



**LEBANON CITY COUNCIL
JUNE 5, 2024 - 7:00 PM
COUNCIL CHAMBERS, CITY HALL OR
REMOTE VIA VIRTUAL PLATFORM
LEBANONNH.GOV/LIVE**

1. Call to Order

- A. To participate in this meeting, please [join live via Microsoft Teams](#) or call 929-229-5356 (access code: 668 449 691#). If you have trouble accessing this meeting, please [email Shaun Mulholland](#).

The June 5, 2024 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 Eagle Scout Logan Rafter

6. Approval of Minutes

- A. MOTION TO approve the minutes as presented in the June 5, 2024 agenda packet.

7. Appointments

- A. Pedestrian & Bicyclist Advisory Committee, Nelson Rooker (Alternate Member)
Library Board of Trustees, Ellen Hubbell (Alternate Member)

8. Public Hearing Items

- A. Supplemental Appropriation in the Amount of \$1,100,000 for Replacement of Central Fire Station (Station #1) Capital Project – A public hearing for the purpose of receiving public input and taking action to appropriate \$1,100,000 to supplement current funding appropriations for the Lebanon Central Fire Station (Station #1) Replacement capital project.
- i. Presentation:
 - ii. Opening of the Public Hearing:
 - iii. Questions & Comments by the Public:

- iv. Closing of the Public Hearing:
 - v. Council Deliberation & Action:
 - B. Provisional Dedication and Acceptance of Proposed Barden Hill Trail and Proposed “Connector” Segment between Atherton Road and Durkee Road, both as Class A Trails pursuant to NH RSA 231-A:5, and Discontinuance of a Section of Class VI Road #14 (Barden Hill Road); Discontinuance of a Section of Class VI Road #19 (Durkee Road); Discontinuance of a Section of Class VI Road #20 (Atherton Road); and Discontinuance of Class VI Road #21 (McCallister Road) – A public hearing for the purpose of receiving public input and taking action on a proposal from Patch Forest, LLC for the provisional dedication and acceptance of the proposed Barden Hill Trail and the proposed “Connector” segment between Atherton Road and Durkee Road, both as Class A Trails pursuant to NH RSA 231-A:5; and for the discontinuance of a section of Class VI Road #14 (Barden Hill Road); discontinuance of a section of Class VI Road #19 (Durkee Road); discontinuance of a section of Class VI Road #20 (Atherton Road); and discontinuance of Class VI Road #21 (McCallister Road).
 - i. Presentation:
 - ii. Opening of the Public Hearing:
 - iii. Questions & Comments by the Public:
 - iv. Closing of the Public Hearing:
 - v. Council Deliberation & Action:
- 9. **Old Business: None**
- 10. **New Business**
 - A. Abatement Request for 78 Bank Street
 - B. Presentation of First Reading & Set Public Hearing for July 3, 2024: Amendment to Ordinance #18, Salary Plan
 - C. Discussion and Set Public Hearing for June 19, 2024: Ordinance #2024-04 to Amend City Code Chapter 179, Vendors
 - D. Discussion and Set Public Hearing for June 19, 2024: Ordinance #2024-08 to Amend City Code Chapter 100, Library Trustees
 - E. Review and Adoption of Updated Master Plan Chapter 5, Natural Resources
 - F. Request for Zoning Amendments: Text Amendment for Section 214 (Governmental Uses) of the Zoning Ordinance
 - G. Discussion of Proposed Acquisition of Westboro Yard
- 11. **City Manager Report**
- 12. **Council Representatives to Other Bodies Report**
- 13. **Future Agenda Items**
- 14. **Non-Public Session**
 - A. RSA 91-A:3, II(d) – “Consideration of the acquisition, sale, or lease of real or personal property”

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 - There are no future board/committee/commission appointments at this time.

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

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

June 19, 2024

Public Hearing Items:

A. Ordinance 2024-04: City Code Chapter 179, Vendors – A public hearing for the purpose of receiving public input and taking action on proposed Ordinance #2024-04 to amend City Code Chapter 179, Vendors, by repealing and replacing the existing language.

B. Ordinance 2024-08: Chapter 100, Library Trustees – A public hearing for the purpose of receiving public input and taking action on proposed Ordinance #2024-08 to amend City Code Chapter 100, Library Trustees, to replace the reference to a specific employee bargaining group with a more generic term.

C. Amendment to the Zoning Ordinance: Text Amendment for Section 214 (Governmental Uses) of the Zoning Ordinance – Public hearing for the purpose of receiving public input and taking action on a proposed zoning amendment to Zoning Ordinance Section 214 to clarify the regulation of Governmental Land Uses.

Old Business:

A. Presentation of Second Reading: Amendment to Ordinance #18, Salary Plan

New Business:

A. Warrant for Civil Forfeiture Notice

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

C. Discussion and Set Public Hearing for July 3, 2024: Ordinance #2024-07 to Amend City Code Chapter 136, Sewer Service

D. Presentation and Update of Barrows Street Development Project

July 3, 2024

Public Hearing Items:

A. Amend Ordinance 18, Salary Plan – A public hearing for the purpose of receiving public input and taking action to amend Ordinance No. 18, Salary Plan.

New Business:

A. Discussion & Set Public Hearings for July 3, 2024:

1. CDBG Application for Families Flourish Northeast

2. RHP Application for Families Flourish Northeast

3. Adoption of Anti-Displacement & Relocation Assistance Plan for Families Flourish Northeast

Agenda
Lebanon City Council
June 5, 2024

5. Recognitions:

- Resolution Honoring Eagle Scout Logan Rafter

Included in this Section:

1. Resolution Honoring Eagle Scout Logan Rafter



RESOLUTION HONORING

EAGLE SCOUT

LOGAN RAFTER

WHEREAS, Logan Rafter, a member of Boy Scout Troop 279, has successfully completed all the requirements for the rank of Eagle Scout, the highest rank in Boy Scouting; and

WHEREAS, the journey to Eagle Scout is a rigorous and demanding process that begins with learning the fundamentals of scouting, including the Scout Law, Oath, and Spirit, and progresses through the ranks of Scout, Tenderfoot, Second Class, First Class, Star, and Life; and

WHEREAS, Logan Rafter has demonstrated exceptional dedication, leadership, and service through his participation in community service projects, leadership roles, and the completion of merit badges required for the Eagle rank; and

WHEREAS, as a Life Scout, Logan Rafter mentored younger scouts, continued working on Eagle requirements, and successfully planned and executed an Eagle project that significantly benefited the community; and

WHEREAS, Logan Rafter's Eagle Project involved the creation and installation of a historical marker for a historic site located on Ticknor Road in Lebanon, preserving an important piece of local history and educating the community about its heritage.

NOW, THEREFORE BE IT RESOLVED, that the Lebanon City Council, on behalf of the City of Lebanon, hereby recognizes and honors Logan Rafter for his outstanding achievement in attaining the rank of Eagle Scout. Logan serves an inspiration to other young individuals within our city to pursue excellence, service, and the pursuit of their dreams.

Dated this 5th day of June 2024.

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

**Agenda
Lebanon City Council
June 5, 2024**

6. Acceptance Of Minutes:

Minutes To Be Accepted

- May 8, 2024 (Special Meeting)
- May 15, 2024 (Regular Meeting)

MOVED, to approve the minutes as presented in the June 5, 2024 agenda packet.

**LEBANON CITY COUNCIL
SPECIAL SESSION MINUTES
Wednesday, May 8, 2024 5:30 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, Douglas Whittlesey, Devin Wilkie, and Karen Zook

MEMBERS ABSENT: Councilor George Sykes

STAFF PRESENT: City Manager Shaun Mulholland, Deputy City Manager David Brooks, City Clerk/Tax Collector Jaseya Ewing, Deputy City Clerk Kara Tracy, Deputy Tax Collector Diane Mulholland, Deputy City Manager of Special Projects Paula Maville, Public Works Assistant Director Rick Brown, Public Works Director Jay Cairelli, Recreation, Arts & Parks Director Paul Coats, Director of Planning & Development Nathan Reichert, Deputy Director of Planning & Development Tim Corwin, DPW Administrative Services Manager Kelly Crate, Cyber Services Director Perry Eaton, Libraries Director Sean Fleming, Human Services Director Lynne Goodwin, Airport Director Carl Gross, HR Director Samantha Lauzon, Finance Director Vicki Lee, Deputy Finance Director Alesia Williams, Fire Chief/Emergency Management Director Jim Wheatley, Assistant Fire Chief Jeff Libbey, Police Chief Phillip Roberts, Chief Innovation Officer Melanie McDonough,

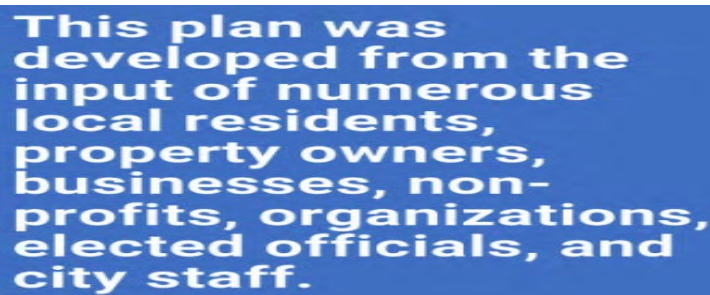
1. CALL TO ORDER: Mayor McNamara called the meeting to order at 5:30 p.m.

- City Manager Shaun Mulholland announced the meeting criteria for the public.
- Councilor Zook was attending the meeting remotely because she was ill.

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

3. Special Meeting

A. Review and vote to approve the Strategic Plan (Note: The completed Strategic Plan can be found on pages 1-144, Council agenda packet. All suggested changes by the Council at a previous meeting have been incorporated into the Strategic Plan)



This plan was developed from the input of numerous local residents, property owners, businesses, non-profits, organizations, elected officials, and city staff.

Statement from the City Manager



Shaun Mulholland

The City's Strategic Plan details the Council's goals and priorities. The plan brings together the collective efforts of our elected officials, City staff, and volunteer board members to implement the public policy we seek to achieve.

Your Lebanon City Council

This Strategic Plan is endorsed and overseen by your elected City Councilors, serving as a testament to our collective commitment to Lebanon's future.



Timothy J. McNamara
MAYOR-COUNCILOR AT-LARGE



Clifton Below
ASSISTANT MAYOR-WARD 3



Douglas Whittlesey
COUNCILOR-WARD 1



Chris Simon
COUNCILOR-WARD 1



Devin R. Wilkie
COUNCILOR-WARD 2



George Sykes
COUNCILOR-WARD 2



Karen Zook
COUNCILOR-WARD 3



Erling Heistad
COUNCILOR AT-LARGE



Karen Liot Hill
COUNCILOR AT-LARGE

Land Acknowledgement

"Every community owes its existence and vitality to generations from around the world who contributed their hopes, dreams, and energy to making the history that led to this moment. Some were brought here or removed against their will, some were drawn to leave their distant homes in the hope of a better life, and some have lived on this land for more generations than can be counted.

The City of Lebanon is situated upon ancestral and unceded lands of the Abenaki people, known as the Alnôbak in their own language. The land, known as Koas (place of the Pines), sits within the greater ancestral territory of the Abenaki and Wabanaki homeland, called Ndakinna. This acknowledgment reminds us of the significance of place, the continued existence of Abenaki people, and our commitment to building respectful relationships with those who call these lands home today."

This land acknowledgment statement was developed in consultation with a local Abenaki chief and the Lebanon Diversity, Equity, and Inclusion Commission.



How we got here.

The genesis of the Strategic Plan lies in its department-focused annual Outcomes and Work Plan, and its Master Plan. Recognizing the need for a broader vision, City Manager Shaun Mulholland initiated brainstorming sessions in 2022 to transform the work plan into a comprehensive strategic plan. This endeavor, deeply collaborative in nature, involved extensive consultations with city departments, boards, and community stakeholders. With the City Council's endorsement in January 2023, the plan moved to a public feedback phase, ensuring our community's voice is integral to the plan's finalization. This Strategic Plan, now set to guide our city's operational and budgetary directions for the next three years, represents our collective commitment to Lebanon's progressive future.

Where we are going.

As we look to the next three years, the Strategic Plan charts a clear course for Lebanon's continued vitality and prosperity. Building on the insights and feedback from our community, we've identified ten functional areas, each with its own objectives, vision statements, and key performance indicators (KPIs).

These areas reflect the city's immediate priorities and our long-term aspirations. Each strategic objective area identifies the city departments, boards, and partners responsible for bringing these visions to life. With action items and timelines set for the next three years, we are poised to make tangible progress in each area. Furthermore, our commitment to transparency ensures that our community can track these advancements in real-time, fostering a sense of collective ownership and accountability.

As we move forward, the Strategic Plan serves as both our compass and roadmap, ensuring that every step we take aligns with our shared vision for Lebanon's bright and promising future.



Our Strategic Themes

- High Performing Government
- Housing and Neighborhood
- Financial Stability and Efficiency
- Recreation, Arts, and Parks
- Environment and Sustainability
- Public Safety
- Transportation
- Economic Vitality
- Social Health and Justice
- Public Health



Resources and Feedback

Your voice and engagement are vital to the success of our Strategic Plan. Here's how you can stay informed and involved:

Where to Find the Strategic Plan

- **Website:** LebanonNH.gov/StrategicPlan
- **In Print:** Printed copies are available for review at City Hall and our Lebanon Libraries.

Dashboard

To track our progress in real-time, visit our [Strategic Plan Dashboard](#).

Feedback Form

We value your input. Please share your thoughts and suggestions with the City Manager's Office using our [Contact Form](#).

Community Photos

Many of the photos featured in this Strategic Plan were generously contributed by our community members. To view more or to contribute your own, visit the [LebNH Photo Gallery](#) and [Photo Submission Page](#).

QR Code

For quick access to all the resources, scan this QR code with your smartphone camera and tap the web URL that appears on your screen.



Council/Staff Comments: None. Discussed at length at previous Council meetings.

Councilor Whittlesey MOVED that the City Council approve the Strategic Plan and Objectives for 2025-2028.

Seconded by Councilor Wilkie

Roll Call Vote:

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

Zook and Mayor McNamara

None voted Nay: None

Absent from vote: Councilor Sykes

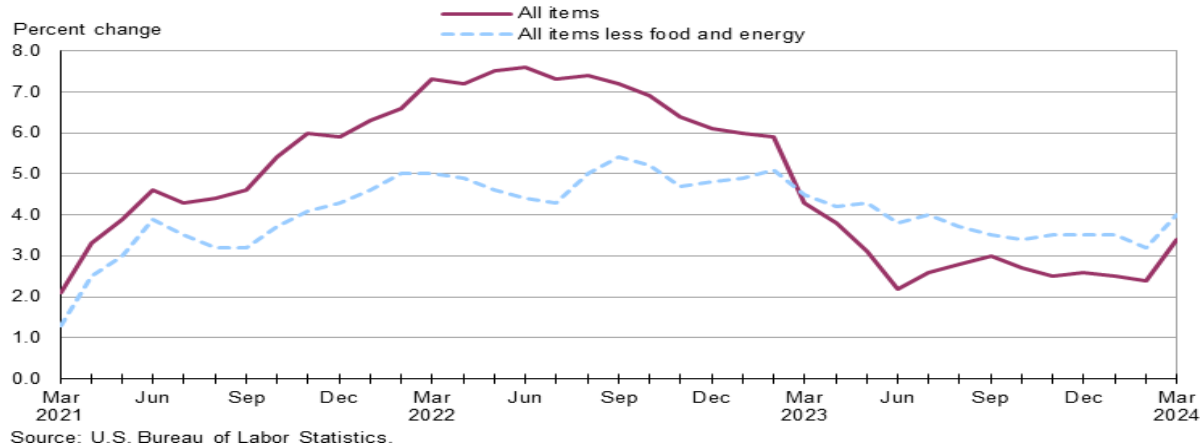
****The Vote on the Motion was approved by members present (8-0)***

B. Presentation of 2025 Financial Outlook (Note: The complete 2025 Financial Outlook presentation can be found on pages 142-176, Council agenda packet.)

City Manager Mulholland reviewed the in-depth 2025 Financial Outlook and highlighted the following:

Consumer Price Index - 3.4% Mar23-24

Chart 1. Over-the-year percent change in CPI-U, Northeast region, March 2021–March 2024



Several reports show consumer confidence in the month of April 2024 went down considerably.

City Revenue Impacts Vary by Source



Please note that the Sewer/Water system and Landfill are not paid by property taxes. They are paid for solely by user fees.

State Revenue Impacts

- No funding this year to offset retirement system
- Municipal Bridge Aid & Highway Block Grant funding
- Grants relative to Housing
- Rooms & Meals Tax Distribution

- There will be no Municipal Bridge & Highway grant funding from the State of NH.
- There are additional grant funds remaining for housing. We are already getting aid from the State for housing to deal with the housing situation in the State.

Challenges

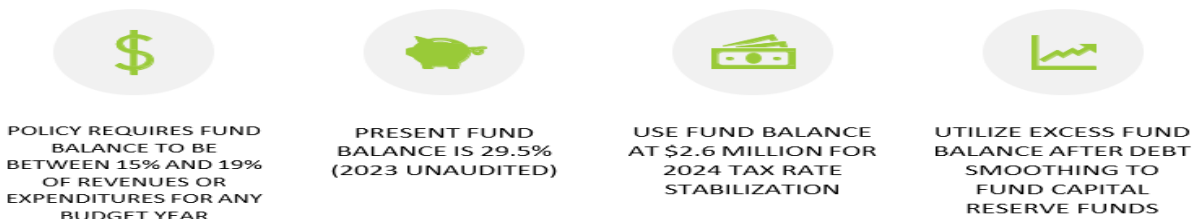
- CIP Projects stacking up = Debt Service spike projections
- Unassigned Fund Balance diminishing = Reduces ability to offset the tax rate
- Competitive Labor Markets = Upward pressure on salaries
- Tax base growth slowing as construction slows = limits spread of cost on tax base
- Roadway/Infrastructure maintenance backlog growing worse

- For Tax Base growth we have been projecting a 2.5% increase. Unfortunately, we will actually be in the negative numbers this year primarily because Alice Peck Day came off the tax rolls and are paying a Pilot Agreement. As a result, we are now looking at a negative reduction in the tax base of about .21%. That will not be finalized until the fall, but this will be a \$5M hit in the tax base.
- For Roadway/Infrastructure: The things we do and fail to do will impact us in the future (i.e., if we continue to stay at the same flat funding rate for a roadway, it will take us 200 years before we get back to that same road. That will lead to more roads needing reconstruction.) We are not spending any money this year to maintain roads. This is perhaps one of the biggest challenges the City faces: the deterioration of the infrastructure and the ability to deal with this in the long-term.

Assistant Mayor Below questioned if this was an endemic problem throughout the State/Region because of the rising costs in asphalt prices; labor costs, etc.

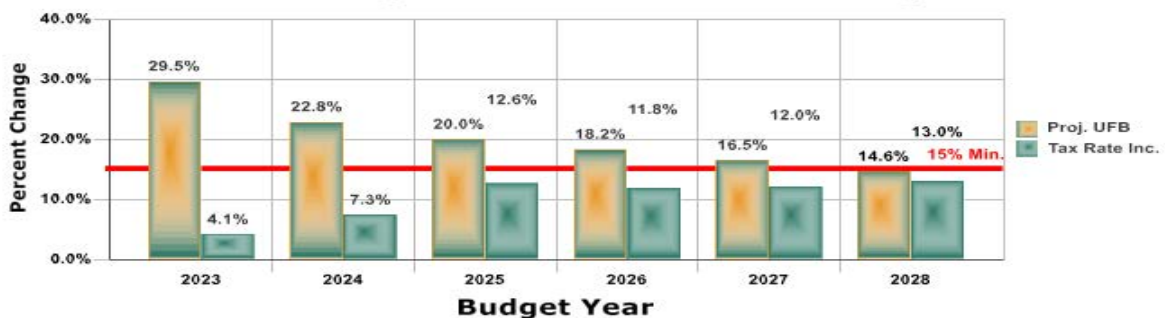
City Manager Mulholland noted that Claremont, NH spends more than Lebanon, noting we are way behind most other communities. We spent vast amounts on the CSO Projects, which included roadwork, but that is not the same as spending on roadway preservation. There will be long-term consequences that will balloon if we cannot turn this around. There will be no funds coming from the State/Federal Governments. Currently the City is spending \$550K/yr. and it would take \$1.5 million/yr. to get us to where we need to be and was uncertain where the funds would come from. When we make the budget presentation, there will be a lot of focus on roadways/sidewalks/guard rails/drainage systems.

Unassigned Fund Balance Ratios



- Our ability to borrow, except for the exceptions in the policy, do not allow the City to do this any longer, so we have to pay for City vehicles with cash. The plan is to transfer Unassigned Fund Balance funds to Capital Reserve Funds to be able to pay for those vehicles.

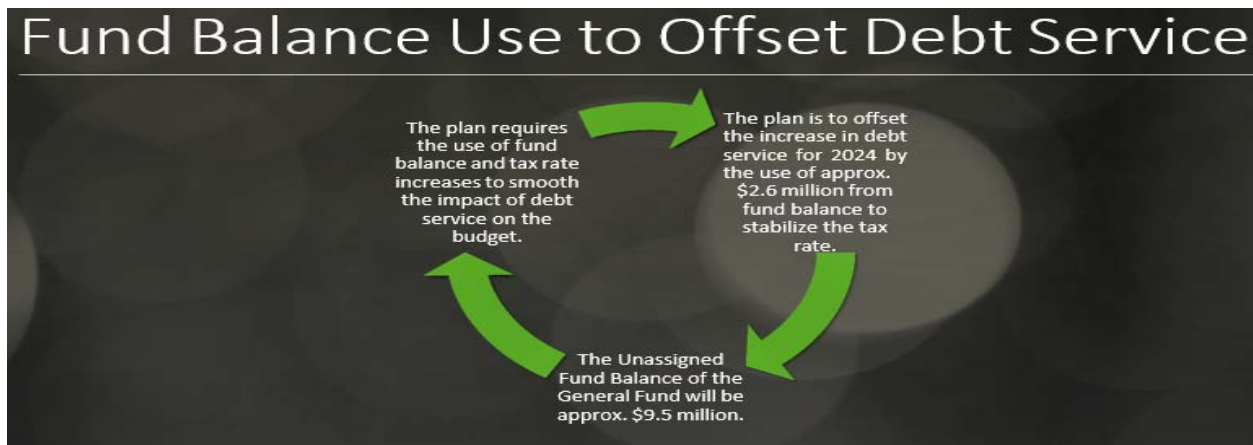
Unassigned Fund Balance Change



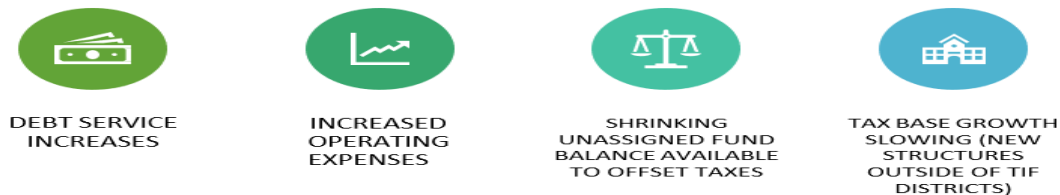
NOTE: Assumes 3-4% increase in expenditures year over year and a 2% increase in revenues other than property taxes. Other caveats such as Overlay projections which change at different rates and new property tax inventory growth estimated .25% year over year. The Unassigned Fund Balance range was reduced to a maximum of 19% and a minimum of 15%.

- By 2028 funds used from the City's Unassigned Fund Balance to offset the taxes will no longer

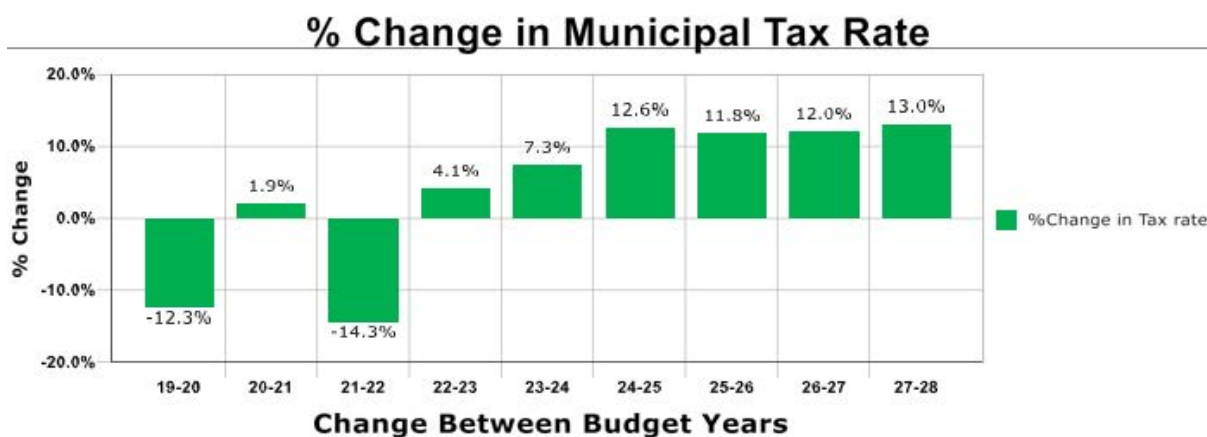
be available. The City would need to spend about \$1.8M to keep the 13.0% tax rate increase in 2028. Based on present projections, City Manager Mulholland hoped this makes the picture clear what the situation is that the City is facing.



Tax Rate Increases-Causation



This is unprecedented. In the past, the tax rate increases were fairly small (2.5%/yr.) and generally below that of which the economy was growing. Now tax rate increases will be significantly above 2.5%.



NOTE: The 2024-2025 and through 2028 are projections based upon a set of variable assumptions. The reductions between 2019-2020 and 2021-2022 are a result of the revaluation of properties. Without the revaluations the actual percentage of increase would have been approximately 2.5% each year. A revaluation of properties is scheduled for 2025 which will skew the rate.

- The projected tax rate change is pretty stark and the City Manager explained his reasons for this, noting that between 2022-2023 we were looking at a 4.1% increase. The tax rate increase for 2024 was 4.6% and now it stands at 8.1% (this may be too low). We are projecting that in October of 2024 the tax bills going out could possibly be an 8.2% to 8.3% increase. The School District's tax rate increase is \$1.45 (base on the 2023 tax base). We do not know what the

county's tax rate will be because they have not finalized their budget yet. In 2025, we are looking at a possible 12.6% increase in the tax rate. We are doing revaluations (in 2025) and suspect more of the burden will be pushed to the residential property owners because of the red-hot market for residential properties (i.e., properties will be valued more, which means they will have more of the tax burden). The 12.6% increase for 2024-2025 is the City's portion **and does not include** the School District and county's budgets.

STRATEGIES-TAX RATE IMPACTS

STRATEGIES	POTENTIAL IMPACTS
➤ Maintain debt ceiling policy	❖ Adds to CIP list & fails to address issues
➤ Reduce operational spending	❖ Reductions in service delivery
➤ Limit tax credits & exemptions	❖ Short term impact vs. long term benefit
➤ Limit growth of TIF Districts	❖ Short term impact vs. long term benefit
➤ Utilize PAYGO & Capital Reserve Funds	❖ Negatively impacts UFB & increases budget costs in the short term

Assistant Mayor Below spoke about his reasons regarding whether we should maintain the debt ceiling policy, noting an option would be to adjust our debt ceiling and capitalize items that can be appropriately considered capital items.

City Manager Mulholland noted Lebanon is at the top of the list for NH Municipal Bonds. In our policy, there will still be a lot of debt financing because we have a few exceptions, so even though the ceiling is in effect this will not stop the borrowing and it is up to the Council to decide what level is appropriate. For vehicles we paid 5.5% for short-term loans, so it makes sense to pay for these in cash. He spoke about the reasons why there are things we should pay cash for and things we should not borrow for.

Councilor Liot Hill was uncertain how limiting the TIF Districts would lower the tax rate projections if the development that is going on in those TIF Districts is development that otherwise would not be happening. She wanted to know the costs/benefits of limiting the TIF Districts; what is palatable to the Council; what are the things we think are appropriate to ask the taxpayers to make sacrifices for; and what are the places we are going to have to look at making sacrifices ourselves?

City Manager Mulholland spoke about the last revaluation noting there was no new building in the Downtown area, but the tax base grew by 22%. Now, 22% goes into the TIF District that should have gone into the General Fund. That is robbing the fund for the School District, the county, and certainly the General Fund of the City.

Councilor Liot Hill suggested limited growth of TIF Districts should be limited to a timeframe (i.e., until the revaluation is completed). She agreed with City Manager Mulholland that there is a problem in the way TIF Districts are executed, but that does not mean TIF Districts are the problem.

Councilor Whittlesey agreed that the Downtown TIF District has a problem, but we have to be very careful about how we approach this because we want to make sure the TIF District is paying for itself and explained his reasons. In terms of borrowing, being strategic is more important. We should use cash in high rate environments and use borrowing in low rate environments and explained his reasons. Part of the reason we are in the situation we are in now is because we did not have a strategic borrowing plan to pay for the CSO Projects and are seeing the effects in our budgets right now. If we continue to borrow in higher rate environments, like now, we have to be very careful about what we borrow on because 10/20/30 years down the line we will still be kicking the can down the road.

Assistant Mayor Below noted another strategy would be to reduce the rate for the Downtown District, or eliminate it, because it would put a lot more funds back into the tax base and further explained his reasons.

Mayor McNamara noted that \$600K/\$700K is going into the TIF District every year and these funds are not being spent.

The Council discussed the potential of repealing and creating a new Lebanon Downtown TIF District; what would be the tax base without the TIF District; what the short term gain would be vs. the long term growth for the TIF District; and, potentially taking those funds (\$600K/\$700K) and transferring them to either the School or the City's General Fund.

Long Term Financial Plan



Reduce or eliminate

Reduce or eliminate the use of fund balance to offset the tax rate.



Utilize

Utilize the Unassigned Fund Balance to offset the cost of Capital Projects

- Pay as you go- using cash to pay for projects/equipment
- Capital Reserve Funds



Eliminate

Eliminate the use of the UFB to subsidize the cost of operating expenses

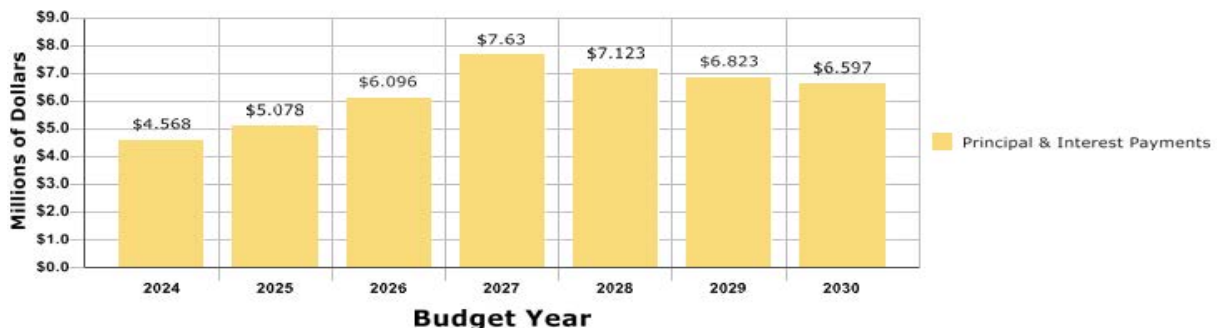
Property Tax Uncollected



Total Amount of Property Tax Warrant (City, Local School, State School, County combined levy)

- As shown above, the City has very little uncollected property taxes.

General Fund Debt Service



- The spikes in Debt Service have a direct impact on the budget. We will be going up \$1.6M in

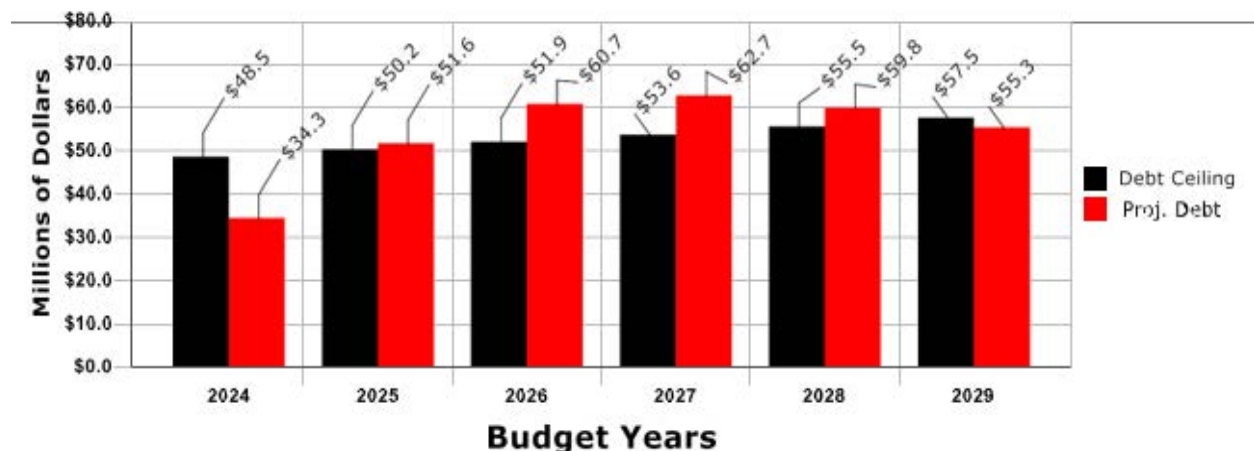
2027 (as compared to 2026). Most of these are 20/yr. bonds. If the interest rates go down, we can sell those bonds and receive the benefits of that.

Debt Ceiling Circuit Breaker Provision

- The "Circuit Breaker" provision in the Debt Management Policy takes effect in 2025 as we will reach the debt ceiling established in our policy a year earlier than projected.
- Limits debt spending in the General Fund to the exceptions listed in the policy.
- The City is still below the statutory borrowing limits set by state law.

The Council discussed the increase in construction costs; job migrations to Lebanon (i.e., are they doctors or construction workers); should they be re-evaluating some of the CIP Projects that have been approved if costs are different than what they have been approved for; should the Council be looking at postponing the construction of the Fire Station for a year; the Safer Grant for firefighters; since the Fire Station sits in the TIF District, why not start spending all the funds (designated to the TIF District) to cover Fire Station Debt; if the TIF District funds are to be used for public infrastructure, it may be worth the money paid to lawyers to evaluate whether or not it would be applicable under the NH rules; being very careful on how TIF District funds are used and the unintended consequences from the State if they feel funds are potentially being used to abuse the tools that are given to us.

