

FINAL

**LEBANON CITY COUNCIL
REGULAR SESSION MINUTES
Wednesday, January 3, 2024 7:00 p.m.
Council Chambers**

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

MEMBERS PRESENT: Mayor Tim McNamara, Assistant Mayor Clifton Below, Erling Heistad, Karen Liot Hill, Christian Simon, George Sykes, Douglas Whittlesey, and Karen Zook

MEMBERS ABSENT: Devin Wilkie

STAFF PRESENT: City Manager Shaun Mulholland, Deputy City Manager David Brooks, Deputy Director of Planning & Development Tim Corwin, Director of Planning & Development Nathan Reichert, Public Works Director Jay Cairelli, Recreation, Arts and Parks Director Paul Coats, City Assessor Michael Pelletier, Finance Director Vicki Lee, Deputy Finance Director Alesia Williams, Administrative Assistant for Planning Crystal Taplin

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

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

- City Manager Shaun Mulholland announced the meeting criteria for the public.

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

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

- Councilor Simon spoke about the lack of (holiday) lighting missing in West Lebanon, hoping it was just an unfortunate oversight. He hopes that in the years to come, we can equalize our holiday spirit on both sides of the community.
- Councilor Sykes spoke about the housing crisis facing the City and his reasons why he felt this upcoming year would bring an opportunity for the Council and residents of the City to re-examine the issues in solving this problem. He suggested: Thinking about who we want to attract (to the City); establishing a rent subsidy program; helping professional students who have high debt with student loan incentives; and potentially establishing rent control.
- Assistant Mayor Below announced the Community Power Coalition of New Hampshire has established new rates that will start on February 1, 2024 and extend through October of 2024. Lebanon's Community Power basic rate will go to \$0.081 Kwh from the current rate of \$0.10 Kwh. Business rates will also average out to \$0.081 Kwh making these the lowest rates for all utilities in the whole state for all competitive buyers.

5. RECOGNITIONS: NONE

6. ACCEPTANCE OF MINUTES:

- November 28, 2023 (Budget Work Session)
- December 6, 2023 (Regular Meeting)
- December 13, 2023 (Regular Meeting)
- December 14, 2023 (Special Meeting)

Amendments: Page 67, Lines 21: Should read as follows: In this case we are actually asking the taxpayer to be a multi-million dollar investor in a project that we do not “have” open books on, and we do not know how this impacts the “economics of the” project”.

Page 70, Line 47: Change to read: ***“The Vote On the Motion was approved (5-3). Voting against: Mayor McNamara and Councilors Sykes and Willkie.***

Councilor Heistad MOVED to approve the November 28, 2023 (Budget Work Session); the December 6, 2023 (Regular Meeting); the December 13, 2023 (Regular Meeting); and the December 14, 2023 (Special Meeting) minutes as amended and presented in the January 3, 2024 City Council agenda packet.

Seconded by Councilor Liot Hill.

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

7. APPOINTMENTS:

- Conservation Commission, Susan Almy (Alternate Member) – Currently serving as a Regular Member of the Conservation Commission
- Conservation Commission, Barbara Hirai (Regular Member) – Currently servicing as an Alternate Member of the Conservation Commission.

Councilor Liot Hill MOVED to NOMINATE Susan Almy as an Alternate Member of the Conservation Commission and to NOMINATE Barbara Hirai as a Regular Member of the Conservation Commission.

Seconded by Councilor Heistad.

The NOMINATIONS were approved by the members present (8-0).

8. PUBLIC HEARING ITEMS: NONE

9. OLD BUSINESS

A. Action to adopt revisions to the Airport Tech-Park TIF District Development Program (Public Hearing held December 6, 2023).

Included in the Agenda Packet: ***All supportive documents can be found on [pages 78-95, Council Agenda Packet.](#)***

1. Lebanon Airport-Tech Park TIF District Program Documents adopted November 6, 2019
2. Proposed Addendum #1 to Lebanon Airport-Tech Park TIF District Development Program
3. Lebanon Airport-Tech Park TIF District Expansion Area adopted August 2, 2023

City Manager Shaun Mulholland reviewed the background and the revisions for the Airport Tech-Park TIF District Development Program.

BACKGROUND

On November 6, 2019 the City Council created the Lebanon Airport-Tech Park Tax Increment Finance (TIF) District. Since the creation of the District, the City has extended Airpark Road to access developable areas on both the City's land as well as the Upper Valley Tech Park (UVTP) parcel. To date, UVTP has received approval for a 3-lot Planned Unit Development of its property, and development applications have been approved and construction has started for the two parcels accessed from the extended Airpark

Road. In addition, the City is planning for the development of an Early Childhood Learning Center facility on the City's parcel.

The owners of the UVTP parcel have also received interest for a potential development on the westerly side of their property (the third lot of the 3-lot PUD), which would be accessed from Technology Drive within the Phase 1A Airport Business Park. However, the constructed portion of Technology Drive and the associated water and sewer infrastructure do not extend the full length of the public right-of-way and stop short of the UVTP parcel boundary. Since the Technology Drive right-of-way is already publicly owned, it is expected that any further extension of the roadway and utility infrastructure within the right-of-way will become the City's responsibility for ownership and maintenance.

On August 2, 2023, the City Council amended the boundary of the TIF District to include the southernmost +/-220 feet of the Technology Drive right-of-way. Including the area of right-of-way will not have any fiscal impact on the district itself since the area is non-taxable but will allow for TIF revenues to be used for the construction and maintenance of the new segments of roadway and utility infrastructure within the right-of-way.

The Development Program for the TIF District should also be amended to specifically include the construction of this additional roadway and related utilities as required by RSA 162-K. Having held the duly-noticed public hearing on December 6, 2023, the City Council was authorized to take action on the proposed amendment at its meeting on January 3, 2024.

