Section 5.0: Procedures

Upon receipt of an application for tax relief under the City's 79-E program for a project that involves the *Substantial Rehabilitation* of a *Qualifying Structure*, as those terms are defined in RSA 79-E:2, the City Council shall hold a public hearing within 60 days.

5.1 The Council must determine if a project will generate one or more Public

Benefits.

Appropriate public benefits for consideration of the 79-E program are specifically identified within the state law, including:

- Enhancement of the economic vitality of the downtown; (RSA 79-E:7, I)
- Enhancement and improvement of a structure that is culturally or historically important on a local, regional, state or national level, either independently or within the context of an historic district, town center, or village center; (RSA 79-E:7, II)
- Promotion of the preservation and reuse of existing building stock throughout a municipality by the rehabilitation of historic structures; (RSA 79-E:7, II-a)
- Promotion of the development of municipal centers, providing for efficiency, safety, and a greater sense of community consistent with RSA 9-B (State Economic Growth, Resource Protection, and Planning Policy) (RSA 79-E:7, III); or
- Increase of residential housing in urban or town centers. (RSA 79-E:7, IV)

5.2 The Council must determine the period of time for which tax relief will be granted.

1. Under the terms of the 79-E program, the City Council may, in its discretion, grant up to five (5) years of tax assessment relief for a project that complies with the program requirements. (RSA 79-E:5, I)
2. The City Council may, in its discretion, grant up to two (2) additional years of tax relief for a project that results in new residential units and up to four (4) additional years of tax relief for a project that includes affordable housing. (RSA 79-E:5, II)
3. The City Council may, in its discretion, grant up to four (4) additional years of tax relief for the Substantial Rehabilitation of a Qualifying Structure that is listed on or determined eligible for listing on the National Register of Historic Places, State Register of Historic Places, or is located within and important to a locally designated historic district, provided that the Substantial Rehabilitation is conducted in accordance with the U.S. Secretary of Interior's Standards for Rehabilitation. (RSA 79-E:5, III)

For any amount of tax relief approved, such tax relief begins upon the completion of the substantial rehabilitation of the structure(s).

RSA 79-E does not define the term "affordable" for purposes of the tax relief incentive program nor does it specify any minimum number or percentage of units within a development that must be considered affordable in order to merit the tax relief.

Therefore, the City has adopted the definition of "workforce housing" from RSA 674:58 to define affordability as it relates to the RSA 79-E program.

The City will consider granting additional years of tax relief for workforce housing on a sliding scale depending on the targeted level of affordability (based on Area Median Income figures as published by the US Department of Housing and Urban Development (HUD)) and the percentage of units in a development subject to such affordability requirements as follows:

		TARGETED AREA MEDIAN INCOME (AMI)				
		60% or less	60 - 70%	70 - 80%	80 - 90%	90 - 100%
% OF UNITS IN PROJECT	40% or more	4	3	3	2	1
	30-40%	4	3	2	1	1
	20-30%	3*	2	2	1	0
	10-20%	2*	1	1	1	0
	0-10%	1*	1	0	0	0

* Units targeted for 50% or less of AMI qualify for 1 additional year of tax relief

However, the City understands that a significant purpose of the 79-E program is to enable and incentivize rehabilitation projects that may not otherwise be financially viable. If the City Council concludes that requiring a project to achieve the recommended affordability standards would undermine the viability of the project and prevent it from occurring at all, then the City Council shall retain the discretion and freedom to vary the affordability requirements while still balancing the overall benefit to the community of the completed project against the potential tax revenue foregone.

5.3 Tax Increment Financing (TIF) Districts

Applications for tax relief under this program for properties located within a Tax Increment Financing (TIF) District shall be reviewed by the applicable TIF Advisory

Board. The Advisory Board shall provide recommendations to the City Council and the District Administrator regarding the impacts to the administration and operation of the District relative to the proposed tax relief requested.

Section 6.0: References (Charter/Code/State Statues)

1. NH RSA Chapter 79-E Community Revitalization Tax Relief Incentive
2. NH RSA 674:58 Definitions-Workforce Housing
3. City Code Chapter 31-43,2. Downtown TIF Advisory Board, Purposes; Authority and Duties

Section 7.0: Policy & Procedure Revision History

	Section	**Revisions**	**Date**
Original Adoption			08/04/2021
Amendment			
Amendment			
Amendment			

10. New Business:

10.C – RFP - 20 Spencer Street Workforce Housing

Background

In 2016 the City initiated the Downtown Visioning Study which included the former DPW facility located at 20 Spencer Street, approximately 1.92 acres of land. This location was selected as one of the areas to be redeveloped as part of the visioning study. The property is located within the Downtown Tax Increment Finance District. The City Council requested the EDC and the Downtown TIF Advisory Board to develop and RFP to redevelop the property.

The City issued an RFP for the redevelopment in August of 2019. Two proposals were submitted one of which was from the Braverman Company, LLC. The proposal involved the construction of a multifamily apartment building with as many as 94 units. Forty-five of those units were proposed to be workforce housing (80-100% AMI). The units would be a combination of 1 & 2 bedrooms. The Braverman Company proposed to purchase the property for $1.5 million.

The former DPW structures on the property were demolished by the City in 2021. A number of environmental issues remained on the site including previously undetected quantities of PCBs. The PCB contaminated soil was removed and transferred to an appropriate disposal site out of state. The site soils still contain levels of Arsenic higher than what is permitted by state standards. However, this only applies to drinking water. The site is served by City water and sewer. There is nothing from the environmental perspective that prohibits development of the site at this point. The total cost of demolition and site clean up were just under $1 million.