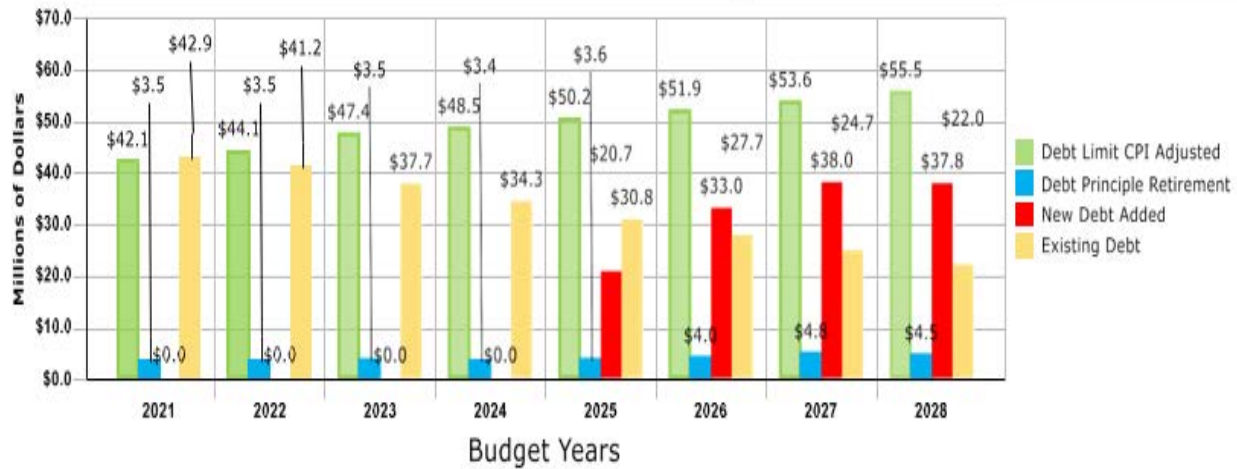
Debt Ceiling Limits/Projections



NOTE: Present projections show that the debt ceiling will be exceeded from 2025-2028. This will limit debt financing during this period to those exceptions in the debt management policy. The debt ceiling is calculated based upon an assumption of CPI growth of 3.4% year over year. The projected debt is calculations are based upon existing approved but not completed projects and projected new projects in the 2024-2029 CIP for the General Fund.

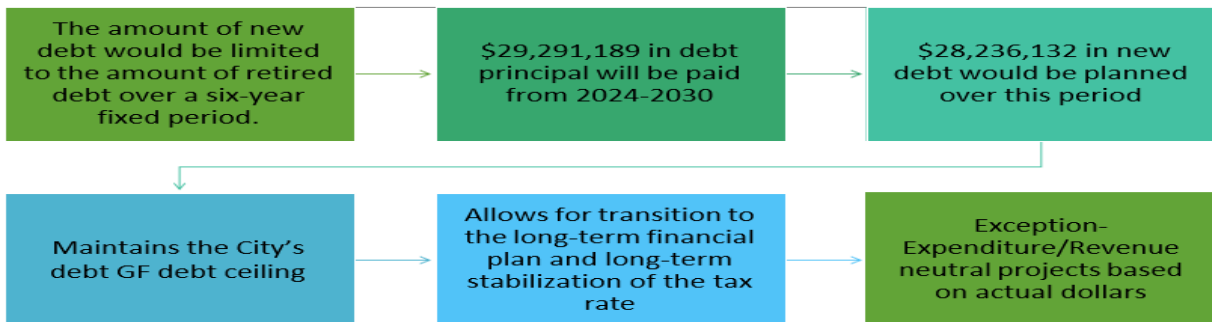
- Limits are in black column

General Fund Debt Management Plan



*NOTE: The Debt Limit CPI Adjusted will be adjusted by the actual average CPI ending on June 30th of each year with a 12 month look back. This chart uses a CPI of 3.4% for 2025 and an average CPI of 3.4% for the subsequent years. The debt ceiling will exceed the limits starting in 2025 (add existing debt with new debt).

Limitation of Future Capital Projects General Fund



Impacts on CIP

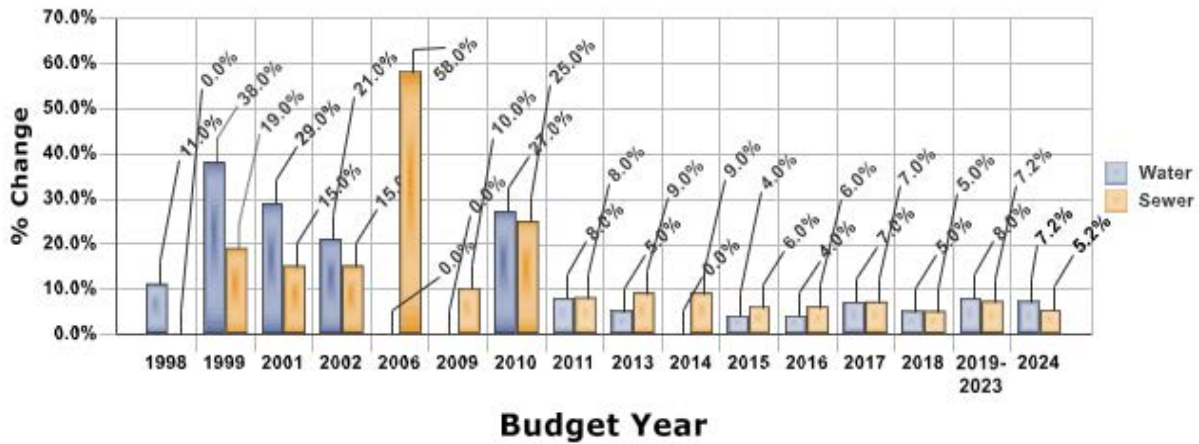
Projects have been backed up due to the impact of the CSO

Failure to address known issues may result in cascading impacts

- Facilities
- Transportation Infrastructure
- Equipment and Vehicles

Could result in higher long-term costs and negative service delivery impacts

Water & Sewer Rate Increases



* 2019-2023 8% and 7.2% for each year

Sewer Fund-Future

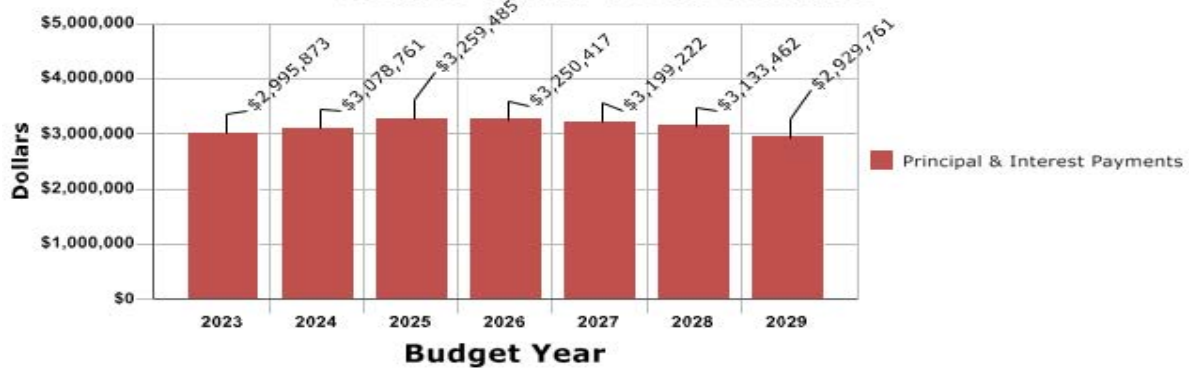


Replacement/Repairing of the sewer collection system that was not replaced in the areas of the CSO projects.

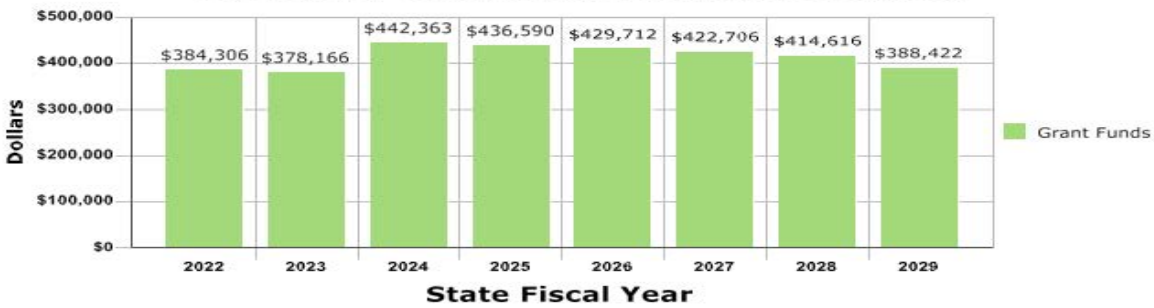


PFAS mitigation and treatment requirements. Presently US EPA and NH DES have not set regulations for the release of PFAS in treated wastewater or for PFAS in sludge. We are presently releasing PFAS at small levels into the Connecticut River with much larger levels remaining in the sludge.

Sewer Fund Debt Service



State Aid Grants-Wastewater Projects



- We cannot expect more grant funds from the State.

Water Fund-Future



New water source well and distribution system will add significant costs to the Water Fund debt levels and annual debt service expenditures.

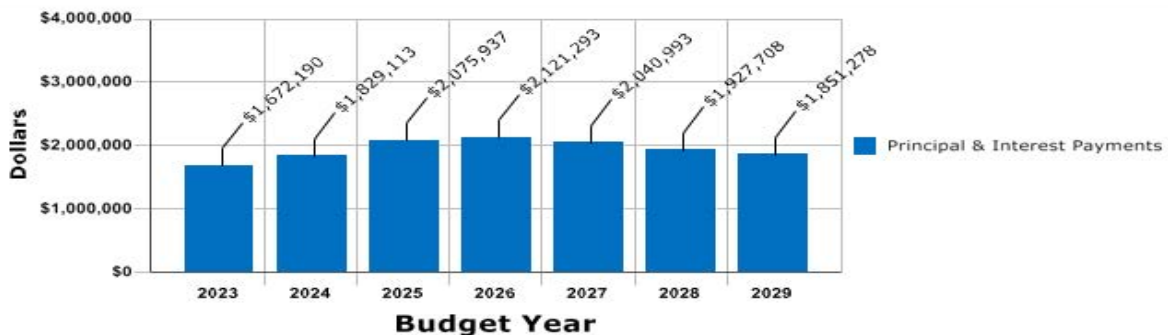


US EPA and NH DES are requiring a robust lead detection and removal program that will have unknown costs. We believe our system has very limited amounts of lead mostly in service connections.



Ongoing need to replace and repair the aged water distribution system not replaced during the CSO project areas.

Water Fund Debt Service



NOTE: Projections do not include the new water source and distribution system needed for that project. Costs of new lead regulations and required detection/removal of lead in the existing system is also not included.

Solid Waste Fund-Future



EXPANSION OF LANDFILL TO INCLUDE PHASE 3&4 WILL ADD TO CAPITAL COSTS



PFAS MITIGATION COSTS ARE STILL LARGELY UNKNOWN. FURTHER STUDY AND PILOT TREATMENT PROJECT TO BE INITIATED IN 2024. US EPA AND NH DES HAVE NOT SET STANDARDS FOR PFAS LEVELS IN LEACHATE, SOIL OR AIR.

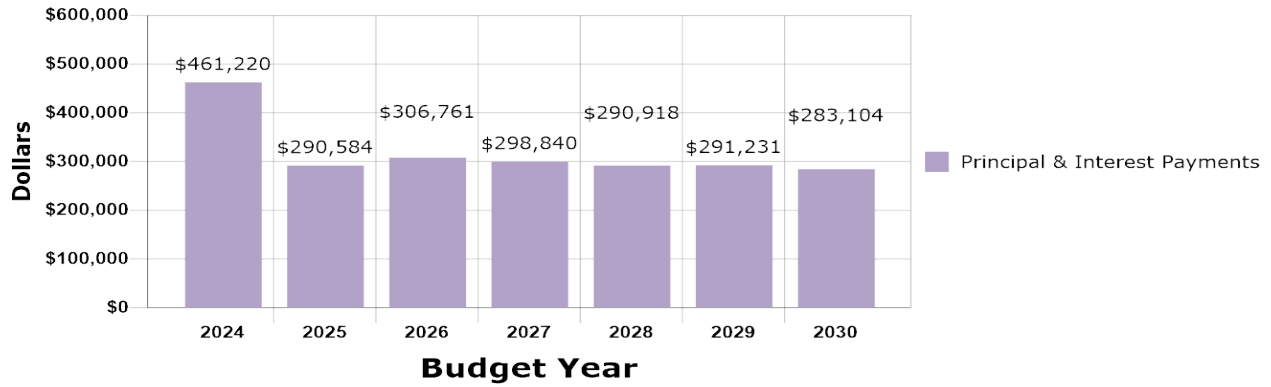


INCREASED RECYCLING LEVELS CAN EXTEND THE LIFESPAN OF THE LANDFILL IF NEW REQUIREMENTS ARE IMPLEMENTED.

- Due to the seepage we had from this spring's rainstorms at the landfill, capping parts of the

landfill to correct this issue will be an unanticipated expense. It is unlikely there will be grant funds to offset this.

Solid Waste Fund Debt Service



General Fund Subsidy to Airport Fund

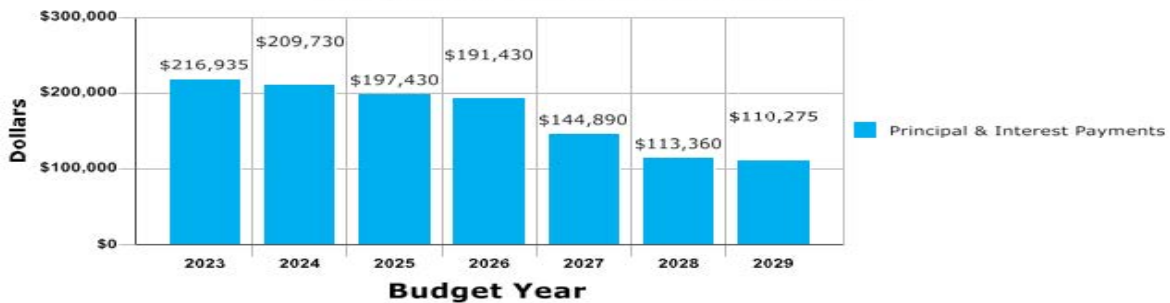
General Fund Subsidy of the Airport Fund ended in 2021. COVID Relief Funds helped to offset airport operating and capital expenses.

The Lebanon Airport-Tech Park TIF District debt which is charged to the Airport Fund has new development which will be added to the 2024 tax assessment offsetting some of the cost.

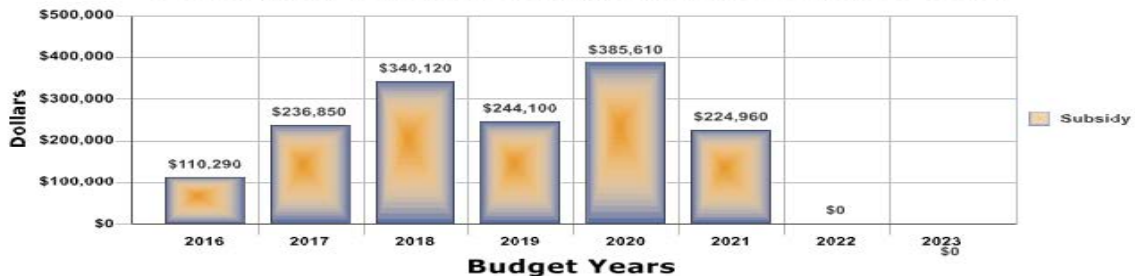
Increases in airport revenue have further offset the need to provide subsidy from the General Fund.

At present projections we do not anticipate General Fund subsidy.

Airport Fund Debt Service



General Fund Subsidy to the Airport Fund



C. Input from City Council for the 2025 Budget Process

Mayor McNamara thought it would be a good idea to have several scenarios that would help the Council to intelligently decide where we can and should be cutting. Until we know how much we need to cut to get to certain levels it is hard to have that discussion. He proposed having City Manager Mulholland and his staff look at three (3) other scenarios (i.e., 7% and 10% increase tax rate for CPI (Capital Project Improvements and a couple of others).

Mayor McNamara agreed with Councilor Heistad's request to have the budget proposal information made available to Council before October, noting the sooner we can have these discussions, the better off we will be because the 2025 budget process will be unprecedented. What really struck him during one of the Council's work sessions is not being able to touch a road for 200 years (at the City's current DPW funding rate for roads). We are going to have to find a place where we can spend \$1.5M/yr. instead of half a million dollars to even begin to get caught up on this.

The Council continued to have lengthy discussions and debates regarding the 2025 budget as follows:

- Reasons why a 12.6% in property taxes is intolerable and unrealistic;
- How different scenarios would be a good way for the Council to understand the projections and impacts it would have on the City;
- The tolerance of the public if the tax rate remains at 12.6% (2025);
- The impact of the residential tax rate increase after revaluation of property is done;
- Concerns about a potential negative demographic shift in Lebanon;
- How do we maintain the diversity we have traditionally had in our community while having a functional City Government;
- The advantages of using City funds to build residential housing (Pilot), which would put new housing on the City's tax roll and accelerate middle market housing for people who would otherwise be forced out by current resale market and help stimulate some interest among small, local, private developers;
- The need to be cognizant and take a methodical approach in what we do because it will have an impact on the City 5-15 years in the future;
- Being able to listen to one another and have a constructive conversation with the understanding that some of what the Council will be making decisions on will be immediate and some will be long-range;
- Amortizing some of the City's equipment over a longer period of time but limiting cash purchases to a specific dollar amount;
- Using TIF funds (\$700K+/-) plus adding another \$500K funds for road improvements (i.e., paving);
- How, when looking at any increase in tax rates, the messaging is almost as important as the budgeting so the public understands the Council is doing the best it can possibly do to deliver them the best product;
- Budget impacts due to City employees' retirement and healthcare costs;
- The Council's need to see a rough outline of the breakdown of the budget for 2025 before October 31st and suggestions on how this could be done so they have a better understanding of what the impacts would be;
- Looking at FTE cost increases and if there are specific areas the Council could use to see what the impacts would be if some areas were reduced/cut;
- Whether or not it might not be useful/valuable to have the City Manager create a "Speculative Budget" for the Council's review;
- Whether or not it might be useful for the Council to provide some preliminary guidance to department heads (i.e., a Strategic Plan for budget cuts) in the City's Charter before they give their budget requests/proposals in July;

- How do potential budget cuts impact the Strategic Plan for next year (i.e., what are we not going to do on the Strategic Plan that was just approved and what does that mean); and,
- How a Sensitivity Analysis could be used as a tool to put into prospective the limitations of an increase in tax rate (i.e., a 3.4%/7%/10%) growth and would help the Council, with some confidence, know what the FTE costs would be next year (2025).

At Councilor Liot Hill and the Council's request, Councilor Whittlesey agreed to put together a draft Sensitivity Analysis for the Council's review.

3. Non-public session:

A. RSA 91-A:3, II(a) - "The dismissal, promotion, or compensation of any public employee or the disciplining of such employee, or the investigation of any charges against him or her..."

ACTION:

Councilor Wilkie MOVED that the City Council enter into Non-Public Sessions for the purpose of discussing RSA 91-A:3.II(a) "The dismissal, promotion, or compensation of any public employee..."

Seconded by Councilor Whittlesey.

Roll Call Vote:

Voting Yea: Assistant Mayor Below and Councilors Heistad, Liot Hill, Simon, Whittlesey, Wilkie, Zook and Mayor McNamara

None voted Nay:

Absent from vote: Councilor Sykes

Staff Present: City Manager Mulholland and Assistant City Manager Brooks

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

The Council went into Non-Public Session at 7:34 PM

The Council Review and discuss internal procedures regarding building inspections and how they are handled by staff.

Councilor Whittlesey MOVED that the City Council go out of Non-Public Session.

Seconded by Councilor Wilkie.

Roll Call Vote:

Voting Yea: Assistant Mayor Below and Councilors Heistad, Liot Hill, Simon, Whittlesey, Wilkie, Zook and Mayor McNamara

None voted Nay:

Absent from vote: Councilor Sykes

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

The Council came out of Non-Public Session at 8:38 PM

THE COUNCIL WAS NOW BACK IN PUBLIC SESSION

SEALING THE MINUTES OF THE NON-PUBLIC SESSION

1 *Motion by Councilor Whittlesey for the City Council to Seal the Non-Public Session minutes of the*
2 *May 8, 2024 Non-Public Session because it is determined that divulgence of this information likely*
3 *would affect adversely the reputation of any person other than a member of this board.*

4 **Roll Call Vote:**

5 **Voting Yea:** Assistant Mayor Below and Councilors Heistad, Liot Hill, Simon, Whittlesey, Wilkie,
6 **Zook and Mayor McNamara**

7 **Voting Nay:** Assistant Mayor Below

8 **Absent from vote:** Councilor Sykes

9
10 **The Vote on the MOTION was approved (7-1-0).*

11
12 **4. ADJOURNMENT:**

13
14 *Councilor Wilkie MOVED for adjournment.*

15 *Seconded by Councilor Whittlesey.*

16
17 **The Vote on the MOTION was unanimously approved (8-0)*

18
19 **The Council's Special Meeting was adjourned at 8:39 PM.**

20
21 Respectfully submitted,

22 Dona E. Gibson

23 Recording Secretary

DRAFT

**LEBANON CITY COUNCIL
REGULAR SESSION MINUTES
Wednesday, May 15, 2024 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 (Remote)

MEMBERS ABSENT:

STAFF PRESENT: City Manager Shaun Mulholland, Deputy City Manager David Brooks, Public Works Director Jay Cairelli, DPW Administrative Services Manager Kelly Crate, Finance Director Vicki Lee, Deputy Finance Director Alesia Williams, Fire Chief/Emergency Management Director Jim Wheatley

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.
- Councilor Zook attended the meeting remotely because she was ill.

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

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

5. RECOGNITIONS: None

6. ACCEPTANCE OF MINUTES:

- April 23, 2024 (Strategic Plan Work Session)

Amendments: Mark Councilor Simon present; Page 14, Line 11: Change “Chair” to “member of DEI”

- April 25, 2024 (Strategic Plan Work Session)

- May 1, 2024 (Regular Meeting)

*Councilor Liot Hill MOVED to approve the April 23, 2024 (Strategic Plan Work Session), the April 25, 2024 (Strategic Plan Work Session) and May 1, 2024 (Regular Session) minutes as amended and presented in the May 15, 2024 City Council agenda packet.
Seconded by Councilor Heistad..*

Roll Call Vote:

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

None voted Nay.

1 Absent from vote: Assistant Mayor Below was not present at the time this vote was taken

2
3 **The Vote on the Motion was approved (8-0)*

4
5 **7. APPOINTMENTS:**

6 - Library Board of Trustees, Leonee Derr (Alternate Member)

7 ***Councilor Wilkie MOVED to NOMINATE Leonee Derr as an Alternate Member of the Library Board of***
8 ***Trustees. Term: 05/24-05/26***

9
10 **Roll Call Vote:**

11 **Councilors Heistad, Liot Hill, Simon, Sykes, Whittlesey, Wilkie, Zook and Mayor McNamara all voting**
12 **Yea.**

13 **None voted Nay.**

14 **Absent from vote: Assistant Mayor Below was not present at the time this vote was taken**

15
16 **The Vote on the NOMINATION was approved (8-0)*

17
18 - Class VI Roads Advisory, Stephen Wood (Reappointment Citizen Representative)

19 ***Councilor Heistad MOVED to NOMINATE Stephen Wood for Reappointment as a Citizen Representative to***
20 ***the Class VI Roads Advisory Committee. Term: 05/24-05/25***

21
22 **Roll Call Vote:**

23 **Councilors Heistad, Liot Hill, Simon, Sykes, Whittlesey, Wilkie, Zook and Mayor McNamara all voting**
24 **Yea.**

25 **None voted Nay.**

26 **Absent from vote: Assistant Mayor Below was not present at the time this vote was taken**

27
28 **The Vote on the NOMINATION was approved (8-0)*

29
30 - Arts & Culture Commission, Stevens Blanchard (Ward 1 Citizen Representative)

31 ***Councilor Whittlesey MOVED to NOMINATE Stevens Blanchard as a Ward 1 Citizen Representative to the***
32 ***Arts & Culture Commission. Term: 05/24-05/26***

33
34 **Roll Call Vote:**

35 **Councilors Heistad, Liot Hill, Simon, Sykes, Whittlesey, Wilkie, Zook and Mayor McNamara all voting**
36 **Yea.**

37 **None voted Nay.**

38 **Absent from vote: Assistant Mayor Below was not present at the time vote was taken**

39
40 **The Vote on the NOMINATION was approved (8-0)*

41
42 **Assistant Mayor Below arrived at approximately 7:07 PM**

43
44 **8. PUBLIC HEARING ITEMS:**

45 **A. Amendment to Mount Support Road Special Assessment District; Authorization to Impose Special**
46 **Assessment to pay for the Construction Phase of Traffic and Transportation Improvements at the**
47 **Intersection of Mt. Support Road and Lahaye Drive, Lebanon – A public hearing for the purpose of**
48 **receiving public input and taking action to amend the Mount Support Road Special Assessment District and**
49 **to Authorize the Imposition of a Special Assessment to pay for the Construction Phase of Traffic and**

Transportation Improvements at the Intersection of Mt. Support Road and Lahaye Drive, Lebanon.

Included in the agenda packet: **(All supportive documents and information can be found on pages 70-78, Council agenda packet)**

1. Property Owner spreadsheet for Mount Support Road Special Assessment District, including percentage of all trips and relative share of project costs, updated through March 20, 2024
2. Map of Mount Support Road Special Assessment District, updated through March 20, 2024
3. Plan entitled "Lahaye Drive at Mount Support Road Intersection Improvements, Key Plan", prepared by Weston & Sampson, dated September 2023, Project No. ENG21-1276.

Information available but not included in this Section:

4. [City of Lebanon Charter, Section C419:57 - Special Assessments - Council Resolutions](#)
5. [NH RSA 52-A - Special Assessment Districts](#)

Deputy City Manager Brooks reviewed the background and shared the Mount Support Road – Special Assessment District (SAD) topographical map from June 2, 2021.

BACKGROUND

On June 2, 2021, the City Council approved the creation of the Mount Support Road Special Assessment District (S.A.D.) to pay for the cost of design and permitting for traffic and transportation improvements in and near the intersection of Mt. Support Road and Lahaye Drive. The improvements were found to be necessary based on traffic impact studies prepared for several large development projects located near and along Mt. Support Road in the preceding year.

The basis of the special assessment for properties located within the S.A.D. was determined based on a review and analysis of the traffic impact studies and the projected trip generation for the Dartmouth Health Patient Tower Expansion project, the Dartmouth College-Michael's Student Living residential development, and the Saxon Partners-Marek residential development, as well as existing traffic counts and standard traffic projection data. In addition to the existing and approved projects in the Mt. Support Road corridor, the City was determined to be responsible for a portion of trips through the intersection that are not attributable to other developments within the district. The original calculated percentage of trips through the Mt. Support Road/Lahaye Drive intersection and the corresponding relative share of the anticipated project costs for the properties in the S.A.D. are summarized on the attached spreadsheet.

Subsequent to the creation of the S.A.D., in February 2022, another large development project (392-402 Mt. Support Road; n/f SPNH Lebanon North, LLC) was approved along Mt. Support Road within the district. In accordance with the Council's original S.A.D. resolution, the proportionate share of traffic through the Mt. Support Road/Lahaye Drive intersection was recalculated using the same methodology and incorporated the additional traffic projected to be generated from the newly-approved residential development. The updated calculated percentage of trips and corresponding relative share of anticipated project costs for the properties in the district are summarized on the attached spreadsheet.

At the time of its creation, the S.A.D. process was initiated and the district was established specifically to raise \$250,000 for the design and permitting phases of the intersection improvements. Since the City did not borrow funds for the design and permitting phases, the special assessment levied against properties in the district only includes the payback of the principal amount in 10 payments over a 5-year period. To date, six of the 10 special assessments have been levied. Four more special assessments are anticipated (two in 2024 and two in 2025) to fully recoup the cost of the design and permitting work for the improvements.

1 In order to now raise funds for the construction phase of the intersection improvements, which are estimated to cost
2 approximately \$4.35 million dollars, the Council must re-initiate the S.A.D. process and amend the previously
3 established district to authorize that the expense of constructing the traffic and transportation improvements shall
4 be paid for, in part, by a special assessment levied upon the properties in the district. The City of Lebanon will
5 continue to be responsible for its share of the costs, currently calculated at 7.279%, resulting from trips through the
6 intersection that are not attributable to other developments in the district along with future background growth.

7 For the construction phase, the City expects to issue bonds for the cost of the project. The Finance Department has
8 estimated that the interest on the borrowed funds will be approximately \$1.8 million dollars over the 20-year
9 repayment period for the bond. The special assessments levied against the properties within the district, along with
10 the City's share, for the construction phase of improvements will account for both the principal amount and the
11 estimated interest on the borrowed funds, and will be assessed in 40 payments over 20 years.

12 There is a spreadsheet in the Council's agenda packet (**page 75**) that outlines all the individual parcels that are
13 within the District. There has been one new project within the District since it was originally created and this project
14 has already been factored into the percentages of responsibility and the traffic through the intersection. If additional
15 projects come along during the 20-year life of this project, it would be recalculated each time and the percentages
16 would go up and down accordingly to represent the additional traffic.

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

19
20 **ACTION:**

21 *Councilor Whittlesey MOVED, the following Resolution:*

22 1. *Initiation of Special Assessment District Process.*

23 *FOR THE PURPOSE OF initiating the process to amend the previously established Special Assessment*
24 *District under Chapter 147 of the City Code to propose that the expense of constructing traffic and*
25 *transportation improvements in and near the intersection of Mt. Support Road and Lahaye Drive in the Mount*
26 *Support Road Special Assessment District shall be paid, in part, by a special assessment levied upon the*
27 *properties which shall receive such special benefit.*

28 *NOW THEREFORE BE IT RESOLVED, by the City of Lebanon, that on June 15, 2022, the Public Works*
29 *Department presented plans, specifications, and estimated costs for the proposed public improvements, and on*
30 *April 3, 2024, the City Manager presented a special assessment list containing all properties on which the*
31 *special assessment is to be levied, and informed the City Council as to the completion of such actions, for the*
32 *purpose of enabling the Council to schedule a public hearing on the proposal.*

33
34 2. *Amendment of Mount Support Road Special Assessment District.*

35
36 *FOR THE PURPOSE OF declaring that the expense of constructing traffic and transportation improvements*
37 *in and near the intersection of Mt. Support Road and Lahaye Drive in the previously established Mount*
38 *Support Road Special Assessment District shall be paid, in part, by a special assessment levied upon the*
39 *properties which shall receive such special benefit.*

40
41 *WHEREAS, plans, specifications and estimated costs of the proposed public improvements have been obtained*
42 *or estimated and such documents and information have been made available for public inspection; and*

43 *WHEREAS, a public hearing upon the proposal was held on May 15, 2024, following proper notice to the*
44 *public and to all owners of property to be part of the Special Assessment District.*

NOW THEREFORE BE IT RESOLVED, that the previously established "Mount Support Road Special Assessment District" is herewith amended for the purpose of funding the construction of traffic and transportation improvements in and near the intersection of Mt. Support Road and Lahaye Drive, such District to be comprised of the following properties upon which a special assessment will be levied:

Map 10, Lot 8.....	Dartmouth Hitchcock Medical Center
Map 10, Lot 8, Plot 100.....	Dartmouth Hitchcock Medical Center
Map 10, Lot 8, Plot 300.....	Dartmouth Hitchcock Medical Center
Map 10, Lot 8, Plot 200.....	Mary Hitchcock Memorial Hospital
Map 10, Lot 8, Plot 70100	Mary Hitchcock Memorial Hospital
Map 10, Lot 21	Mary Hitchcock Memorial Hospital
Map 10, Lot 22	Mary Hitchcock Memorial Hospital
Map 10, Lot 23	Mary Hitchcock Memorial Hospital
Map 10, Lot 25	Mary Hitchcock Memorial Hospital
Map 24, Lot 6.....	Mary Hitchcock Memorial Hospital
Map 10, Lot 8, Plot 70200	Dartmouth College Trustees
Map 10, Lot 24, Plot 100.....	Dartmouth College Trustees
Map 10, Lot 24, Plot 200.....	Dartmouth College Trustees
Map 24, Lot 2.....	Dartmouth College Trustees
Map 24, Lot 3.....	Dartmouth College Trustees
Map 24, Lot 4.....	Dartmouth College Trustees
Map 24, Lot 8.....	Dartmouth College Trustees
Map 24, Lot 1	Marek Lebanon, LLC
Map 24, Lot 11	Audubon Timberwood, LLC
Map 10, Lot 6, Plot 200.....	David's House, Inc.
Map 10, Lot 6, Plot 100.....	Northern NE Tele Oper, LLC
Map 24, Lot 9 & 10 (merged)	SPNH Lebanon North, LLC
Map 24, Lot 1, Plot 100.....	SPNH Mount Support, LLC
Map 24, Lot 7.....	Upper Valley Supportive Housing LP

BE IT FURTHER RESOLVED, that the basis for the assessment among the properties within the District shall be the proportionate share of traffic passing through the Mt. Support Road/Lahaye Drive intersection generated from each property within the District as determined by traffic studies, including the Traffic Impact and Access Study submitted for the Dartmouth Hitchcock Medical Center Expansion, prepared by VHB, dated November 2019; the Traffic Impact Assessment for the Dartmouth College/Michael's Student Living residential development, prepared by VHB, dated February 7, 2020; the Traffic Impact Assessment for Saxon Partners (The Marek at Lebanon, NH) residential development, prepared by VHB, dated February 28, 2020; the Traffic Impact Assessment for The Braverman Company, LLC (Proposed Apartment Development, 402 Mt. Support Road), prepared by VHB, dated April 27, 2020; and the Traffic Impact Study for Ivy Commons (now known as Timberwood Commons), prepared by RSG, dated July 2007; as well as trip generation information published by the Institute of Transportation Engineers (ITE). The methodology and calculations for each property's proportionate share shall be consistent with the plan that was presented to the Lebanon City Council on May 5, 2021 by the Planning and Development Department, including the proportionate share attributable to the City of Lebanon.

BE IT FURTHER RESOLVED, that each time the Lebanon Planning Board grants final approval for new development of property within the Mount Support Road Special Assessment District, subsequent to the establishment of the District and prior to the actual expense of the proposed public improvements being fully repaid to the City, the proportionate share of traffic through the Mt. Support Road/Lahaye Drive intersection

shall be recalculated using the same methodology consistent with the plan presented to the Lebanon City Council on May 5, 2021 and incorporating the projected traffic generated from such new development. The new proportionate share calculations shall be reflected in the next installment of special assessments levied upon each property in the District and shall apply to the remaining balance of appropriated funds.