ACTION:

Councilor Liot Hill MOVED, the following RESOLUTION:

WHEREAS: The City Council of the City of Lebanon adopted the provisions of NH RSA 162-K, Municipal Economic Development and Revitalization Districts, pursuant to a Resolution passed by the City Council on July 11, 2018; and

WHEREAS: The City Council of the City of Lebanon established the Lebanon Airport- Tech Park Tax Increment Finance (TIF) District and adopted the accompanying TIF District Development Program and Financing Plan, consistent with the requirements of NH RSA 162-K, on November 6, 2019; and

WHEREAS: The City Council of City of Lebanon amended the TIF District boundary on August 2, 2023 to include and incorporate the southernmost 220 feet of the right-of-way of Technology Drive for the purpose of enabling the construction of roadway and related utility infrastructure to connect to the Upper Valley Tech Park property within the TIF District; and

WHEREAS: The City Council of the City of Lebanon held a duly-noticed public hearing on December 6, 2023 to consider an amendment to the Lebanon Airport-Tech Park TIF District Development Program in accordance with requirements of NH RSA 162-K:5 and pursuant to the provisions of the adopted TIF District Development Program,

NOW, THEREFORE, BE IT RESOLVED, BY THE LEBANON CITY COUNCIL:

That the Lebanon Airport-Tech Park Tax Increment Finance (TIF) District Development Program, adopted on November 6, 2019, is hereby amended to include, and incorporate, Addendum #1 to the Development Program as presented in the City Council's agenda packet for the January 3, 2024 meeting.

This Resolution shall be effective upon passage.

Seconded by Councilor Whittlesey.

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

B. Amendments To City Charter – Review of comments by State agencies and order to place proposed charter amendments on the ballot for the March 12, 2024 municipal election.

Included in the Agenda Packet: [*All supportive documents can be found on pages 96-99, Council Agenda Packet.*](#)

1. Letter from Attorney General, dated and received on December 27, 2023.
2. Lebanon Charter – Excerpt of Relevant Sections to be Amended

City Manager Mulholland reviewed the background, the reasons behind the amendments to the City Charter, and the process to amend the City Charter.

BACKGROUND

The Charter was first created and formally effectuated in 1957 when Lebanon chose to become a City with a City Council-City Manager form of government. As we continue to evolve with changes in laws, regulations, processes, and technology, it has become apparent that changes to the Charter are needed to create consistency and increase efficiency.

Following a public hearing on November 15, 2023 the City Council adopted a Resolution determining that a proposed amendment to the Lebanon City Charter to delete and repeal §C419:53 (Personnel Advisory Board) & §C419:53a (The Grievance Board); and to amend §C419:17 (Mayor) by deleting reference to the manager's power to appoint a member of the personnel advisory board was necessary and appropriate. The Resolution further directed that a final report of the proposed Charter amendments be filed with the City Clerk and that a certified copy of such report be filed by the Clerk with the New Hampshire Secretary of State, the New Hampshire Attorney General, and the Commissioner of the New Hampshire Department of Revenue Administration in accordance with the procedures in NH RSA 49-B. The final report of the proposed Charter amendment was filed with the City Clerk and with the applicable state agencies on November 16, 2023.

Pursuant to NH RSA 49-B:4-a, I, the Secretary of State, the Attorney General, and the Commissioner of the Department of Revenue Administration have up to 45 days to review the proposed amendment to ensure that it is consistent with the general laws of the state and to provide notice to the City approving or disapproving the proposed amendment. Only after the three state agencies have approved the proposed amendment can the City Council take action to have the proposed Charter amendment placed on the ballot at the next municipal election on March 12, 2024.

On December 27, 2023, the City Clerk received a letter from the Attorney General's Office on behalf of all three state agencies stating that they do not object to the proposed amendment.

Pursuant to NH RSA 49-B:5, I(b), within 7 days after receiving approval from the state agencies under NH RSA 49-B:4-a, the Council may order the proposed amendment to be placed on the ballot at the next regular municipal election. Since the state agencies' response was received by the

City on December 27, 2023, the Council should take action at its regular meeting on January 3, 2024 to comply with the statutory requirement.

Council Discussions:

In response to Councilor Liot Hill's question regarding whether or not a summary statement would be added to the ballot like we do with the Zoning Amendments, City Manager Mulholland noted that this will be publicized for the voters when they walk in, noting there is only so much that can be put on the ballot due to the way the statute reads.

ACTION:

Councilor Whittlesey MOVED the following:

BE IT RESOLVED, that the Lebanon City Council, pursuant to its authority granted by NH RSA 49-B:5, I(b), hereby orders the City Clerk to place the following amendment to the City Charter on the ballot at the next municipal election to be held on March 12, 2024:

- 1. To delete and repeal §C419:53 in its entirety; and***
- 2. To delete and repeal §C419:53a in its entirety; and***
- 3. To amend §C419:17 by deleting reference to the City Manager's power to appoint a member of the personnel advisory board.***

BE IT FURTHER RESOLVED, that pursuant to RSA 49-B:6, IV(b), the amendment to the City Charter will become effective July 1, 2024, if a majority of the ballots cast at the March 12, 2024 Municipal Election favor acceptance.

Seconded by Councilor Simon.

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

10. NEW BUSINESS

- A. Review and Adoption of 2024 Annual Calendar ([pages 100-112, Council Agenda Packet](#))**

Included in the agenda packet:

1. Proposed 2024 Annual Calendar

BACKGROUND

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

ACTION:

Councilor Simon MOVED, that the Lebanon City Council hereby adopts the Annual Calendar as proposed in the January 3, 2024 agenda packet.

Seconded by Councilor Whittlesey.

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

B. Appointment of 2024 Chair and Vice-Chair for Economic Development Commission

Included in the agenda packet: *All supportive documents can be found on pages 113-114, Council Agenda Packet.*

1. EDC Member Roster

Mayor McNamara noted the current Chair was stepping down from the EDC and wanted to recommend David Newlove be appointed as the new Chair of the EDC and Councilor Liot Hill remain as the Vice Chair.

BACKGROUND

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

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

Councilor Liot Hill gave her accolades to Bill Dunn and spoke about the positive role she felt Mr. Newlove would bring to the EDC. This past year has been difficult one for the EDC with the Spencer Street Redevelopment Project that fell through and the mixed messages the EDC received about the redevelopment of the parking lots behind City Hall. It would be helpful for Mr. Newlove and Tim Corwin to meet and discuss what the EDC should focus on in the coming year, so members understand what their role is.