The Braverman Company withdrew from the project in January of 2023. Ken Braverman, the company principal felt that the economics were not feasible for the project at this time. The cost of capital, construction, and the shortage of construction labor resulted in his decision to withdraw from the partnership with the City.

On June 7, 2023, the City Council requested the EDC and the Downtown TIF Advisory Board to make recommendations as to what the next steps should be to redevelop the property. The Council suggested the EDC & TIF Advisory Board incorporate the Council's Strategic Objectives, Priorities and Strategic Plans into their discussion and review of 20 Spencer Street and the back parking lots, along with looking into what non-profit organizations can bring to the table and how this would potentially affect City property taxes.

The EDC and TIF Advisory Board met held meetings to discuss recommendations. On July 27, 2023 the EDC voted the following:

***Motion by Mr. Brown that the Economic Development Committee recommends that the City Council approve the RFP developed by the Economic Development Committee to go out in September and come back within approximately 120 days, while also pursuing a parallel track to solicit proposals from the non-profit housing community.
Seconded by Mr. Purcell.***

**** The Vote on the MOTION was approved by the EDC (5-0-0)***

The TIF Advisory Board did not have a quorum of its members to act on the proposal.

On September 6, 2023 the City Council received the recommendation of the EDC. After much discussion the Council took the following action;

Assistant Mayor Below MOVED, ***that the Lebanon City Council authorizes the City Manager to work with non-profit housing organizations to develop proposals for workforce housing to be considered by the City Council.***
Seconded by Councilor Sykes

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

The City Manager has modified the RFP to solicit for profit and non-profit entities to submit proposals for a workforce housing development on the property. The City Manager is requesting the Council to review the RFP to ensure it elicits the information necessary to allow the Council to make a determination to move forward with a development project on the property.

Action

MOVED, that the Lebanon City Council authorizes the City Manager to initiate the RFP for the redevelopment of 20 Spencer Street for the development of workforce housing as included in the September 20, 2023, City Council Agenda Packet.

BE IT FURTHER MOVED, that proposals received in accordance with the approved RFP will be brought to the City Council for review and consideration.

Included in this Section:

1. DRAFT City of Lebanon Request for Proposals for 20 Spencer Street, Lebanon, NH
2. DRAFT City of Lebanon Request for Proposals for 20 Spencer Street, Lebanon, NH Selection Process and Criteria
3. NH RSA Chapter 75 Appraisal of Taxable Property, Section 75:1-a

CITY OF LEBANON
REQUEST FOR PROPOSALS
FOR
20 SPENCER STREET, LEBANON, NH

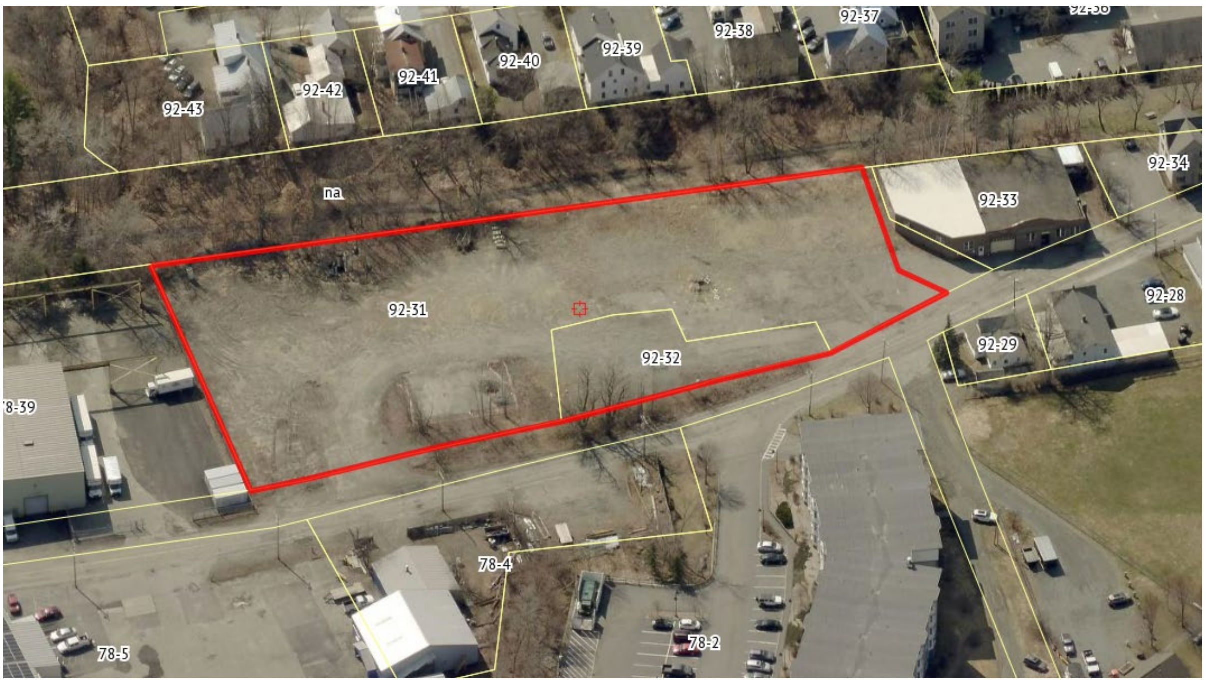
1. Introduction

The City of Lebanon, New Hampshire is interested in identifying a qualified and capable non-profit or private developer to propose and complete the redevelopment and revitalization of a City-owned parcel located at 20 Spencer Street within the Lebanon downtown core. The redevelopment of this site would be 100% workforce housing residential development of multiple stories of sufficient architectural character and quality to support the City's Master Plan goals for high-performing facilities, to contribute taxable value, and to be compatible with the appearance of surrounding downtown Lebanon buildings.