3. Authorize the Imposition of a Special Assessment for the Proposed Public Improvements.

FOR THE PURPOSE OF financing the construction of traffic and transportation improvements in and near the intersection of Mt. Support Road and Lahaye Drive within the Mount Support Road Special Assessment District; and

FOR THE FURTHER PURPOSE of imposing a special assessment for the proposed public improvements.

NOW THEREFORE BE IT RESOLVED, that, whereas the Lebanon City Council has, by Resolutions #9 and #10 approved on December 14, 2022, appropriated funding for the construction of traffic and transportation improvements in and near the intersection of Mt. Support Road and Lahaye Drive within the Mount Support Road Special Assessment District and authorized the issuance of a bond issue or bond issues in an amount not to exceed \$4,350,000 (Four Million, Three Hundred Fifty Thousand Dollars), with \$4,033,360 of the total bond issue to be supported through a special assessment apportioned among the properties comprising the Mount Support Road Special Assessment District, and with the remaining \$316,640 of the total bond issue to be supported from the City's general fund based on the City's proportionate share.

BE IT FURTHER RESOLVED, that, whereas the City of Lebanon has authorized the issuance of a bond or bonds in an amount not to exceed \$4,350,000 (Four Million, Three Hundred Fifty Thousand Dollars), the estimated interest payments over the twenty (20) year period of the bond will be \$1,800,000, which shall be apportioned and paid for among the properties comprising the Mount Support Road Special Assessment District, including the proportionate share attributable to the City of Lebanon.

BE IT FURTHER RESOLVED that the City Manager, after completion of the construction of traffic and transportation improvements in and near the intersection of Mt. Support Road and Lahaye Drive, is authorized to apportion the total actual cost including, but not limited to, construction, construction engineering, debt service, and all other related costs, among the properties comprising the Mount Support Road Special Assessment District, including the proportionate share attributable to the City of Lebanon, with said special assessment to be paid in forty (40) payments over a period not to exceed twenty (20) years. Such special assessments shall be levied contemporaneously with each property's semi-annual tax bill beginning with the June 2024 tax bill.

BE IT FURTHER RESOLVED, that Mount Support Road Special Assessment District property owners shall have the right to pay the balance due of the special assessment (principal) in full at any time, but such payment shall not be reduced in any way for a discount or adjustment and that the special assessment shall be collected by the Tax Collector in the same manner as real estate taxes pursuant to the provisions of RSA Chapter 80.
Seconded by Councilor Wilkie.

Roll Call Vote:

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

None voted Nay.

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

B. Complete Discontinuance of Romano Circle as a Class V Public Highway, West Lebanon – A public hearing for the purpose of receiving public input and taking action to discontinue completely, and in its entirety, Romano Circle as a Class V Public Highway, West Lebanon.

Included in the agenda packet: **(All supportive documents and information can be found on pages 79-85, Council agenda packet)**

1. Romano Circle; Request for Discontinuance letter from Attorney Megan C. Carrier, Esq., dated February 12, 2024
2. Granite Engineering - Lebanon Housing Authority, Conceptual Overview Plan, dated February 9, 2024

Deputy City Manager Brooks reviewed the background for the discontinuance of Romano Circle as a Class V Public Highway, West Lebanon.

BACKGROUND

Romano Circle is located west of South Main Street (Route 12A) in West Lebanon. The Lebanon Housing Authority (LHA) owns property that completely surrounds Romano Circle, and LHA has requested this discontinuance via letter and plans issued to the Department of Public Works. Refer to the attached request letter prepared by Sheenan Phinney, dated February 12, 2024. The letter documents details of the request, as well as details related to abutting properties, proposed street maintenance, proposed easements, and future operations.

The letter also references a pending proposal for a new office building. The addition of this office building is anticipated to result in the need for revised E911 address numbering for buildings located along Romano Circle. Accompanying the letter is a site plan titled "Conceptual Overview Plan" prepared by Granite Engineering, dated February 9, 2024. This plan consists of two sheets that show the current approximate Romano Circle right-of-way (ROW) as well as the location of the proposed new office building.

Should the City Council approve this request for discontinuance, easements for maintenance of water, sewer, and drainage facilities located along Romano Circle will need to be prepared, along with easement plans, for recording at the Grafton County Registry of Deeds. The purpose of the easement would be to allow the City to continue to access and maintain the utilities currently constructed within and along the Romano Circle ROW. If the discontinuance is approved, the public ROW along Romano Circle would be discontinued, and the surrounding property limits would be extended to the centerline of the ROW.

As proposed, access to Romano Circle by the Lebanon School District will remain in place should the City Council approve this request for discontinuance, provided that the Lebanon Housing Authority reasonably maintains the access, including prompt snow removal for bus access.

The Lebanon Housing Authority property (M/L 101-20) is the only parcel that would be impacted by the proposed discontinuance. The Department of Public Works supports this request.

Mayor McNamara opened the Public Hearing. Hearing no comments from the public, the Public Hearing was closed.

ACTION:

Councilor Liot Hill MOVED, that the Lebanon City Council hereby discontinues completely, and in its entirety, Romano Circle in West Lebanon, as a Class V Public Highway as shown on plans and information included in the May 15, 2024 City Council Agenda Packet.

BE IT FURTHER MOVED, that such discontinuance is conditional upon, and shall not take effect unless and until, the Lebanon Housing Authority conveys to the City full easement rights for continued access to and maintenance of existing municipal utilities, including water, sewer, and storm drainage systems, located within such street subject to approval by the Public Works Director and the City's attorney.
Seconded by Councilor Wilkie.

Roll Call Vote:

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

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

C. Supplemental Appropriation of \$100,000 for Mascoma Lake Watershed Protection Plan; Authorization for City Manager to apply for Clean Water State Revolving Fund Loan; Designation of City Manager as Authorized Representative of the City – A public hearing for the purpose of receiving public input and taking action to appropriate \$100,000 for completion of a Mascoma Lake Watershed Protection Plan; to authorize the City Manager to apply for a New Hampshire Clean Water State Revolving Fund Loan up to \$100,000; and to designate the City Manager as the authorized representative of the City.

Included in the agenda packet: **(All supportive documents and information can be found on pages 86-115, Council agenda packet)**

1. CWSRF Pre Application for the Mascoma Watershed Protection Plan (two parts and attachments)

Public Works Director Jay Cairelli reviewed the background behind this requested appropriation, which is for the City of Lebanon's main water resource.

BACKGROUND

This Clean Water State Revolving Fund (CWSRF) loan application is intended to develop a watershed-based management plan for the Mascoma Lake Watershed, which is the City of Lebanon's main water resource. This plan is needed to protect the lake from the harmful algae blooms that we have experienced at an increasing rate in recent years. In order to accept CWSRF loan funding, the watershed-based management plan must meet the United States Environmental Protection Agency's (USEPA) requirements for nine-element, watershed-based management plans:

Summary of the nine minimum elements:

1. Identify the causes and sources.
2. Estimate pollutant loading into the watershed and the expected load reductions.
3. Describe management measures that will achieve load reductions and targeted critical areas.
4. Estimate the amounts of technical and financial assistance and the relevant authorities needed to implement the plan.
5. Develop an information/education component.
6. Develop a project schedule.
7. Develop the interim, measurable milestones.
8. Identify indicators to measure progress and make adjustments.
9. Develop a monitoring component.

The Watershed Protection Plan will address external and internal phosphorus loading to Mascoma Lake and the

sub-watersheds through development of a management plan that identifies the sources and the necessary steps to reduce loading from each of the sub- watersheds within Mascoma Lake Watershed.

In early April, NHDES issued an invitation for pre-applications for the 2024 CWSRF loan program and plans to continue offering the following incentives:

Planning, 100% up to \$100,000:

NH CWSRF plans to award 100% principal forgiveness, up to \$100,000, for wastewater and/or stormwater planning evaluations. Submit CWSRF Pre-applications to be considered for any available funding in this category.

The City proposes to apply for and receive a CWSRF loan with 100% principal forgiveness, up to \$100,000. As a result, the proposed Mascoma Lake Watershed Management Plan project will have no impact on the City's tax rate.

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

Mayor McNamara opened the Public Hearing.

- Mr. Jim Martell (Mascoma Lake Association) came forth and spoke about why cyanobacteria blooms have been increasing over the last 5 years. We are also hoping this plan will identify remediation measures to try and reduce phosphates and other contaminants going into the lake. He noted that testing is done three times each year in June, July and August. All testing results are located on the NH Department of Environmental Administration's (NH DEA) website.

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

ACTION:

Councilor Wilkie MOVED, the following Resolution:

RESOLVED, by the City of Lebanon, that funds in the amount of \$100,000 (One Hundred Thousand Dollars) be appropriated for expenditure in the Capital Improvements Fund for a new Mascoma Lake Watershed Protection Plan.

WHEREAS, the City of Lebanon, after thorough consideration of the nature of water pollution problems, hereby determines that the completion of a certain planning study, generally described as a Mascoma Lake Watershed Protection Plan - \$100,000, is desirable and in the public interest and, to that end, it is desired to apply for assistance from the Clean Water State Revolving Fund for up to \$100,000; and

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

NOW THEREFORE BE IT FURTHER RESOLVED, by the City of Lebanon City Council, that: 1) The City Manager is hereby authorized on behalf of the City to file an application for a loan to be made in accordance with New Hampshire Code of Administrative Rules Chapters Env-Wq 500; 2) That if such loan be made, the City agrees to repay the loan as stipulated in the loan agreement; 3) That the City Manager is hereby authorized

1 *to furnish such information and to take such other action as may be necessary to enable the City to qualify for*
2 *the loan; 4) That the City Manager is hereby designated as the authorized representative of the City for the*
3 *purpose of furnishing such information, data, and documents pertaining to the City for a loan as may be*
4 *required, and otherwise to act as the authorized representative of the City in connection with this application;*
5 *5) That certified copies of this resolution be included as part of the application to be submitted for a loan; and*
6 *6) That if such loan be made, the City agrees to make provisions for pursuing implementation of the watershed-*
7 *based management plan upon completion of the planning study.*

8 *This resolution shall be effective upon passage.*

9 *Seconded by Councilor Sykes.*

10
11 **Roll Call Vote:**

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

14 None voted Nay.

15
16 ***The Vote on the Motion was approved (9-0).**

17
18 **D. Supplemental Appropriation of \$568,000 for PFAS Leachate Study; Authorization for**
19 **City Manager to apply for Clean Water State Revolving Fund Loan; Designation of City**
20 **Manager as Authorized Representative of the City** – A public hearing for the purpose of
21 receiving public input and taking action to appropriate \$568,000 for completion of a PFAS
22 Leachate Study at the Lebanon Landfill; to authorize the City Manager to apply for a New
23 Hampshire Clean Water State Revolving Fund Loan up to \$568,000; and to designate the
24 City Manager as the authorized representative of the City.
25

26 Included in the agenda packet: **(All supportive documents and information can be found on pages 116-124,**
27 **Council agenda packet)**

28
29 Public Works Director Jay Cairelli reviewed the background for the appropriations as listed above.

30
31 **BACKGROUND**

32 Following a study commissioned in 2022 by the City of Lebanon, it has been revealed that leachate from the landfill
33 significantly contributes to PFAS loading within the City's wastewater treatment plant. Recognizing the importance
34 of addressing this issue, DPW is committed to exploring viable methods aimed at mitigating PFAS concentrations
35 in leachate and effectively managing resultant waste concentrate and is requesting funding to perform additional
36 study.

37
38 The purpose of the proposed study is to provide the design basis for a treatment system that can effectively remove
39 PFAS from the landfill leachate and wastewater to achieve the protection of the environment for the City. The
40 objectives of the study are to:

- 41 • Better understand the PFAS mass balance and water chemistry to ensure the leachate treatment using the
- 42 correct technology.
- 43 • Conduct a pilot study to obtain design parameters for full-scale system.
- 44 • Conduct benchmark/pilot studies to identify the alternatives and methods for waste concentrates
- 45 generated from PFAS treatment.
- 46

1 In early April, NHDES issued an invitation for pre-applications for the 2024 CWSRF loan program, and plans to
2 continue offering the following incentives:

3 **Emerging Contaminants 100% Additional Subsidy/Principal Forgiveness:**

4 NH CWSRF is applying for the 2024 Capitalization Grant to address emerging contaminants. Currently, NHDES
5 intends to focus on PFAS and utilize these funds for loans with principal forgiveness for treatment of landfill
6 leachate from municipally owned landfills that discharge to a municipal wastewater treatment plant. NHDES is also
7 interested in projects that evaluate and demonstrate regional or state-wide solutions to reduce or eliminate PFAS in
8 wastewater residuals.

9 The City proposes to apply for and receive a CWSRF loan with 100% principal forgiveness. As a result, the
10 proposed PFAS Leachate Study at the Lebanon Landfill project will have no impact on the City's tax rate.

11 Pursuant to City Charter Section C419:43, Appropriations After Budget is Adopted, requests for appropriations that
12 are not included in the annual budget require a two-thirds (2/3) majority vote of the Council after a public hearing.
13

14 **Mayor McNamara opened the Public Hearing. Hearing no comments from the public, the Public Hearing**
15 **was closed.**

16
17 **ACTION:**

18 *Councilor Sykes MOVED, the following Resolution:*

19
20 ***RESOLVED, by the City of Lebanon, that funds in the amount of \$568,000 (Five Hundred Sixty-Eight Thousand***
21 ***Dollars) be appropriated for expenditure in the Capital Improvements Fund for a new PFAS Leachate Study at***
22 ***the Lebanon Landfill.***

23 ***WHEREAS, the City of Lebanon, after thorough consideration of the nature of water pollution problems, hereby***
24 ***determines that the completion of a certain planning study, generally described as a PFAS Leachate Study at the***
25 ***Lebanon Landfill - \$568,000, is desirable and in the public interest and, to that end, it is desired to apply for***
26 ***assistance from the Clean Water State Revolving Fund for up to \$568,000; and***

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

31 ***NOW THEREFORE BE IT FURTHER RESOLVED, by the City of Lebanon City Council, that: 1) The City***
32 ***Manager is hereby authorized on behalf of the City to file an application for a loan to be made in accordance***
33 ***with New Hampshire Code of Administrative Rules Chapters Env-Wq 500; 2) That if such loan be made, the***
34 ***City agrees to repay the loan as stipulated in the loan agreement; 3) That the City Manager is hereby authorized***
35 ***to furnish such information and to take such other action as may be necessary to enable the City to qualify for***
36 ***the loan; 4) That the City Manager is hereby designated as the authorized representative of the City for the***
37 ***purpose of furnishing such information, data, and documents pertaining to the City for a loan as may be***
38 ***required, and otherwise to act as the authorized representative of the City in connection with this application; 5)***
39 ***That certified copies of this resolution be included as part of the application to be submitted for a loan; and 6)***
40 ***That if such loan be made, the City agrees to make provisions for pursuing implementation of the PFAS Leachate***
41 ***Study upon completion of the planning study.***

42 ***This resolution shall be effective upon passage.***

1 *Seconded by Councilor Liot Hill.*

2
3 **Roll Call Vote:**

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

6 **None voted Nay.**

7
8 **The Vote on the Motion was approved (9-0).*

9
10 **E. Supplemental Appropriation of \$53,200 for Electric Street Sweepers and Charging Stations**
11 **Capital Project** – A public hearing for the purpose of receiving public input and taking action to
12 appropriate \$53,200 to supplement current funding for the Electric Street Sweepers and Charging
13 Stations capital project to cover the City's portion of the funds required to accept funding from the
14 NHDES Granite State Clean Fleets Grant Program.

15
16 Included in the agenda packet: **(All supportive documents and information can be found on pages 125-128,**
17 **Council agenda packet)**

18 1. Granite State Clean Fleet - EVSE and Sweeper Costs - Revised budget spreadsheet as of April 5, 2024

19
20 Public Works Director Jay Cairelli reviewed the background, changes, and reasons for the supplemental
21 appropriation as listed above. He was uncertain if the funds would be needed, but they are matching the request
22 that is going to the Governor's Council from the NH DES.

23
24 **BACKGROUND**

25 In October 2023, City staff applied for Granite State Clean Fleets (GSCF) funding from the NH Department of
26 Environmental Services (NHDES) to: 1) replace two existing street sweeper units in the City's fleet; 2) install one
27 Level 2 electric vehicle (EV) charging station at the DPW garage; 3) install one Level 3 "fast" EV charging station
28 at the Lebanon landfill; and 4) integrate the Level 3 charging station with an off-grid renewable power source,
29 namely the ongoing landfill gas-to-energy project.

30 The original project budget was developed based on the Request for Proposals (RFP). Since that time, the City's
31 share of the project cost has increased in the last five months, aside from typical cost inflation considerations,
32 necessitating a request for an additional appropriation from Lebanon City Council. The increase was caused by two
33 factors:

34 1. NHDES's grant agreement identified requirements that were not in the original RFP, including for EV
35 charger up-time and similar performance metrics, and a 5-year warranty. City staff sought revised vendor quotes
36 to meet these requirements and the associated costs are now greater than the original budget. These are both
37 eligible costs.

38
39 2. NHDES notified the City that the original budget's categorized engineering design costs were eligible, but
40 they are now ineligible.

41
42 It is proposed that the additional funds would be raised from property taxes.

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

46
47 **Mayor McNamara opened the Public Hearing.**

- Mr. Raymond Hood (Ward-2). He questioned how many sweepers the City is going to buy. Mr. Cairelli said they were buying two (2) at a cost of \$1.78M. The most recent quote they received was closer to \$1.3M and there is a 5% city share in this amount which is just under \$100K. City Manager Mulholland noted that \$165K has already been appropriated. In response to Mr. Hood's other question regarding repairs on the vehicles, Mr. Carelli said they had a meeting with the head of the largest fleet in Colorado who currently runs seven (7) of these units and they were happy with their performance and had no negative comments.

Assistant Mayor Below also noted that in general, electric motor vehicles has lower costs than internal combustion engines vehicles because there are less parts to be servicing or repairing. Also, a big chunk of this grant goes towards making the landfill gas-to-energy project capable of charging the vehicle(s) when there is an extended power outage.

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

ACTION:

Councilor Liot Hill MOVED the following Resolution:

RESOLVED, by the City of Lebanon, that funds in the amount of \$53,200 (Fifty-Three Thousand Two Hundred Dollars) be raised and appropriated for expenditure in the Capital Improvements Fund to supplement current funding for the Electric Street Sweepers and Charging Stations Capital Project to cover the City's portion of the funds required to accept funding from the NHDES Granite State Clean Fleets Grant Program.

This resolution shall be effective upon passage.

Seconded by Councilor Wilkie.

Roll Call Vote:

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

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

F. Ordinance #2024-06 to amend City Code Chapter 168, Vehicles and Traffic, to designate a portion of Church Street as a One-Way Street – A public hearing for the purpose of receiving public input and taking action on proposed Ordinance #2024-06 to amend City Code Chapter 168, Vehicles and Traffic, §168-9, One-way streets, to designate the northerly 325 feet of Church Street in Lebanon as a one-way street with a northward direction of travel.

Included in the agenda packet: **(All supportive documents and information can be found on pages 129-133, Council agenda packet)**

1. Proposed Ordinance #2024-06
2. Proposed One-Way Church Street aerial image, dated April 15, 2024
3. "Layout and Materials Plan" for Lebanon Fire Station (Sheet C2.00), prepared by VHB, dated April 3, 2024

1 City Manager Mulholland reviewed the background and noted the purpose for this change has to do with the
2 demolition and construction of the Central Fire Station.

3 4 **BACKGROUND**

5 The City Council has approved the replacement of the Central Fire Station located at 12 South Park Street. The
6 results of a recent geotechnical engineering study have indicated ground improvements are necessary for the
7 construction of the proposed station. Completion of these ground improvements will require additional separation
8 between the current Fire Station at 12 South Park Street and the Sunrise Buffet building located at 2 Mascoma
9 Street. The separation will require the new Fire Station building to encroach further into Church Street limiting the
10 roadway width to approximately 18.82 feet at its narrowest point. Based on a collaborative meeting with the design
11 team, civil engineers, and the Lebanon Department of Public Works, it is recommended that Church Street become
12 a one-way street for the northerly 325 feet with a northward direction of travel as reflected in the attached aerial
13 image.

14 15 **Mayor McNamara opened the Public Hearing and the following came forth to speak:**

- 16
17 • Mr. Clay Henbry (46 Church Street): He was generally in favor of this project but spoke about his
18 concerns regarding safety issues at the Water Street intersection because of the significant residential
19 projects that will be happening there.
- 20 • Mr. Raymond Hood (Ward-2): He spoke about his reasons in support of this project noting Lebanon has
21 the best Police/Fire Departments. However, he was concerned about what will happen when the
22 Davidson's apartments are built and how this will affect the travel flow.
- 23 • Mr. Tim Sedor (Bank Street - owner of 2 Mascoma St – former Village Market): He spoke about his
24 support for the LFD (Lebanon Fire Department) and the need for a new Fire Station. Their goal is to both
25 redevelop the existing supermarket building and still have approved plans to construct 152 badly needed
26 housing units. He was pleased to say, that while nothing is definite, we are extremely close to bringing a
27 grocery store back to the former Village Market, which is not only a much needed amenity to our
28 Downtown, but it also helps make the Arden Towers housing units viable. One of the barriers to
29 development is access and further explained the access, noting that you cannot turn left out of the site,
30 which creates a challenge. He also spoke about parking behind the site noting that the loss of those space
31 presents an additional challenge and wanted to make sure the viability of their property is not forgotten or
32 so negatively impacted that they lose this opportunity (for a grocery store). A couple of solutions for
33 access would be to look at removing the median on Mascoma street to increase access in and out of the
34 site and would still allow for the safe flow of traffic. For parking, they have been working on plans to
35 potentially develop a parking deck that can be used not only for their property but also for the City at
36 large and further explained how this could be done.

37
38 **Hearing no further comments from the public, the Public Hearing was closed.**

39 40 **Council/Staff Comments:**

41 In response to some of Councilor Whittlesey's questions, Deputy City Manager Brooks presented and explained
42 the screenshot below, which was approved by the Planning Board in July 2022, noting there is no direct access to
43 this property from Water Street. There was a plan to have shared parking off Water Street but was uncertain if
44 they have been able to attain the commitment to utilize that parking for as long as the need exists and further
45 explained the access to parking, noting this is a parking lot for the Fire Station.



Lebanon Fire Chief Wheatley noted it was important they have some control over the parking because they will be losing some parking spaces with the design of the new Fire Station. He felt that having emergency access is a viable option and explained his reasons. He had high concerns about routine traffic, as well as the wear and tear on the new parking lot behind the Fire Station.

City Manager Mulholland noted a proposal is being done and he will be glad to look at this when it comes in, as well as looking at the proposal for the parking garage concept.

The Council discussed the process for potentially reconfiguring how traffic would flow on Mechanic St.; whether or not this can be handled municipally; Fire Chief Wheatley's concerns regarding a backup (in traffic) when (emergency vehicles) back into the Fire Station; the importance of having plans in place for the Council's review and evaluation; whether or not the timeliness of the project needs to be done now or can we take a comprehensive approach to this; how the City has already spent \$2M on a bond for this project and the reasons why, if we cannot go forward with the project, it will need to be stopped; the improvements needed for the new Fire Station and what improvements are scheduled; whether or not if it would make sense to delay the one-way street project 1-2 months (until August 1st); how having a traffic light on Church St. is not worth investing in due to the low volume of traffic; what else could possibly be done to make traffic going to and from a grocery store more viable; and, the importance of keeping the construction of the new Fire Station on track.

ACTION:

Councilor Whittlesey MOVED, that the Lebanon City Council hereby adopts Ordinance #2024-06 to amend City Code Chapter 168, Vehicles and Traffic, §168-9, One-way streets, to designate the northerly 325 feet of Church Street in Lebanon as a one-way street with a northward direction of travel, as presented in the May 15, 2024 City Council agenda packet.

Seconded by Councilor Wilkie.

Assistant Mayor Below MOVED to AMEND the Motion to qualify that §3 of the proposed Ordinance as written in Council packet be changed to read:” The Ordinance shall become effective on August 1, 2024.

Seconded by Councilor Liot Hill.

The Vote to accept the Amendment to Motion as presented by Assistant Mayor Below:

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).***

Councilor Liot Hill spoke to her vote on the Amended Motion noting she voted for this in good faith because she did not want to have any obstacles for the Fire Station, and because, from what she heard, there is a time-sensitive nature to this request. She was not comfortable moving forward with this without knowing there is also a viable option that will allow a grocery store to come back to Downtown Lebanon and hoped the Council will soon hear from CREDO about their plans, particularly about what would bring back a grocery store to Downtown Lebanon. Bringing back a grocery store to Downtown Lebanon is a high priority for her.

9. OLD BUSINESS: NONE

10. NEW BUSINESS:

A. Review and Discussion of 2023 4th Quarter Budget Report

Included in the agenda packet: **(All supportive documents and information can be found on pages 134-195, Council agenda packet)**

1. May 15, 2024 Memo and 4th Quarter 2023 Revenue and Expenditure Reports from Finance

Alesia Willams (Deputy Finance Director) reviewed the budget reports summary for year-to-date expenditures and revenues activity for the fourth quarter of 2023 as presented in the May 15, 2024 Council agenda packet.

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

B. Review and Discussion of 2024 1st Quarter Budget Report

Included in the agenda packet: **(All supportive documents and information can be found on pages 196-250, Council agenda packet)**

1. May 15, 2024 Memo and 1st Quarter 2024 Revenue and Expenditure Reports from Finance

Alesia Willams (Deputy Finance Director) reviewed the first quarter Budget Report for 2024 as presented in the May 15, 2024 Council agenda packet.

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

C. Release of Collected Public School Impact Fees (1st Quarter 2024)

Included in the agenda packet: **(All supportive documents and information can be found on pages 251-255, Council agenda packet)**

Alesia Willams (Deputy Finance Director) reviewed the Collected Public School Impact Fees and the background behind these fees.

BACKGROUND

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 \$841,889.39 of collected impact fees have been disbursed to the Lebanon School District.

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	9/6/2023	\$3,142.57
11/15/2023	\$9,740.60	2/27/2024	\$6,341.26		

This request was for the City Council to authorize the disbursement of \$11,899.60 in collected Public School Impact Fees (through 03/31/2024) to the Lebanon School District.

ACTION:

Councilor Whittlesey MOVED, that in accordance with Section 213.10 (Administration of Impact Fees) of the Lebanon Zoning Ordinance, and the November 22, 2021 Memorandum of Understanding between the City of Lebanon and the Lebanon School District, SAU 88, the City Council hereby authorizes the disbursement of \$11,899.60 in collected Public School Impact Fees to the Lebanon School District to be applied toward the construction, renovation, improvement or expansion of K-12 school buildings and related building systems, equipment, and furnishings.

Seconded by Councilor 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).*

D. Review of Draft Development Agreement for Redevelopment of 20 Spencer Street Property;
Authorization to Sell Property Pursuant to Terms of Agreement

Included in the agenda packet: **(All supportive documents and information, including photos, property description, the Development Agreement, and site plans can be found on pages 256-293, Council agenda packet)**

1. Draft Development Agreement - 20 Spencer Street, between The Muse Lebanon, LLC and the City of Lebanon, revised May 7, 2024.
2. Excerpts of 20 Spencer Street RFP response from The Muse Lebanon, LLC / Tamposi
3. City Council Policy, CC-102, Real Property Transactions

Available, but not included in agenda packet:

4. [20 Spencer Street Redevelopment Project, RFP response from The Muse Lebanon, LLC / Stephen and Jake Tamposi](#), including:
 - a. [February 7, 2024 response to questions](#)

Deputy City Manager Brooks reviewed the background and the changes made to the Development Agreement between The Muse Lebanon, LLC and the City of Lebanon (i.e., the development of a playground; what portions of the property are below the base flood elevation and the plans to bring this site above base flood elevation; changes made to the live/work units; and, the willingness of the property owners to accommodating vouchers for low-income housing as established from the NH Housing Authority for some units.

BACKGROUND

In September 2023, the City issued a Request for Proposals (RFP) seeking to identify a qualified and capable non-profit, private developer, or development team to propose and complete the redevelopment and revitalization of the 20 Spencer Street property for the express purpose of having the site redeveloped for 100% residential workforce housing. The City ultimately received and reviewed three responses to the RFP earlier this year, including one from The Muse Lebanon, LLC.

On March 6, 2024, the City Council authorized the City Manager to enter into further negotiations with The Muse Lebanon, LLC / Jake Tamposi regarding the redevelopment of the 20 Spencer Street for an affordable, workforce housing development. Since that time, the City and the developer have been communicating regularly and have drafted a proposed Development Agreement which outlines the basic expectations of each party relative to the redevelopment effort. The draft Development Agreement (*pages 258-264, Council agenda packet*) has been reviewed by legal counsel for both the City and The Muse Lebanon and is ready for review and consideration by the City Council. (It is noted that not all Exhibits referenced in the draft Agreement are attached and, specifically, that the Option Agreement will be finalized following action by the City Council and will be used to prepare a Purchase and Sale Agreement between the parties.)

The City Council previously voted on August 1, 2012, to determine that the property at 20 Spencer Street was deemed as Surplus City Property. Therefore, in accordance with Section 4.1.2 (Disposing of Property) of Council Policy CC-102, Real Property Transactions, it is recommended the City Council authorize the sale of the 20 Spencer Street property to The Muse Lebanon, LLC, pursuant to the terms and conditions outlined in the draft Development Agreement, and to authorize the City Manager to execute all necessary agreements and documents to effectuate the conveyance.

ACTION:

Councilor Sykes MOVED that:

FOR THE PURPOSE OF facilitating the redevelopment of city-owned property located at 20 Spencer Street.

WHEREAS, by action of the Lebanon City Council on August 1, 2012, the city-owned property located at 20 Spencer Street was deemed as Surplus City Property; and

WHEREAS, in September 2023, the Lebanon City Council authorized the issuance of a Request for Proposals (RFP) for the redevelopment of 20 Spencer Street for the express purpose of having the site redeveloped for

1 *100% residential workforce housing, with specific criteria on which the proposals would be evaluated and*
2 *scored; and*

3 *WHEREAS, on March 6, 2024, the Lebanon City Council authorized the City Manager to enter into further*
4 *negotiations with The Muse Lebanon, LLC I Jake Tamposi regarding the redevelopment of the 20 Spencer*
5 *Street for an affordable, workforce housing development, based on The Muse's response to the issued RFP,*
6 *received January 26, 2024.*

7 *NOW THEREFORE BE IT RESOLVED, the Lebanon City Council hereby authorizes the sale of city-owned*
8 *property at 20 Spencer Street (further identified as Tax Parcel 92-31) in accordance with Section 4.1.2*
9 *(Disposing of Property) of City Council Policy CC-102, Real Property Transactions, to The Muse Lebanon,*
10 *LLC I Jake Tamposi, pursuant to the terms and conditions outlined in a draft Development Agreement, revised*
11 *May 7, 2024, as presented in the May 15, 2024 City Council Agenda Packet.*

12 *BE IT FURTHER RESOLVED, the Lebanon City Council hereby authorizes the City Manager to finalize and*
13 *execute all necessary agreements and documents to effectuate the conveyance of said 20 Spencer Street property*
14 *to The Muse Lebanon, LLC I Jake Tamposi.*
15 *Seconded by Councilor Wilkie.*

16
17 **Roll Call Vote:**

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

20 None voted Nay.

21
22 **The Vote on the Motion was approved (9-0).*

23
24 **11. CITY MANAGER REPORT:**

25 City Manager Mulholland updated the Council on the following:

- 26 • Council invited to the groundbreaking ceremony for Lebanon's Landfill Gas-to-Energy Project.
- 27 • Westboro Yard Updates.
- 28 • Lebanon Tax Bills: What the public is not aware of is that the 1st half of the tax bill, being sent out in
29 June, only represents an estimate from the previous year. It is important to make the public aware that
30 their taxes will be going up and give them some advance warning. He is preparing a PowerPoint
31 presentation, a video, and will be putting out messages on the City's website, etc., so this information gets
32 out to the public.
- 33 • Assistant Mayor Below informed the Council about the Lifelong Learning Institute's upcoming event.
34 City Manager Mulholland will send the Councilors meeting invites for May 21, 2024, 4:30-6PM.
- 35 • New City Manager Intern "Klaleh" (Yale), from Lebanon, started today.

36
37 **12. COUNCIL REPRESENTATIVES TO OTHER BODIES:**

38
39 **13. FUTURE AGENDA ITEMS:**

40
41 **14. NON-PUBLIC SESSION: NONE**

42
43 **15. ADJOURNMENT:**

44 *Councilor Whittlesey MOVED for adjournment.*

45 *Seconded by Councilor Wilkie.*

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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)***

The meeting was adjourned at 8:57 PM.

Respectfully submitted,
Dona E. Gibson
Recording Secretary

**Agenda
Lebanon City Council
June 5, 2024**

7. Appointments:

Appointments

Board/Committee Appointments as presented by City Clerk/Tax Collector Jaseya Ewing

- Pedestrian & Bicyclist Advisory Committee, Nelson Rooker (Alternate Member)
- Library Board of Trustees, Ellen Hubbell (Alternate Member)

Included in this Section:

1. Memo from City Clerk/Tax Collector Jaseya Ewing dated June 5, 2024.



Office of the City Clerk & Tax Collector
51 N. Park Street
Lebanon, NH 03766

MEMORANDUM

DATE: June 5, 2024
TO: The Honorable Mayor & City Council
FROM: Jaseya Ewing, City Clerk & Tax Collector
RE: **Appointments Proposed for Council Discussion/Action:**

If the Council wishes to proceed with action on the appointments below, a nomination should be made and voted on for each appointment.

Note: nominations do not need to be seconded.

Pedestrian & Bicyclist Advisory Committee

- **Nelson Rooker** – Appointment as an alternate member of the Pedestrian & Bicyclist Advisory Committee for a three-year term.
Interviewed by: Mayor McNamara

Term: 06/24-06/27

Library Board of Trustees

- **Ellen Hubbell** – Appointment as an alternate member of the Library Board of Trustees.
Interviewed by: Councilor Below

Term: 06/24-06/25

Print

Board Member Application - Submission #9894

Date Submitted: 4/23/2024

Application Process

After submitting this application, you will be contacted and interviewed by one of our City Councilors. Your application will then go before the full Council at one of their regular meetings for consideration of appointment. If you have questions, please contact the City Clerk's Office at 603-448-3054 or cityclerk@lebanonnh.gov.