ACTION:

Councilor Whittlesey MOVED that David Newlove be appointed as Chair of the Economic Development Commission for calendar year 2024.

***BE IT FURTHER MOVED, that Councilor Karen Liot Hill be appointed as Vice-Chair of the Economic Development Commission for calendar year 2024.
Seconded by Councilor Heistad.***

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

- C. Discussion & Set Public Hearing for January 17, 2024: Ordinance #2024-01 to amend City Code Chapter 168, Vehicles and Traffic, to designate no parking areas along Eldridge Street, Laplante Road, and Prospect Street Extension, Lebanon.**

Included in the agenda packet: *All supportive documents can be found on pages 115-119, Council Agenda Packet.*

- 1. Proposed Ordinance #2024-01**
- 2. Aerial Map of Proposed Change Area along Prospect Street Extension and Laplante Road**
- 3. Aerial Map of Proposed Change Area along Eldridge Street**

Mr. Jay Cairelli, Public Works Assistant Director, reviewed the background and the reason(s) behind the amendments to Ordinance #2024-01.



MAP FOR REFERENCE ONLY. NOT A LEGAL DOCUMENT

BACKGROUND

Earlier this year, the Public Safety Committee convened to address a request brought forward by the Highway Superintendent. The proposal under consideration sought the establishment of a "No Parking Zone" in two locations:

1. On Prospect Street Extension, extending 520 feet on the north and south sides of the road from the intersection of Skylark Drive to Laplante Road (both sides of street); and
2. On Laplante Road, extending 230 feet on the east and west sides of the road beginning from the intersection of Prospect Street Extension and moving in a northerly direction.

The primary objective behind this request is to enhance the efficiency of snow plowing operations within the specified area. Recognizing the importance of maintaining smooth traffic flow and ensuring the safety of both motorists and pedestrians during winter weather conditions, the Committee engaged in thorough discussions to assess the viability and necessity of implementing the requested parking restrictions. The finding of the Committee was that a "No Parking Zone" in the above specified locations would increase plowing efficiencies by eliminating issues with parked cars at the intersections impacted by this change.

In addition, on September 6, 2023, Public Works received a complaint about parked vehicles blocking the entrance to the private parking lot at 76 Hanover Street on a frequent basis. Upon investigation, it was found that the entrance to the private parking lot is blocked by vehicles parking on Eldridge Street causing vehicles to be blocked in and out of the parking lot.

The recommendation seeks the establishment of a "No Parking Zone" in one additional location:

3. On Eldridge Street, extending 340 feet on the south side of the street beginning at the intersection of Hanover Street moving in a westerly direction.

It is noted that City Code Chapter 168, §168-1, No Parking, already includes a no parking restriction on a 335-foot section on the north side of Eldridge Street westerly from the intersection with Hanover Street. As a result, the pending proposal would apply the No Parking restriction to both sides of Eldridge Street

for a distance of 340 feet westerly from the intersection with Hanover Street.

Council Discussions:

Councilor Simon questioned if there was an investigation done regarding the Prospect Street Extension/Skylark Drive to find out if those cars were parked there because the citizens were unable to get in and out of driveways, or if this was a routine nightly parking issue. Mr. Cairelli noted that most of the time it was related to people not being able to get in and out of driveways. The problem is that these vehicles remained there for several days after a storm.

Councilor Liot Hill questioned if the issue on Prospect Street Extension/LaPlante Road is related to plowing and if so, was there a possibility of creating a Winter Parking Ban as opposed to doing a year-round ban. She also questioned if abutters have been notified for both of these areas regarding this possible parking restriction. Mr. Cairelli noted he has not looked into a Winter Parking Ban, but this could certainly be an option. They have also not reached out to all the abutters. We have had conversations with some, but before the Public Hearing we can do that. Councilor Liot Hill was in favor of communicating with all abutters before the Public Hearing and suggested this be tailored to be just a Winter Parking Ban.

Councilor Simon concurred with a Winter Parking Ban and questioned if there had been educational attempts made with the folks who were creating the issue before more extreme action is taken. Mr. Cairelli noted they did speak with one resident who was frequently parked there last year and they were reluctant to stop parking there. He will speak to this person again.

City Manager Mulholland and the Council discussed a Winter Parking Ban that would start on December 1st and extend through April 1st on a yearly basis.

ACTION:

Councilor Liot Hill MOVED, that the Lebanon City Council hereby schedules a public hearing for Wednesday, January 17, 2024, beginning at 6:00 p.m. in Council Chambers, City Hall, and Remote via the City's Virtual Platform, for the purpose of receiving public input and taking action on proposed Ordinance #2024-01 to amend City Code Chapter 168, Vehicles and Traffic, §168- 1, No Parking, to include a 520-foot section on both the north and south sides of Prospect Street Extension beginning at the intersection of Laplante Road and moving in a westerly direction; to include a 230-foot section on both the east and west sides of Laplante Road beginning at the intersection of Prospect Street Extension and moving in a northerly direction for a Winter Parking Ban from December 1st to April 1st of every year.

FURTHERMORE; to include a 340-foot section on the south side of Eldridge Street beginning at the intersection of Hanover Street and moving in a westerly direction; and to extend the existing no parking restriction on the north side of Eldridge Street by 5 feet to a distance of 340 feet westerly from the intersection of Hanover Street, as "No Parking" zones.

Seconded by Councilor Whittlesey.

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

- D. Discussion & Set Public Hearing for January 17, 2024: Ordinance #2024-02 to amend City Code Chapter 68, Fees, to include a fee schedule for applications to the Zoning Board of Adjustment and Building Code Board of Appeals, and administrative**

preparation of Zoning Verification Letters.

Included in the agenda packet: *All supportive documents can be found on pages 120-126, Council Agenda Packet.*

1. Proposed Ordinance #2024-02
2. Zoning Board of Adjustment Fee Schedule, last revised 8/30/21

Mr. Nathan Reichert (Director of Planning & Development) and Mr. Tim Corwin (Deputy Director Planning & Development) reviewed the background and the reasons behind the amendments to Ordinance #2024-02.

Director Reichert noted there were several items the Zoning Board of Adjustment (ZBA) was currently dealing with. One was the change to the Zoning Ordinance itself, and the other was setting the fees for the Board, which has never been included in §68 of the Code.