The 1.92-acre site is located near the center of the City's historic downtown district and is walking distance from Colburn Park, the civic heart of the community. The adjacent downtown area is home to a variety of restaurants, retail stores, offices, Lebanon Opera House, AVA Gallery and Arts Center, Upper Valley Music Center, and the Carter Community Building Association fitness and recreation facility, as well as public recreation and public parking areas. The site, just off Exit 18 of I-89, is also within approximately 10 minutes of Dartmouth Health Medical Center,

Dartmouth College, major technology and manufacturing employers, and regional shopping districts.

The City of Lebanon proposes the transfer of the property, or a portion thereof, to a non-profit organization or developer or development team for the express purpose of having the site redeveloped for workforce housing residential, with on-site parking, subject to the guidelines outlined in this proposal. Alternatively, the City would consider entering into a public/private/non-profit partnership where the non-profit/developer works in concert with the City to address and resolve site-related issues and permitting in order to achieve a successful redevelopment outcome. The City may also consider other financial scenarios proposed by potential non-profits/developers that would be judged on the basis of their ability to realize the Vision and Development Objectives outlined herein, conform to the City's 2012 Master Plan goals and development regulations, accomplish the Strategic Objectives of the 2023 Strategic Plan, and achieve the best result for the City of Lebanon and its citizens.



Aerial photo looking south at project site.

Upon the successful completion of the redevelopment of the 20 Spencer Street property, the City may be open to partnering with the successful non-profit/developer on additional opportunities within the downtown area as envisioned in the Lebanon Downtown Visioning Study report.

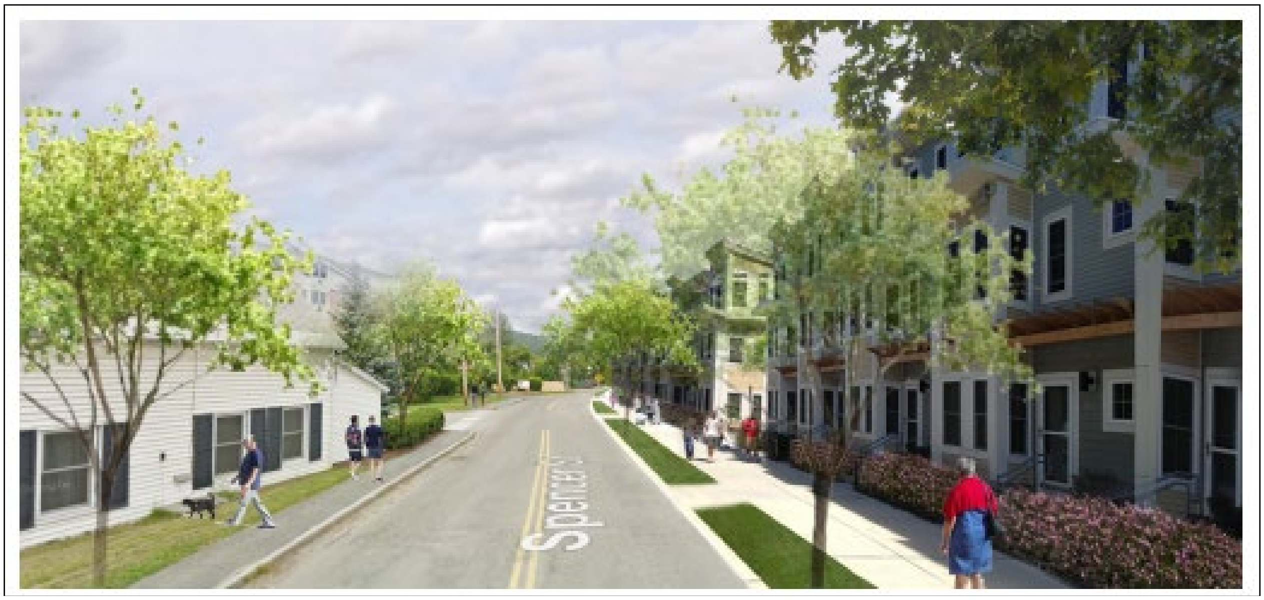
2. Vision and Development Objectives

In the 2016 Downtown Visioning Study, the vision for Spencer Street was articulated as follows:

> "Spencer Street will become a walkable neighborhood street with the addition of a new sidewalk and lighting. New development at the former City DPW lot *[20 Spencer Street]*, and improved building facades or fencing along other parcels, will create a more consistently attractive and safe street. A mix of commercial and residential use will keep the street active at different times of the day and week, spread out traffic, and support economic development for Lebanon. Walking connections to the Mascoma River Greenway and other riverside paths and parkland will provide residents and workers access to beautiful recreation amenities."

- p.80 of Downtown Visioning Study Final Report

The Visioning Study also included conceptual-level renderings of possible redevelopment scenarios for the Spencer Street corridor illustrated below.