Basic Requirements

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

First Name*

Nelson

Last Name*

Rooker

Physical Address*

City*

Lebanon

State*

NH

Zip Code*

03766

Is this your mailing address?*



Yes



No

Mailing Address*

City*

State*

Zip Code*

Home Phone Number*

Work Number

Email Address*

How long have you resided in Lebanon?

5 years

This will not necessarily reflect on your possible appointment.

Is this an application for re-appointment?*



This application is for re-appointment.



This application is not for re-appointment.

- ☐ Arts and Culture Commission
- ☐ Board of Assessors
- ☐ Board of Cemetery Trustees
- ☐ Class VI Roads Advisory Committee
- ☐ Conservation Commission
- ☐ Diversity, Equity, and Inclusion Commission
- ☐ Downtown Lebanon TIF Advisory Board
- ☐ Economic Development Commission
- ☐ Heritage Committee
- ☐ Lebanon Airport-Tech Park TIF Advisory Committee
- ☐ Lebanon Energy Advisory Committee
- ☐ Library Board of Trustees
- ☒ Pedestrian and Bicycle Advisory Committee
- ☐ Planning Board
- ☐ Steering Committee for Implementation of Master Plan
- ☐ Tree Advisory Board
- ☐ West Lebanon Revitalization Advisory Committee
- ☐ Zoning Board of Adjustment
- ☐ Other (please fill in blank)

Other Committee

Qualifications for City Council*

Per City Charter Sections [C419:16](#) and [C419:18](#), the following are mandatory qualifications to serve as a member of Lebanon City Council.



I certify that I have been a Lebanon resident for 2 or more years
AND that I am a registered Lebanon voter.

In which ward do you reside?*

Unless you are applying for a councilor at-large seat, you must reside in the ward boundary of the council seat for which you are applying. You can use our [Find Your Ward](#) tool to find your ward.



Ward 1



Ward 2



Ward 3

Why would you like to serve?*

I would like to start getting involved with the city and this is a good spot for me to start. I just finished the Lebanon Academy so I'd like to take advantage of what I learned.

State a few of what you feel your qualifications are or why you wish to be appointed to this board / committee.*

I spend quite a bit of time walking and cycling in town, so this subject is important to me. I frequently run on the Northern Rail Trail as well as the town roads and sidewalks. I commute daily on my bicycle to Centerra. So I've experienced the good and the bad of our existing pedestrian and cycling infrastructure.

Certification*



I hereby certify that I meet the basic requirements for applying to a Lebanon board / committee.

Councilor Interview Report Form

Councilor Name: Tim McNamara

Date of Interview: May 10, 2024

Applicant Name: Nelson Rooker

Board(s) to Which Applied: Pedestrian and Bicyclist Advisory Committee

☐ Regular Seat

☒ Alternate Seat

Has Applicant Attended Meeting of Board to Which Applying? ☒ Yes ☐ No

(If yes, indicate date of meeting.) Date: Unsure

Recommend Appointment: ☒ Yes ☐ No

☐ Regular Seat

☒ Alternate Seat

General Comments: Excellent candidate, recently completed Citizens Academy and would like to become more involved in local government.

(PLEASE NOTE: THIS FORM WILL BE INCLUDED IN THE AGENDA MATERIALS WHEN APPLICANT IS SCHEDULED TO APPEAR BEFORE THE CITY COUNCIL.)

Standard Questions for All Applicants:

1) What do you believe is the purpose of this Board/Committee?

Promoting and supporting mechanisms to improve opportunities for alternative modes of transportation.

2) Are you familiar with the meeting dates and time commitments of this Board/Committee? Would you be available for additional meetings, site visits, or other official events when necessary?

Yes to all.

3) Do you have any previous experience working with this type of Board/Committee, or in a related field, in this community or any other community?

No, but recent graduate of Citizens Academy.

4) Do you have any interest in attending educational presentations and seminars in order to further educate yourself relative to the work of this Board/Committee?

Yes.

5) Do you anticipate that you would have to recuse yourself from more than an occasional meeting due to a conflict of interest (perceived or real) relating to your past or present employment, organizational membership, real estate holdings, family ties, or other reasons?

No.

6) What do you think are the key challenges for this Board/Committee?

Integration of improved bike/ped opportunities into the urban landscape.

7) What do you think are the key opportunities for this Board/Committee?

Improving alternative modes of transportation.

8) What would you like to see this Board/Committee accomplish in the next year?

Just continuing to advocate for bike/ped.

Specific Questions for Applicants to Land-Use Boards:

Zoning Board of Adjustment:

1) Have you ever appeared before a zoning board, personally or through a representative?

2) Do you have any personal or professional knowledge or background in the area of zoning law?

3) Do you believe you can set aside your personal opinions and make impartial decisions based on the City's adopted Zoning Ordinance?

Print

Board Member Application - Submission #9929

Date Submitted: 5/2/2024

Application Process

After submitting this application, you will be contacted and interviewed by one of our City Councilors. Your application will then go before the full Council at one of their regular meetings for consideration of appointment. If you have questions, please contact the City Clerk's Office at 603-448-3054 or cityclerk@lebanonnh.gov.

Basic Requirements

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

First Name*

Ellen

Last Name*

Hubbell

Physical Address*

City*

West Lebanon

State*

NH

Zip Code*

03784

Is this your mailing address?*



Yes



No

Mailing Address*

City*

State*

Zip Code*

Home Phone Number*

Work Number

Email Address*

How long have you resided in Lebanon?

38 years

This will not necessarily reflect on your possible appointment.

Is this an application for re-appointment?*



This application is for re-appointment.



This application is not for re-appointment.

- ☐ Arts and Culture Commission
- ☐ Board of Assessors
- ☐ Board of Cemetery Trustees
- ☐ Class VI Roads Advisory Committee
- ☐ Conservation Commission
- ☐ Diversity, Equity, and Inclusion Commission
- ☐ Downtown Lebanon TIF Advisory Board
- ☐ Economic Development Commission
- ☐ Heritage Committee
- ☐ Lebanon Airport-Tech Park TIF Advisory Committee
- ☐ Lebanon Energy Advisory Committee
- ☒ Library Board of Trustees
- ☐ Pedestrian and Bicycle Advisory Committee
- ☐ Planning Board
- ☐ Steering Committee for Implementation of Master Plan
- ☐ Tree Advisory Board
- ☐ West Lebanon Revitalization Advisory Committee
- ☐ Zoning Board of Adjustment
- ☐ Other (please fill in blank)

Other Committee

Qualifications for City Council*

Per City Charter Sections [C419:16](#) and [C419:18](#), the following are mandatory qualifications to serve as a member of Lebanon City Council.



I certify that I have been been a Lebanon resident for 2 or more years
AND that I am a registered Lebanon voter.

In which ward do you reside?*

Unless you are applying for a councilor at-large seat, you must reside in the ward boundary of the council seat for which you are applying. You can use our [Find Your Ward](#) tool to find your ward.



Ward 1



Ward 2



Ward 3

Why would you like to serve?*

I've a certain passion about libraries in general and both the Lebanon libraries in particular; I would like to contribute more to my home city. One of my earliest memories is of going to a small library and being fascinated by all the books to choose from. I can't think of a time when I have not sought out a library for pleasure, knowledge, original research, and the peaceful setting it offers to ponder. And now I find computers, and seeds and games and a host of things to be shared as a community. Both my children were brought up in the main Lebanon library; Joanne Scobie remains a key figure from their younger years. I am oft reminded of Jefferson's statements about education being the foundation of democracy and his support of public education and libraries as a way for all to read. My values about books, libraries and the importance of reading mimic his. "He felt that the reading of books was key to a proper education, and that educating people was vital to an organized society." (Sept 5, 2011 by R Wolf Baldassarro in a article on Jefferson). I also believe we each have a responsibility to actively participate in our world right down to our home town/city. This is one way I can do that.

State a few of what you feel your qualifications are or why you wish to be appointed to this board / committee.*

I am a Registered Nurse with over 50 years of practice with both my BSN and an MA in Nursing Administration. The core of nursing is the nursing process which is a systematic method for addressing issues and goals. It includes assessment, design, planning, implementation and evaluation. I have been a DHMC Nursing Director that included leading a staff of 25 or so both professional RNs and support staff, creating and managing the budget for 4 integrated services, overseeing quality of care, participating and guiding the planning of a new department layout and implementing and overseeing a new practice flow. Nursing also includes working with many different roles, and people with varying backgrounds. Inherent in my approach to life is weighing both the "big picture" as well as the smaller individual one. I think my passion for reading and libraries in general and the Lebanon libraries in particular as well as my nursing experiences with interpersonal relationships, staff leadership, individual patient care, creating + managing departmental budgets, creating or reviewing, + editing policies etc would bring you a dedicated and productive member as an alternate Library Trustee.

Certification*



I hereby certify that I meet the basic requirements for applying to a Lebanon board / committee.

Councilor Interview Report Form

Councilor Name: Clifton Below

Date of Interview: 5/29/24

Applicant Name: Ellen Hubbell

Board(s) to Which Applied: Library Board of Trustees

☐ Regular Seat

☒ Alternate Seat

Has Applicant Attended Meeting of Board to Which Applying? ☒ Yes ☐ No

(If yes, indicate date of meeting.) Date: April & May Meetings

Recommend Appointment: ☒ Yes ☐ No

☐ Regular Seat

☒ Alternate Seat

General Comments: Thoughtful retired long-term resident of the community who wants to help contribute to the community. With excellent detail on her application, Ellen is looking forward to serving on the Board.

(PLEASE NOTE: THIS FORM WILL BE INCLUDED IN THE AGENDA MATERIALS WHEN APPLICANT IS SCHEDULED TO APPEAR BEFORE THE CITY COUNCIL.)

Standard Questions for All Applicants:

1) What do you believe is the purpose of this Board/Committee?

Learning as she goes along – higher level overview of Library, not direct management – governance policies.

2) Are you familiar with the meeting dates and time commitments of this Board/Committee? Would you be available for additional meetings, site visits, or other official events when necessary?

Yes, probably yes, depending on other commitments.

3) Do you have any previous experience working with this type of Board/Committee, or in a related field, in this community or any other community?

In her nursing career Ellen's work was involved in budgeting, managing staff, and developing and implementing policies. Was previously on condominium association Board and served as Chair for 1 year

4) Do you have any interest in attending educational presentations and seminars in order to further educate yourself relative to the work of this Board/Committee?

Absolutely, yes.

5) Do you anticipate that you would have to recuse yourself from more than an occasional meeting due to a conflict of interest (perceived or real) relating to your past or present employment, organizational membership, real estate holdings, family ties, or other reasons?

No, but understand the concept of recusal from a conflict of interest.

6) What do you think are the key challenges for this Board/Committee?

Maintaining the forward looking practices of the libraries in Lebanon, and avoiding getting overextended. In the current political/cultural context there could be issues around what books and materials are available in the libraries. Budget seems solid at this time.

7) What do you think are the key opportunities for this Board/Committee?

Not sure if she knows well enough yet. The libraries create opportunities and there are always opportunities to better engage with community. Openness to opportunities & ideas is good.

8) What you would like to see this Board/Committee accomplish in the next year?

Again, not sure as new to this Board – maintain level of community integration and basic library expectations that are in place and be open to any new things that come up.

**Agenda
Lebanon City Council
June 5, 2024**

8. Public Hearing Items:

**8.A – Request for Supplemental Appropriation in the Amount of \$1,100,000
for Replacement of Central Fire Station (Station #1) Capital Project**

A public hearing for the purpose of receiving public input and taking action to appropriate \$1,100,000 to supplement current funding appropriations for the Lebanon Central Fire Station (Station #1) Replacement capital project, and to authorize the issuance of bonds or notes in such amount in accordance with the Municipal Finance Act (NH RSA 33).

The City Council scheduled this public hearing at its May 1, 2024 regular meeting. The public hearing was properly noticed in the *Valley News* on May 25, 2024 and May 28, 2024 in accordance with City Code and State Law.

Background

The replacement of the Lebanon Central Fire Station (Station #1) was approved as part of the 2024 City of Lebanon Capital Budget. The engineering and design process for the new station is underway. The results of recent geotechnical surveys in areas directly around the existing building indicate that subsurface improvements are required to ensure the long-term stability and durability of the new building. The subsurface improvements are estimated to cost \$1,100,000 dollars.

Please see the attached memorandum from Fire Chief Jim Wheatley for further information about the request.

Action:

If the Council decides to move forward, the following resolution is offered for consideration:

FOR THE PURPOSE OF advancing and implementing the Central Fire Station (Station #1) Replacement Capital Project.

NOW THEREFORE BE IT RESOLVED, by the City of Lebanon, that funds be appropriated in the amount of \$1,100,000 (One Million, One Hundred Thousand Dollars) for expenditure in the Capital Improvements Fund to supplement current funding for the Central Fire Station (Station #1) Replacement Capital Project.

BE IT FURTHER RESOLVED, by the City of Lebanon, that the City Treasurer, with the approval of the City Manager, is authorized to issue, in accordance with the Municipal Finance Act (NH RSA 33), a bond issue or bond issues in an amount not to exceed \$1,100,000, and that, except as herein otherwise provided, discretion to fix the dates, maturities, denomination, interest rate, form, and other details of said issue(s) is hereby delegated to the City Treasurer, with the approval of the City Manager.

This resolution shall be effective upon passage.

Included in this Section:

1. April 17, 2024 Memorandum from Fire Chief Jim Wheatley to the City Manager
2. Notice of Public Hearing as Published in the May 25, 2024 and May 28, 2024 Editions of the *Valley News*



OFFICE OF THE FIRE CHIEF
MEMO

To: Shuan Mulholland

From: Jim Wheatley, Fire Chief

Date: 04/17/2024

Re: Central Fire Station Supplemental Appropriation

The replacement of the Lebanon Central Fire Station “Station 1” was approved as part of the 2024 City of Lebanon Capital Improvement Plan. The current station is 70 years old and significantly lacks the space as well as health and safety requirements necessary to operate a modern Fire/EMS organization. This facility also serves as the Emergency Operations Center for the City and is vital to the management of natural disasters, pandemics, or any other significant emergency that may impact City of Lebanon.

The engineering and design process for any new construction requires geotechnical surveys to determine ground soil stability in relationship to the new structure. During the initial planning phase of this project general assumptions were made about the soil composition. The actual results of the survey revealed ground improvements are required to ensure long-term stability and durability of the new building. The initial testing of the ground soil was limited to the areas directly around the existing building because the overall height of the bays in the existing building would not accommodate the testing equipment. Upon demolition of the existing building further testing will be conducted in the form of test pits. It’s unlikely the additional testing will reveal any change in composition that alleviates the required improvements. These improvements are estimated to cost \$1.1-million dollars. The initial project price approved by the City Council of \$22,639,000 million dollars does include a 1.4-million-dollar owner contingency that will cover the cost of the required ground improvements however we will deplete our contingency before any substantial work is even started. We are requesting a supplemental appropriation in the amount of \$1.1 million and the authority to bond that amount should it be necessary.



LEBANON CITY COUNCIL
NOTICE OF PUBLIC HEARINGS
Wednesday, June 5, 2024 - 7:00pm
Council Chambers, City Hall or
REMOTE VIA VIRTUAL PLATFORM
LebanonNH.gov/LIVE

The Lebanon City Council will hold public hearings on June 5, 2024, beginning at 7:00pm for the following:

A. Supplemental Appropriation in the Amount of \$1,100,000 for Replacement of Central Fire Station (Station #1) Capital Project – A public hearing for the purpose of receiving public input and taking action to appropriate \$1,100,000 to supplement current funding appropriations for the Lebanon Central Fire Station (Station #1) Replacement capital project.

B. Provisional Dedication and Acceptance of Proposed Barden Hill Trail and Proposed “Connector” Segment between Atherton Road and Durkee Road, both as Class A Trails pursuant to NH RSA 231-A:5, and Discontinuance of Section of Class VI Road #14 (Barden Hill Road); Discontinuance of Section of Class VI Road #19 (Durkee Road); Discontinuance of Section of Class VI Road #20 (Atherton Road); and Discontinuance of Class VI Road #21 (McCallister Road) – A public hearing for the purpose of receiving public input and taking action on a proposal from Patch Forest, LLC for the provisional dedication and acceptance of a proposed Barden Hill Trail and a proposed “Connector” segment between Atherton Road and Durkee Road, both as Class A Trails pursuant to NH RSA 231-A:5; and for discontinuance of a section of Class VI Road #14 (Barden Hill Road); discontinuance of a section of Class VI Road #19 (Durkee Road); discontinuance of a section of Class VI Road #20 (Atherton Road); and discontinuance of Class VI Road #21 (McCallister Road).

The June 5, 2024 City Council agenda packet and documents pertaining to the above-described public hearings will be available on the City’s website beginning May 31, 2024: LebanonNH.gov/Agendas

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.

The foregoing notice was published in the *Valley News*, a newspaper of general circulation in the City of Lebanon, in accordance with the Code of the City of Lebanon on Saturday, May 25, 2024, and Tuesday, May 28, 2024.

Jaseya Ewing

Jaseya Ewing, City Clerk

**Agenda
Lebanon City Council
June 5, 2024**

8. Public Hearing Items:

8.B – Consideration of Provisional Dedication and Acceptance of Proposed Barden Hill Trail and Proposed “Connector” Segment between Atherton Road and Durkee Road, both as Class A Trails pursuant to NH RSA 231-A:5; Discontinuance of a Section of Class VI Road #14 (Barden Hill Road); Discontinuance of a Section of Class VI Road #19 (Durkee Road); Discontinuance of a Section of Class VI Road #20 (Atherton Road); and Discontinuance of Class VI Road #21 (McCallister Road)

A public hearing for the purpose of receiving public input and taking action on a proposal from Patch Forest, LLC for the provisional dedication and acceptance of a proposed Barden Hill Trail and a proposed “Connector” segment between Atherton Road and Durkee Road, both as Class A Trails pursuant to NH RSA 231-A:5; and for the discontinuance of a section of Class VI Road #14 (Barden Hill Road); discontinuance of a section of Class VI Road #19 (Durkee Road); discontinuance of a section of Class VI Road #20 (Atherton Road); and discontinuance of Class VI Road #21 (McCallister Road).

The City Council scheduled this public hearing at its May 1, 2024 regular meeting. The public hearing was properly noticed in the *Valley News* on May 25, 2024 in accordance with City Code and State Law.

Background

Patch Forest, LLC has submitted a new proposal to discontinue certain sections of Class VI public roads passing through the Patch Forest property in exchange for the dedication of Class A municipal trails and a public parking area.

The proposed discontinuances are a section of Class VI Road #14 (Barden Hill Road); a section of Class VI Road #19 (Durkee Road); a section of Class VI Road #20 (Atherton Road); and all of Class VI Road #21 (McCallister Road) in Lebanon.

In conjunction with the proposed discontinuances, Patch Forest proposes to:

1. Identify, create, and dedicate an alternate Barden Hill Trail for acceptance by the City as a Class A Trail per NH RSA 231-A:5.
2. Grant an easement to the City for construction of a small public parking area off of Methodist Hill Road, to facilitate public access to the new Barden Hill Trail at its easterly end.
3. Identify, create, and dedicate a “Connector” segment between the best sections of Atherton Road and Durkee Road (which will not be discontinued) for acceptance by the City as a Class A Trail per NH RSA 231-A:5, in order to create a single, unbroken right-of-way from the southernmost point of Atherton Road, at the Enfield town line, to the westernmost point of Durkee Road, at NH Route 120.

The attached settlement proposal stems from litigation between Patch Forest, LLC and the City, which has been temporarily stayed to allow the parties to negotiate a potential resolution concerning the Class VI roads on the Patch Forest property that would avoid costs of litigation to

both parties. The current proposal from Patch Forest, if approved by the Council, would end the litigation.

Legal counsel for both the City and Patch Forest, LLC will be present on June 5, 2024, to review and discuss the current settlement proposal from Patch Forest, LLC.

Action:

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

MOVED, that, in coordination with the City Manager's negotiation of the settlement of a legal dispute (Grafton County Superior Court Case No. 215-2020-CV-00042, Patch Forest, LLC v. City of Lebanon) concerning the status of sections of certain public rights-of-way known as Barden Hill Road, Atherton Road, Durkee Road, and McCallister Road, the Lebanon City Council hereby acts, on a provisional and contingent basis, to approve the following proposed terms of said settlement over which the Council has statutory authority:

- 1. BE IT FURTHER MOVED, that the Lebanon City Council hereby provisionally approves the proposed dedication by Patch Forest, LLC of an alternate "Barden Hill Trail" as a Class A Trail pursuant to RSA 231-A:5 across the land owned by said Patch Forest, LLC, to be established at a width of one rod (16.5 feet), with a westerly end at point 839936.1(X)-405475.5(Y) and an easterly end at point 845060.1(X)-405684.3(Y) as shown on the "Draft – Proposed Concept Map" depicting Coordinate System: NAD 1983 NH State Plane FIPS 2800, printed May 21, 2024, subject to trail use restrictions imposed by the grantor and other terms as set forth in the "Patch Forest, LLC Settlement Proposal, Draft – For Settlement Discussions" document included in the June 5, 2024 City Council agenda packet, and following the City Manager's and Patch Forest, LLC's joint procurement of a survey plan depicting the course and location of such proposed trail.***
- 2. BE IT FURTHER MOVED, that the Lebanon City Council hereby provisionally approves the acceptance of a proposed easement over property situated at 2 Methodist Hill Road (Tax Map 169, Lot 5) to enable the construction and maintenance by the City of a small public parking area, in accordance with a sketch plan included in the June 5, 2024 City Council agenda packet, to facilitate public access to the proposed new Barden Hill Trail at its easterly end, subject to restrictions imposed by the grantor and other terms as set forth in the "Patch Forest, LLC Settlement Proposal, Draft – For Settlement Discussions" document included in the June 5, 2024 City Council agenda packet.***
- 3. BE IT FURTHER MOVED, that the Lebanon City Council hereby provisionally approves the proposed dedication by Patch Forest, LLC of a "Connector" segment between Atherton Road and Durkee Road, as a Class A Trail pursuant to RSA 231-A:5 across the land owned by said Patch Forest, LLC, to be established at a width of three rods (49.5 feet), running from the Atherton Road/McCallister Road intersection at GPS coordinate point 840597.3(X)-401256.4(Y) in a northerly direction across a brook (at the point of an existing snowmobile bridge) until it intersects with Durkee Road at GPS coordinate point of 840485.9(X)-401903.1(Y) as shown on the "Draft – Proposed Concept Map" depicting Coordinate System: NAD 1983 NH State Plane FIPS 2800, printed May 21, 2024, subject to trail use restrictions imposed by the grantor and other terms as set forth in the "Patch Forest, LLC Settlement Proposal, Draft – For Settlement Discussions" document included in the June 5, 2024 City Council agenda packet, and***

following the City Manager's and Patch Forest, LLC's joint procurement of a survey plan depicting the course and location of such proposed trail.

- 4. BE IT FURTHER MOVED, that, conditioned upon the Lebanon City Council's anticipated future formal acceptance of the proposed Barden Hill Trail and of the "Connector" segment referenced in sections 1 and 3 of this motion, respectively, the Lebanon City Council hereby provisionally approves the proposed complete discontinuance, in their entirety, and relinquishment of any right, title, or future interest, in the following public rights of way as shown on the "Draft – Proposed Concept Map" depicting Coordinate System: NAD 1983 NH State Plane FIPS 2800, printed May 21, 2024, and included in the June 5, 2024 City Council Agenda Packet:***
 - A. A section of Class A Trail #14 (Barden Hill Road) (f/k/a Class VI Road #14) between points 839936.1(X)-405475.5(Y) and 845060.1(X)-405684.3(Y);***
 - B. A section of Class A Trail #19 (Durkee Road) (f/k/a Class VI Road #19) between points 840485.9(X)-401903.1(Y) and 841625.9(X)-401872.2(Y);***
 - C. A section of Class A Trail #20 (Atherton Road) (f/k/a Class VI Road #20) between points 837527.6(X)-401338.2(Y) and 840597.3(X)-401256.4(Y); and***
 - D. Class A Trail #21 (McCallister Road) (f/k/a Class VI Road #21) between points 840597.3(X)-401256.4(Y) and 843102.5(X)-401003.1(Y).***
- 5. BE IT FURTHER MOVED that the section(s) of public rights of way outside of the coordinate points referenced in section 4 of this motion shall be unaffected by these discontinuances.***
- 6. AND BE IT FURTHER MOVED, that the Lebanon City Council shall take further action to ratify and confirm the foregoing provisional acts upon receipt of the City Manager's report that the City Manager's office and Patch Forest, LLC have carried out the terms of the "Patch Forest, LLC Settlement Proposal, Draft – For Settlement Discussions" document.***

Included in this Section:

1. Patch Forest, LLC Settlement Proposal, Proposed Terms of Compromise, received April 18, 2024.
2. Draft Class VI Road Map
3. GPS depiction of proposed Connector segment
4. Draft – Proposed Concept Map of Class VI Road and Class A Trails on Patch Forest, LLC property, dated May 21, 2024
5. Proposed Parking Easement Plan
6. Notice of Public Hearing as Published in the May 25, 2024 Edition of the *Valley News*

The proposed terms of compromise are as follow:

I. Dedication of a new Barden Hill Trail

1. In replacement of the disputed Barden Hill Road, the course of which is at times difficult to ascertain or traverse, is overgrown with trees, and does not follow an optimally scenic course across the land, Patch Forest, LLC (“Patch Forest”) will dedicate, and the City Council will accept, as a Class A Trail pursuant to RSA 231-A:5, a new and improved Barden Hill Trail with a western end originating at the southeastern corner of the Morse Rev. Trust property (Lot 167-19) and an eastern end originating at Methodist Hill Road.
 - a. The new dedicated Barden Hill Trail may deviate from the course of the disputed road at certain points in preference for a course where modern snowmobile trails and/or logging skid trails on private property provide a more favorable, scenic and enjoyable course for recreational uses. The length of the proposed course for the new dedicated Barden Hill Trail has been marked by orange surveyor’s tape.
 - b. The new Barden Hill Trail will be dedicated by Patch Forest and accepted by the City pursuant to RSA 231-A:5 at a width of one rod (16.5 feet) in order to accommodate public recreational uses as may be permitted by the Council by its authority under RSA 231-A:4.
 - c. Pursuant to RSA 231-A:5, Class A trails may be dedicated and accepted subject to trail use restrictions as may be imposed by the grantor (Patch Forest). Consistent with the Council’s prior action with regard to the current Barden Hill Road/Class A Trail, permitted means of travel along the proposed new dedicated Barden Hill Trail will be:
 - i. Feet, skis, snowshoes, and horses;
 - ii. Bicycles, ridden appropriately for a multipurpose trail, when the City deems that the conditions of the trail warrant their use; and
 - iii. Snowmobiles, ridden appropriately for a multipurpose trail, when snow cover is adequate to warrant their use.

All other wheeled or motorized vehicles, on- or off-road, shall be prohibited, except Patch Forest, Patch Orchards, Inc. (“Patch Orchards”), and their heirs and assigns shall retain the right to use the Trail for vehicular, ATV, snowmobile and equipment access to their abutting lands for nondevelopment uses, including agriculture and forestry, and/or for access to any existing building, structure or land.

Because the dedication of the Barden Hill Trail is being done pursuant to RSA 231-A:5, the City will not have the authority to reclassify the Trail into a Class VI or Class V highway, and the City will not have the authority to reduce

Patch Forest, LLC Settlement Proposal
Draft – For Settlement Discussions

the specified use restrictions (although the Council will still have authority to increase the use restrictions).

- d. Patch Forest will perform the initial clearing of the new Barden Hill Trail traveled way of standing trees, fallen trees, major rocks and other large or major obstructions, if any. The initial clearing shall be to a width sufficient to allow for the uses noted in section I(1)(c) above. Thereafter, maintenance and repair of the Trail shall be the City's responsibility and at the City's discretion. The City will also be responsible for the installation of bridges, water bars, signs, or other improvements as the City sees fit.

Patch Forest/Patch Orchards and their heirs and assigns will have the authority to maintain and use private roads that cross the new Barden Hill Trail. Pursuant to RSA 231-A:1, the City will bear no responsibility for maintaining the Trail for use by Patch Forest/Patch Orchards and their heirs and assigns. The City may grant permission for Patch Forest/Patch Orchards and their heirs and assigns to maintain the Trail for Patch Forest's access uses, and such permission will not be unreasonably withheld. However, Patch Forest does not need to seek permission to remove trees that have fallen across the trail.

- e. Patch Forest and the City will jointly hire and share the cost of a professional surveyor to draw the boundaries of the public right of way, following the course marked by orange surveyor's tape and avoiding interference with Patch Forest/Patch Orchard's existing active use of its private property (*e.g.* existing tapped maple trees or sap lines). (The proposed course has also been GPS-charted by the City's GIS coordinator.) The course of the Trail's eastern end along the northern boundary of the Kimball property (Lot 169-3) shall remain unchanged so as not to interfere with an existing private driveway on Lot 169-5.
 - f. The City will erect gates at the eastern and western ends of the Barden Hill Trail to prevent unpermitted access by motorized vehicles, along with appropriate signage to inform the public of use restrictions.
 - g. Patch Forest/Patch Orchards and their heirs and assigns may apply for a continued license from the City Manager to tap trees and run maple sap lines within and across the new Barden Hill Trail at a suitable height so as not to interfere with public use of the trail, and such license will not be unreasonably withheld.
2. To facilitate public access to the new Barden Hill Trail, Patch Forest will grant the City of Lebanon an easement in the area next to Methodist Hill Road for the City's construction and maintenance of a small public parking area of a size to accommodate parking for two (2) vehicles. (*See* "Proposed Parking Easement Plan" drawing included in the City Council's 8/16/2023 agenda packet.) Patch Forest will execute an easement deed prepared by the City to permit the City's installation of a parking area between Methodist Hill Road and an existing wooden fence. Access to the parking area shall be via the existing gravel driveway entering onto Lot 169-5 from Methodist Hill Road. Patch Forest shall be allowed to continue using the existing gravel driveway as an access

Patch Forest, LLC Settlement Proposal
Draft – For Settlement Discussions

to its property. The easement shall be granted in advance of the City's planned paving of Methodist Hill Road in Spring 2024 so that the paving crew can also be used to install the parking area while on site. The parties agree that the parking area shall not be used for overnight parking and the private road providing access to Patch Forest's land shall not be blocked, and, if necessary, the City will enforce these conditions. Patch Forest will also permit the City to remove the existing "chicken coop" structure next to the parking area so as to facilitate access to the new Barden Hill Trail.

3. To complete the substitution of the new Barden Hill Trail in place of the disputed Barden Hill Road public right-of-way, the City Council will formally discontinue the historical Barden Hill Road.
4. The Barden Hill Road public right-of-way westerly of the southeastern corner of the Morse Rev. Trust property (Lot 167-19) shall not be discontinued, reclassified or otherwise affected by this proposal in any way. The sections of this "Barden West" public right-of-way shall retain their current respective status as Class V highway, Class VI highway or Class A Trail.

II. Realignment of Durkee and Atherton Roads

1. To ensure continued public access and utility to the best road sections in the southern portion of Patch Forest lands, Patch Forest will dedicate, and the City Council will accept, as a public right-of-way, a "Connector" between Atherton Road (Class A Trail) and Durkee Road (Class A Trail), thereby creating a single direct and unbroken public right-of-way from the southernmost point of Atherton Road, at the Enfield town line, to the westernmost point of Durkee Road, at Route 120, referred to hereafter as the Atherton/Connector/Durkee Class A Trail. Patch Forest will also stipulate that the sections of Atherton Road and Durkee Road joined by the Connector and included within the Atherton/Connector/Durkee Class A Trail are full public rights-of-way with a 3-rod width as depicted on the City's GIS maps. In exchange, the remaining parts of the Atherton, Durkee and McCallister public rights-of-way, which are in poor condition and of low utility to the public but high utility to Patch Forest's maple sugaring operation, will be completely discontinued and revert to Patch Forest private property.
 - a. The Connector shall run from the Atherton/McCallister intersection at GPS coordinate point [X840597.3 / Y401256.4] in a northerly direction across a brook (at the point of an existing snowmobile bridge) and proceeding northerly until it intersects with Durkee Road at GPS coordinate point [X840485.9 / Y401903.1]. The length of the Connector course has been marked by green surveyor's tape.
 - b. The Connector will be dedicated by Patch Forest and accepted by the City pursuant to RSA 231-A:5 at a width of three rods (49.5 feet), consistent with the widths of Atherton Road and Durkee Road being connected by the Connector, in order to accommodate public recreational uses as may be permitted by the Council by its authority under RSA 231-A:4.

Patch Forest, LLC Settlement Proposal
Draft – For Settlement Discussions

- c. Pursuant to RSA 231-A:5, Class A trails may be dedicated and accepted subject to trail use restrictions as may be imposed by the grantor (Patch Forest). Per the terms of Patch Forest's dedication, the permitted means of travel along the Connector will be:
- i. Feet, skis, snowshoes, and horses; and
 - ii. Bicycles, ridden appropriately for a multipurpose trail, when the City deems that the conditions of the trail warrant their use.

All other wheeled or motorized vehicles, on- or off-road, including snowmobiles, shall be prohibited, except, Patch Forest, Patch Orchards, and their heirs and assigns shall retain the right to use the Connector for vehicular, ATV, snowmobile and equipment access to abutting lands for nondevelopment uses, including agriculture and forestry, and/or for access to any existing building, structure or land. Further, Patch Forest, Patch Orchards, and their heirs and assigns shall continue to retain the right to use the surviving sections of Atherton Road and Durkee Road for vehicular, ATV, snowmobile and equipment access to their abutting lands for nondevelopment uses, including agriculture and forestry, and/or for access to any existing building, structure or land.

Because the dedication of the Connector is being done pursuant to RSA 231-A:5, the City will not have the authority to reclassify the Trail into a Class VI or Class V highway, and the City will not have the authority to reduce the specified use restrictions (although the Council will still have authority to increase the use restrictions).

- d. Patch Forest will perform the initial clearing of the Connector traveled way of standing trees, fallen trees, major rocks and other large or major obstructions, if any. The initial clearing shall be to a width sufficient to allow for the uses noted in section II(1)(c) above. Thereafter, as with any other public right-of-way, maintenance and repair of the Connector shall be the City's responsibility and at the City's discretion. The City will also be responsible for the installation of bridges, water bars, signs, or other improvements as the City sees fit, including but not limited to the possible replacement of the snowmobile bridge over the brook. Any reconstruction of the current bridge shall be of sufficient height to allow Patch Forest to run and maintain sap lines under the bridge.