The conflict in §68 of the Zoning Ordinance has been addressed and in addition they have articulated a fee schedule for Zoning Board fees that would apply to certain actions taken by the Zoning Board. They reviewed similar fees charged across the State, and the numbers we arrived at were included in the proposal. It should be noted that no one can remember the last time the Zoning Fee Structure was changed, so it has been some time since these fees have been updated. The whole process is to make harmonious §68 in the Zoning Ordinance and to say that City Council has authority to set the fee structure for the Zoning Board applications.

At the request of Mayor McNamara, Mr. Reichart reviewed and explained the proposed changes in fees as highlighted in red on pages 123-126, City Council agenda packet. In Summary:

- Administrative Appeal - \$300.00
- Variance - \$300.00
- Special Exception - \$300.00
- Equitable Waiver of Dimensional Regulations - \$300.00
- Rehearing Requests - \$100.00
- Rehearing - \$300.00 as follows (note: still working on language): Should the Zoning Board grant a rehearing request, the original applicant shall be responsible for all fees associated with the rehearing, regardless of who submitted the rehearing request. The application fee of \$300 shall be waived if the Board, in granting the rehearing request, determines that it did or may have made a prejudicial technical or legal error in its original decision
- Advertising fees and legal notifications fees – Determined by the City Manager
- Zoning Verification Letter - \$100.00 (new)
- Filing Fee for an application to the Building Code of Board Appeal - \$300.00

Mr. Reichert also highlighted the below:

6] Rehearing: \$300. Should the Zoning Board grant a rehearing request, the original applicant party initiating the rehearing request shall be responsible for all fees associated with the rehearing, regardless of who submitted the rehearing request. The application fee of \$300 shall be waived if the Board, in granting the rehearing request, determines that it did or may have made a prejudicial technical or legal error in its original decision.

In response to Mayor McNamara’s question regarding what the (ZBA) fees are now, Mr. Corwin explained those fees are not currently identified in the Zoning Board’s Fee Schedule and have been applied on an ad hoc basis.

BACKGROUND

The Planning & Development Department proposes to amend Chapter 68 of the Lebanon City Code to enumerate, update, and establish filing fees for the Zoning Board of Adjustment, to establish the filing fee for the Building Code Board of Appeals, and to establish an administrative fee for the preparation of zoning verification letters. Currently, §68-15.A provides that, “Zoning fees shall be set by Council,” but does not specify any fee categories or amounts.

A. Zoning Board of Adjustment

Filing fees for the Zoning Board of Adjustment are currently enumerated in the Zoning Board of Adjustment Fee Schedule, a copy of which is attached for reference, as follows:

- Variance - \$150.00
- Special Exception (including “Wetlands Special Exception” and “Riverbank Special Exception” which, for historical reasons, are listed separately on the Fee Schedule)- \$150.00
- There are currently no filing fees charged for an appeal of an administrative decision or for a rehearing request.

It is not known when these fees were last amended. However, in reviewing prior fee schedules, it is clear that the \$150.00 filing fees for Special Exception and Variance applications have been in place since at least 2007. To adjust for inflation and better account for staff administrative time, the Planning & Development Department proposes to increase the filing fee for Special Exception and Variance applications to \$300.00.

The Planning & Development Department also proposes to establish filing fees for Administrative Appeals, Equitable Waivers of Dimensional Requirements, Rehearing Requests, and Rehearing. All of these applications require staff time to review and administer, which the proposed fees, as follows, are intended to help cover:

- Administrative Appeal - \$300.00
- Equitable Waiver of Dimensional Regulation - \$300.00
- Rehearing Request - \$100.00
- Rehearing - \$300.00

Note that with respect to a rehearing application, the proposed ordinance language would require the fee to be waived if the Zoning Board, in granting the rehearing request, determines that it did or may have made a prejudicial technical or legal error in its original decision. The rationale for this waiver is that an applicant shouldn’t have to pay another \$300 filing fee (on top of the \$300 fee for filing the original application) if the Board determines a rehearing is warranted based on a mistake that the Board has made, rather than for a reason within the control of the applicant.

The proposed Zoning Board application fees are nearly identical to the Town of Hanover Zoning Board application fees and are in line with other larger New Hampshire communities including:

- Nashua: \$330-\$900
- Portsmouth: \$200-\$400

- Concord: \$370-\$460
- Manchester: \$350 (Administrative Appeals and Equitable Waivers)

While the proposed increases will help to cover administrative costs more fully for simple applications, in other instances, the fee will continue to account for only a fraction of staff's time depending on the complexity or contentiousness of the subject matter.

Finally, note that the proposed changes to Chapter 68, §68-15.A are concurrent with a proposed change to Section 802 of the Zoning Ordinance to clarify that application fees are established by the City Council pursuant to City Code Chapter 68 and not by the Zoning Board of Adjustment. See Council Agenda Item #10.G.

B. Zoning Verification Letters

Zoning Verification letters are prepared by Planning & Development Department staff upon request, most frequently for lenders in connection with the closing of non-residential and multi-family dwelling properties. The letter typically includes a substantial amount of background information related to the property including, for example, a history of land use and Building Code approvals, and determinations relative to the status of non-conforming properties, uses and structures. Currently, a \$50 fee is charged to prepare these letters. The fee helps to pay for staff's time to prepare these letters, which could be significant. It is not known when the \$50 fee was established, but it is believed to have been in place for at least the past 15-20 years. It is also not known who and how the fee was established; to staff's knowledge, the current \$50 fee is not memorialized anywhere.

The Planning & Development Department staff proposes that the Council establish the zoning verification letter fee by ordinance, and to increase the \$50 fee that the Department has charged as a matter of course and by custom to \$100 to better account for the actual amount of staff time needed to prepare a typical zoning verification letter.

C. Building Code Board of Appeals

Pursuant to Chapter 36, §36-13.A of the City Code, the Zoning Board of Adjustment is designated to act as the Building Code Board of Appeals. Filing fees to the Building Code Board of Appeals are not currently identified in either Chapter 36 or Chapter 68, and if such a fee was ever established, it has not been memorialized to staff's knowledge. The Planning & Development Department proposed to amend City Code §68-15 to establish a filing fee for the Building Code Board of Appeals in the amount of \$300, which is identical to the Zoning Board of Adjustment filing fee for an Administrative Appeal.