- Residential Development Concept, Figure 5.16; p.85 of Downtown Visioning Study Final Report

- Office Development Concept, Figure 5.16; p.85 of Downtown Visioning Study Final Report

Since 2020, the City has completed the demolition of the former DPW garage and administrative office building, removed underground storage tanks, and remediated contaminated soils on the property to prepare the site for redevelopment. In addition, the City has worked with the New Hampshire Department of Environmental Services (NHDES) to discharge and release Activity and Use Restrictions previously applied to the property. NHDES has requested that the City continue to monitor groundwater quality on a periodic basis, but there are no development restrictions on the property at the present time.

In 2021-22, the City completed the reconstruction of Spencer Street to upgrade storm drainage, extend the public sidewalk, add on-street parking, and introduce other streetscape improvements.

The City also paved a segment of the adjacent Northern Rail Trail to enhance and facilitate year-round use.

The City is seeking a non-profit/developer for the site who will create a place that residents and visitors can enjoy and one which supports Downtown Lebanon by creating an attractive, vibrant focal point of the community in furtherance of the vision expressed by the community. This development should reflect the overall character of Lebanon, as well as enhance the vibrancy the Downtown enjoys.

The development should demonstrate a commitment to sustainable and green building practices consistent with Lebanon's Principles for Sustainability, the goals of the Energy Chapter of the Master Plan, and the City's support for the Paris Climate Agreement. The ideal /non-profit/developer will demonstrate state-of-the-art, cost-effective, high-performance energy efficiency, and use of on-site renewable energy in a largely market-based development.

It is the City's objective to enter into a "Purchase and Sales/Development Agreement" with the qualified and reputable non-profit/developer that submits the most appropriate proposal for redeveloping this important site. The successful proposal will feature the following components:

1) Land Uses: The City is interested in the following land uses for the site:
   a) Residential uses may be ownership or rental housing. The City's goal is that all units would meet the standards for workforce housing.

2) Building Design: Interested non-profits/developers should provide conceptual site plans and building renderings and/or models for their project. Developers are advised that the City is most interested in projects that will include architectural designs compatible with existing downtown Lebanon buildings, including modern or contemporary architectural designs that are contextually appropriate with attractive perimeter landscaping and site integration with the public sidewalk and streetscape improvements along the property frontage, which have been installed by the City. Proposed projects should comply with the following guidelines:
   a) Multi-story construction (3 to 5 stories) measured from average surrounding grade.
   b) Development of one or more new buildings on the site should align with and be located near the Spencer Street frontage and should tie in with recent roadway, sidewalk, and streetscape improvements completed by the City.
   c) The building(s) should utilize high-quality, durable materials and appropriate design details to complement the character of the surrounding neighborhood.
   d) The development should demonstrate a high level of energy efficiency and sustainable building practices, including minimizing fossil fuel use and maximizing renewable energy use to the extent economically feasible, and integrating Low Impact Development (LID) techniques to the maximum extent feasible. This can be demonstrated by a commitment to above-code performance through proposed conformity with one or more of the following (or comparable) voluntary standards:
      - 2021 International Energy Conservation Code (2021-IECC),
      - 2021 International Green Construction Code (2021-IgCC),
      - LEED (Leadership in Energy and Environmental Design) standards,
      - EPA Energy Star Certification with Indoor airPLUS qualification,
      - US DOE Zero Energy Ready Home Program, or
      - PHIUS+ 2018: Passive Building Standard -- North America.
   e) The development should provide direct pedestrian and bicyclist connections to the adjacent Northern Rail Trail for occupants, customers, and tenants of the development.

   f) Parking for vehicles and bicycles sufficient for the proposed development should be provided on-site, to the extent feasible. The City is open to considering the provision of supplementary parking within the nearby public parking lots.
   g) Universal design for interior and exterior facilities should be integrated to the extent feasible.
   h) The development should provide opportunities for the incorporation or display of public art.

3) Community Economic Benefits: The City is highly interested in development concepts which will:
   a) Affordable workforce housing that helps address the regional housing shortage.
   b) Create vitality in Downtown and serve as a catalyst for redevelopment of surrounding properties.
   c) Expand the City's tax base.
   d) Demonstrate state-of-the-art, cost-effective, energy efficient, and sustainable building performance, including the use of renewable energy to meet some or all energy needs.
   e) Support the City's employment base with permanent jobs that provide a living wage or better.

Further information and details about the City of Lebanon, in general, and the 20 Spencer Street property, in particular, are provided in the attached Appendices. In addition, the following documents and resources are specifically referenced for review by potential respondents to this Request for Proposals (RFP). Non-Profits/Developers seeking to respond to the RFP will be expected to familiarize themselves with the City of Lebanon's 2012 Master Plan, the 2016 Downtown Lebanon Visioning Study, and the 2023 Strategic Plan as listed below.

Additional Information and Resources:

- Property Survey: "Lot Line Adjustment Plat, City of Lebanon and Keith Beardslee, 10 & 20 Spencer Street, Lebanon, Grafton County, New Hampshire, Project No. 1526, Date: October 4, 2018", prepared by Rockwood Land Services, LLC, recorded on December 20, 2018 at Grafton County Registry of Deeds as Plan #15652
- Lebanon 2012 Master Plan
  - Lebanon Central Business District Chapter
  - Housing Chapter
  - Energy Chapter
- Lebanon Zoning Ordinance
- Downtown Lebanon 2016 Visioning Study
  - Executive Summary
  - Full Report
  - Appendices
    - Appendix B: Market Analysis Memorandum
    - Appendix F: Design Guide Strategies
- Lebanon 2023 Strategic Plan
- Phase II Environmental Site Assessment report, prepared by Credere Associates, LLC, dated March 16, 2018 (Note: the recommended actions from the Phase II ESA report have been completed by the City of Lebanon)
- Downtown Lebanon TIF District
- Community Revitalization Tax Relief Incentive Program (79-E)
- Economic Revitalization Zone

- PHIUS+ Is Within Reach, Commercial Resource Center PHIUS
- Vital Communities Upper Valley Workforce Housing Information
- "Conceptual Reuse Plan, City of Lebanon Former DPW Site, Spencer Street, Lebanon, NH", prepared by Pathways Consulting, dated March 25, 2019.
- April 21, 2022 City Council Housing Resolution

3. Submission Requirements

Developers responding to this RFP are required to submit detailed information as set forth in this section. Additional materials and information may also be included in the submission package as deemed appropriate by the respondent.