Patch Forest/Patch Orchards and their heirs and assigns will have the authority to maintain and use private roads that cross the Atherton/Connector/Durkee right-of-way. Pursuant to RSA 231-A:1, the City will bear no responsibility for maintaining the Class A Trail for use by Patch Forest/Patch Orchards and their heirs and assigns. The City may grant permission for Patch Forest/Patch Orchards and their heirs and assigns to maintain the Trail for Patch Forest's access uses, such permission will not be unreasonably withheld. However, Patch Forest does not need to seek permission to remove trees that have fallen across the trail.

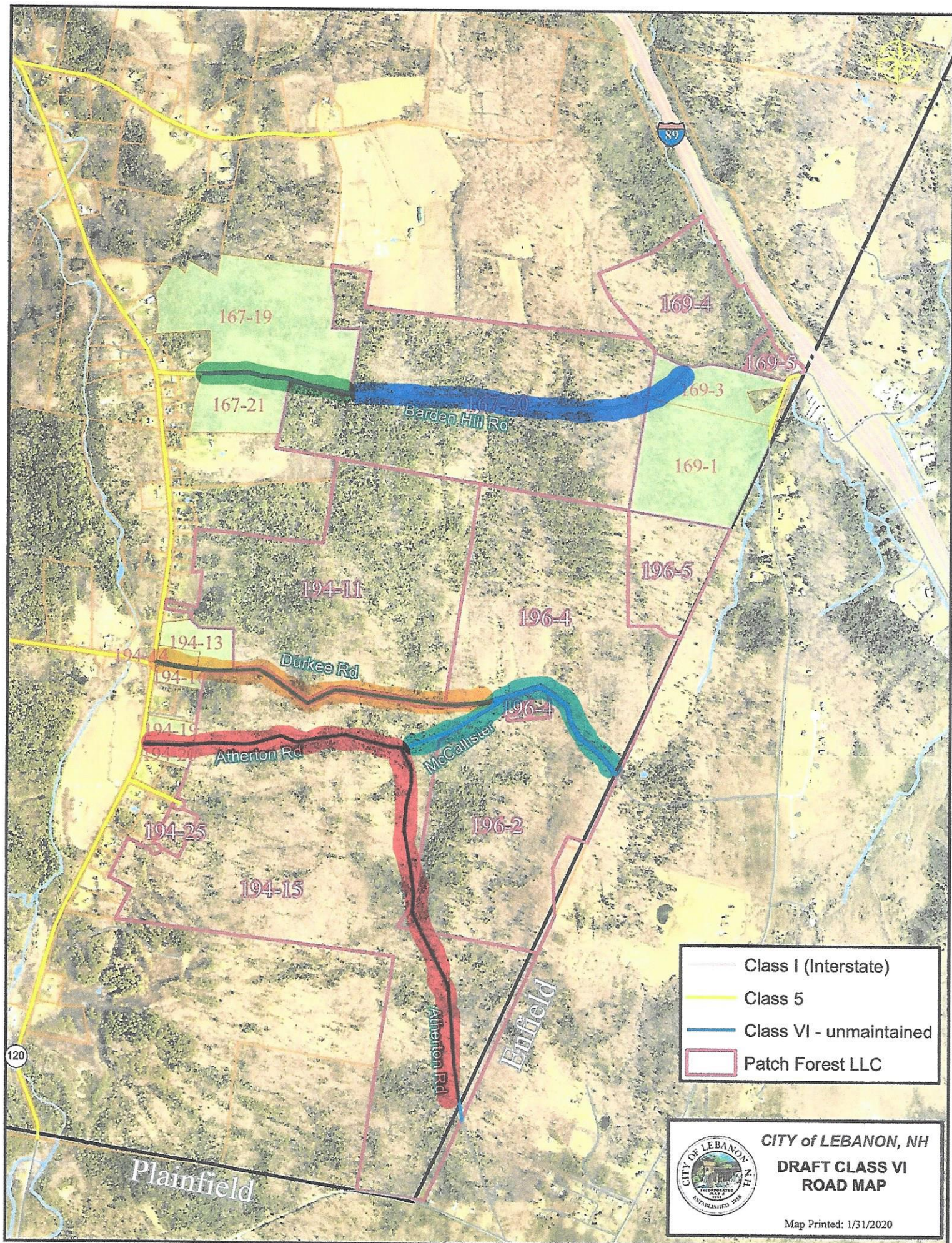
Patch Forest, LLC Settlement Proposal
Draft – For Settlement Discussions

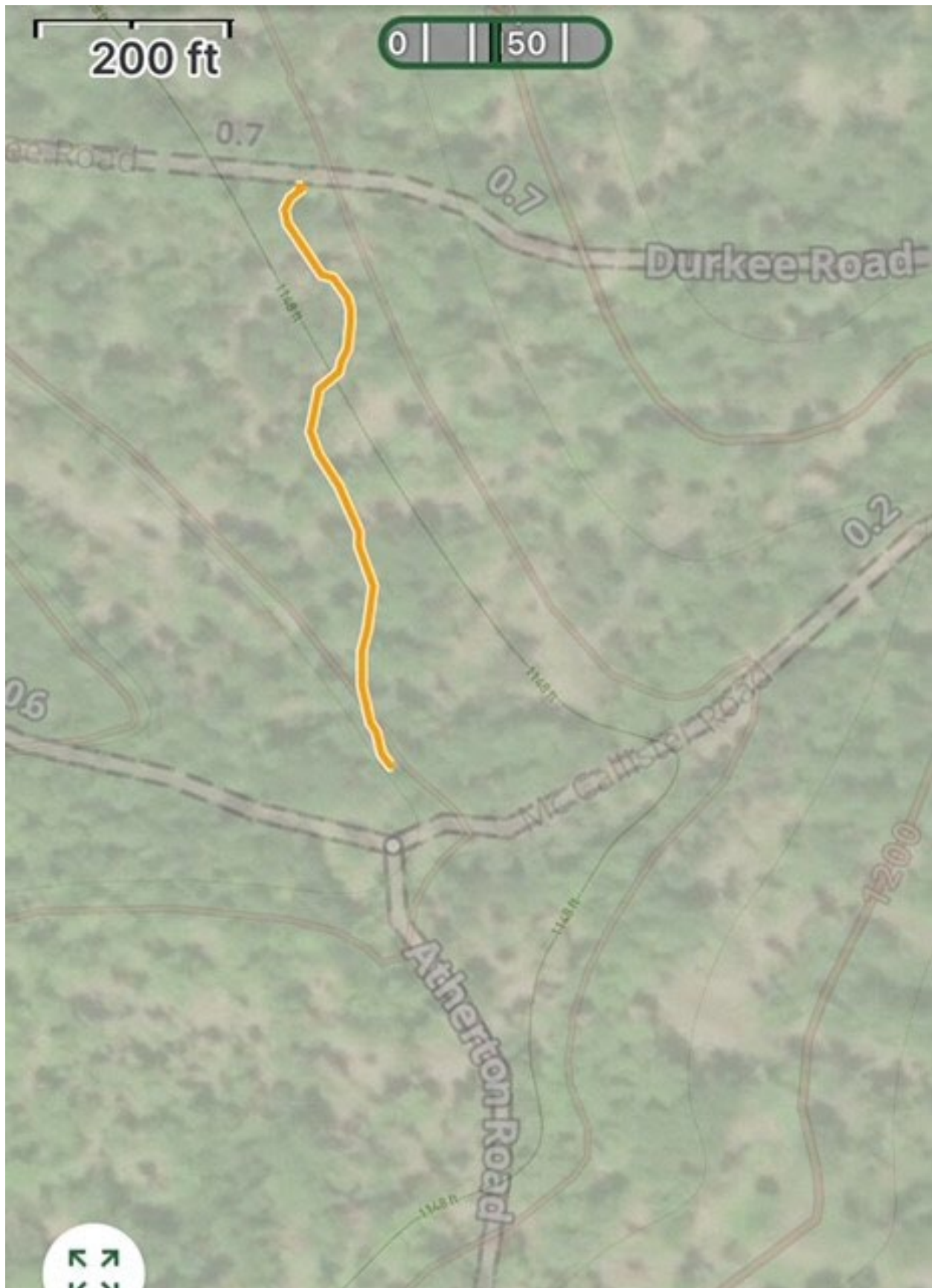
- e. Patch Forest and the City will jointly hire and share the cost of a professional surveyor to draw the boundaries of the Connector public right of way, following the course marked by green surveyor's tape. (The proposed course has also been GPS-charted by the City's GIS coordinator.)
 - f. Following the 2024 maple sap harvest, Patch Forest will remove all sap lines crossing the Connector traveled way. Patch Forest's existing sap lines crossing sections of Atherton and Durkee that will be a part of the Atherton/Connector/Durkee right-of-way, and which are permitted by existing license from the City Manager, may remain in place. Patch Forest/Patch Orchards and the City will formalize a continued sap line agreement that will also permit Patch Forest/Patch Orchards and their assigns to tap trees and run and maintain additional maple sap lines within the Atherton/Connector/Durkee right-of-way (e.g. alongside the traveled trail, or beneath the snowmobile bridge), so as not to interfere with public use of the traveled way, and such license will not be unreasonably withheld.
2. In compromise for the dedication of the Connector and the new Barden Hill Trail and for the granting by Patch Forest of an easement at the easterly end of the new Barden Hill Trail for parking, the City Council is asked to formally discontinue certain sections of historical roads that abut Patch Forest land and are of low public utility but high utility to Patch Forest's maple sugaring operation, to wit: Durkee Road (from GPS coordinate [X840485.9 / Y401903.1], at the Connector intersection, easterly to the intersection with McCallister Road); McCallister Road (from the intersection with Atherton Road to the Enfield town line); and Atherton Road (from GPS coordinate [X840597.3 / Y401256.4] westerly to Route 120). Following the formal discontinuance, these road sections would revert to private property.

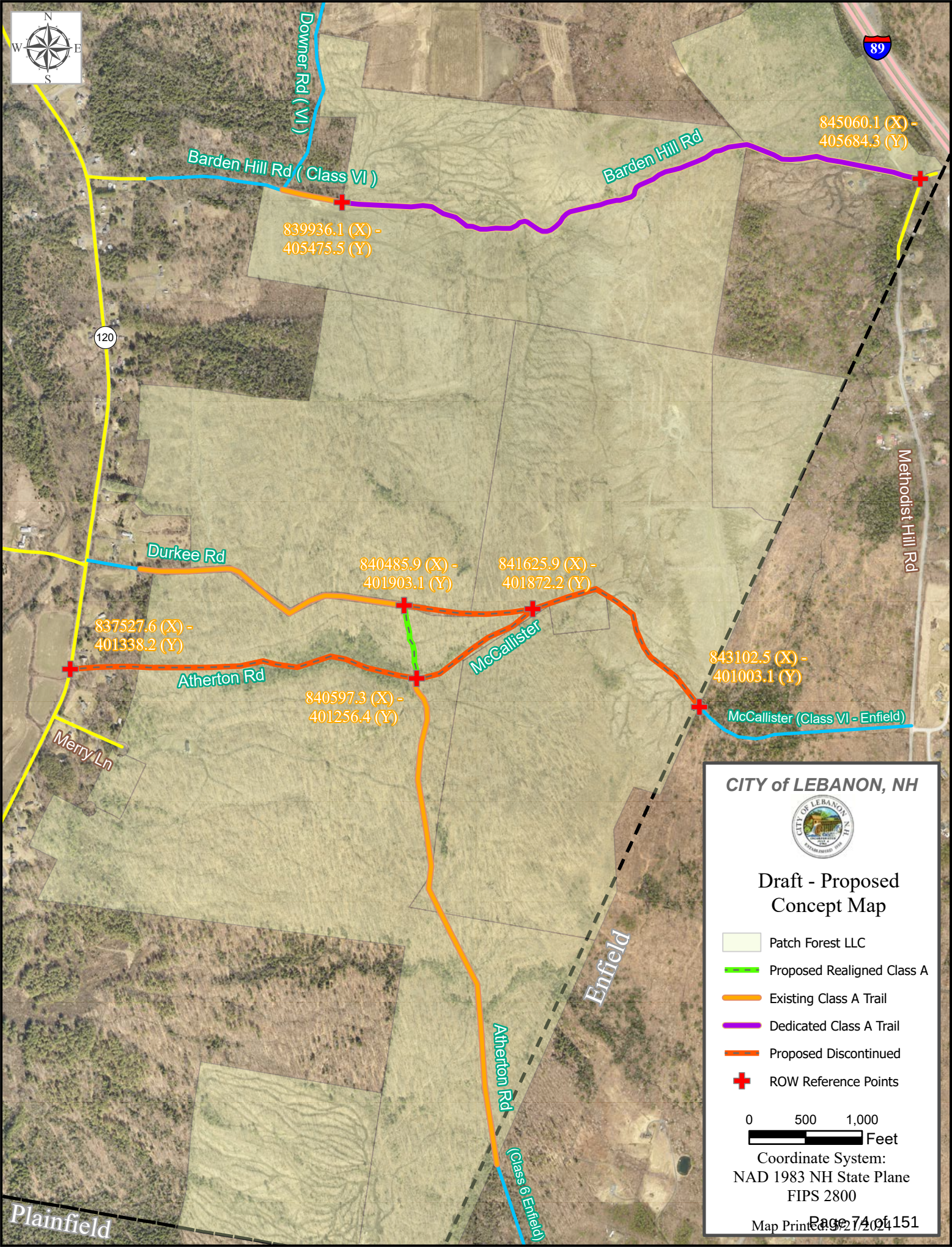
McCallister Road would be completely discontinued in Lebanon. Sections of Durkee Road and Atherton Road included within the Atherton/Connector/Durkee Class A Trail would not be discontinued. The sections of Atherton and Durkee public rights-of-way that are not discontinued shall retain their current respective status as Class V highway, Class VI highway or Class A Trail.

III. Resolution of Superior Court Litigation

Upon the City Council's acceptance of parts I and II of this proposal, counsel for the City and Patch Forest shall file these terms with the Superior Court as a settlement agreement, subject to approval by the Superior Court, and shall request the case be stayed pending completion of the obligations set forth in the settlement agreement. Alternatively, upon the Superior Court's preference and direction, following the approval of the settlement agreement by the Superior Court, counsel for the City and Patch Forest shall file and request entry of "neither party" docket markings to close Case No. 215-2020-CV-00042.







CITY of LEBANON, NH



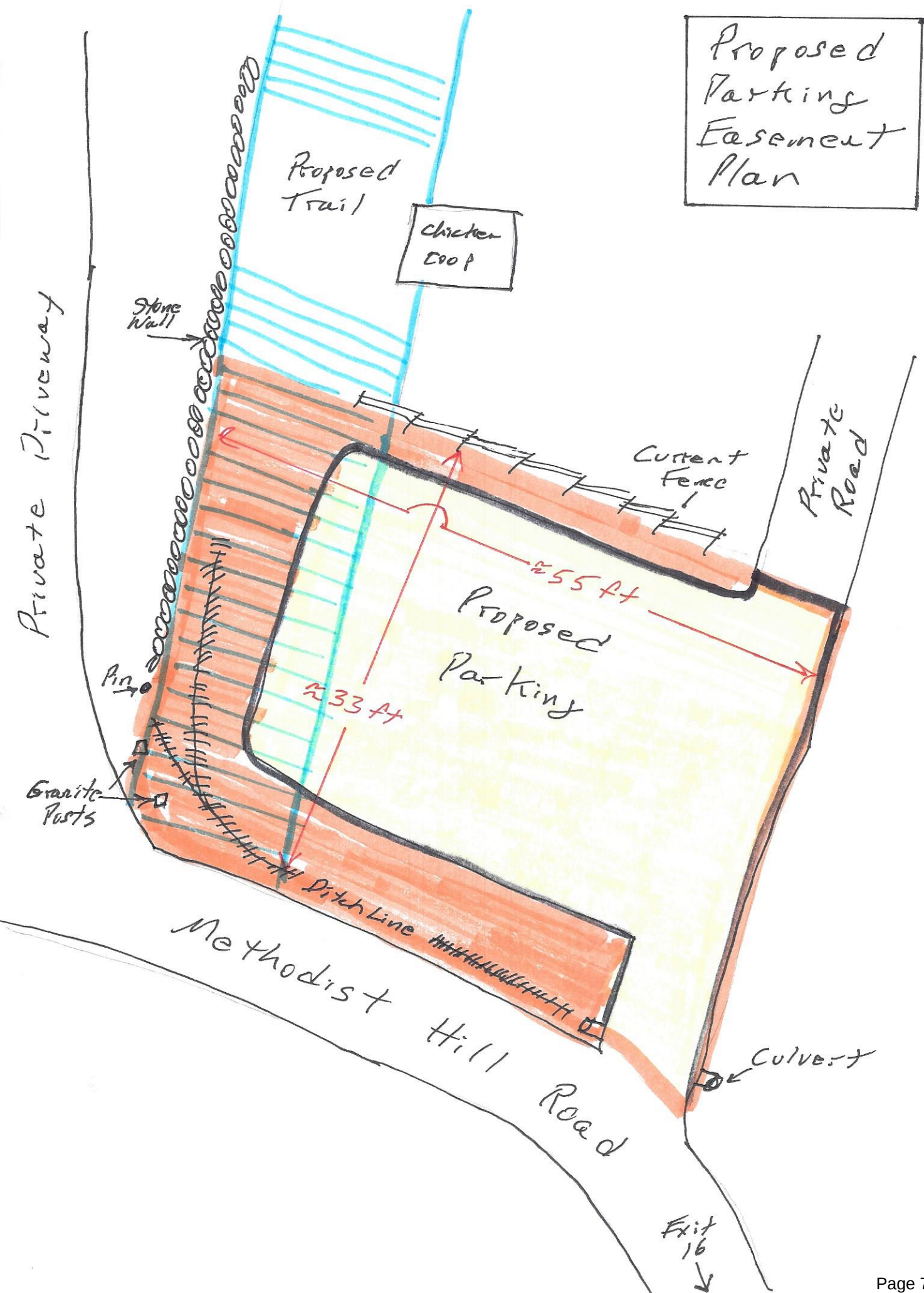
**Draft - Proposed
Concept Map**

- Patch Forest LLC
- Proposed Realigned Class A
- Existing Class A Trail
- Dedicated Class A Trail
- Proposed Discontinued
- ROW Reference Points

0 500 1,000
 Feet

Coordinate System:
NAD 1983 NH State Plane
FIPS 2800

Proposed
Parking
Easement
Plan







LEBANON CITY COUNCIL
NOTICE OF PUBLIC HEARINGS
Wednesday, June 5, 2024 - 7:00pm
Council Chambers, City Hall or
REMOTE VIA VIRTUAL PLATFORM
LebanonNH.gov/LIVE

The Lebanon City Council will hold public hearings on June 5, 2024, beginning at 7:00pm for the following:

- A. Supplemental Appropriation in the Amount of \$1,100,000 for Replacement of Central Fire Station (Station #1) Capital Project** – A public hearing for the purpose of receiving public input and taking action to appropriate \$1,100,000 to supplement current funding appropriations for the Lebanon Central Fire Station (Station #1) Replacement capital project.
- B. Provisional Dedication and Acceptance of Proposed Barden Hill Trail and Proposed “Connector” Segment between Atherton Road and Durkee Road, both as Class A Trails pursuant to NH RSA 231-A:5, and Discontinuance of Section of Class VI Road #14 (Barden Hill Road); Discontinuance of Section of Class VI Road #19 (Durkee Road); Discontinuance of Section of Class VI Road #20 (Atherton Road); and Discontinuance of Class VI Road #21 (McCallister Road)** – A public hearing for the purpose of receiving public input and taking action on a proposal from Patch Forest, LLC for the provisional dedication and acceptance of a proposed Barden Hill Trail and a proposed “Connector” segment between Atherton Road and Durkee Road, both as Class A Trails pursuant to NH RSA 231-A:5; and for discontinuance of a section of Class VI Road #14 (Barden Hill Road); discontinuance of a section of Class VI Road #19 (Durkee Road); discontinuance of a section of Class VI Road #20 (Atherton Road); and discontinuance of Class VI Road #21 (McCallister Road).

The June 5, 2024 City Council agenda packet and documents pertaining to the above-described public hearings will be available on the City’s website beginning May 31, 2024: LebanonNH.gov/Agendas

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.

The foregoing notice was published in the *Valley News*, a newspaper of general circulation in the City of Lebanon, in accordance with the Code of the City of Lebanon on Saturday, May 25, 2024, and Tuesday, May 28, 2024.

Jaseya Ewing

Jaseya Ewing, City Clerk

Agenda

Lebanon City Council

June 5, 2024

10. New Business:

10.A – Abatement Request for 78 Bank Street

Background

On May 7, 2024, the City Manager's Office received a letter from Marlee Dixon and Greg Hagley requesting an abatement of water, sewer, and impact fees assessed against their property at 78 Bank Street in Lebanon. Ms. Dixon and Mr. Hagley purchased the property in January 2024 and converted it from a professional office use to a single-family residence.

The Department of Public Works and the Planning & Development Department have each provided memos summarizing the amounts of the water, sewer, and impact fees assessed against the property based on its conversion to a single-family residence, and have cited the relevant sections of the City Code or Zoning Ordinance used as the basis for the assessments.

As noted in City Code Chapter 68-9, Abatement, "the City Council may abate, for good cause shown, any water investment fee or water development fee assessed on any person or organization pursuant to this article. Such abatements may be made on such terms and conditions as the City Council shall deem equitable under the circumstances." Similarly, City Code Chapter 136-124, Abatement of sewer development charges, states "The City Council may abate, for good cause shown, any sewer development charge assessed on any person or organization pursuant to this article. Such abatements may be made on such terms and conditions as the City Council shall deem equitable under the circumstances."

However, as noted in the Planning & Development Department memo, Section 213.9 of the Zoning Ordinance provides that the Planning Board has jurisdiction over appeals regarding the assessment of impact fees.

Action

If the Council decides to move forward, the following resolution is offered for consideration:

MOVED, that the Lebanon City Council hereby grants or denies the request of Marlee Dixon and Greg Hagley for abatement of water investment fees and water development fees assessed upon property located at 78 Bank Street, Lebanon, for the conversion of said property from professional office use to a single-family residence, pursuant to City Code Chapter 68-9, Abatement.

BE IT FURTHER MOVED, that the Lebanon City Council hereby grants or denies the request of Marlee Dixon and Greg Hagley for abatement of sewer development charges assessed upon property located at 78 Bank Street, Lebanon, for the conversion of said property from professional office use to a single-family residence, pursuant to City Code Chapter 136-124, Abatement of sewer development charges.

Included In This Section:

1. Letter from Marlee Dixon and Greg Hagley, received May 7, 2024
2. Memo from DPW Director Jay Cairelli, dated May 22, 2024, summarizing water and sewer fees assessed against 78 Bank Street
3. Memo from Planning & Development Department Staff, dated May 13, 2024, summarizing impact fees assessed against 78 Bank Street
4. Impact Fee Acknowledgment/Invoice Form for 78 Bank Street

Available, but not included in this Section:

5. [City Code Chapter 68, Fees](#)
6. [City Code Chapter 136, Sewer Service](#)
7. [City Code Chapter 182, Water Service](#)
8. [Zoning Ordinance Section 213, Impact Fees](#)

May 3, 2024

Dear City Council members,

We are writing to appeal for an abatement on the water, sewer and impact fees assessed after we purchased 78 Bank Street Lebanon, NH. We believe these fees should be waived because they were not transparent throughout our many interactions with the City of Lebanon before purchasing the house. Our water and sewer usage required no additional action from the town since both the water and sewer lines already existed. Additionally, the house was originally a single-family home and therefore we are returning it to its original zoning.

Before purchasing a commercial property and converting it to a home, we consulted with City Hall on multiple occasions. Starting on 12/17/23, Marlee clearly stated our intention to convert the property into a home and to obtain a permit to install a bathtub (in a spot one previously existed). This was the essential step to convert the house to residential zoning. Having only learned of a modest fee to re-file the property and a \$250 sewer fee, we decided to purchase and follow our plan. It was over 3 months after our first interactions that the city sent an email stating, "It has come to our attention that you will need to change your site (78 Bank Street/Lebanon) from a Commercial site to a Residential Site. Please select Change of Occupancy as the permit type. In the Project Description please list "changed from Law Office to Residential home." With this email came a \$5700 fee that was never mentioned before we purchased the home. Below we included an email chain of the conversations we had with the city.

Over 2 weeks after being granted a permit for the bathtub, we were given a water/sewer form to fill out where we were asked to include the "proposed bedrooms" for our home. We don't have *proposed* bedrooms since the rooms already existed and did not need to be modified in any capacity. 78 Bank Street was a single-family home for over 150 years and we did not *propose* any bedrooms. We were then charged \$2777 in sewer fees and \$800 in water fees based on proposed increased usage. We are disputing this cost because no additional work or services were completed by the city, the water/sewer was never turned off or on. The water meter was not modified. The house was a single-family zoned residential home, and we were never informed of these fees during the permitting process. We pay for our ongoing water/sewer usage in our water bill and property taxes. **We would not have purchased the house if we had been aware of these excessive fees of \$9000.**

These fees are not transparent. It was acknowledged by city workers that there is not an established process to identify who will receive these fees. We purchased the home on 2 modest middle-class salaries. Purchasing a home—especially one needing renovation in a city with a housing shortage—requires careful planning and budgeting.

It's clear that the City of Lebanon is a good place to live with an ambient spirit which is why we wanted to live here. However, we are appealing these fees for the following reasons:

- The city was not transparent during our multiple interactions before purchasing the house.
- Our water and sewer require no additional action from the town—both the water and sewer lines already existed, and we pay for the services through annual taxes.
- Based on a phone conversation with Brian, the increased usage they calculated included a baseline usage from the previous business calculated during the pandemic when usage was substantially low
- The house was originally a single-family home and therefore we are returning it to its original zoning.

We look forward to hearing from you.

Regards,

Marlee Dixon

Greg Hagley

I will provide copies of the chain of email interactions I had with the town if needed. Below are the cut/pasted emails.

1st email 12/18/23:

Hi Leann,

We are under contract to purchase a residential office that we will be converting into a primary home. The address is 78 Bank St. Lebanon. I was in there the other day and the woman mentioned we could ask the sellers to sign a document so we could complete the work as soon as we closed. I believe she said the permitting process takes 30 days. The work we need to complete to live there is to add a shower/bathtub to the home since there is only a half bath. Please let me know how I would get the application to send to the sellers to have them sign off.

Thank you,
Marlee
970-485-5048

We contacted the city multiple times via email, over the phone and in person to get the permit completed. We were clear with our intentions to convert the law office to our home.

2nd email:

Marlee:

Attached the permit for the new tub/shower install.
Once your closing has been completed, please email me a copy of the first page of the sales agreement
Or deed where both names (previous owner/new owner) are listed on the page.

I will switch the permit to the new owner's name.

You can use the attached Permit to get your project complete. It does not have to be in the new owner's name to do the work.
Please post this on your front door.

Thank you,

Leann
City of Lebanon
Planning and Development
603 448 1457 x6126

We received the permit and still at this time we were not made aware that we would have to pay over \$3500 in water/sewer fees or be assessed an impact fee.

3. 1/29/24 (Two days before we closed on the property):

Marlee:

Thank you for your call this morning.

Our City Engineer/Brian Vincent will need the Water and Sewer Use forms completed.

Once completed, please return the forms to the Dept of Public Works.

There is a \$250.00 fee for the Sewer Allocation form.

Please identify how many bedrooms will be in your new home.

Sewer Allocation Application Form: [Application-for-Sewer-Use-Allocation-PDF \(lebanonnh.gov\)](#)

Water Use Application Form: [Water and Sprinkler Service Checklist and Application \(PDF\)](#)

Please send them to Brian.vincent@lebanonNH.gov. Please do include a cover note letting him know your timeline for the closing and the move in.

Thank you,

Leann

City of Lebanon

Planning and Development

603 448 1457 x626

Two days before closing it was still not made aware to us that we would need to pay over \$3500 in water/sewer fees to convert this house back to a single-family home. It was constructed as a single-family home so we had no way of knowing that we would need to pay any fees to turn it back into a single-family home. We never physically added any bedrooms and the bathtub we added had originally been there but removed while it was a law office.

3/25/24- Email from Leann:

It has come to our attention that you will need to change your site (78 Bank Street/Lebanon) from a Commercial site to a Residential Site.

You may apply for this permit online at:

[LebanonNH.gov/PermitPortal](https://lebanonnh.gov/PermitPortal)

Please select Change of Occupancy as the permit type. In the Project Description please list "changed from Law Office to Residential home."

Please include a floor plan of your home with this application. This can be hand drawn. Please label the square footage of each living space.

No mention was ever made of an impact fee. I spoke to LeAnn starting in mid-December regarding converting the house back to a residential address. How was this missed? The town

should have let us know of these fees in advance of obtaining a building permit. Especially knowing that we were closing on the house.

From: [Greg Hagley](#)
To: [Jay Cairelli](#); [Maura Anderson](#); [Michelle Mullins](#); [Rick Brown](#); [marlee dixon](#); [David Brooks](#); [Brian Vincent](#)
Subject: [EXTERNAL] Appeal for an abatement for 78 Bank Street
Date: Tuesday, May 7, 2024 7:07:30 AM
Attachments: [City of Lebanon Letter.pdf](#)

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

Dear David,
Marlee and I would like to file an appeal for an abatement on 2 fees that we received unexpectedly months after purchasing a home. Please review our attached letter. Unfortunately, I see that we missed the 5/3/24 deadline to guarantee a place on the 5/15/24 meeting agenda, but would appreciate a chance to be discussed during the meeting. Would it be helpful for us to attend?

Best regards,
Greg Hagley
Marlee Dixon



CITY OF LEBANON
DEPARTMENT OF PUBLIC WORKS
193 Dartmouth College Highway
Lebanon, NH 03766

MEMO

Date: 5/22/2024
To: David Brooks
From: Jay Cairelli
Re: 78 Bank Street Water and Sewer Fees

This memo provides a detailed explanation of the sewer and water fees associated with the property at 78 Bank Street. These fees are calculated based on the property's prior use as a law office, which included a credit of 23 gallons per day.

Sewer Fees

1. **Sewer Permit Application Fee:** \$250 [per City Code Chapter 136-107, Chapter 136-105, and Chapter 68-15.B(8)(a)]
This is a standard fee required for the processing of the sewer use application for the property.
2. **Sewer Development Charge:** \$2,676.77 [per City Code Chapter 136-121 and Chapter 68-15.B(9)(e)]
This charge helps cover the cost of major capital improvements to the sewer system.

Existing Sewer Permit:

There was no existing sewer permit for 78 Bank Street, necessitating the application and associated fees outlined above.

Water Fees

1. **Water Permit Application Fee:** \$50 [per City Code Chapter 182-37 and Chapter 68-15.B(6)(l)]
This is a standard fee required for the processing of the water use application for the property.
2. **Water Investment Fee:** \$70 [per City Code Chapter 68-4]
This charge is to recover costs of developing new water sources and expanding the water system to serve new customers.
3. **Water Development Fee:** \$680 [per City Code Chapter 68-5]

This charge helps cover the cost of major capital improvements to the water system.

Summary of Charges

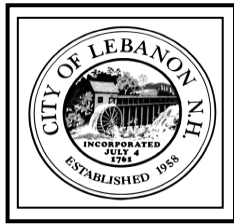
Total Sewer Fees: \$2,926.77

- Sewer Application Fee: \$250
- Sewer Development Charge: \$2,676.77

Total Water Fees: \$800

- Water Permit Application Fee: \$50
- Water Investment Fee: \$70
- Water Development Fee: \$680

The fees for the property at 78 Bank Street have been calculated considering the historical usage of 23 gallons per day when it functioned as a law office.



CITY OF LEBANON ~ PLANNING & DEVELOPMENT

MEMORANDUM

TO: Lebanon City Council

CC: Shaun Mulholland, City Manager
David Brooks, Deputy City Manager

FROM: Planning and Development Department Staff

RE: Marlee Dixon/Greg Hagley Appeal of Impact Fee Assessment -
78 Bank Street (Tax Map 92, Lot 106)

DATE: May 13, 2024

Honorable Mayor and City Councilors,

The property at 78 Bank Street (Tax Map 92, Lot 106), located in the Residential Two (R-2) zoning district, was constructed in 1800 according to the City's assessing records. On February 6, 1989, the Zoning Board of Adjustment granted a Special Exception for the property to "permit a professional office in a residential building" (quoting the ZBA's Notice of Decision for ZB-32-109-89), followed by Site Plan approval from the Planning Board on March 27, 1989 for "a proposed 1,750 sq. ft. office at Bank Street," (quoting the Planning Board's Notice Action for PB32-10-89). To staff's knowledge, the building at 78 Bank Street was used as a professional office through the end of 2023.

On January 31, 2024, the property was sold to Marlee Dixon and Gregory Hagley who subsequently sought approval from the City to convert the use of the building to a one-family dwelling (which is a permitted use in the R-2 District). In connection with Ms. Dixon and Mr. Hagley's proposed conversion from an office to a one-family use, the Planning & Development Department has assessed impact fees pursuant to Section 213 of the Zoning Ordinance. A copy of the Impact Fee Acknowledgement Form/Invoice is attached for reference.

Pursuant to Section 213.4 of the Zoning Ordinance, the Planning Board has authorized the assessment of impact fees relative to the proportional demand of new development on the City's recreation, Fire Department, and Police Department capital facilities and the capital facilities of the School District. Pursuant to Section 213 of the Zoning Ordinance, new development includes the creation of a new dwelling unit and the conversion of a legally existing use which would result in a net increase in the number of dwelling units. See Section 213.3.E(1) and (3).

Lebanon's impact fee ordinance was first adopted in 1991 and repealed in 1999. A new ordinance was adopted in 2001 as Section 213 of the Zoning Ordinance which was then replaced with a re-write of Section 213 in 2009. The adoption of Lebanon's initial impact fee ordinance and all amendments thereto occurred after conversion of the building at 78 Bank Street from an office to a residential use 35 years ago in 1989.

Pursuant to the authority granted under Sections 213.4 ("Authority to Assess Impact Fees"), 213.5 ("Standards and Basis of Assessment"), and 213.6 ("Review and Change in Assessment

Schedules”) of the Zoning Ordinance, the Planning Board has adopted an impact fee schedule which assesses fees based on the area of the building to be occupied by the proposed use. For residential uses, the impact fee is calculated by multiplying the total gross living area (GLA) by the per square foot fee for each category. For example, if the gross living area of a new home is 2,000 sq. ft., the school impact fee is calculated as follows: 2,000 sq. ft. GLA x \$2.00 per sq. ft. = \$4,000.