Council Discussions:

In response to Councilor Sykes question regarding the difference between #5 and #6 in the Ordinance, Mr. Corwin explained that under State Statute, any interested party to a Zoning Board Application can file a request to the Zoning Board within 30 days of the Zoning Board's decision asking that the Board reconsider its decision and conduct a rehearing. If the Board agrees with the applicant, or person making the request, then a new hearing should be held. There are three steps to this: 1) The original hearing; 2) Request by any party of the Board to reconsider and hold a new hearing, and 3) A Rehearing is held. After the rehearing, the decision can be made for an appeal to Superior Court.

Mr. Corwin explained to Councilor Liot Hill that the most often request was for a rehearing and explained his reasons. Councilor Liot Hill noted that since the Council annually reviews fee requests it would be good to put these fees into that process so we can have incremental rate increases. Mr. Corwin explained

that the timing of this request was to coincide with the related Zoning Amendments.

Mr. Reichert also noted that these fees were being put into §68 for the first time. Had they been in §68 the Council would have naturally gone through and done a review. The fact that §68 said one thing and the Zoning Ordinance said another, we reconciled this and for the first time we have it in the code so this will trigger your review on an annual basis. While these fees may seem high, when you actually add in the amount of staff time required to process any application, be it simple or complex, the cost of these fees do not reflect the amount of staff time generated to process these applications.

ACTION:

Councilor Whittlesey MOVED, that the Lebanon City Council hereby schedules a public hearing for Wednesday, January 17, 2024, beginning at 6:00 pm, in Council Chambers, City Hall, and Remote via the City's Virtual Platform, for the purpose of receiving public input and taking action on proposed Ordinance #2024-02 to amend City Code Chapter 68, Fees, Article III, Miscellaneous Fees, §68-15, Enumeration of Fees, to enumerate, update, and establish filing fees for applications to the Zoning Board of Adjustment and the Building Code Board of Appeals, and to establish the administrative fee for the preparation of zoning verification letters reflected in tonight's packet with the exception of §6 as presented in the meeting tonight. (We are replacing §6 in tonight's packet with a new §6 as proposed tonight.)

Seconded by Councilor Liot Hill.

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

- E. Discuss and set public hearing for January 17, 2024 to change the amounts of the Optional Veterans' Tax Credits and the All Veterans' Tax Credit.

Included in the agenda packet: *All supportive documents can be found on [pages 127-133, Council Agenda Packet.](#)*

1. Finance Department table of Veteran's Tax Credits granted for 2023
2. NH RSA 72:27-a; RSA 72:28; RSA 72:28-b

Mayor McNamara and Councilor Heistad recused themselves from this discussion/vote because they both will be applying for this tax credit.

Assistant Mayor Below replaced Mayor McNamara and took the lead on this topic.

Deputy City Manager Brooks reviewed and explained the background, noting the City currently has not adopted the Combat Service Tax Credit or the Surviving Spouse tax credit.

BACKGROUND

The Optional Veterans' Tax Credit and the All Veterans' Tax Credit are programs made available by the City for Lebanon's veterans and/or their spouses. The tax credit reduces the total property taxes owed on the veteran's residential property by the amount of the credit. Veterans and/or their spouses may qualify for either the Optional Veterans' Tax Credit or the All Veterans' Tax Credit but cannot receive both. Other tax credits and exemption programs exist for veterans with permanent and total service-connected disabilities, or their surviving spouses.

The Optional Veterans' Tax Credit and the All Veterans' Tax Credit were re-adopted in the amount of \$250 each by the City Council on January 4, 2023 following statutory changes in the eligibility criteria for

Standard Veteran's Credit as a veteran or if you are deployed to an active theatre of operations, then you can apply as a still enrolled Active Duty Member while you are deployed. When you come back, if you are still on active duty and have not received your DT2-14 duty then that deployment goes away. When you are retired, you go back to the Standard Veteran Tax Credit. Mr. McNamara still felt the Council should implement the Combat Service Tax Credit because the City has reserves and guard members who have not yet received their DT2-14 and further explained his reasons.

Mr. Nathan Lowrey (Ward 1& combat veteran): He pointed out that a lot of the members of the Army Reserve/National Guard who are mobilized and sent overseas that the pay they get from the military is less than what they would have gotten from their civilian jobs. This puts them and their families in financial burden and suggested raising the amount.

Councilor Simon would like to see, all across the board, these tax credits raised to the maximum allowable by law, as well as the caveat of the choices that can be combined. Our service men and women have given a lot to our country/community and this is a very small thing that can be done to help them out and further spoke about his reasons.

In response to Councilor Sykes question regarding the specific wording that should be added to the motion, Deputy City Manager Brooks noted the language should say: "and also consider adopting the Combat Service Tax Credit pursuant to RSA 72:28-c and also consider adopting in the amount of \$500.00 and also adopting the Surviving Spouse Tax Credit in the amount of \$2000.00 pursuant to RSA 72:20-a".

Mr. Nathan Lowrey (Ward 1) spoke about natural disaster deployments and suggested changing the title of the Combat Service Tax Credit to a Mobilization Tax Credit. Assistant Mayor Below stated these titles are prescribed by State Statute, so even the names and what you qualify for are all prescribed by State Statute.

ACTION:

Councilor Liot Hill MOVED, that the Lebanon City Council hereby schedules a public hearing for Wednesday, January 17, 2024, beginning at 6:00 pm, in Council Chambers, City Hall, and Remote via the City's Virtual Platform, for the purpose of receiving public input and taking action to change the amount of the Optional Veterans' Tax Credit from \$250 to \$750.00 in accordance with NH RSA 72:28, to change the amount of the All Veterans' Tax Credit from \$250 to \$750.00 in accordance with NH RSA 72:28-b, and to change the amount of the Service-Connected Total Disability Tax Credit from \$1,400 to \$4,000.00 in accordance with NH RSA 72:35, and to consider adopting the Combat Service Tax Credit up to the amount of \$500.00 pursuant to NH RSA 72:28-c, and to consider adopting the Surviving Spouse Tax Credit in the amount of \$2,000.00 pursuant to NH RSA 72:29-a.