Proposals must be received no later than **XX:00 PM on ___________** to be eligible for consideration. Proposals must be submitted in one (1) electronic copy (.PDF or other general use format, on a portable USB flash drive or CD/DVD disk) addressed to David Brooks, Deputy City Manager, 51 North Park St., Lebanon, NH 03766. Proposals shall be submitted in a sealed envelope clearly marked "2023 Request for Proposals - 20 Spencer Street".

All materials submitted in response to this RFP become the property of the City of Lebanon and may be used as the City of Lebanon deems appropriate. All submittals will be subject to the applicable provisions of RSA 91-A.

Respondents should carefully follow the format and instructions outlined below. Proposals must contain the information and documents described below and the completed documents must be signed. Proposals which do not include the following items may, at the discretion of the City, be deemed non-responsive and may not be considered. The Proposal shall be written in sufficient detail to permit the Review Committee to conduct a meaningful evaluation of the proposed project.

The Proposal must include the following information:

1) Cover Page.
   The cover page should include the following information:
   a) Title of RFP
   b) Respondent/Name of Organization or Firm
   c) Business Address
   d) Business Phone
   f) Web page and email addresses
   g) Primary Contact Person and contact information

2) Table of Contents.
   The Table of Contents should outline the major areas of the proposal. All pages of the proposal, including the enclosures, should be clearly numbered and labeled and correspond to the Table of Contents.

3) Development Team and Organization.
   State the members of the development team, including the developer (including principals and any joint venture partners), management company, architect, landscape architect, engineers, legal, marketing, financial partner(s) (if any), and other members key to development or operation of the project. Outline the roles and organization of the team.

4) Development Plan.

a) Proposed development program information for the entire project and by phase, major use component, and building/site, as appropriate:
   i) For total project and for each phase and use
      - Gross and net square feet of non-residential space
      - Number and type of residential units (e.g. 1 BR, 2 BR, etc.)
      - Parking supply (on-site or off-site)
   ii) Other information for the above or other uses, as appropriate, to fully describe them
b) Public improvements (e.g. sidewalk connections and streetscape improvements, etc.) proposed for project in terms of:
   i) nature/description (e.g. components, amenities, square footage, seating, public art, etc.)
   ii) phasing
   iii) capital cost (hard and soft)
   iv) maintenance and management costs
   v) responsibility for funding capital costs, maintenance, management, and programming
   vi) basis for cost estimates
c) State whether the proposed project is confined to the property offered by the City or if it utilizes additional property. If the latter, specify the level of commitment of such additional property to be included in the Respondent's project and provide evidence of such commitment. If the proposed project may include additional property, but such property has not yet come under the Respondent's control, indicate the status of acquisition efforts, and, in the appropriate sections below, the impact on program, design, phasing, and proposed terms that acquisition of such additional property would have on the project. Furthermore, state whether the proposed project is intended to be a public/private or public/non-profit partnership.

5) Conceptual Design.
   a) A design narrative which describes:
      i) the physical attributes of the project.
      ii) the goals of the proposed design and development mix and how the various elements work to achieve those goals.
      iii) energy efficiency and sustainable design features, including any low impact development techniques, proposed renewable energy systems, and targeted level of energy efficiency, which can be expressed as a target to equal or exceed or as a range within which the project is expected to perform as measured by site and source kBTU/sq.ft./yr., Energy Star score for new construction, LEED certification level, and/or other proposed metrics.
      iv) characterization of design style, quality level, or other information that would give the City a better understanding of the character of the buildings, public improvements, and project as a whole.
      v) the approach and level of commitment to involving the public in the design process.
   b) A set of conceptual level design graphics (in 8½" x 11" form in the body of the proposal document) and in one set of presentation boards, which communicate the following:
      i) an overall site diagram which depicts the location and mix of uses, including a table which identifies the net and gross square foot area of each use and number and type of units by building and/or floor level
      ii) development site plan which highlights the key design elements and proposed site materials
      iii) not less than one overall cross section of the site which illustrates how the development relates to abutting parcels/uses

6) Project Schedule.
   Submit an estimated schedule for project implementation depicting milestones for the full project, from commencement through occupancy of the final phase. Schedule should be

presented in a graphic format, allowing understanding of any cause and effect relationships between major elements.

7) Environmental / Public Approvals Plan.
Outline the major elements of the environmental and public approvals process (including agencies and approvals required) for the project and the key issues and time frames involved. Time frames should be incorporated in the Project Schedule.

The plan should address environmental remediation issues. Note, the City is open to considering a public/private or public/non-profit partnership in which the non-profit/developer works with the City to address and resolve site-related issues and permitting to achieve a successful outcome.