With respect to the proposed one-family conversion of 78 Bank Street, the total impact fee is **\$5,311.76**, which calculated pursuant to the current impact fee schedule that was adopted by the Planning Board on October 12, 2021. See attached Impact Fee Acknowledgement/Invoice. The assessed impact fee was also calculated in accordance with Section 213.5.D which addresses use conversions (as opposed to new construction):

- D. In the case of new development created by conversion or modification of an existing use, the impact fee shall be based upon the net positive increase in the impact fee assessed for the new use for each category of impact fee assessment as compared to the highest impact fee that was or would have been assessed for each category of impact fee assessment for the previous use in existence on or after the effective date of this Ordinance.

Pursuant to Section 213.5.D, the impact fee for the 78 Bank Street conversion is “discounted” \$0.10 per sq. ft. for the Recreation fee and \$0.26 per sq. ft. for the Police Department fee, and is reduced to \$0.00 for the Fire Department fee since the Fire Department rate for commercial uses is actually higher than the rate for single-family uses. The school fee is assessed at the full \$2.00 per square foot rate since school impact fees are not assessed for non-residential development. Consequently, the effective impact fee rates for the proposed conversion are shown in red below (image taken from the attached Impact Fee Acknowledgement/Invoice):

Structure Type or Use	Impact Fees Per Square Foot - 2021 Update				
	Schools *	Recreation	Police Dept	Fire Dept	Total
Residential Development <i>Per Sq. Ft. Gross Living Area</i>					
Single Family Detached	\$2.00	\$0.76	\$0.28	\$0.20	\$3.24
All Other Housing Units	\$1.45	\$0.69	\$0.25	\$0.40	\$2.79
Non-Residential Development <i>Per Sq. Ft. Gross Floor Area</i>					
Retail, Restaurants and Lodging	---	\$0.06	\$0.36	\$0.36	\$0.78
Offices and Commercial Services	---	\$0.10	\$0.26	\$0.31	\$0.67
Industrial, Transp, Whse, Commun.	---	\$0.04	\$0.10	\$0.10	\$0.24
Nursing & Licensed Care Facilities	---	\$0.03	\$0.05	\$0.45	\$0.53
Other Institutional Uses	---	\$0.03	\$0.29	\$0.26	\$0.58
	\$2.00**	\$0.66**	\$0.02**	\$0.00**	\$2.68

Finally, please note that appeals of determinations regarding the assessment of impact fees must be made to the Planning Board pursuant to Section 213.9 of the Zoning Ordinance. Since Section 213.9 provides that the Planning Board has jurisdiction over appeals of determinations regarding the assessment of impact fees, it is not immediately clear what relief the City Council may be able to provide concerning the current request.

ATTACHMENT

- Impact Fee Acknowledgement Form/Invoice prepared for 78 Bank Street conversion

IMPACT FEE ACKNOWLEDGMENT/INVOICE

City Tax Map 92 **Lot** 106 **Plot** _____

Planning Board: App.# N/A **Approval Date** N/A **Date Lot was Created** prior to 2009

Building Permit # _____ **Date Building Permit Filed** _____

Property Owner: Gregory Hadley et al

Property Location 78 Bank Street

Total Amount of Gross Living Area or Gross Floor Area (see below definitions) 1,982* **Sq. Ft.**

Impact Fee assessed (School)..... \$ 3,964.00

*Living Area per City
assessing records

Impact Fee assessed (Recreation)..... \$ 1,308.12

Impact Fee assessed (Police)..... \$ 39.64

Impact Fee assessed (Fire)..... \$ 0.00

TOTAL IMPACT FEE ASSESSED..... \$ 5,311.76

TOTAL IMPACT FEE PAID \$ _____

DATE PAID _____

The Impact Fee is assessed at the time of Building Permit application and
must be paid prior to issuance of a Certificate of Occupancy / Certificate of Completion

City of Lebanon, New Hampshire - Impact Fee Schedule as adopted by the Planning Board on 10/12/21

Structure Type or Use	Impact Fees Per Square Foot - 2021 Update				
	Schools *	Recreation	Police Dept	Fire Dept	Total
Residential Development <i>Per Sq. Ft. Gross Living Area</i>					
Single Family Detached	\$2.00	\$0.76	\$0.28	\$0.20	\$3.24
All Other Housing Units	\$1.45	\$0.69	\$0.25	\$0.40	\$2.79
Non-Residential Development <i>Per Sq. Ft. Gross Floor Area</i>					
Retail, Restaurants and Lodging	---	\$0.06	\$0.36	\$0.36	\$0.78
Offices and Commercial Services	---	\$0.10	\$0.26	\$0.31	\$0.67
Industrial, Transp, Whse, Commun.	---	\$0.04	\$0.10	\$0.10	\$0.24
Nursing & Licensed Care Facilities	---	\$0.03	\$0.05	\$0.45	\$0.53
Other Institutional Uses	---	\$0.03	\$0.29	\$0.26	\$0.58
	\$2.00**	\$0.66**	\$0.02**	\$0.00**	\$2.68

Definitions from Appendix A of the Lebanon Zoning Ordinance:

Gross Living Area (Residential): The total area of above-grade residential space within a *dwelling unit* as measured using exterior building dimensions, with a ceiling height of 7 ft. or greater, excluding unheated areas such as garages, enclosed or open porches, covered or open decks, outside stairs, balconies, and other unenclosed areas. The floor area of a walk-out basement with a ceiling height of 7 feet or greater shall be included.

Gross Floor Area (Non-Residential Uses): The total square footage of all floors of a building as measured using exterior building dimensions. For purposes of calculating minimum parking requirements per Section 607.2.A, "gross floor area" shall mean the total square footage of all floors devoted to the use, or accessory to that use, as **measured** using exterior building dimensions.

I acknowledge that as a condition of the Building Permit, the total impact fee assessed above must be paid prior to occupancy and/or the issuance of any Certificate of Occupancy (RSA 674:21 V). I agree that I will not occupy and that I will not permit the occupancy of any buildings described above that are subject to this impact fee prior to payment of such fee. I further agree to notify the Building Inspector of any changes in gross living area for residential uses, and gross floor area for non-residential uses, prior to occupancy.

Property Owner Signature _____ **Date** _____

**Where the impact fee rate for a new use is higher than the impact fee rate for the prior use, an impact fee for the new use is assessed based on the difference between the two rates. See Section 213.5.D of the Zoning Ordinance. Revised 2/26/2024

Lebanon Zoning Ordinance – Selected Text from Section 213 - Impact Fees
(full text available in the Zoning Ordinance last revised February 7, 2024)

Authority. These regulations are authorized by New Hampshire RSA 674:21, V, and other pertinent state law, as an innovative land use control. Under this authority, new development in the City of Lebanon may be assessed impact fees in proportion to its demand on the public capital facilities of the City and the School District. *(Adopted July 15, 2009)*

213.3 Definitions.

- D. **Impact fee** means a fee or assessment imposed upon development, including subdivision, building construction or other land use change, in order to help meet the needs occasioned by the development for the construction or improvement of capital facilities owned or operated by the municipality, including and limited to water treatment and distribution facilities; wastewater treatment and disposal facilities; sanitary sewers; storm water, drainage and flood control facilities; public road systems and rights-of-way; municipal office facilities; public school facilities; the municipality's proportional share of capital facilities of a cooperative or regional school district of which the municipality is a member; public safety facilities; solid waste collection, transfer, recycling, processing and disposal facilities; public libraries; and public recreation facilities, not including public open space.
- E. **New development** means an activity that results in:
- (1) The creation of a new dwelling unit or units or new manufactured housing; or
 - (2) The conversion of a legally existing use, or additions thereto, which would result in a net increase in the number of dwelling units; or
 - (3) Construction resulting in a new non-residential building or a net increase in the gross floor area of any non-residential building; or
 - (4) The conversion of a lawful existing use to another use if such change would result in a net increase in the demand on public capital facilities that are the subject of impact fee assessment.
 - (5) A net increase in a residential building's gross floor area greater than 500 square feet.

Notwithstanding the above, new development shall not include:

- a. The creation of any new studio or one-bedroom accessory dwelling unit with a gross living area of 500 sq. ft. or less;
- b. The replacement of an existing manufactured housing unit or any existing dwelling unit; or
- c. The reconstruction of a structure that has been destroyed by fire or natural disaster where there is no change in size, density, or type of use that would increase the demand on capital facilities for which impact fees are assessed.

213.4 Authority to Assess Impact Fees.

The Planning Board is hereby authorized to assess impact fees upon new development, as herein defined, and in accordance with the standards herein set forth. The Planning Board shall have the authority to adopt regulations to implement the provisions of this Ordinance and to delegate the administrative functions of impact fee assessment, collection and disbursement.

213.7 Assessment and Collection of Impact Fees.

- A. Where subdivision or site plan approval is required for new development, impact fees shall be assessed at the time of Planning Board approval of a subdivision plat or site plan.
- B. When no Planning Board approval is required, or has been made prior to the adoption or amendment of the impact fee Ordinance, impact fees shall be assessed prior to, or as a condition for, the issuance of a building permit.
- C. Impact fees shall be collected at the time a certificate of occupancy is issued. If no certificate of occupancy is required, impact fees shall be collected at the time when the development is ready for its intended use.
- D. The Planning Board and the assessed property owner may establish an alternate, mutually acceptable schedule of payment of impact fees. If an alternate schedule of payment is established, the Planning Board may require the applicant to post security, in the form of a cash bond, letter of credit, or performance bond so as to guarantee future payment of assessed impact fees.

213.9 Appeals under This Section.

- A. A party aggrieved by a decision made by the Zoning Administrator relating to administrative decisions in the assessment or collection of impact fees authorized by this Section may appeal such decision to the Planning Board within 30 days of the administrative decision, and not afterward.
- B. As set forth in RSA 676:5, III, a party aggrieved by a decision of the Planning Board under this Section may not appeal to the Zoning Board of Adjustment, but may appeal to the Grafton County Superior Court as provided by RSA 677:15, as amended.

**Agenda
Lebanon City Council
June 5, 2024**

10. New Business:

**10.B – Presentation of First Reading and Set Public Hearing for July 3, 2024:
Amendments to Ordinance #18, Salary Plan, to Retitle, Reclassify,
and Add Positions to the Existing Salary Plan**

Background

The City Council is asked to take action to amend Ordinance #18, Salary Plan, as follows:

1. Article II, Non-Affiliated Employees to:
 - I. Reclassify the exempt position of City Clerk/Tax Collector, within the City Clerk/Tax Collection Department, to Grade 13.
 - II. Reclassify the exempt position of Human Services Director, within the Human Services Department, to Grade 13.
 - III. Retitle the Chief Innovation Officer position to Chief Innovation and AI Officer
2. Article II, LPASE Employees to:
 - IV. Add the non-exempt position of Public Works Crew Leader, within the Public Works Department, to Grade 7.
3. Article II, Seasonal/Temporary & Stipend Employees to:
 - V. Implement wage adjustments to the following positions:
 - a. Ballot Clerk
 - b. Moderator
 - c. Ward Clerk
 - d. Chair Supervisor of the Checklist
 - e. Supervisor of the Checklist

Article II, Non-Affiliated Employees

- I. The City Clerk/Tax Collector job description has been updated to accurately reflect the duties and responsibilities of the position, which resulted in a reclassification of the position from a Grade 12 to a Grade 13.
- II. The Human Services job description has been updated to accurately reflect the duties and responsibilities of the position, which resulted in a reclassification of the position from a Grade 12 to a Grade 13.
- III. The Chief Innovation Officer position has been retitled to Chief Innovation and AI Officer.

Article II, LPASE Employees

City Administration is proposing the addition of the Public Works Crew Leader position. The Public Works Crew Leader is a non-exempt, Grade 7, LPASE position, within the Public Works Department.

Currently, the Maintenance Superintendent is responsible for overseeing multiple work crews, who are simultaneously performing work at various locations. This position has been created to address the need for additional oversight of the Department's work crews.

Article II, Seasonal/Temporary & Stipend Employees

Due to the difficulty hiring and retaining specific positions within the Seasonal/Temporary & Stipend classification, Administration is proposing wage adjustments, for five Election positions:

- a. Ballot Clerk
- b. Moderator
- c. Ward Clerk
- d. Chair Supervisor of the Checklist
- e. Supervisor of the Checklist

Additionally, Administration is proposing that the Chair Supervisor of the Checklist position and the Supervisor of the Checklist, be relocated from stipend positions to hourly positions.

Amendment Process

Samantha Lauzon, Human Resources Director, will be present to discuss all proposed amendments and answer any questions the City Council may have.

Amending Ordinance #18 requires three separate presentations (see City Charter subsections §419:22, §419:24, §419:25, §419:52), followed by a public hearing, and the vote of at least two-thirds (2/3) of all members of the City Council - six (6) members - to adopt.

The Council is asked to recognize the first of three presentations on June 5, 2024, and to schedule a public hearing for July 3, 2024, to amend the Ordinance. The second and third presentations will occur on June 19, 2024, and July 3, 2024, respectively.

The tables below reflect all proposed changes (as shown in red text), to include the addition of new positions, changes in position titles, and/or classification. These changes would be effective immediately.

Action

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

1. Acknowledge First Presentation:

MOVED, that the Lebanon City Council acknowledges the first of three presentations to amend Ordinance #18, Salary Plan, as outlined in the tables contained on pages ____ through ____ of the June 5, 2024, City Council Agenda Packet:

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

REGULAR FULL-TIME/REGULAR PART-TIME NON-AFFILIATED & LPASE EMPLOYEES 2024 SALARY & GRADES					
Grade	Position Title	Hourly		Weekly	
		Minimum	Maximum	Minimum	Maximum
7	Administrative Secretary	\$27.34	\$38.67	-	-
	Assessing Clerk	-	-	-	-
	Assistant City Clerk	-	-	-	-
	Assistant Human Services Director	-	-	-	-
	Communications Specialist	-	-	-	-
	Library Administrative/Technical Assistant	-	-	-	-
	Public Works Crew Leader**	-	-	-	-
12	Wastewater Treatment Superintendent**	\$40.91	\$55.23	-	-
	Water Treatment Superintendent**	-	-	-	-
	Administrative Services Manager**	-	-	\$1,636.34	\$2,209.02
	City Assessor**	-	-	-	-
	City Clerk/Tax Collector	-	-	-	-
	City Engineer**	-	-	-	-
	City Planner**	-	-	-	-
	Deputy Library Director	-	-	-	-
	Energy & Facilities Manager**	-	-	-	-
	Human Services Director	-	-	-	-
	Police Lieutenant**	-	-	-	-
	Prosecuting Attorney	-	-	-	-
	Solid Waste Manager	-	-	-	-
	Chief Building Official & Health Officer	-	-	\$1,734.53	\$2,341.63
	Chief Innovation and AI Officer	-	-	-	-
13	City Clerk/Tax Collector	-	-	-	-
	Cyber Security Analyst	-	-	-	-
	Deputy Finance Director	-	-	-	-
	Deputy Human Resources Director	-	-	-	-
	Deputy Fire Chief**	-	-	-	-
	Human Services Director	-	-	-	-
	Information Systems Manager**	-	-	-	-
	Maintenance Manager	-	-	-	-
	Police Captain**	-	-	-	-
	Deputy Planning and Development Director	-	-	-	-
	Systems and Operations Administrator	-	-	-	-

**Denotes LPASE Employees.

B. Seasonal/Temporary & Stipend Employees

POSITION TITLE	HOURLY	
ELECTION POSITIONS (HOURLY)		
Ballot Clerk	-	\$20.00
Election Assistant	-	\$15.63
Supervisors of the Checklist	-	\$15.63
Moderator	-	\$30.00
Ward Clerk	-	\$27.00
ELECTION DAY STIPEND		
Chair Supervisor of the Checklist	-	\$27.00
Supervisor of the Checklist	-	\$25.00

2. Schedule Public Hearing:

MOVED, that the Lebanon City Council hereby schedules a public hearing for Wednesday, July 3, 2024, beginning at 7:00 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 to amend Ordinance No. 18, Salary Plan, as fully described and contained in the June 5, 2024, City Council Agenda Packet.

Agenda

Lebanon City Council

June 5, 2024

10. New Business:

10.C – Discussion and Set Public Hearing for June 19, 2024: Ordinance #2024-04 to Amend City Code Chapter 179, Vendors

Background

The City Manager's Office coordinates the permitting of vendors operating around Colburn Park and along the pedestrian mall pursuant to City Code Chapter 179, Vendors. The Code Chapter was adopted in 1990 and has been amended on several occasions since that time.

Over the last several months, the City Manager's Office has been drafting proposed amendments to Chapter 179 in an effort to address a variety of operational issues that have arisen in recent years. Primary amendments include adjustments and clarification of the number and location of spaces within which vendors may operate and updates to the proposed fee structure for vendors as further described below. In addition, the Department of Public Works has proposed new language to address disposal of food waste and grey water waste from food truck vendors, in particular. However, because large portions of the current chapter have been reformatted, the current proposal is to repeal and replace the chapter language in full.

With respect to the number and location of vendors, the current language of Chapter 179 provides that "up to five parking spaces on the north side of [South Park Street] between the crosswalk entrance and the easterly corner of Colburn Park" are available for vending activity. (Note: although the term "parking spaces" is used, this has always been understood and interpreted as "vendor spaces"). However, for many years, the City has permitted vending areas both west and east (before and after) the crosswalk on South Park Street. As depicted in the attached Vendor Parking Spaces diagram from 2017, two seasonal vendors were allowed to occupy a total of six parking spaces west of the crosswalk and two seasonal vendors and one daily or weekly vendor were allowed to occupy a total of eight parking spaces east of the crosswalk.

In recent years, it has become evident that most vendors cannot fit within the allotted areas as shown on the 2017 Vendor Parking Spaces diagram. Vendors are often unable to detach (or reattach) their food trailer from their towing vehicle because of space limitations due to other vendors or from private vehicles parking immediately adjacent to the food trucks/trailers. As a result, the currently proposed amendments include a reduction in the total number of vendor spaces from five to four, but with enough space for each towing vehicle and trailer.

It has been observed that most of the food trucks operating on South Park Street have service windows that open on the passenger side of their vehicle. When the vendors are located on the north side of South Park Street, customers are required to stand immediately next to moving traffic in the travel lane of the roadway, which has long been a cause for concern. In an effort to begin to address this issue, the current proposal would allow two vendor spaces on the south side of South Park Street, such that the service windows would open toward the adjacent sidewalk and away from moving traffic.

In addition, the current language of Chapter 179 provides for the regulation of sales by vendors within the general area of Colburn Park and the pedestrian mall. In recent years, the City

Manager's Office has received requests to expand the area where vending on City land is allowed to include the area formerly known as "Hough Square", near the intersection of Hanover, Hough, and High Streets. Many businesses located in Hough Square are similarly situated to those along the pedestrian mall in that the front of their buildings and storefronts coincides with the edge of the public right-of-way.

Also, in recent years, the Department of Public Works has been alerted to vendors disposing of grey water into the public stormwater system, which is a violation of City Code and federal law. As a result, DPW staff have recommended amendments to Chapter 179 concerning the proper disposal of grey water at the City's wastewater treatment facility with an applicable fee schedule and penalties for illicit discharges. As proposed, any vendor who elects not to use the City's wastewater treatment facility must provide proof of an acceptable alternative disposal location as part of their application for a vendor permit.

Finally, during the NH legislature's last session, legislation was passed that regulates the disposal of food waste by persons generating one ton of such waste per week or more if a facility authorized to manage food waste is located within 20 miles. Although the legislation does not take effect until February 1, 2025, proposed language has been added to Chapter 179 informing food truck vendors that the Lebanon Solid Waste Facility is authorized and has capacity to accept food waste for purposes of compliance with the provisions of NH RSA 147-M:27, V.

Additional proposed amendments to the chapter include new definitions; clarification that sidewalk vending is permitted for business fronting on North Park and West Park Streets; update and clarification of information required for vendor permit applications; updates to the permit fee and electricity usage fee for seasonal vendors; and a general reformatting of some of the existing language.

Action

The following motion is offered for City Council consideration:

MOVED, that the Lebanon City Council hereby schedules a public hearing for Wednesday, June 19, 2024, beginning at 7:00 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 #2024-04 to amend City Code Chapter 179, Vendors, by repealing and replacing the existing language in its entirety.

Included In This Section:

1. Proposed Ordinance #2024-04
2. City Code Chapter 179, Vendors
3. Legal opinion from Attorney Christine Johnston, dated May 22, 2024
4. Vendor Parking Spaces diagrams from 2017 and proposed for 2024

CITY OF LEBANON
ORDINANCE #2024-04

AN ORDINANCE TO AMEND the Code of the City of Lebanon by deleting and repealing Chapter 179 thereof, Vendors, and replacing it with a new Chapter 179, to be entitled Vendors, which chapter provides for the regulation of sales by vendors within the general area of Colburn Park, the Lebanon Mall, and the area of Hanover Street formerly known as “Hough Square” in the City of Lebanon.

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

Section 1:

The Code of the City of Lebanon is hereby amended by deleting and repealing Chapter 179, Vendors.

Section 2:

The Code of the City of Lebanon is hereby amended by adding thereto a new chapter, to replace Chapter 179 hereinabove repealed, to be Chapter 179, Vendors, to read as follows:

- §179-1 Declaration of purpose.
- §179-2 Definitions.
- §179-3 Permit required.
- §179-4 Permits and fees.
- §179-5 Limitation of number and location of vending operations; nonprofit permits.
- §179-6 Restrictions applicable to all vendors.
- §179-7 Grey water waste disposal.
- §179-8 Suspension or revocation of permit.
- §179-9 Appeals.
- §179-10 Penalties for offenses.

§ 179-1 Declaration of purpose.

The purpose of this chapter is to provide for the regulation of sales by vendors within the general area of Colburn Park, the Lebanon Mall, and the area of Hanover Street formerly known as “Hough Square” in the City of Lebanon. This is necessary to ensure the free flow of motor vehicle and pedestrian traffic and to promote the public health, safety and welfare in that area.

§ 179-2 Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

Abutting Business - Any legitimate business located within, whether by lease, rental or ownership, a property directly abutting North Park Street, West Park Street, the Lebanon Mall, and those businesses located on Hanover Street within the area formerly known as “Hough Square” (shown on the map attached as Appendix A).

Food Waste (also referred to as food scraps) - Waste that has the potential of being composted and thereby diverted from disposal in the landfill. Examples include, but are not limited to: coffee grounds, eggshells, meat, dairy, fruit and vegetable scraps/peelings.

Grey Water Waste - Any wash water that has been used in a home or business, except water from toilets.

Public Street or Sidewalk - Include all areas legally open to public use as public streets, sidewalks, roadways, highways, parkways, alleys, and any other public way.

Stand - Any newsstand, table, bench, booth, rack, handcart, pushcart, or any other fixture or device which is not required to be licensed and registered by the Department of Motor Vehicles, used for the display, storage, or transportation of articles offered for sale by a vendor.

Vendor - Any person, including an employee or agent of another, who sells or offers to sell food, beverages, goods, or merchandise on any public street or sidewalk from a stand, motor vehicle, or from his or her person.

Vending Area - One of four designated areas for seasonal vendors only, encompassing not more than 6 parking spaces each along South Park Street. Boundary of vending areas will be clearly marked, and all vehicles associated with the vending operation (truck & trailer combined) must be contained within vending area. Vending areas are as shown on the map attached as Appendix B.

Vending Hours - Vending is permitted for daily, weekly, and seasonal vendors between the hours of 7:00am-9:00pm, Monday through Sunday during the vending season only.

Vending Season - The vending season for all vendors shall be April 1 through October 31.

§ 179-3 Permit required.

Vending which occurs as an inherent part of an event properly licensed or permitted by the City Manager, including but not limited to: a farmers' market, street fair, or alumni day, shall be exempt from the provisions of this chapter.

Vending activity shall be unlawful on all streets, sidewalks, and other public property in Lebanon, other than those listed below. However, this prohibition shall not apply to mobile vendors whose vehicle, stand or cart does not remain in any single site longer than 30 minutes, including but not limited to mobile ice cream trucks.

Vending activity is limited to the areas described below. It shall be unlawful for any vendor or abutting business to sell, display, or offer for sale any food, beverage, goods, or merchandise without first obtaining a permit from the City Manager. Vending activity on private property is regulated by the Zoning Ordinance.

- A. South Park Street: up to four designated vending areas on either side of the street. Permits will be issued for seasonal vending only.
- B. North Park Street: vending shall be permitted within the sidewalk area directly in front of a legally established business/place of residence that is physically located on North Park Street. Vending shall be by means of a "stand" as defined above and shall be placed in a location that does not impede pedestrian travel. If a stand cannot be placed in such a manner as to allow a minimum five-foot width for pedestrian movement, vending will not be permitted.
- C. West Park Street: vending shall be permitted within the sidewalk area directly in front of a legally established business/place of residence that is physically located on West Park

Street. Vending shall be by means of a “stand” as defined above and shall be placed in a location that does not impede pedestrian travel. If a stand cannot be placed in such a manner as to allow a minimum five-foot width for pedestrian movement, vending will not be permitted.

- D. Colburn Park: described as the entire area bordered by North, West, South, and East Park Streets, excluding the sidewalks along those streets. A maximum of four "stand" vendors will be permitted to utilize Colburn Park at any given time. Permits will be issued for daily/weekly vending only and will not be issued on Thursdays from May 1 through September 30 so as not to conflict with the weekly farmers' market.
- E. Lebanon Mall: described as extending from the westerly sideline of West Park Street west and north to Hanover Street, meaning and intending to include the entire area of the pedestrian mall. A maximum of two “stand” vendors will be permitted to utilize Lebanon Mall at any given time. Permits will be issued for daily/weekly vending only. Permits for seated outdoor dining will only be issued to businesses physically located within or abutting the bounds of the pedestrian mall.
- F. Hanover Street “Hough Square”: vending shall be permitted within the sidewalk area directly in front of a legally established business/place of residence that is physically located on Hanover Street within the area formerly known as “Hough Square”. Vending shall be by means of a “stand” as defined above and shall be placed in a location that does not impede pedestrian travel. If a stand cannot be placed in such a manner as to allow a minimum five-foot width for pedestrian movement, vending will not be permitted.

No permit shall be issued to an applicant unless the applicant assumes liability for damages, property loss, injury or death, or other related liability resulting from the activities of the vending operation.

§ 179-4 Permits and fees.

A. Daily Permits:

Daily Permits are issued for “Stand” vendors only. They are issued for any day of the week to include weekend days. Consecutive daily permits may not exceed three days. If a permit is requested for 4 or more days, the permit shall be considered a Weekly Permit. The fee for a daily vendor permit is \$10. Applicants wishing to obtain daily permits shall apply to the City Manager at least 24 hours prior to the desired start date. All applications shall include the following:

- (1) Proof of identity and business address of the applicant.
- (2) A brief description of the nature, character and quality of the food, beverages, goods, or merchandise to be sold.
- (3) If employed by another, the name and business address of the person, firm, association, organization, company, or corporation.
- (4) If a motor vehicle is to be used in the vending business, a description and size (length and width) of the vehicle, together with the motor vehicle registration number.
- (5) A description of the proposed location of the vending business and the length of time during which it is proposed that the business shall be conducted.
- (6) Applicants must meet the requirements of the City Manager for size of vending stand, noise, state permit(s), hours of operation and other conditions as may be set by the City Manager.
- (7) When more completed applications are received for vending areas than are available, the City Manager shall determine the allocation of vending areas by a random drawing.
- (8) Permits and assigned locations are non-transferable, and the fee is non-refundable.

- (9) Use of city-owned electricity requires an inspection and approval by the City Electrician. If authorized, the daily fee for use of electricity from a City-owned power supply is \$3.

B. Weekly Permits:

Weekly permits are issued for “Stand” vendors only. Permits are issued for the week beginning Monday and ending Sunday and may run consecutively. The fee for a weekly vendor permit is \$50. Applicants wishing to obtain a weekly permit shall apply to the City Manager at least 5 days prior to the desired start date. All applications shall include the following:

- (1) Proof of identity and business address of the applicant.
- (2) A brief description of the nature, character and quality of the food, beverages, goods, or merchandise to be sold.
- (3) If employed by another, the name and business address of the person, firm, association, organization, company, or corporation.
- (4) If a motor vehicle is to be used in the vending business, a description and size (length and width) of the vehicle, together with the motor vehicle registration number.
- (5) A description of the proposed location of the vending business and the length of time during which it is proposed that the business shall be conducted.
- (6) Applicants must meet the requirements of the City Manager for size of vending stand, noise, state permit(s), hours of operation and other conditions as may be set by the City Manager.
- (7) When more completed applications are received for vending areas than are available, the City Manager shall determine the allocation of vending areas by a random drawing.
- (8) Permits and assigned locations are non-transferable, and the fee is non-refundable.
- (9) Use of city-owned electricity requires an inspection and approval by the City Electrician. If authorized, the weekly fee for use of electricity from a city-owned power supply is \$15.

C. Seasonal Permits:

Seasonal Permits are issued for the time beginning April 1st and ending October 31st for specified vending areas as defined above and depicted on the map attached as Appendix B. The fee for a seasonal vendor permit is \$200. Applicants wishing to obtain a seasonal permit shall apply to the City Manager between January 1 and March 14 for the vending season. All applications shall include the following:

- (1) Proof of identity and business address of the applicant.
- (2) A brief description of the nature, character and quality of the food, beverages, goods, or merchandise to be sold.
- (3) If employed by another, the name and business address of the person, firm, association, organization, company, or corporation.
- (4) If a motor vehicle is to be used in the vending business, a description and size (length and width) of the vehicle, together with the motor vehicle registration number.
- (5) A description of the proposed location of the vending business and the length of time during which it is proposed that the business shall be conducted.
- (6) For food trucks and trailers, in addition to required State permits, no vending permit shall be issued without a food truck inspection by the Lebanon Fire Department, or an authorized agency as designated by the Lebanon Fire Department. Should inspection be unfavorable, a permit will not be issued until truck/trailer is found to be compliant with required regulations.

- (7) Applicants must meet the requirements of the City Manager for size of vehicle/operation, noise, state permit(s), hours of operation and other conditions as may be set by the City Manager.
- (8) When more completed applications are received for vending areas than are available, the City Manager shall determine the allocation of vending areas by a random drawing. The drawing shall be held as soon as March 15 or first business day immediately following (for example, if March 15 falls on a Saturday or Sunday, the drawing will take place on the following Monday).
- (9) Permits and assigned locations are non-transferable, and the fee is non-refundable.
- (10) To retain a permit for assigned vending area, seasonal vendors must utilize their assigned vending area at least 15 days of each month.
- (11) A vendor may, upon written permission from the City Manager, utilize the assigned vending area on less than 15 days in any month due to vacation, illness, or other extenuating circumstance. Noncompliance will result in the assigned vendor losing the vending area and disqualifying the vendor from applying for any vending area for the period of one year.
- (12) Vending area #2 (north side of the South Park Street east of the crosswalk entering Colburn Park) is the only vending area that has access to electricity. Use of city-owned electricity requires an inspection and approval by the City Electrician. If authorized, the seasonal fee for use of this power source is \$350 which is payable in monthly installments of \$50 each or as one lump sum at time of permit issuance.

D. Abutting Business Permits:

The annual fee for an abutting business permit shall be \$125. Abutting businesses shall be entitled to a permit for the use of an area in the vicinity of their established place of business. All applications shall include the following:

- (1) Proof of identity and business address of the applicant.
- (2) A brief description of the nature, character and quality of the food, beverages, goods, or merchandise to be sold.
- (3) A description of the proposed location of the vending business and the length of time during which it is proposed that the business shall be conducted.
- (4) Applicants must meet the requirements of the City Manager for noise, state permit(s), hours of operation and other conditions as may be set by the City Manager.
- (5) Permits shall be for the period of time designated by the applicant in the application for a permit, but in no case shall extend for more than one year. Permits must be renewed annually and are subject to all other applicable state and City regulations.
- (6) Permitted areas shall not be situated as to impede pedestrian travel. Areas may not exceed 250 square feet, unless specifically approved by the City Manager, and may be prescribed, mapped, and modified from time to time by the City Manager, depending on the needs of the City.
- (7) Permits and assigned locations are non-transferable, and the fee is non-refundable.

§ 179-5 Limitation of number and location of vending operations; nonprofit permits.

- A. As noted in § **179-6** below, the City Manager may limit the number and location of vending operations. Absent any other limiting factor, the City Manager shall not permit more than four seasonal vending areas on South Park Street.
- B. Nonprofit permits. The City Manager may designate additional vending locations within the designated areas, provided that the proceeds from all sales at the location are used exclusively for the benefit of civic, school, charitable, philanthropic, religious, or other not-for-profit organizations. These spaces shall be available on a daily basis for a consecutive

period of time and shall be assigned without charge, at the discretion of the City Manager, and according to the above procedure for permits.

§ 179-6 Restrictions applicable to all vendors.

The following restrictions shall apply to all vendors obtaining permits to operate under this Code. In addition, the City Manager may limit the number and location of permits issued based on the criteria below or for other conditions as may be set by the City Manager.

- A. Stands/carts/vehicles shall not:
 - (1) Exceed nine feet in width and 54 feet in length (including towing vehicle and trailer). Height should not exceed 13 feet.
 - (2) Impede access to the entrance of Colburn Park or any adjacent building or driveway.
 - (3) Locate within 25 feet of a fire hydrant, fire escape, bus stop, loading zone, or driveway of a fire station, police station, or hospital.
- B. Hours of operation. Vendors shall be allowed to engage in the business of vending only between 7:00am and 9:00pm, except for abutting businesses operating under § **179-4D**, which shall be allowed to operate in their permitted area during their normal business hours or as otherwise provided pursuant to § **179-4D**. All vendors must leave public property during non-vending hours, except for good reason and by special waiver from the City Manager.
- C. Handicapped areas. No vendor shall block access to any handicapped parking space or access ramp.
- D. Removal of trash. All trash or debris originating from the operation of the vending stand shall be collected by the vendor and removed from public property daily.
- E. Food waste disposal – Beginning February 1, 2025, state law requires that any person generating one ton of food waste per week or greater shall not dispose of such waste in a landfill or incinerator provided that an alternative facility authorized to manage food waste is located within 20 miles. Food truck vendors are advised that the City of Lebanon solid waste facility has adequate capacity to accept food waste for purposes of compliance with the provisions of NH RSA 147-M:27, V.
- F. The area occupied by a vendor shall be limited to that area so designated by the City Manager.
- G. No vendor shall utilize an open fire in connection with the sale or display of the vendor's wares without a permit from the Lebanon Fire Department.
- H. No vendor shall shout, make an outcry, blow a horn, ring a bell, or use any other sound device for the purpose of attracting attention to any goods which the vendor proposes to sell. Vending operations must be reasonably quiet, i.e., no vending stand or vehicle shall emit excessive mechanical or compressor noise to the detriment of the environment around Colburn Park, the Lebanon Mall, or along Hanover Street in the area formerly known as "Hough Square".
- I. No vending activity shall unreasonably impede the flow of vehicular or pedestrian traffic. The City Manager may impose restrictions in addition to those listed in this section, when warranted, in order to ensure at all times the public's use of streets and sidewalks for purposes of travel.