Seconded by Councilor Whittlesey.

Councilor Liot Hill requested that these Tax Credits be explained when they are advertised so people can clearly understand where they qualify.

****The Vote on the Motion was approved (6-0-2). Mayor McNamara and Councilor Heistad were recused.***

Mayor McNamara and Councilor Heistad returned as regular members of the City Council. Assistant Mayor Below returned as a regular member of the Council.

F. Discussion of Traffic Patterns on Elm Street West, West Lebanon

Included in the agenda packet: *All supportive documents can be found on [pages 134-145, Council Agenda Packet.](#)*

1. Memorandum from former Deputy City Manager Nik Coates to City Manager Shaun Mulholland, dated October 23, 2023, including email communication from Seth Ames of Twin State Sand & Gravel Co., Inc.

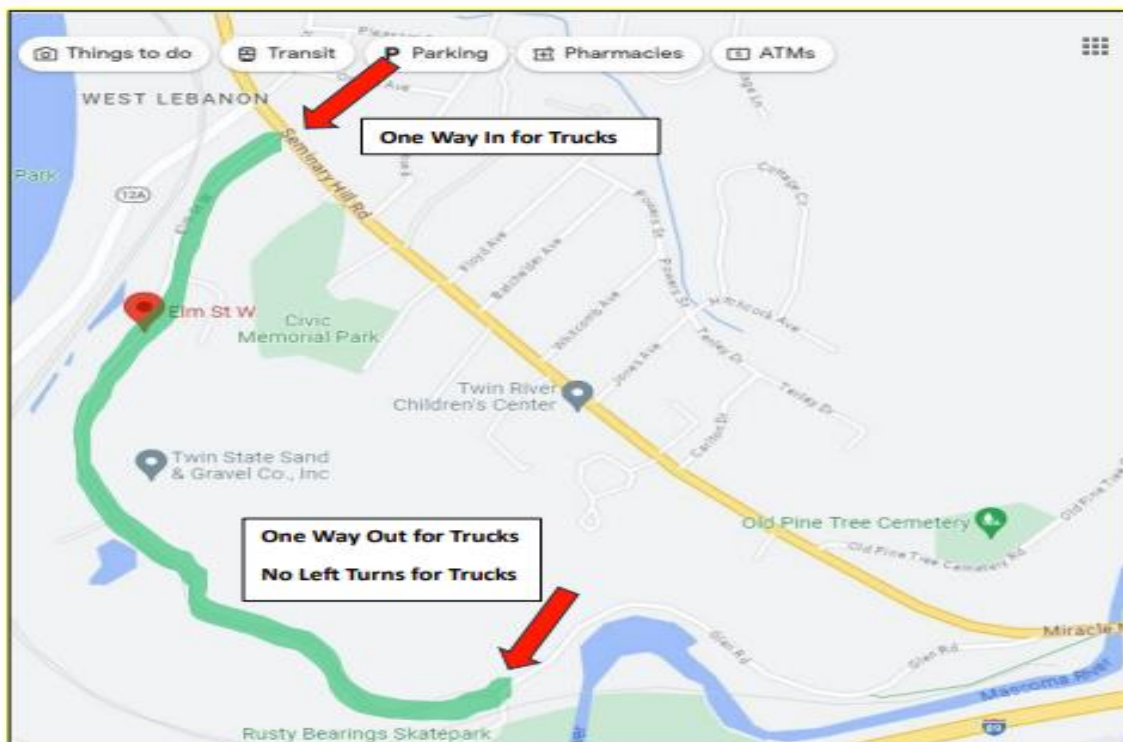
City Manager Mulholland reviewed the background behind this complaint.

BACKGROUND

On October 5, 2023, the City received communication from Mr. & Mrs. Driscoll of Elm Street West in West Lebanon voicing concerns about an incident that had recently occurred along the street and requesting that the City take some action to address a potentially hazardous condition related to the roadway.

Upon receiving the communication, the Department of Public Works investigated the incident and evaluated the roadway and a variety of alternatives, which are summarized in the enclosed memorandum from former Deputy City Manager Nik Coates to City Manager Shaun Mulholland. As noted in the Coates' memorandum, the Public Safety Committee also met to review the current roadway conditions and to evaluate potential alternatives.

Following its deliberation, the Public Safety Committee recommended that no changes be made to the existing traffic patterns on Elm Street West because there are no viable options, in our view, to be able to resolve this issue.

Map and Photo Documentation:

Mayor McNamara invited everyone involved with this complaint to speak and the following came forth:

Mrs. Jennifer Driscoll (Elm Street West, West Lebanon): She spoke about the large increase of road traffic by oversized trucks on their street; two incidents that occurred which was a safety concern to her and her family; how their road is getting dangerous (i.e., using people's driveways and driving on sidewalks). While there has not been any catastrophic failures to date, what happens in the future if more and more traffic continues to use this road? She clarified the traffic situation for Mayor McNamara noting that the traffic is caused by both incoming and outgoing traffic on Elm St. West, and it is the tractor trailers who ride the sidewalks.

Councilor Liot Hill questioned what the status of this road is. Mayor McNamara noted it is a city street all the way up to the top of the sand and gravel company. At that point, you are on private property and they have an exit out onto Glen Road just prior to the old river bridge.

Mr. Brooks noted that the development application by Twin State for the approval of the Iron Horse project included closing off the gated end of Elm Street and keeping it gated for emergency access, but most traffic is directed in different directions other than Elm Street West. More discussions took place regarding a previously proposed development plan; the desire stated in the City's 2012 Master Plan to see Elm Street West gated, which was approved by the Planning Board, and; how the previously proposed development plan did not move forward.

Councilor Liot Hill regretted not being able to solve this problem because she felt it has been a consistent issue over the years.

Ms. Tracy Lowrey (Elm Street West): She also spoke about the amount of truck traffic on the road and the passing problems they cause for residents on this small road. It's like a commercial street and takes away from a neighborhood feeling and felt this also causes safety concerns (i.e., the bump out for the apartments).