8) Public Funding Plan.
Identify any public funding, other than from the City, that might be sought for the project and your assessment of likelihood, amount, and timing of receiving those funds. Describe any actions the City, or other public body, needs to take to assist in acquiring the sought-after funding. Identify in your financial proposal whether any such funding is assumed and the implications if it is or is not secured.

9) Description of the proposed approach to developing, maintaining, and managing the project.
   a) Proposed role of the Respondent in developing the various project components itself versus partnering with or selling/sub-leasing off parcels to other developers.
   b) Proposed approach to land takedown.
   c) Proposed role of the Respondent in providing security and maintenance during the predevelopment and development phases of the project.
   d) Proposed approach to ownership, management, and maintenance of land and improvements relative to public areas and private development components.
   e) Concepts for activity/event programming of public spaces that will ensure their active use by and attraction to the larger community and the Respondent's proposed role in managing them.
   f) Activities which you envision the City participating in during the design, permitting and construction phases of the project.
   g) Nature and level of commitment to ongoing ownership and management of the project by Respondent.
   h) Identification of any anticipated or programmed transfer of ownership of the project or any portion of the project (including the land).

10) Financial Proposal.
   a) Proposed terms of transfer of the City-owned land.
   b) Any allowances or conditions relating to environmental remediation.
   c) Phased acquisition/land take-down schedule and relationship to key milestones.
   d) Scope, nature, cost, timing, and conditions, if any, relative to public improvements to be funded by the developer (e.g. creation of parkland, public infrastructure or improvements).
   e) Identification of any project components which may at any time charge a fee (e.g. parking garage) and provisions for on-site parking and proposed arrangements for off-site parking, if necessary.
   f) Proposed approach to long-term maintenance of the development and the public improvements and anticipated costs funded by developer.
   g) Any anticipated off-site improvements, their cost, and who would be responsible for funding these costs.
   h) The number and type of affordable workforce housing units, including proposed eligibility criteria.

i) An estimate of the projected value of the completed development and a summary of the resulting tax impacts and TIF revenues as the relate to RSA 75:1-a, Low Income Housing Tax Credit. Submission of a draft PA-67.
j) All other key information or anticipated term sheet items that the City should be aware of in the formation of its approach to negotiating with your team.

11) Statement of Challenges.
A brief narrative which discusses the three most significant challenges facing this development as proposed and how they will be addressed.

12) Developer Qualifications and Financial Capacity.
a) Approach to Financing - Description of your approach to financing the project, including identification of specific financial sources to be pursued for debt and equity, including the amount and source of equity.
b) Commitment of Principals - Identify the level of financial commitment which the principals of the development entity will pledge to this project.
c) Commitment of Institutions - Documentation from financial institutions willing to commit financing for this project as proposed herein, clearly citing any constraints, time sensitive terms, and/or conditions of the financing.
d) Track Record - Summary level narrative which details the prime non-profit/developer's and project team's experience in successfully executing comparable residential projects. Provide supplemental information for original team members and complete information for new team members addressing:
   i) Number of years the Respondent has been in business/operation, number of employees, and the primary markets served;
   ii) Description of proposing organization's history, legal structure, development experience, qualifications, and understanding of the development requirements;
   iii) Description of significant, comparable project(s) developed, managed, and/or designed by members of the proposed design team including:
      - name and location of project;
      - description of project including building energy use in site and/or source kBTU/sq.ft./yr., Energy Star score, LEED certification, or any other notable sustainable, renewable, or green building features;
      - total dollar value of project;
      - client contact person and phone number for reference;
      - specification of the development team member's role(s) in the project (e.g. primary developer, development manager, manager, architect, consultant, etc.);
      - the results/status of the project and the development team member's remaining involvement in the project.
   iv) Information for team architect and any other members of the team including design professionals should be provided. If not provided in other responses to this RFP, include graphic representations of architect's prior relevant work, along with a description of the projects and their role in these projects.

CITY OF LEBANON
REQUEST FOR PROPOSALS
FOR
20 SPENCER STREET, LEBANON, NH

4. Selection Process & Criteria

Limitations:

This RFP does not commit the City to select any organization or proposal, to pay any costs incurred in the preparation of a response to this request, or to enter into any agreement for services or transfer of the property.

The City reserves the right to accept or reject any or all submissions or proposals received as a result of this request, or to cancel this RFP in part or in its entirety, if deemed to be in the best interest of the City.

Process:

All responses to the RFP will be reviewed and evaluated based on the information contained in the respective submission packages, responsiveness to the selection criteria set forth below, and other factors reflecting the best interests of the City.

Representatives from the City's Economic Development Commission and the Downtown Lebanon Tax Increment Finance (TIF) Advisory Board will evaluate submissions beginning after the submission due date. At the conclusion of deliberations, a short list of proposers will be invited for interviews.

Following the interviews, and possible public presentation(s), the review committees will recommend a preferred organization candidate to the City Council for approval.

Selection Criteria:

The factors to be considered in the selection process with their relative weight include:

Development Team – 20%

The Committee will consider:

- Development team's relevant credentials, particularly related to comparable residential and/or mixed-use development projects.
- Development team's demonstrated ability to effectively execute work in a timely manner.
- Proven ability to work effectively and productively with the community and public agencies.
- Development team's track record in contributing to the revitalization of adjacent neighborhoods and sustainable building practices.

Development Vision – 40%

The Committee will consider:

- Development team's creativity and overall development vision for this site.
- Development team's design aesthetic as demonstrated in previous projects and as proposed.
- Responsiveness to the characteristics and qualities presented in the Master Plan, Downtown Visioning Study, the City's Strategic Plan and the connectivity to creating a vibrant and interesting urban core.