- J. It is the intent of this chapter that goods or merchandise to be offered for sale shall consist solely of items which can easily be carried away from the sales location by customers, and which entail no special needs or problems pertaining to loading, handling, installation, or delivery, such as might interfere with vehicular traffic or with other users of Colburn Park, the Lebanon Mall, or the area along Hanover Street formerly known as "Hough Square". Heavy or bulky items such as tires, large appliances, large furniture items, motorized equipment, or the like are generally not permitted. All goods or merchandise displayed shall be for immediate sale and delivery. Displays or advertising whose primary purpose is to promote future or off-site transactions are not permitted. The City Manager may deny a permit to any vendor whose stand/vehicle/cart does not meet the intent of this subsection.
- K. No banners associated with vending operations may be displayed on the Colburn Park fence.
- L. LED signs are allowed as long as the sign stays static and is non-changeable. It cannot change colors or flash on and off, or otherwise become a nuisance or distraction to vehicular or pedestrian traffic.

§ 179-7 Grey water waste disposal.

- A. Vendors shall not dispose of grey water waste into city storm drains. Such actions are a violation of City Code Chapter 124-3 and the Code of Federal Regulations Title 4. Food service vendors are required to sign and submit a "City of Lebanon Grey Water Waste Disposal Agreement" as part of their application for a vending permit.
- B. Waiver of disposal: Any vendor who does not utilize the Lebanon Wastewater Treatment Facility as a grey water waste disposal site shall provide proof of an alternative disposal location.
- C. Grey water waste disposal is available at the Wastewater Treatment Plant. The disposal fee for seasonal vendors with grey water waste tanks, if utilized, is \$200; for daily permits is \$5; weekly permits is \$25.

§ 179-8 Suspension or revocation of permit.

- A. Any permit issued under this chapter may be suspended or revoked for any of the following reasons:
 - (1) Fraud or misrepresentation in the application for the permit.
 - (2) Conducting the business of vending contrary to the conditions of the permit.
 - (3) Conducting the business of vending in such a manner as to create a public nuisance or constitute a danger to the public health, safety or welfare.
 - (4) Failure to pay applicable fees.
 - (5) Unauthorized disposal of grey water waste into the City's storm drain system.
- B. Upon suspension or revocation, the city shall deliver written notice to the permit holder stating the action taken and the reasons supporting such action. The written notice shall be delivered to the permit holder's place of business or mailed to the permit holder's last known address.

§ 179-9 Appeals.

Persons who are denied permits or whose permits have been suspended or revoked may appeal by filing a written notice of appeal to the City Manager's Office. The appeal must be filed with the City Clerk within three working days after receipt of the notice of denial, suspension, or revocation. The City Manager shall render its decision in writing within 15 days thereafter.

§ 179-10 Penalties for offenses.

- A. Any person who violates any provision of this chapter shall be punished as provided in City Code Chapter 1, General Provisions, or by suspension of the permit for a period to be determined by the City Manager, or both.
- B. Any person who discharges grey water waste in an unapproved location shall be subject to a fine of \$600.

Section 3: Severability.

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

Section 4: Effective Date.

The Ordinance shall become effective upon passage.

Chapter 179

VENDORS

§ 179-1.	Declaration of purpose.	§ 179-7.	Restrictions applicable to all vendors.
§ 179-2.	Definitions.		
§ 179-3.	Permit required.	§ 179-8.	Suspension or revocation of permit.
§ 179-4.	Permits and fees.		
§ 179-5.	Application.	§ 179-9.	Appeals.
§ 179-6.	Limitation of number and location of vending operations; nonprofit permits.	§ 179-10.	Penalties for offenses.

[HISTORY: Adopted by the City Council of the City of Lebanon 8-22-1990 by Ord. No. 62. Amendments noted where applicable.]

GENERAL REFERENCES

Consumption of alcoholic beverages in Colburn Park and the Mall — See Ch. 14, Art. I.	Noise from sound amplification systems — See Ch. 110.
Removal of dog feces from Colburn Park and the Mall — See Ch. 18.	Driving and parking on the Mall — See Ch. 168, § 168-3.
Bicycles and skateboards on the Mall — See Ch. 27.	Vendor parking — See Ch. 168, § 168-7A.
	Vending machines — See Ch. 176.

§ 179-1. Declaration of purpose.

The purpose of this chapter is to provide for the regulation of sales by vendors within the general area of Colburn Park and the Mall in the City of Lebanon. This is necessary to ensure the free flow of motor vehicle and pedestrian traffic and to promote the public health, safety and welfare in that area.

§ 179-2. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

ABUTTING BUSINESS — Any legitimate business located within, whether by lease, rental or ownership, a property in the central business district abutting North or West Park Streets or the Mall area.

PUBLIC STREET OR SIDEWALK — Include all areas legally open to public use as public streets, sidewalks, roadways, highways, parkways, alleys and any other public way.

STAND — Any newsstand, table, bench, booth, rack, handcart, pushcart or any other fixture or device which is not required to be licensed and registered by the Department of Motor Vehicles, used for the display, storage or transportation of articles offered for sale by a vendor.

VENDOR — Any person, including an employee or agent of another, who sells or offers to sell food, beverages, goods or merchandise on any public street or sidewalk from a stand, motor vehicle or from his or her person.

§ 179-3. Permit required. [Amended 8-4-2010 by Ord. No. 2010-02 ; 8-19-2015 by Ord. No. 2015-01]

Vending activity is limited to the areas described below. It shall be unlawful for any vendor or abutting business to sell, display or offer for sale any food, beverage, goods or merchandise without first obtaining a permit from the City Manager. Vending activity on private property is regulated by the Zoning Ordinance.¹

- A. South Park Street: up to five parking spaces on the north side of the street between the crosswalk entrance and the easterly corner of Colburn Park.
- B. Colburn Park, which is described as the entire area bordered by North Park Street on the north, West Park Street on the west, South Park Street on the South and East Park Street on the east, excluding the sidewalks along those streets: A maximum of four "stand" vendors will be permitted to utilize Colburn Park at any given time. Permits will be issued for daily/weekly vending only.
- C. Lebanon Mall, extending from the westerly sideline of West Park Street west and south to Hanover Street, meaning and intending to include the entire area of the Mall.
- D. Vending activity shall be unlawful on all streets, sidewalks and other public property in Lebanon, other than those listed above. However, this prohibition shall not apply to mobile vendors whose vehicle, stand or cart does not remain in any single site longer than 30 minutes, including but not limited to mobile ice cream trucks.
- E. Vending which occurs as an inherent part of an event properly licensed or permitted by the Licensing Board or the City Manager, including but not limited to a farmers' market, street fair, or alumni day, shall be exempt from the provisions of this chapter.

§ 179-4. Permits and fees. [Amended 2-20-1991 ; 10-2-1991 ; 8-4-2010 by Ord. No. 2010-02 ; 8-19-2015 by Ord. No. 2015-01]

- A. Daily permits: The fee for a daily vendor permit is \$10. Applicants wishing to obtain daily permits shall apply to the City Manager prior to the desired event at a time designated by the City Manager. All applications shall include the following conditions: **[Amended 4-5-2023 by Ord. No. 2023-02]**
 - (1) Applicants must meet the requirements of the City Manager for size of vehicle/operation, noise, state permit(s), hours of operation and other conditions as may be set by the City Manager.
 - (2) When more applications are received for spaces than are available, the City Manager shall determine the allocation by lottery.
 - (3) Permits and assigned locations are nontransferable, and the fee is nonrefundable.
 - (4) The daily fee for use of electricity from a City-owned power supply is \$3.
- B. Weekly permits: The fee for a weekly vendor permit is \$50. Weekly permits shall be issued for the week beginning Monday and ending Sunday, and may run consecutively. All applications shall include the following conditions: **[Amended 4-5-2023 by Ord. No. 2023-02]**
 - (1) Applicants must apply to the City Manager for a space at least two weeks prior to the date that is needed and must meet the requirements of the City Manager for size of vehicle/operation, noise, state permit, hours of operation and other conditions as may be set by the City Manager.

1. Editor's Note: The Zoning Ordinance is on file in the office of the City Clerk.

- (2) When more applications are received for spaces than are available, the City Manager shall determine the allocation by lottery.
 - (3) Permits and assigned locations are nontransferable, and the fee is nonrefundable.
 - (4) The weekly fee for use of electricity from a City-owned power supply is \$15.
- C. Seasonal permits: The fee for a seasonal vendor permit is \$100. Seasonal permits shall be issued for four three-month periods of the calendar year as follows: January/February/March; April/May/June; July/August/September; and October/November/December. All applications shall include the following conditions: **[Amended 4-5-2023 by Ord. No. 2023-02]**
- (1) Applicants must apply to the City Manager for a space before the end of the preceding quarter (December 15 for first quarter; March 15 for second quarter; June 15 for third quarter; and September 15 for fourth quarter) and meet the requirements of the City Manager for size of vehicle/operation, noise, state permit, hours of operation and other conditions as may be set by the City Manager.
 - (2) When more applications are received for spaces than are available, the City Manager shall determine the allocation by lottery.
 - (3) Permits and assigned locations are nontransferable, and the fee is nonrefundable.
 - (4) Seasonal vendors must utilize their assigned space at least 15 days of each month.
 - (5) A vendor may, upon written permission from the City Manager, utilize the assigned space on less than 15 days in any month due to vacation, illness or other extenuating circumstance. However, during the entire period of time the space is vacated by the vendor due to the approved absence, the City reserves the right to rent the space on a daily permit basis.
 - (6) Noncompliance will result in the assigned vendor losing the space and disqualifying the vendor from applying for any space for the period of one year.
 - (7) The seasonal fee for use of electricity from a City-owned power supply is \$40.
- D. Abutting business permit: The annual fee for an abutting business permit shall be \$125. Abutting businesses shall be entitled to a permit for the use of an area in the vicinity of their established place of business. All applications shall include the following conditions:
- (1) Applicants must apply to the City Manager for a space at least two weeks prior to the date that is needed and must meet the requirements of the City Manager for size of vehicle/operation, noise, state permit, hours of operation and other conditions as may be set by the City Manager.
 - (2) Permits shall be for the period of time designated by the applicant in the application for a permit. Permits must be renewed annually and are subject to all other applicable state and City regulations.
 - (3) Permitted areas shall not exceed 625 square feet in area, unless specifically approved by the City Manager, and may be prescribed, mapped and modified from time to time by the City Manager, depending on the needs of the City.
 - (4) The City Manager, in his/her reasonable discretion, may waive or modify the provisions of § 179-7A, and B as they may apply to permits for abutting businesses granted under this section.

(5) Permits and assigned locations are nontransferable, and the fee is nonrefundable.

- E. As an alternative to the annual abutting business permit under Subsection D above, abutting businesses may also apply for daily or weekly vendor permits under Subsection A or B above. Such permits shall be subject to the same conditions as any other daily or weekly permit, except that the numerical permit limitations of this section shall not apply to abutting businesses. **[Amended 4-5-2023 by Ord. No. 2023-02]**

§ 179-5. Application.

The application for a vendor's permit shall contain all information relevant and necessary to determine whether a particular permit may be issued, including but not limited to:

- A. Proof of identity and business address of the applicant.
- B. A brief description of the nature, character and quality of the food, beverages, goods or merchandise to be sold.
- C. If employed by another, the name and business address of the person, firm, association, organization, company or corporation.
- D. If a motor vehicle is to be used in the vending business, a description of the vehicle, together with the motor vehicle registration number.
- E. A description of the proposed location of the vending business and the length of time during which it is proposed that the business shall be conducted.
- F. No permit shall be issued to an applicant unless the applicant assumes liability for damages, property loss, injury or death or other related liability resulting from the activities of the vending operation. **[Amended 9-20-2000 by Ord. No. 70]**

§ 179-6. Limitation of number and location of vending operations; nonprofit permits. [Amended 10-18-1995 ; 8-4-2010 by Ord. No. 2010-02 ; 8-19-2015 by Ord. No. 2015-01]

- A. As noted in § 179-4 above, the City Manager may limit the number and location of vending operations. Absent any other limiting factor, the City Manager shall not permit more than five vending locations on South Park Street adjacent to Colburn Park. Two of these locations shall be seasonal, one shall be weekly, and two shall be daily.
- B. Nonprofit permits. The City Manager may designate additional locations within the restricted areas for the peddling of wares, provided that the proceeds from all sales at the location are used exclusively for the benefit of civic, school, charitable, philanthropic, religious, or other not-for-profit organizations. These spaces shall be available on a daily basis for a consecutive period of time and shall be assigned without charge, at the discretion of the City Manager, and according to the above procedure for permits.

§ 179-7. Restrictions applicable to all vendors. [Amended 10-19-2005 by Ord. No. 2005-9 ; 8-4-2010 by Ord. No. 2010-02 ; 8-19-2015 by Ord. No. 2015-01]

The City Manager may set a limit on the number and location of permits given under the categories below:

- A. Stands/carts/vehicles stands shall not:

- (1) Exceed nine feet in width and 18 feet in length. Height should not exceed 10 feet.
 - (2) Impede access to the entrance of any adjacent building or driveway.
 - (3) Occupy more than half of the available sidewalk width.
 - (4) Locate within 25 feet of a fire hydrant, fire escape, bus stop, loading zone or driveway of a fire station, police station or hospital.
- B. Hours of operation. Vendors shall be allowed to engage in the business of vending only between 7:00 a.m. and 9:00 p.m., except for abutting businesses operating under § 179-4D, which shall be allowed to operate in their permitted area during their normal business hours or as otherwise provided pursuant to § 179-4D. All vending stands must be removed from public property during nonvending hours, except for good reason and by special waiver of the City Manager.
- C. Handicapped areas. No vendor shall block access to any handicapped parking space or access ramp.
- D. Removal of trash. All trash or debris originating from the operation of the vending stand shall be collected by the vendor and removed from public property daily.
- E. The area occupied by a vendor shall be limited to that area so designated by the City Manager.
- F. No vendor shall utilize an open fire in connection with the sale or display of the vendor's wares without a permit from the Lebanon Fire Department.
- G. No vendor shall shout, make an outcry, blow a horn, ring a bell, or use any other sound device for the purpose of attracting attention to any goods which the vendor proposes to sell. Vending operations must be reasonably quiet, i.e., no vending stand or vehicle shall emit excessive mechanical or compressor noise to the detriment of the environment around Colburn Park or Mall.
- H. No vending activity shall unreasonably impede the flow of vehicular or pedestrian traffic. The City Manager may impose restrictions in addition to those listed in this section, when warranted, in order to assure at all times the public's use of streets and sidewalks for purposes of travel.
- I. It is the intent of this chapter that goods or merchandise to be offered for sale shall consist solely of items which can easily be carried away from the sales location by pedestrians, and which entail no special needs or problems pertaining to loading, handling, installation or delivery, such as might interfere with vehicular traffic or with other users of the park and mall. Heavy or bulky items such as tires, large appliances, large furniture items, motorized equipment or the like are generally not permitted. All goods or merchandise displayed shall be for immediate sale and delivery. Displays or advertising whose primary purpose is to promote future or off-site transactions are not permitted. The City Manager may deny a permit to any vendor whose stand/vehicle/cart does not meet the intent of this subsection.

§ 179-8. Suspension or revocation of permit.

- A. Any permit issued under this chapter may be suspended or revoked for any of the following reasons:
- (1) Fraud or misrepresentation in the application for the permit.
 - (2) Conducting the business of vending contrary to the conditions of the permit.
 - (3) Conducting the business of vending in such a manner as to create a public nuisance or constitute a danger to the public health, safety or welfare.

(4) Failure to pay fee.

- B. Upon suspension or revocation, the city shall deliver written notice to the permit holder stating the action taken and the reasons supporting such action. The written notice shall be delivered to the permit holder's place of business or mailed to the permit holder's last known address.

§ 179-9. Appeals.

Persons who are denied permits or whose permits have been suspended or revoked may appeal by filing a written notice of appeal with the Licensing Board. The appeal must be filed within three working days after receipt of the notice of denial, suspension or revocation, with the City Clerk. The Licensing Board shall hear such appeal at its next or regular meeting and shall render its decision in writing within 15 days thereafter.

§ 179-10. Penalties for offenses.

Any person who violates any provision of this chapter shall be punished as provided in Chapter 1, General Provisions, by suspension of the permit for a period to be determined by the Licensing Board, or both.

May 22, 2024

Shaun Mulholland
City Manager
City of Lebanon, NH
51 N. Park St.
Lebanon, NH 03766

RELEASED TO THE PUBLIC
Lebanon City Manager's Office

Date: 5/30/2024 *db*

RE: Ordinance 2024-04 Chapter 179, Vendors

Mr. Mulholland,

This is a legal opinion as required by § 115-3 of the Lebanon City Code concerning the proposed Ordinance 2024-04, Chapter 179, Vendors, which your office forwarded to me on April 26, 2024 and in revised form on May 21, 2024. The goals of the proposed ordinance as I understand them are to address several issues the City has encountered with the current version of Chapter 179, including: vendors occupying larger areas than previously allotted because they frequently do not disconnect their truck and trailer; use of City electricity; and illegal dumping of grey water into the City's storm drains. The amendments will also slightly expand the area allowed for vending.

I have reviewed the proposed ordinance in detail. In my opinion, the ordinance is consistent with New Hampshire law and I discern no legal problems.

Please do not hesitate to contact me with additional questions or comments.

Sincerely,

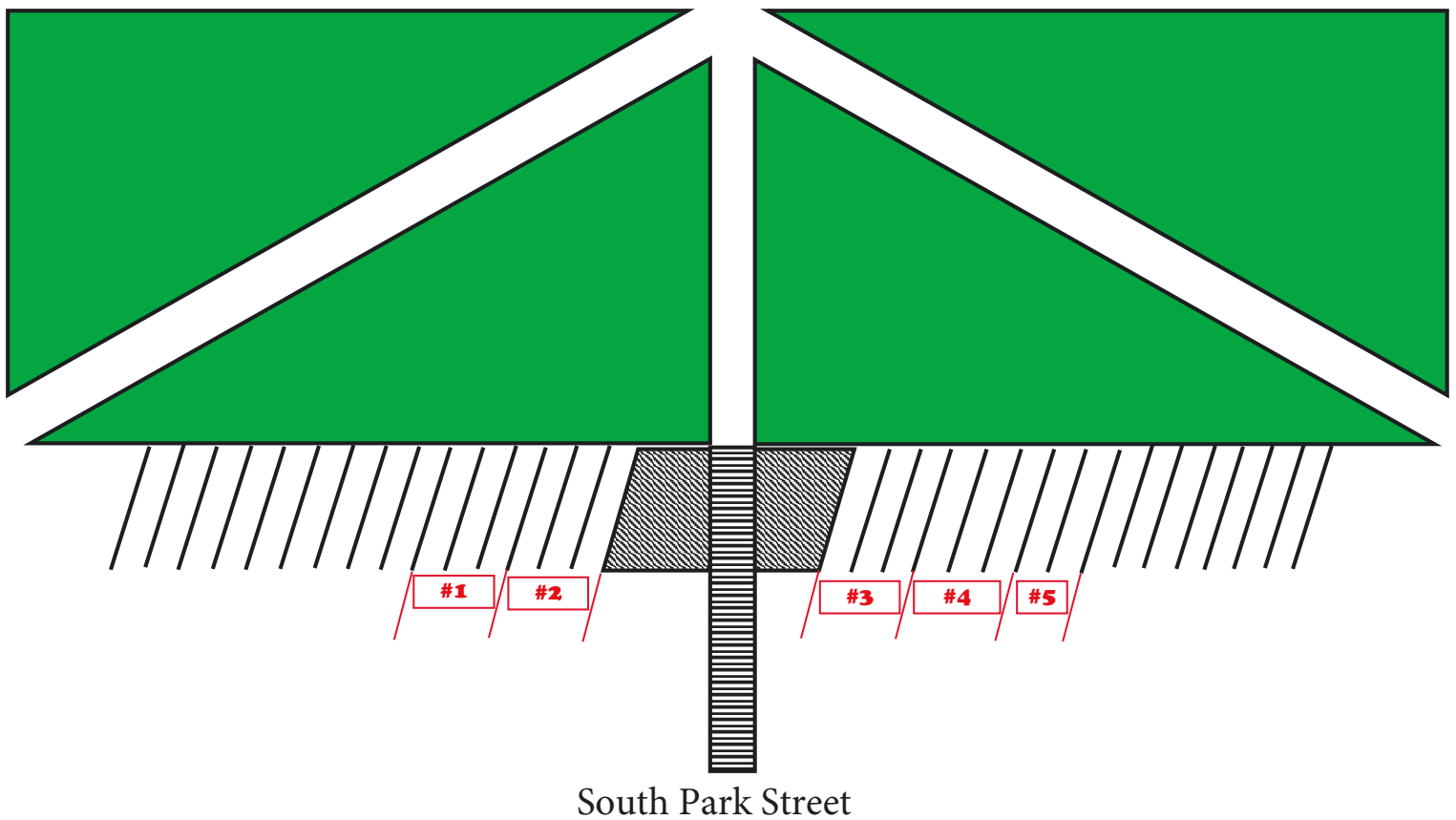
C. Christine Johnston

C. Christine Johnston

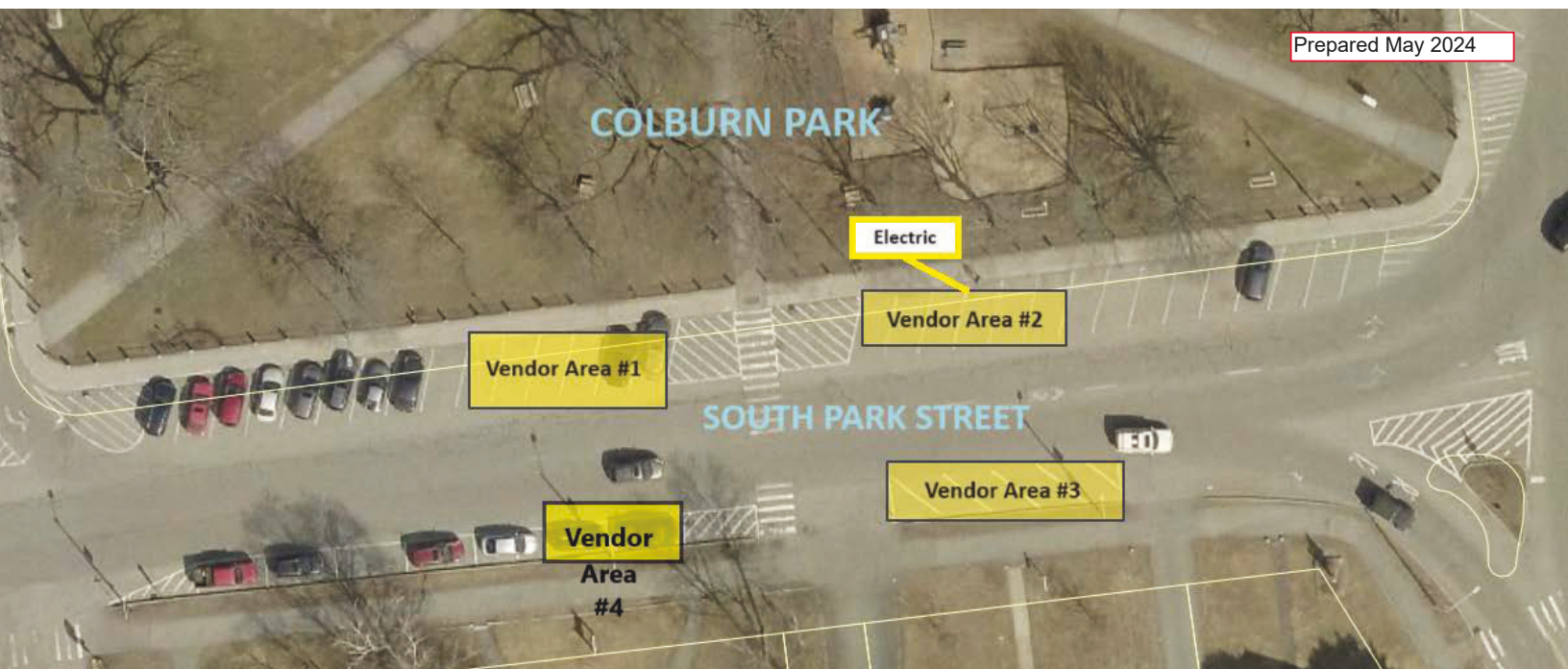
Signature: *David R. Brooks*

Email: David.Brooks@lebanonnh.gov

Vendor Parking Spaces



Spots #1, 2, 3, 4 (encompassing three parking spaces) are seasonal, \$100 per season
(Jan, Feb, Mar/Apr, May, June/July, Aug, Sept/Oct, Nov, Dec)
Spot #5 (encompassing two parking spaces) is daily or weekly, \$10 daily or \$50 weekly
(smaller space; will not accommodate a food truck)



**Agenda
Lebanon City Council
June 5, 2024**

10. New Business:

**10.D – Discussion and Set Public Hearing for June 19, 2024: Ordinance #2024-08
to Amend City Code Chapter 100, Library Trustees**

Background

City Code Chapter 100 establishes the authority of the Board of Trustees of the Lebanon Library under NH RSA 202-A relative to the City Charter, and is intended to be a declaration of applicable state law as to the operation of the Lebanon Library and the Lebanon Library Board of Trustees.

Chapter §100-4 (Hiring of library employees; terms of conditions of employment), specifically refers to library employees whose positions are “set by the contract between the City and the Lebanon Professional and Salaried Employees Association (LPASE).” However, there are currently no library employees who are members of LPASE, and therefore, clarification of the existing language is necessary.

In the event that any library employees may seek to join or create a different bargaining group in the future, the City Manager recommends that the specific reference to LPASE be replaced with a more generic term of “certified employee bargaining unit”.

Action

The following motion is offered for City Council consideration:

MOVED, that the Lebanon City Council hereby schedules a public hearing for Wednesday, June 19, 2024, beginning at 7:00 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 #2024-08 to amend City Code Chapter 100, Library Trustees, to replace the reference to a specific employee bargaining group with a more generic term.

Included In This Section:

1. Proposed Ordinance #2024-08
2. City Code Chapter 100, Library Trustees

CITY OF LEBANON
ORDINANCE #2024-08

AN ORDINANCE TO AMEND the Code of the City of Lebanon, Chapter 100, Library Trustees, §100-4, Hiring of library employees; terms and conditions of employment, in order to replace the reference to a specific employee bargaining group with a more generic term.

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

Section 1:

The Code of the City of Lebanon is hereby amended to revise Chapter 100, "Library Trustees", §100-4, Hiring of library employees; terms and conditions of employment, for the purpose of replacing the reference to a specific employee bargaining group with a more generic term, as follows:

§100-4. Hiring of library employees; terms and conditions of employment.

The Director of the Library and all library employees shall be hired by the Library Trustees. The terms and conditions of their employment shall be determined by the Library Trustees with the exception of those positions ~~set covered by the contract between the City and a certified employee bargaining unit, the Lebanon Professional and Salaried Employees Association (LPASE).~~ The Library Trustees may adopt personnel rules and regulations. All library employees shall be paid by the City and covered by the City's health insurance (as may be eligible), worker's compensation, unemployment compensation and any other provisions applicable to City employees. All payment by the City to the library employees shall be chargeable to the library's appropriation.

Section 2: Severability.

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

Section 3: Effective Date.

The Ordinance shall become effective upon passage.

Chapter 100

LIBRARY TRUSTEES

§ 100-1.	Declaration of purpose.	§ 100-4.	Hiring of library employees; terms and conditions of employment.
§ 100-2.	Election of Library Board of Trustees; vacancies; alternate members.	§ 100-5.	Library buildings and grounds.
§ 100-3.	Power and duties of Library Trustees.	§ 100-6.	Library funds.
		§ 100-7.	Expenditure of library appropriation.

**[HISTORY: Adopted by the City Council of the City of Lebanon 3-3-1999 by Ord. No. 43 .
Amendments noted where applicable.]**

§ 100-1. Declaration of purpose.

The enactment of this chapter is not intended as an exercise of any power of the City or the City Council but rather to establish, in a public document, the independent legal status of the Board of Trustees of the Lebanon Library under RSA Chapter 202-A. For this purpose, the chapter specifically provides for the agreement of the Lebanon Library Board of Trustees. The provisions of this chapter are intended to be a declaration of applicable state law as to the operation of the Lebanon Library and the Lebanon Board of Trustees.¹

§ 100-2. Election of Library Board of Trustees; vacancies; alternate members. [Amended 6-19-2003 by Ord. No. 2003-5]

The Lebanon Library Board of Trustees consists of seven members and up to three alternate members who shall be elected as provided in RSA 202-A:6 and 202-A:8. Any vacancy occurring among the elected members of the Board of Library Trustees shall be filled by the City Council as provided in RSA 202-A:10. Alternate members shall sit on the Board during meetings which regular members are unable to attend. Alternate members shall be appointed to one-year terms.

§ 100-3. Power and duties of Library Trustees.

The Library Trustees shall have the powers and duties set forth in RSA Chapter 202-A. The Library Trustees shall set all fines and payments for late return of books and/or periodicals and payments for lost or damaged books.

§ 100-4. Hiring of library employees; terms and conditions of employment. [Amended 8-3-2005 by Ord. No. 2005-3]

The Director of the Library and all library employees shall be hired by the Library Trustees. The terms and conditions of their employment shall be determined by the Library Trustees with the exception of those positions set by the contract between the City and the Lebanon Professional and Salaried

1. Editor's Note: This chapter was agreed to and accepted by the Lebanon Library Board of Trustees by resolution dated 2-16-1999.

Employees Association (LPASE). The Library Trustees may adopt personnel rules and regulations. All library employees shall be paid by the City and covered by the City's health insurance (as may be eligible), worker's compensation, unemployment compensation and any other provisions applicable to City employees. All payment by the City to the library employees shall be chargeable to the library's appropriation.

§ 100-5. Library buildings and grounds.

Consistent with past practice, the City will maintain and repair the library buildings and grounds. In addition, the library buildings and grounds and library employees will be covered by the City's insurance, including casualty insurance and liability insurance. Maintenance will include janitorial services at the two library buildings. Any major public improvements to the buildings and grounds will be part of the City's capital improvement program. All expenses incurred for these purposes will be part of the City budget and will not be chargeable to the library's annual appropriation.

§ 100-6. Library funds.

The Trustees of Trust Funds shall pay over to the Library Trustees annually, in accordance with state law, all income derived from funds held by the Trustees of Trust Funds for the Lebanon Library. Such income shall not be paid into the City general fund. As provided by RSA Chapter 202-A, all gifts and bequests directly to the library will be held by the Library Trustees.

§ 100-7. Expenditure of library appropriation. [Amended 9-20-2000 by Ord. No. 70]

The Library Board of Trustees will authorize all sums to be paid from the annual library's appropriation. Any unexpended balance of the library's annual appropriation will be carried over and made available for expenditure by the Library Board of Trustees in the next fiscal year. Such unexpended balance of the annual appropriation shall not lapse and shall not be paid into the City general fund.

Agenda

Lebanon City Council

June 5, 2024

10. New Business:

10.E – Review and Endorsement of Updated Master Plan Chapter 5, Natural Resources

Background

The Master Plan describes the City's vision for itself in the future. It is a policy document which is implemented, in part, through regulations such as the Zoning Ordinance, Site Plan Review and Subdivision Regulations, and is used extensively by City Administration and the City's Land Use Boards to guide budgeting, decision-making, and other actions. The current Master Plan was adopted in March of 2012 as "a comprehensive plan to implement the community vision for 2030", and we are now two-thirds of the way through the 18-year planning horizon on which the Master Plan is based. The City is currently undertaking an effort to update each Chapter of the Master Plan over the next 5 years with a comprehensive rewrite anticipated to begin in 2029.

For the 5-year update process, the Planning & Development Department is working directly with existing boards or committees, whenever possible, to review and update the individual chapters of the Master Plan. Boards or committees whose purpose and charge aligns with a particular chapter of the Master Plan are best positioned to function as the "champion" for reviewing and updating the chapter and, subsequently, to monitor implementation and track progress into the future. For example, City staff are or will be working with the Economic Development Commission on the Economic Development chapter (Chapter 6), the Heritage Commission on the Historic Resources chapter (Chapter 11), and the Arts & Culture Commission on the Community Design and Civic Art chapter (Chapter 12). For any chapters where there is no existing board or committee to work with (e.g. Community Facilities and Services or Housing), the Planning & Development Department will create a short-term task force or working group composed of appropriate stakeholders to complete the review and update process.

Each chapter update process begins with a review of the *Vision & Purpose* statement to ascertain whether, in the opinion of the board, committee, or working group, it still accurately reflects the community's goals or needs with respect to the particular topic. If it is determined that a current *Vision & Purpose* statement is no longer accurate or reflective of the community's goals or needs, then it would most likely be appropriate to re-engage the broader public as part of a visioning process for that particular chapter before revisiting the other sections of the chapter. The Planning & Development Department will determine a process and schedule for any such visioning efforts, as necessary.

Where a *Vision & Purpose* statement is determined to still be accurate, the next step is to review and validate the *Issues & Priorities* section and to bring the *Existing Conditions & Trends* and *Future Challenges & Opportunities* sections up-to-date based on actions and accomplishments or changes of circumstances since 2012. Finally, the update process includes a review and update of the *Outcomes* and the corresponding *Strategies and Actions* for each chapter to remove strategies or actions that have been completed or deemed inappropriate and to consider adding new strategies or actions that may now be feasible. Where possible, it may be appropriate to consider adding an implementation section and/or further details on timelines, key stakeholders, potential costs, and funding sources for the updated actions and strategies. Following the review and update process by the appropriate board, committee, or working group, the revised chapter

will be forwarded to the Planning Board for review, a public hearing, and proposed adoption into the Master Plan. It is the Department's intent to bring each updated Chapter to the City Council for endorsement following its adoption by the Planning Board.