Mr. Nate Lowrey (Elm Street West): He spoke about the past history of the road (West Elm Street) from 1907 to the 1930's, after which time the topographic maps kept being updated. He noted the trucks begin around 5:00AM and will go to 6-6:30PM. In the winter, there are fewer trucks, and in the summer when construction is going on they can come every 5-10 minutes. He also expressed his safety concerns over the bump out.

Mr. Steven Blanchard (Elm Street West): He spoke about the dramatically increased truck traffic on their road. He recommended the City put a camera on this road for 8 months/through the summer so the City can see what they are experiencing. These trucks/employees are moving fast, above the speed limit, many times throughout the day. He noted he is a cyclist and would rather cycle on Route 12A than his own street. It's not just Twin State Gravel, it's the other folks that have rented out their property to (i.e., the Eastmans, the Casella, and the Romano trucks).

Mr. Doug Ames (owner of Twin State Sand & Gravel): He spoke about how they have been on Elm Street since 1947 and believed the gravel pit existed long before that. Safety and the safety of their neighbors is important to them. Once they learned of the complaints, they had safety meetings with all their drivers, the drivers of their vendors and conducted their own internal investigations and did not find

any specific incidences. The road is narrower than most roads (22 ft.), but trucks can safely negotiate past each other. He was uncertain about what the next steps should be but recommended that a Traffic Study be done. To that end, they have reached out to a traffic consultant and spoke about the practical implications of having one way traffic; what is considered a truck; the definition of a commercial vehicle; how their property is private property and the probability that others may be using this road without their consent. He also concurred that the location of the bump out is a safety hazard. He also responded to Councilor Liot Hill's comments regarding how the level of activity has changed over the last few years, noting that their truck traffic overall has actually decreased over the years since they tore down the crushing plant (in 2012) that used to be located there. However, in the last few years, they have rented out some of their property to others (i.e., Eastman Trucking; RSL-working on the I-89 Bridges; and Casella Waste). They also spoke with all of them about being courteous to all the neighbors, following all the safety rules, and to try and use the Glen Road access as much as possible). He was uncertain what more they could do to enforce the behavior of others.

In response to Councilor Liot Hill's question regarding when their property used to be all together, Mr. Ames stated it was a very long time ago, back in the 1940's/1950's.

The Council and Mr. Ames discussed: If there were any property easements or rights of way conveyed between the Twin State Gravel property and any of the other properties that used to be a part of it; having City staff check to see if Twin State Gravel conforms to the City's Zoning Regulations, and; how the rail yard is being used.

Mr. Steven Blanchard (Elm Street West) was interested in knowing when the gated access was changed.

Mr. Jake Champion: He came forth to attest that the Casella traffic is extensive. Before they relocated to their current location, they were located on his property (on Glen Road) and they were in and out of there 60/70 times each day during the summer season.

Councilor Liot Hill wanted to learn more about the history of these property transfers and easement, as well as the history of that road (West Elm Street). She felt the Council needs to do more fact finding before a decision can be made.

Mayor McNamara concurred and stated there is a lot more information needed before an educated decision can be made on this issue. He directed City Staff to take a look at the historical roads in the area and to take a look at the property lines and report back to the Council in the near future (next month- February 2024). He also wanted to talk more about Jay's potential options.

ACTION: No action was taken. Topic will come back for review in February 2024.

G. Review of Proposed Zoning Amendments for Council Adoption and Set Public Hearing for January 17, 2024

Included in the agenda packet: *PLEASE NOTE: All of the detailed supportive documents, as listed below, can be found on pages 146-188 in the January 3, 2024 City Council Agenda Packet.*

1. December 21, 2023 Memo to the Lebanon City Council from Planning & Development Department Staff re: 2023-2024 Proposed Zoning Amendments, which includes the following:
 - Existing Zoning Map of 0 Etna Road (Tax Map 26, Lot 17), dated November, 2023

- Proposed Zoning Map of 0 Etna Road (Tax Map 26, Lot 17), dated September 19, 2023
- Proposed Zoning Map of 0 Etna Road (Tax Map 26, Lot 17), dated December, 2023
- 2023-2024 Proposed Zoning Ordinance Amendments (Red-lined Version, last revised December 21, 2023)
- October 20, 2023 Legal Opinion from Attorney Christine (Fillmore) Johnston
- Excerpt of Planning Board meeting minutes from October 23, 2023
- Excerpt of Zoning Board of Adjustment meeting minutes from November 6, 2023
- Excerpt of Conservation Commission meeting minutes from November 9, 2023

Mr. Nathan Reichert (Director of Planning & Development) and Mr. Tim Corwin (Deputy Director of Planning & Development) reviewed the background and the proposed changes to Zoning Amendments.

BACKGROUND

At its October 4, 2023, meeting the City Council was presented with a number of proposed amendments to the Zoning Ordinance. The Council took action to accept the amendments as presented and forwarded them for review and comment to the Planning Board, Conservation Commission (twice), Heritage Commission and Zoning Board of Adjustment. Legal review has been obtained, and all boards have completed their review. Attorney Johnston's legal opinion, along with excerpts of Land Use Boards' meeting minutes, are attached for the Council's review. A public hearing pursuant to Section 1000.3.D of the Zoning Ordinance is requested for January 17, 2024.

Based on the feedback we received from all Board/Commissions and legal counsel's opinions, minor changes have been made to the Staff amendments. It is their opinion that all of the amendments being discussed at this meeting do not require a public referendum.

The purpose of this meeting was to present the final version of the proposed amendments to be considered by the City Council at the upcoming public hearing. All of the proposed amendments are addressed in the attached comprehensive memorandum drafted by Planning & Development Department staff on [pages 146-188 in the January 3, 2024 City Council Agenda Packet](#).

All proposed amendments are under the authority of the Council and do not require placement on the Ballot for consideration by voters. As a reminder, the Council has the authority to place any of the proposed amendments on the Ballot, including those that are under the Council's sole purview.

Once the proposed amendments are finalized, they will be posted as part of the public hearing. Once posted, all applications to the Land Use Boards and all Building/Zoning Permit applications will be subject to the provisions of both the existing Zoning Ordinance and the proposed amendments. The proposed amendments will be posted by January 5, 2024.