- Development team's experience with and commitment in this project to high performance, energy efficient, and sustainable building practices, including use of renewable energy and low impact development techniques.
- The eligibility criteria for affordable workforce housing units.

Financial – 30%

The Committee will consider:

- The value to the community of the proposed commitment to affordable workforce housing units.
- Revenue generated in the form of projected tax income and TIF revenues. A model of the projected property tax impact as a result of the Low Income Housing Tax Credit under the provisions of RSA 75:1-a.
- Updates to public infrastructure.
- Other components, which might result from a public/private partnership.

Other -10%

The Committee will consider:

- Completeness and quality of the submission.
- Other compelling information and materials as provided by the development team.
- Overall value of the project in supporting goals of the City's Master Plan, Visioning Study, Strategic Plan, and Sustainability Principles.

TITLE V
TAXATION

CHAPTER 75
APPRAISAL OF TAXABLE PROPERTY

Section 75:1-a

75:1-a Residential Property Subject to Housing Covenant Under the Low-Income Housing Tax Credit Program. –
The appraisal for property tax purposes on multifamily residential rental property which is governed by section 42 of the Internal Revenue Code and which is subject to a recorded housing subsidy covenant that restricts tenant eligibility and rents shall, upon the affirmative request of the taxpayer, be determined under this section. A copy of the recorded land use restriction required by section 42 of the Internal Revenue Code or other low income rental use restriction covenant required by the New Hampshire housing finance authority, is sufficient proof that the property is eligible for assessment under this section.
I. To make an election for an appraisal of property subject to a housing covenant under the low-income housing tax credit program, the taxpayer shall, by October 1 preceding the tax year for which the election is sought, provide written notice to the municipality of the taxpayer's election to be assessed under this section, using a form prepared by the department of revenue administration. A property that as of April 1 of the tax year is under construction shall not be eligible to apply for assessment under this section.
II. When an election is made, the property shall be assessed under this section for the next 10 tax years, provided the property remains subject to the housing covenant under the low-income housing tax credit program. A property subject to assessment under this section shall not be granted property tax exemption under RSA 72:23.
III. A taxpayer who makes an election under this section shall, by April 15 of each applicable tax year, provide the assessor with the relevant information described in this section, using a form prepared by the department of revenue administration.
IV. Financial information that is required from the taxpayer under this section shall be the audited financial statements from the prior calendar year as prepared by a third-party certified public accountant. For properties with financial data for part of the prior calendar year, the assessor shall use the partial data and the projected operating budget for the first full year of operations as provided by the New Hampshire housing finance authority to extrapolate a full year's estimated operation financials.
V. A taxpayer making an election under this section shall be liable for taxes on the property in an amount that is the greater of:
(a) The taxes determined using the income approach under this section; or
(b) The taxes in an amount equal to 10 percent of the actual rental income and other income.
VI. The assessed value shall be calculated using an income approach whereby the net operating income is divided by the overall capitalization rate and, except when the municipality has updated its assessment values to equate to market values, multiplying that value by the previous

year's equalization ratio.
VII. The assessed valuation of residential rental property subject to a housing covenant under the low-income housing tax credit program shall not take into consideration the value of intangible assets including, but not limited to, government subsidies or grants, below market rate mortgage financing, and tax credits where such subsidies are used to offset project development expenses in order to allow for restricted rents. The assessed valuation shall not take into consideration the actual cost of acquisition or construction of the project.
VIII. In this section:
(a) " Capitalization rate " means an overall capitalization rate comprised of:
(1) A market capitalization rate that is typical for the geographic area in which the property is located, as determined annually by March 31 by the commissioner of revenue administration, and as published by the New Hampshire housing finance authority pursuant to RSA 204-C:8-a; and
(2) The municipality's previous year's equalized tax rate.
(b) " Collection loss " means the amount of actual uncollectible rents.
(c) "Net operating income" shall be calculated by subtracting from the potential gross income:
(1) The vacancy loss;
(2) The collection loss; and
(3) The operating expenses.
(d) " Operating expenses " means the actual ordinary and typical yearly expenses that are necessary to keep the property functional, including deposits to restricted reserve accounts required by the housing subsidy covenant or other legal restriction but excluding property taxes, mortgage debt service, and depreciation, incurred with respect to the property. Expenses for capital improvements, meaning improvements with an expected life exceeding 5 years as compared to yearly maintenance or work performed for unit turnover, shall not be considered operating expenses.
(e) " Other income " means income that is attributable to the real estate and is ordinary and recurring, such as laundry or vending income. Interest on restricted reserve funds shall be considered other income. For properties with nonresidential space that is or can be rented as commercial space to third parties, market rent, considering any legal, market, or covenant restrictions, shall be attributed to such space and shall be considered as other income. Common area space within a property that are used primarily to benefit the property's residents or to provide services to the property's residents shall not be separately assessed and no income shall be imputed to such space.
(f) "Potential gross income" shall be calculated as follows:
(1) For units receiving assistance under a project-based rental subsidy contract, using the rents specified in the contract.
(2) For all other units subject to a legal restriction, using the maximum restricted rents allowed by the legal restrictions governing the rents of the units for the geographic area in which the property is located. Where multiple legal restrictions apply, the most restrictive shall be used. Maximum restricted rents shall be adjusted as appropriate using utility allowances for the geographic area in which the property is located, and as provided by the New Hampshire housing finance authority pursuant to RSA 204-C:8-a.
(3) For all non-restricted units in properties where only a portion of the units are subject to a legal restriction, using non-restricted rents as determined by the local market.
(4) Other income shall be included in potential gross income.

(g) " Restricted reserve funds " means funds that are required by the housing covenant under the low-income housing tax credit program and are restricted to specific uses, which shall be treated as follows:
(1) Actual payments into such funds shall be considered an operating expense; and
(2) Actual interest earned on such funds shall be considered other income.
(h) " Vacancy loss " means a deduction from the potential gross income that is calculated by multiplying the potential gross income for the rental units by the rental market vacancy rate for the geographic area in which the property is located, as provided by the New Hampshire housing finance authority pursuant to RSA 204-C:8-a.
(i) " Multifamily rental property " means the property described in the recorded land use restriction agreement.
IX. The commissioner of the department of revenue administration shall adopt rules pursuant to RSA 541-A concerning how capitalization rates shall be established, including a process for receiving public input prior to such establishment.

Source. 2008, 390:5. 2010, 40:1-6, eff. June 30, 2010.

Agenda
Lebanon City Council
September 20, 2023

10. New Business:

10.D – Vote to Make Public Previously Sealed Non-Public Session Minutes

Background

House Bill 321 was approved by the legislature on August 4, 2023, and becomes effective on October 3, 2023. This legislation establishes a timeframe for the release of previously sealed, non-public minutes for all municipalities in the State.

While adequate time has been provided by the State to address the issue, City Administration has made the choice to begin the process now and will be working over the next several months to cull through previously sealed, non-public minutes to determine their continued sensitivity in relation to the protected categories outlined in RSA 91-A. A list of minutes that are determined to be available for release will be provided to the Council for a vote to release to the public.

Below is the list we have reviewed to date, along with the protected category under which they are classified:

91-A:3.II(e) – Pending Claims or Litigation

Monday, April 16, 1979	Wednesday, January 19, 1983
Wednesday, June 6, 1979	Wednesday, February 2, 1983
Wednesday, August 1, 1979	Wednesday, March 16, 1983
Monday, August 27, 1979	Wednesday, May 4, 1983
Wednesday, September 19, 1979	Wednesday, July 20, 1983
Wednesday, December 19, 1979	Wednesday, November 16, 1983
Wednesday, April 29, 1981	Tuesday, March 6, 1984
Wednesday, April 15, 1981	Wednesday, May 2, 1984
Wednesday, May 20, 1981	Wednesday, January 20, 1988
Wednesday, July 1, 1981	Friday, February 12, 1988
Wednesday, October 6, 1982	

91-A:3.II(l) – Consideration of Legal Advice

Wednesday, January 20, 1988

91-A:3.II(d) – Acquisition, Sale, or Lease of Property

Wednesday, December 17, 1980	Tuesday, March 3, 1981
Wednesday, June 3, 1981	Tuesday, February 14, 1984
Wednesday, May 16, 1984	

Action

The following motion is offered for Council consideration:

MOVED, that the Lebanon City Council hereby unseals and makes available to the public all City Council non-public session minutes as listed and provided in the September 20, 2023 City Council Agenda Packet.

Included in this Section:

1. Chapter 189 HB 321-FN-LOCAL (Final Version) – Approved: August 4, 2023; Effective Date: October 3, 2023

CHAPTER 189
HB 321-FN-LOCAL - FINAL VERSION

05/18/2023 1729s

2023 SESSION

23-0423
05/04

HOUSE BILL *321-FN-LOCAL*

AN ACT relative to minutes from nonpublic sessions under the right to know law.

SPONSORS: Rep. Yokela, Rock. 32; Rep. Ammon, Hills. 42; Rep. Verville, Rock. 2; Rep. Alexander Jr., Hills. 29; Rep. Ulery, Hills. 13; Rep. McWilliams, Merr. 30; Sen. Gannon, Dist 23

COMMITTEE: Judiciary

ANALYSIS

This bill requires public bodies to review meeting minutes withheld from public disclosure at least every 10 years to determine whether they should continue to be withheld. Minutes not reviewed after 10 years shall be made public.

- -

Explanation: Matter added to current law appears in ***bold italics.***
Matter removed from current law appears [~~in brackets and struckthrough.~~]
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.
05/18/2023 1729s 23-0423
05/04

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty Three

AN ACT relative to minutes from nonpublic sessions under the right to know law.

Be it Enacted by the Senate and House of Representatives in General Court convened:

189:1 New Paragraph; Minutes from Nonpublic Session. Amend RSA 91-A:3 by inserting after paragraph III the following new paragraph:
IV.(a) A public body or agency may adopt procedures to review minutes of meetings held in nonpublic session and to determine by majority vote whether the circumstances that justified keeping meeting minutes from the public under RSA 91-A:3, III no longer apply. If the public body determines that those circumstances no longer apply, the minutes shall be available for release to the public pursuant to this chapter.
(b) In the absence of an adopted procedure to review and determine whether the circumstances no longer apply for meeting minutes kept from the public, the public body or agency shall review and determine by majority vote whether the circumstances that justified keeping meeting minutes from the public under RSA 91-A:3, III no longer apply. This review shall occur no more than 10 years from the last time the public body voted to prevent the minutes from being subject to public disclosure. Meeting minutes that were kept from the public prior to the effective date of this paragraph that are not reviewed by the public body or agency

within 10 years of the effective date of this paragraph shall be subject to public disclosure without further action of the public body.
189:2 Effective Date. This act shall take effect 60 days after its passage.

Approved: August 04, 2023
Effective Date: October 03, 2023