Mr. Tim Corwin highlighted and explained the changes being proposed for the Zoning Amendments as depicted on [pages 158-168](#), Council agenda packet. The draft text amendments are highlighted in the **red-lined** excerpt of the Zoning Ordinance, date last revised 12/21/23. New or revised text is [blue and underlined](#). Text to be deleted is shown as **red with a strike-out**. The terms that are defined in Appendix A of the Zoning Ordinance appear in **bold italics**. (Note: Detailed information on each of the proposed text Zoning Amendments can be found on [pages 148-152](#). Map information can be found on [pages 155-157](#).)

Council Discussions:

In response to Mayor McNamara's question regarding whether or not the other 20 shoreline communities have received the Enterprise Shoreline Exemption like Lebanon has, Mr. Corwin stated he has not looked

at each of their Zoning Ordinances but thought the City of Lebanon goes above and beyond the others. He will form an analysis for the Council.

Mr. Reichert informed the Council that the Heritage Commission will likely be offering an award of the RFP on using grant dollars to analyze the Historic District and enabling the language in the Zoning Ordinance. We will be having a Historic Analysis done and there will be recommendations for Zoning changes that should come to next year's cycle based on the consultant's work with the Heritage Commission. Making these changes (now) might be a little premature but based on legal counsel's review we will strike the amendment and come back with a full set of changes, should there be any, next month.

Councilor Heistad noted the two major concerns in the Zoning Amendments for the Conservation Commission were steep slopes and wetlands. Mr. Reichert noted these have been addressed as much as can rationally be done. Maybe the vast majority of steep slopes will be under the RL-3 District now as opposed to the Industrial. The Industrial District does not convey steep slopes protection but the RL-3 does.

Mayor McNamara suggested that for the Public Hearing the wetlands mapping and slopes be superimposed on the maps as depicted in the agenda packet.

Mr. Reichert reviewed and explained the reasons why the agenda packet materials for Item 10.G does not include the amendments requested by Cicotte Properties, LLC (Mr. Dan Nash and Attorney Schuster). Since Cicotte Properties, LLC's new proposal differed from the original proposal reviewed by the Council October 23, 2023, staff needed to get the final form of the proposed amendments in order to be able to advertise it for the Public Hearing. Cicotte Properties, LLC wanted to add a text amendment to add automobile sales and service to both the R0-1 district and the IND-L districts. In the City attorney's opinion, the altered amendment change to permitted uses in the IND-L district cannot be considered a modification of the original proposal and has not been properly reviewed pursuant to Section 1000 of the Zoning Ordinance, but the proposed amendment to the permitted uses in the R-0-1 District has been reviewed properly and is ready for the Council's consideration at this meeting. Staff recommends adding the IND-L piece to the amendments for the Public Hearing in the format that was submitted by Mr. Nash. It is staff's position that the IND-L Amendment change will not trigger the need for a referendum that has not been verified by legal counsel's opinion.

Deputy City Manager Brooks noted he sent an email to the Council explaining what happened regarding this bit of mis-communication.

Mr. Dan Nash (Ward 1): He was disappointed that the attorney said the modification was substantive and it cannot move forward, because the whole purpose of the Council sending this to the Boards for their review was to modify and tweak it if there was something not to your liking. In this case, the only one who has not heard the modification, formally, is the Zoning Board. He requested this be put on the Council's agenda for the middle of March to have the IND-L change in time for the Public Hearing in March. Mr. Corwin also noted this would also give them time to have a review by legal counsel as well, which is another step that needs to be taken.

Mr. Corwin suggested that in an attempt to try and keep the Light Industrial District proposed Zoning Amendment in line with the required procedures under Section 1000, Council may want to consider

following Section 1000.3 (a), which is establishing the tentative schedule for the remaining steps of the review for this amendment. Let's just follow, as much as we can, the formalities of the Zoning Amendment process.

ACTION:

Councilor Whittlesey MOVED, that the Lebanon City Council hereby schedules a public hearing for Wednesday, January 17, 2024, beginning at 6:00pm, in Council Chambers, City Hall, and Remote via the City's Virtual Platform, for the purpose of receiving public input and taking action to adopt certain amendments to the City of Lebanon Zoning Ordinance and Zoning Map.

Seconded by Councilor Liot Hill.

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

H. Discuss Letter of Opposition to NH House Bill 1479 Regarding Anti-Advocacy at the Local Level

Included in the agenda packet: *All supportive documents can be found on [pages 189-194](#), Council Agenda Packet.*

1. HB 1479
2. Sample letter from NHMA in opposition to HB 1479

City Manager Mulholland reviewed the background and the reasons behind opposing HB 1479.

BACKGROUND

HB 1479 is similar to bills that are filed every year to prohibit local officials from utilizing public funds to advocate on behalf of local government issues. It seeks to penalize local officials by creating criminal penalties when they advocate on behalf of their local government. This bill and previous legislation is focused on NHMA; however, it also applies to all of the other professional associations that City officials are members of as indicated in the attached letter.

City officials testify on pieces of legislation every year. This bill would prohibit staff from testifying on those matters moving forward if this bill is passed into law. This bill on its face appears to be contrary to the State Constitution and freedom of speech for public employees under the provisions of RSA 98-E.

ACTION:

Councilor Sykes MOVED, that the Lebanon City Council is in opposition to HB 1479 and authorizes the City Manager to submit a letter in opposition to this bill and otherwise advocate in opposition to the bill. Seconded by Councilor Liot Hill.

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

11. City Manager Report:

City Manager Shaun Mulholland updated the Council on the following:

- Tax Deeded Properties: Have been sold.
- AI (Artificial Intelligence) Pilot Program: A media release will be coming out soon.
- Strategic Plan Reviews

12. COUNCIL REPRESENTATIVES TO OTHER BODIES: NONE

13. FUTURE AGENDA ITEMS:

14. NON-PUBLIC SESSION: NONE

15. ADJOURNMENT:

Councilor Simon MOVED for adjournment.

Seconded by Councilor Heistad.

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

The meeting was adjourned at 9:37 PM.

Respectfully submitted,

Dona E. Gibson

Recording Secretary