The Planning & Development Department has established the following tentative schedule for reviewing and updating Master Plan chapters on a rolling basis over the next few years, (understanding that the timing and sequence of chapter updates may still change):

<u>Year</u>	<u>Chapter</u>	<u>"Champion"</u>
2023	Natural Resources (Ch. 5)	Conservation Commission
2024	Energy (Ch. 13)	Lebanon Energy Advisory Committee
2024	Economic Development (Ch. 6)	Economic Development Commission
2024	Historic Resources (Ch. 11)	Heritage Commission
2025	Housing (Ch. 7)	Working Group/TBD
2025	West Lebanon CBD (Ch. 4)	West Leb. Revitalization Advisory Comm.
2026	Transportation (Ch. 9)	Working Group/TBD
2026	Recreation (Ch. 10)	Working Group/TBD
2027	Community Facilities and Services (Ch. 8)	Working Group/TBD
2027	Community Art and Civic Design (Ch. 12)	Arts & Culture Commission
2028	Lebanon CBD (Ch. 3)	Working Group/TBD
2028	Land Use (Ch. 2)	Planning Board

At the end of the process outlined above, the Planning & Development Department anticipates having an updated Master Plan that will continue to guide the community through to the end of the original planning horizon of 2030. The Department will also have engaged boards and committees primed to continue monitoring implementation efforts, tracking progress, and reporting on achievements.

As indicated in the chart above, the first of the Master Plan chapter updates is to Chapter 5, Natural Resources, which was prepared by the Lebanon Conservation Commission beginning in February 2022 and was adopted by the Planning Board on May 22, 2023, following a public hearing. Having completed the formatting of the document in November-December of 2023, the Planning & Development Department now requests that the City Council consider endorsing the updated chapter.

Action

The following motion is offered for City Council consideration:

MOVED, that the Lebanon City Council hereby endorses the updated Master Plan Chapter 5, Natural Resources, adopted by the Planning Board on May 22, 2023, as included in the June 5, 2024 City Council Agenda Packet.

Included In This Section:

1. Updated Master Plan Chapter 5, Natural Resources, (text adopted by the Planning Board on May 22, 2023; chapter update formatted in November-December 2023).

Natural Resources

Chapter 5

5 | A Vision & Purpose

Lebanon's natural environment, comprising lands and waters under both public and private ownership, is a community asset whose conservation is essential to our continued health, quality of life, and the health of all species. It is recognized to be in the public interest to encourage the preservation of open space, thus providing a healthful and attractive outdoor environment for the City's residents, maintaining the character of the City's landscape, and conserving its land, water, forest, agricultural, and wildlife resources.

The City of Lebanon shall identify its significant natural resources and promote their preservation, conservation, responsible management, and harmonious use for the benefit of current and future generations. Public and private investment improves the quality of our waters, air, and soils and shall ensure the clarity of the night sky. A concerted combination of land protection, responsible stewardship, creative site planning, and climate change mitigation and adaptation measures shall conserve significant natural areas and important natural systems for the benefit of current and future generations while respecting and preserving the rights of property owners.

Conservation areas, greenbelts, working farms and forests, and other open spaces are linked with the City's built environment to provide "green infrastructure" (a network of natural lands, working landscapes, and other open spaces that conserves ecosystem values and functions and provides associated benefits to people) supportive of convenient public access and compatible recreation, viable waterways, and thriving wildlife populations.

5 | B Issues & Priorities

5 | B-1 Enabling Growth Within the Bounds of Resource Protection

Lebanon, as the regional center of the Upper Valley, will continue to face demand for growth and development. The City needs to implement policies, regulations, and incentives that protect the natural environment and retain the open spaces and rural character that residents value.

5 | B-2 Healthy Environment, Healthy Community

Clean air and water and healthy soil are essential for Lebanon to remain a place people want to live and work. For example, protecting the quality of the water in the Mascoma River is a paramount issue for Lebanon, which depends on the River as a municipal water supply. However, connections between public health and the health of the natural environment go beyond concerns about pollution. Healthy, functioning ecosystems provide many benefits to human communities, and degraded ecosystems can create hazards.

5 | B-3 Climate Mitigation & Adaptation

Climate change is already impacting the natural resources of Lebanon. Extreme weather events cause erosion and flooding. Changes in temperature and precipitation patterns impact water quality, forest health, and the viability of working farms. The effects of climate change on Lebanon's natural environment include the proliferation of invasive species, increased stress at both the species and natural

Key Points | Vision & Purpose

- ◆ Recognize that conservation of the natural environment is essential to maintaining the City's quality of life and economic vitality
- ◆ Conserve open space and maintain the functions of natural systems while respecting the rights of property owners
- ◆ Establish a connected network of open spaces, conservation lands, greenbelts, and working farm and forest land

Key Points | Issues & Priorities

- ◆ Seek a balanced approach to protecting the City's natural resources while accommodating anticipated growth and maintaining the City's role as a regional center
- ◆ Maintain health, functioning natural systems that contribute to the City's quality of life and economic vitality
- ◆ Support efforts to reduce greenhouse gas emissions, implement mitigation and adaptive measures, and continue to monitor impacts

community levels; and other impacts on biodiversity and wildlife habitat. Increases in tick populations and associated tick-borne diseases impact our health and our relationship with nature. Seasonal changes also affect how we experience nature, i.e., hiking, birding, hunting, skiing, snowshoeing, viewing fall foliage, nature tourism, and other types of outdoor activities.

It is necessary to identify other impacts and to better understand the effects of a changing climate on the natural environment. It is imperative that the community works to reduce greenhouse gas emissions associated with human activity and to protect the natural environment that plays an important role in sequestering carbon. Mitigation and adaptation measures will be necessary to lessen the impacts of a changing climate.

5 | C Existing Conditions & Trends

The abundance and high quality of Lebanon's existing natural resources, including clean air and water, undeveloped land and natural vistas, agricultural and forestry enterprises, open spaces, and wildlife habitat are among the City of Lebanon's greatest assets.

Lebanon's natural resources have degraded over time as the City has grown and changed. Many formerly open fields, including some of the Northeast's richest soils, have been covered with shopping centers, houses, and other types of development. Some of the City's most significant floodplains and wetlands were drained or filled before the advent of protective regulations, and development pressure continues to affect these resources. In the uplands, wooded ridges and hillsides are being fragmented by roads and rural development. Increasing vehicle emissions, fertilizers, pesticides, road salt, and other pollutants threaten air and water quality even in rural areas of Lebanon. Numerous environmental impacts result from development, often driven by regional pressures. Small environmental impacts may not be immediately visible or dramatic, but over time the impacts accumulate and can be damaging in the long term.

The 2010 Lebanon Phase II Natural Resource Inventory (NRI) provides a detailed description of Lebanon's natural resources and a foundation for future planning efforts. The following sections provide a general description of natural resource features.

Key Points | Existing Conditions & Trends

- ◆ Lebanon's natural resources, among its greatest assets, have been diminished over time and are increasingly under threat.
- ◆ Clean air and a dark night sky should not be taken for granted as the City continues to grow and develop.
- ◆ Lebanon's hillsides and ridgelines are defining characteristics of the landscape, and are especially vulnerable to poorly planned development.
- ◆ The City's water resources (rivers, streams, lakes, ponds, vernal pools and other wetlands, floodplains) serve multiple functions, and their protection and health is critical to Lebanon remaining an attractive place for people to live and work.
- ◆ A large percentage of Lebanon remains undeveloped, however only a small amount of open space is permanently protected from future development. Open space, scenic views, working lands, and rural character contribute significantly to the City's quality of life.
- ◆ The biodiversity in Lebanon's many ecosystems, including its varied forests and urban trees, enriches the community by providing environmental, economic, and social benefits, but is under threat from invasives and climate change.

5 | C-1 Air and Sky

5 | C-1a Air Quality

Lebanon, like the Upper Valley in general, has historically enjoyed clean and healthy air. Maintaining this good air quality and preventing air pollution are vital to planning Lebanon's growth. Some well-known sources of air pollution include motor vehicles, power plants, industries, wood smoke, and commercial/institutional and residential activities. Air pollutants from these sources can be emitted locally, or they can be transported over great distances from upwind regions. This pollution can have health impacts such as aggravation of asthma and other respiratory illnesses; environmental impacts such as acid deposition and eutrophication of water bodies; and other impacts such as accelerated weathering of stone structures and property damage from climate change effects.

The Clean Air Act (CAA) as amended in 1990 directs the U.S. Environmental Protection Agency and the states to regulate air quality. If air quality in an area is in nonattainment, i.e., does not meet the National Ambient Air Quality Standards (NAAQS), the state must come up with a plan to bring that area back into attainment. This is done via state-wide regulation by state environmental agencies such as NHDES and other state and federal agencies.

Ozone (O₃) and particulate matter less than 2.5 microns (PM_{2.5}) are two critical pollutants for assessing a community's air quality. Since 2007, their levels have generally trended downward in Lebanon and have been well below the levels of the NAAQS.

Virtually all air pollutants deposit onto ground and water surfaces to some extent, through either wet or dry deposition. The most significant contributors to acid deposition are sulfur dioxide (SO₂) and nitrogen oxides (NO_x). Other compounds such as mercury and perfluorinated compounds (including PFAS) have been found to deposit and affect the food chain and water quality. The trends for acid and nitrogen deposition in NH are improving, supported by decreases in emissions of NO_x and SO₂ in both NH and the US overall.

Carbon emissions continue to be a significant threat to the earth's ecosystems and to Lebanon's natural resources and infrastructure. Lebanon's municipal greenhouse gas emissions have been routinely inventoried and measured since 2010 and show a trend of significant reduction. A community scale inventory has yet to be conducted and so it is unknown whether increases in technological efficiencies are offsetting the increased development trend in the City.

5 | C-1b Dark Sky

As development has expanded in Lebanon in recent decades, the use of outdoor lighting has grown, particularly on Route 12A, and along the Mt Support and Route 120 North corridor. While some lighting is needed for visibility and security purposes, excessive lighting of commercial and industrial developments, parking lots, and streets can alter the character of a community. Excessive lighting wastes energy and can cause glare, impair vision, and cause accidents. Sky glow, which is reflected light visible in the night sky over large developments, reduces one's ability to see celestial elements at night. Excessive lighting has been shown to have adverse effects on humans, wildlife, and the environment. Negative impacts include disruptions to a person's biological clock, animal species migration, and nesting patterns.

The City continues to amend development regulations to guide the types of lighting fixtures permitted, favoring cut-off and other style fixtures. However, the sheer volume of new development is increasing sky glow, as does the increased lighting from single and multi-family homes and other types of development exempt from development regulations.

5 | C-2 Landform

Lebanon's landform is defined by undulating hills and steep slopes that rise from its river valleys. The ridgelines are the most visible elements in our scenic landscape and help define the City's character.

5|C-2a Steep Slopes

Construction, blasting, excavation, and loss of vegetation on steep slopes can reduce soil stability, increase runoff and erosion, degrade water quality, compromise wildlife and plant habitat, reduce carbon sequestration, and diminish the City's natural landscape. Locating development on steep slopes can also increase maintenance costs for infrastructure such as roads and sewer/septic systems. The City currently has a Steep Slope District to prevent development on slopes in excess of 25 percent. The Steep Slope District currently is limited to the RL-3 zone. However, the RL3 zoning district contains a relatively small percentage of Lebanon's land area. Therefore, potential adverse impacts occurring on steep slopes continue to warrant monitoring and prevention measures as needed.

5|C-2b Ridgelines

Lebanon's ridgelines create corridors through which wildlife can move, provide habitat for species like raptors and bobcats, and sustain many plants and animals not found at lower elevations. Some of the City's exemplary natural communities, including those defined by the New Hampshire Natural Heritage Bureau as rare or exceptional, are found on ridgelines. Ecologists and climate scientists have highlighted the emerging additional importance of these higher elevation habitats as species adapt to warming temperatures and migrate to suitable habitats.

The City's ridgelines contribute greatly to Lebanon's scenic character due to their current undeveloped state. The ridgelines are highly visible from many vantage points around the City, so a small development or even a single house on a ridgeline could be visible for miles.

5 |C-2c Bedrock

As Lebanon has grown, the availability of flat dry land suitable for development has decreased. New development increasingly occurs in less suitable areas, such as those that have thin soils over bedrock, or outright ledge. Blasting may be required to make such land suitable for building but may negatively affect underground water resources in bedrock faults and fissures, in addition to degrading the City's naturally scenic resources.

5 | C-3 Water Resources

Lebanon's water resources include more than 130 miles of rivers and year-round streams, as well as floodplains, wetlands, seasonal streams, vernal pools, and other hydrologically connected features as described in great detail within the NRI.

5 | C-3a Surface Waters

Surface waters in Lebanon include: the Connecticut and Mascoma Rivers, their many tributaries (Hardy Hill Brook, Great Brook, Stoney Brook, Blodgett Brook, among others); Mascoma Lake, Boston Lot Lake, and a number of smaller ponds and vernal pools.

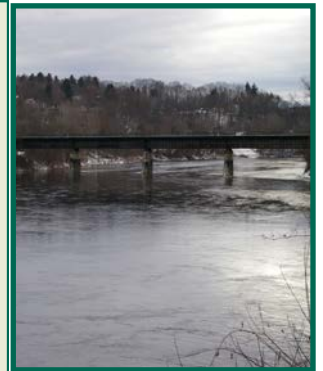
The terrain in Lebanon, as in many New Hampshire communities, has resulted in roadways built in close proximity to surface waters. This has increased the vulnerability of these surface waters to pollution and spills. As described in the Community Facilities and Services chapter of this plan, the Mascoma River is Lebanon's public drinking water supply. As such, the City has particular concern for safeguarding the River's water quality. However, much of the River's watershed, tributaries, and headwaters are upstream of Lebanon.

In 2011, the Mascoma River became the sixteenth protected river in the New Hampshire Rivers Management and Protection Program (RMPP). This designation formalizes a local and state partnership for the management of this river. A local advisory committee, with assistance from the Upper Valley Lake Sunapee Regional Planning Commission (UVLSRPC), is coordinating the development and adoption of a river corridor management plan.

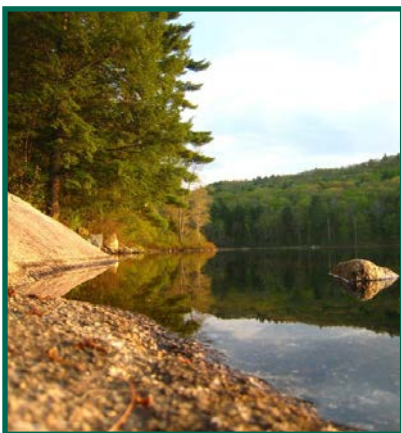
The New Hampshire Shoreland Water Quality Protection Act (NH SWQPA) is a regulatory measure that offers protection to the Connecticut and Mascoma Rivers, as well as other surface waters in the City (Mascoma Lake, Bloods/Trues Brook, Great Brook, and Boston Lot Lake). Various protection measures apply within the 250-foot protected shoreland of these water bodies.

In 2014, the Lebanon Zoning Ordinance was amended to include the Riverbank Protection District. This includes additional protection measures for water bodies regulated by the NH SWQPA, as well as other water bodies outside of the jurisdiction of the NH SWQPA.

Connecticut River



Boston Lot



The Connecticut River Joint Commission (CRJC) advises that preserving vegetated buffers along waterways, including smaller streams, is the most effective protection for water resources. Buffers filter polluted runoff, stabilize banks, regulate stream flow, recharge aquifers, and provide important habitat, among other benefits.

5 | C-3b Floodplains

The floodplains along the City's surface waters have experienced substantial development since the 1970s, most notably, significant portions of the developed area on the west side of Route 12A. Floodplain development reduces flood storage capability, increasing the likelihood of greater flooding including areas not previously affected and increasing the threat to life and property posed by flooding. Floodplain development also reduces the scenic and habitat value of the river valleys. Since 1980, the City has been in compliance with the National Flood Insurance Program, which is administered by the Federal Emergency Management Agency. This program prohibits development in the actual floodway, but permits it in the 100-year floodplain if the developments are flood-proofed.

5 | C-3c Wetlands

Within Lebanon, there are an estimated 1,500 acres of wetlands. Small, incremental filling and degradation of wetlands over the years continues to add up to a significant loss of wetland acreage and function. Some wetland ecosystems in the City have become increasingly isolated islands surrounded by development, which decreases their ecological value, particularly as habitat. The NRI provides descriptive information related to the functions and values of Lebanon's wetlands, as well as a priority ranking of their importance.

The value of wetlands for groundwater and stream recharge, flood attenuation, pollution abatement, carbon storage, and wildlife habitat is still vastly under-appreciated. Wetlands and their valuable functions save us money and effort in pollutant and flood mitigation.

The land surrounding wetlands is critical for maintaining the functions and values of the wetland itself. In 2014, the City amended the Zoning Ordinance to include the Wetlands Conservation District. The essence of the regulation is to restrict development from occurring within this buffer area to provide additional protection measures to high value wetlands.

5 | C-4 Land Resources

5 | C-4a Open Space

Lebanon residents have a long history of expressing their appreciation for and desire to maintain open space. Open space helps define community character, is home for wildlife and plants, protects drinking water supplies, and provides opportunities for recreation.

Studies have demonstrated that in addition to numerous ecological benefits, open space land is of high economic value. Open space is a "fiscal winner" for the City, as it brings in more money in taxes than it uses in services. Open space also increases the value of nearby developed land. It is vitally important to attracting and retaining businesses and is also the foundation of the agriculture, forestry, tourism, and recreation industries.

The City still has a considerable amount of undeveloped (open/forested/agricultural) land. The 2021 Open Space Plan identifies 21,293 acres as undeveloped or natural habitat, representing approximately 81% of the City's land area. Approximately 18,000 acres of open space lands are in Current Use, a reduced-rate property tax classification that is intended to help preserve the land base for forestry, agriculture, and other traditional uses.

5 | C-4b Conserved Land

Approximately 2,100 acres of land within the City are conserved and protected from future development. These conservation lands provide important habitat for plants and wildlife; protect water and air quality; and fulfill resident's needs for recreational opportunities, an experience of nature close to

home, and outdoor solitude. ADA access is provided where feasible and could be incorporated into the management policies of the City's conservation lands.

There are more than 21 miles of trails on the City's conservation lands, as depicted on the property maps generated by the City. Additionally, there are ongoing efforts to identify and plan for additional linkages to a community wide trail network. The City employs a seasonal conservation ranger to help maintain the City's conservation lands, including the trails, and to help recruit and organize volunteers to assist as well.

5 | C-4c Working Land

Agriculture and forestry play an important role in the regional and state economies, as well as in stewardship of our natural resources and scenic landscape.

Increased development pressures and decreased profitability of small farms (partially due to higher tax burdens) have gradually diminished the rural and agricultural character of Lebanon's outlying areas. However, the working farms, orchards, and woodlots that remain continue to contribute to our economy, and the City's remaining undeveloped prime agricultural soils could provide opportunities for continued farming in the future. Local farms provide fresh, high-quality food directly to the community and the region, eliminating the need for energy- and cost-intensive shipment and travel. They contribute directly and indirectly to the economy by providing the quality of life that attracts companies, their workforce, and tourists.

Forest lands are a dominant feature of Lebanon's landscape and ecosystems and the City's productive forests are an important renewable resource. Several forest-based commercial enterprises (logging, milling, maple sugaring) rely upon the availability of healthy woodland. Conversion to other uses has many ecological, economic, and social impacts, such as reduced water quality, forest fragmentation, habitat loss, fewer traditional recreational opportunities, and reduced carbon sequestration.

5 | C-5 Plants and Animals

5 | C-5a Biodiversity

Biodiversity enriches the community by providing environmental, economic, and social benefits. A diverse ecosystem can better survive disease and disturbance; can maintain essential biological services such as natural recycling of nutrients and wastes; and can provide models and resources for human advances in agricultural, medical, and other endeavors.

Lebanon is home to a wide variety and abundance of plants and animals, including more than 40 rare or endangered species. The 2010 Natural Resource Inventory provides a tremendous amount of information related to Lebanon's biodiversity, identifying 73 "Significant Ecological Areas" (SEAs) within the City's borders.

5 | C-5b Invasive Species

Invasive exotic plants and insects are impacting the health of trees, forests, and wildlife, as well as ecosystem biodiversity in Lebanon and surrounding areas. With guidance from the New Hampshire Department of Agriculture, the NH Invasive Species Committee, and other organizations, the City is making efforts to reduce these impacts. The Conservation Commission regularly recommends that developers eliminate or limit the spread of known invasive plant species in the course of their work, and the Planning Board's Site Plan Review Regulations include a list of invasive species that cannot be used to satisfy landscaping requirements. However, broader coordinated efforts are needed. Purple loosestrife, buckthorns, honeysuckles, barberries, and Japanese knotweed are just a few of the invasive species spreading on City-owned conservation lands, along roadsides and power-line cuts, as well as on private land throughout Lebanon. Invasive insects such as Emerald Ash Borer, are impacting the health of our urban and rural forests.

5 | C-5c Forests

Forests are valuable assets that provide habitat for wildlife and opportunities for recreation, sequester carbon, and purify our air. Development, forest fragmentation, climate change, invasive species, and deer overabundance, among other threats, are impacting the health of our forests.

It was often cost prohibitive to construct and maintain lengthy driveways to serve residences. The preference was often to locate the home as close as possible to an existing maintained road. A current trend in the Upper Valley, including Lebanon, is to locate house sites in remote locations served by driveways that can exceed 1/2 to 1 mile in length. These features fragment undeveloped blocks of land, resulting in increased predation, the spread of invasive species, disruption to migration patterns, and other adverse effects on the natural environment.

5 | C-5d Urban Trees

Trees in residential and commercial neighborhoods serve many important roles in the City of Lebanon. Among other benefits, urban trees provide shade and windbreak, cleaner air, shelter and food for wildlife, privacy, beauty, and higher property values. When planted in the proper location, trees can help decrease summer cooling and winter heating bills. Also, the leaves, branches, and trunks of trees catch rainwater before it reaches the pavement, reducing runoff, erosion, pollution, and other storm-water effects. Development, construction, improper placement, planting, or maintenance, climate change, and invasive insects such as the Emerald Ash Borer are serious threats to the health of the City's urban forest.

5 | D Future Challenges & Opportunities

Development pressures and climate change will continue to impact Lebanon's natural resources. Careful planning, conservation efforts, and better protections are needed to ensure that the City retains its vital natural assets while allowing opportunities for future growth. Without proper protection through local regulations, incentives, educational efforts, and good stewardship the City could lose the very assets that have made this community a desirable place to live and work.

Key Points | Future Challenges & Opportunities

- ◆ As Lebanon faces growth pressures, careful planning and better protection are needed to ensure that the City preserves its important natural resources. The City will need to implement mitigation and adaptation measures to minimize the effects of climate change on natural ecosystem
- ◆ Lebanon Needs to act, in concert with the state and federal governments, to prevent air pollution and preserve a dark night sky as the City continues to grow and develop
- ◆ Lebanon needs to expand its regulations applying to development on steep slopes to cover the entire City and to address the related issues to ridgeline development and the potential ecological damage caused by blasting
- ◆ Lebanon needs to develop and implement watershed protection plans, particularly for the Mascoma River, in coordination with neighboring communities and the state.
- ◆ Lebanon needs to implement the 2021 Open Space Plan to maintain open spaces and working lands for future generations.
- ◆ Lebanon should seek professional guidance to protect the biodiversity of its ecosystems and improve the quality of wildlife habitat on public lands, which are under threat from invasives and climate change.
- ◆ There should be greater coordination among City Departments, staff and volunteers to increase the effectiveness of Lebanon's efforts to protect natural resources.

The 2010 Natural Resource Inventory, the 2016 Wildlife Corridor Analysis, and the 2021 Open Space Plan form the basis of Lebanon's Conservation Program. Associated planning tools and protections such as the City's Wetlands Conservation District, Steep Slope District, and Riverbank Protection District, and the Shoreland Protection Act should inform future planning decisions and be utilized to guide future development. Future protections such as a blasting ordinance, an urban tree ordinance, an expanded steep slope overlay district, and a watershed management plan are needed to better guide future development and ensure additional protections of natural resources.

The challenge of addressing issues associated with a warming planet can be daunting, but implementing both mitigation and adaptation measures is imperative to minimize disruptions of natural ecosystems. The technological solutions currently exist to mitigate some of the impacts of climate change; but political

will is needed to fully engage in the necessary deployment of these technologies.

5 | D-1 Air and Sky

5 | D-1a Air Pollution

Maintaining good air quality is essential to making the City and the Upper Valley a great place to live and work. Even though all of New Hampshire is currently in attainment with the National Ambient Air Quality Standards (NAAQS), Lebanon cannot take clean air for granted. Localized sources of air pollution, such as wood smoke, tailpipe emissions from idling vehicles and equipment, and emissions from businesses can impact both the health and enjoyment of residents in some areas of the City.

Opportunities for Lebanon to contribute to maintaining good air quality include procuring low and zero-emission vehicles such as battery electric and plug-in hybrid cars and trucks as older City-owned vehicles are retired; specifying clean vehicles and equipment when making procurements (e.g., requiring electric trash trucks and school buses in bids/contracts); improving the efficiency of city-owned building stock and incorporating renewable energy sources such as solar, conducting education and outreach to businesses and residents to ensure they are aware of the options available to them; and improving infrastructure to support less polluting vehicles in both the public and private sectors. A potential opportunity for the City to help inform state actions could include community science monitoring of PM_{2.5} to help identify hyper-local levels of PM_{2.5} due to wood burning and other activities.

A present and future challenge is building community resilience, especially in neighborhoods that may be disproportionately impacted by air pollution and climate change. The heat island effect results in significantly hotter summer air temperatures, increased air pollution and health risks in locations dominated by impervious surfaces and inadequate tree canopy.

Detailed information on air quality and how it is regulated in New Hampshire can be obtained from the NHDES Air Resources Division. The latest edition of the State of New Hampshire Air Quality Report is a valuable reference for additional trends.

5 | D-1b Dark Sky

Lebanon would likely not qualify as a dark sky community as certified by the International Dark-Sky Association, but should commit to improving dark sky conditions and improve opportunities for star and planet gazing.

Within the development review process, and in all City municipal operations, outdoor lighting installations should be designed to provide the minimum light levels needed for adequate visibility while avoiding over lighting and its associated problems, such as glare, sky glow, light trespass, and biological impacts on both humans and wildlife. For instance, down-lit fixtures, cut-off lighting, timers, and motion detectors can be used.

5 | D-2 Landform

5 | D-2a Steep Slopes

To avoid adverse impacts from development on steep slopes, the City should expand the existing Steep Slope District to apply to all zoning districts. The Steep Slope District should be reviewed and modified as needed to incorporate appropriate measures such as performance or review process techniques.

5 | D-2b Ridgelines

As recommended in the 1986, 1993, and 2006 Lebanon Master Plans, a ridgeline conservation overlay district should be incorporated into Lebanon's Zoning Ordinance to ensure proper siting of development and to minimize impacts to the existing landscape and scenic qualities of the ridgelines. Adopting a ridgeline conservation overlay district would assist with maintaining the functions and

values of these ecologically sensitive areas. The overlay district could include regulating the siting and design of telecommunications towers, wind turbines, and associated facilities.

5 | D-2c Bedrock

Examining the effects of blasting on groundwater, as well as on the viewsheds of Lebanon, should be part of the development review process, with City staff consulting a hydrogeologist as needed. To further protect groundwater quality and hydrology, the City should consider adopting a blasting ordinance, such as those described in the NH DES 2019 publication Rock Blasting and Water Quality Measures That Can Be Taken To Protect Water Quality and Mitigate Impacts.

5 | D-3 Water Resources

5 | D-3a Watershed Protection

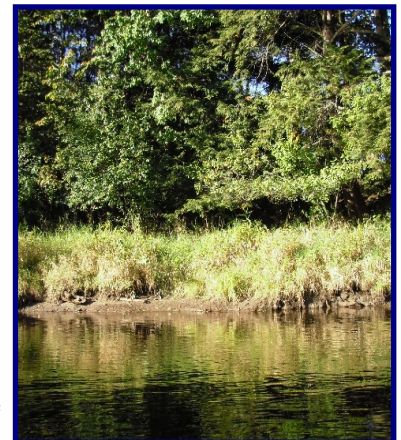
As Lebanon is dependent on the Mascoma River for its drinking water and is the most populous community in the watershed, the City should be involved in planning efforts for the watershed. The development and adoption of a water resources management plan would lay the groundwork for appropriate ordinances to protect Lebanon's surface and ground waters. Elements of the plan should include techniques or methods to address water quality degradation resulting from non-point source pollution, erosion, runoff, etc. Such techniques or methods could include:

- adding measures to the development review process (e.g., Low Impact Development);
- limiting the extent of impervious areas;
- preserving vegetated stream buffers;
- reducing herbicide, pesticide, and road salt use near waterways;
- landowner education and outreach;
- a water quality testing program;
- waterway clean-up events;
- aquifer and source water overlay districts;
- and land conservation techniques (e.g., easements, acquisition).

The Water Treatment Plant sub-watershed would be the logical starting point for defining the scope of a water resources management plan, but Lebanon residents would benefit from having a plan that includes all of the community's water resources. Any watershed protection efforts in the Mascoma and Connecticut River watersheds should be coordinated with other watershed communities. Continued participation in the Upper Valley Lake Sunapee Regional Planning Commission, the Mascoma River Local Advisory Committee, and Connecticut River Joint Commission's (CRJC) Upper Valley River Subcommittee will offer opportunities for regional information sharing and collaborative solutions to common challenges. Partnerships with private organizations to achieve water resource objectives can be beneficial and should be explored as part of the watershed planning effort.

Comprehensive community campaigns to continue the clean up of Lebanon's waterways will enhance water quality and scenic resources. As these natural assets continue to improve, the City will benefit greatly from increased property values and quality of life. The Lebanon Rotary Club has performed a considerable public service by organizing a biennial clean-up of the Mascoma River. This event could be augmented or directly coordinated by other local civic, neighborhood, or school groups, and supported by the City, to bring further attention to the River.

Example of preserved buffer on the Mascoma River



One threat to our water resources is the increased frequency of toxic cyanobacterial blooms. These algal blooms are occurring more often in part because longer ice-free seasons result in more time for surface waters to warm up and for blooms to develop. To limit the likelihood of toxic blooms, it is important that the City and its residents work to control phosphorus inputs from impervious runoff, lawn clippings, fertilizer, wastewater, and septic systems. Protecting shorelands is also key - native plants have deep roots. Land conservation, outreach to homeowners, preventing the clearing of steep slopes, adopting larger shoreland buffer zones, requiring larger buffer zones for septic systems, improving stormwater management by increasing infiltration and improving culverts are additional steps to further protect our surface waters.

5 | D-3b Floodplains

Development has decimated the extent of functioning floodplains in the City. The increased frequency of extreme weather events has underscored the importance of floodplains to mitigating floodwaters. Every effort should be made to protect Lebanon's remaining floodplains and valuable floodplain forest communities.

5 | D-3c Wetland Conservation

Incremental filling and degradation of wetlands is continuing to contribute to a significant loss of wetland acreage and function. Efforts to avoid wetland impacts should continue. In situations where temporary or permanent impacts are unavoidable, the functions and values of each wetland should be the focus of the permitting review process. In situations where impacts exceed the requisite threshold and mitigation is required, the parties associated with the proposed impacts should prioritize mitigation opportunities on site, within proximity, or within the community, in that order.

The Lebanon Zoning Ordinance includes the Wetlands Conservation District to prevent the destruction of wetlands. This district includes a buffer for high and very high value (as categorized in the 2010 NRI) wetlands. *Buffers for Wetlands and Surface Waters: A Guide for New Hampshire Municipalities* (Audubon Society of New Hampshire and New Hampshire Office of State Planning, revised 1997) recommends 100 feet as a reasonable minimum buffer width to protect the values of wetlands under most circumstances. The City should consider expanding its wetlands overlay district to include buffers for all wetlands, including vernal pools.

5 | D-4 Land Resources

5 | D-4a Open Space Planning

Responsible growth is critical to the City's livelihood and vitality. It is necessary to identify and implement planning techniques that encourage respectful development while preserving important landscapes. The Lebanon Open Space Plan, completed in 2021, provides useful information on desirable open space characteristics and articulates the City's long-term vision for land conservation. The plan's prioritization framework sets open space benchmarks and identifies key components of the landscape that warrant conservation protection measures. It also provides useful information on the tools and processes for managing the ecological integrity of open space.

Innovative land use controls, such as conservation design and transfer of development rights, can be used to preserve more open space areas. Generally speaking, conventional subdivision design creates residential developments in which all land is divided into house lots and streets, with the only open space typically being the yards around single-family homes. On the other hand, conservation design provides greater flexibility for the design of a development to encourage the preservation of valuable open land and natural features and to promote more efficient use of land, community facilities, services, and utilities. As a result, the same number of homes can be built in a less landconsumptive manner. This technique allows the balance of the property to be permanently protected and added to an interconnected network of community green spaces. Conservation design is an equitable way to balance both conservation and development objectives. As recommended in the Land Use chapter, the City should continue to require conservation design where appropriate with incentives to ensure that conservation design is a financially favorable alternative for residential, industrial, and commer-

cial development. The City should also study transfer of development rights and other methods to protect important open space. These innovative techniques could help the City attain a pattern of development that matches the overall vision of this Master Plan.

The Open Space Plan provides a guide for prioritizing important natural features that the City should protect, including Significant Ecological Areas, valuable natural resources identified in the Natural Resource Inventory, Wildlife Crossing Analysis, Wetlands Conservation District, or the NH Wildlife Action Plan, and other natural areas. Lebanon should use the Open Space Plan to guide development; maximize the size of connected open space areas; conserve and prevent further fragmentation of wildlife habitat; and increase the visibility and functionality of the Lebanon Conservation Program.

5 | D-4b Land Conservation

The Lebanon Conservation Program should work to preserve and protect Lebanon's open space and valuable natural resources, as prioritized in the Open Space Plan. Outreach and education are needed so that City residents and property owners understand Lebanon's conservation goals; can participate in and appreciate land conservation; and have the opportunity to become engaged stewards of natural Lebanon. Protection measures to be used include purchasing or accepting gifts of property, conservation and public access easements, and development rights from willing landowners for priority areas as detailed within the Open Space Plan.

There are a variety of funding sources and partners for land conservation efforts in Lebanon. The Department of Environmental Services Aquatic Resource Mitigation (ARM) Fund is one potential source of funding, and has been used successfully in Lebanon for past open space protection projects. The Land and Community Heritage Investment Program (LCHIP) is another source of funding for high-priority projects, if the state legislature continues to fund it.

Conservation Lands & Trails



Money received from Land Use Change Tax penalties (for removing land from the New Hampshire Current Use program) should continue to be used to conserve new lands, as well as to maintain previously acquired ones. The City should continue to dedicate 100 percent of its Current Use penalty receipts to the Lebanon Open Space Trust fund, as recommended in the Land Use chapter of this Master Plan.

As potential trail linkages are identified, the City should work with willing landowners, land trusts, and other conservation and recreation groups to acquire trail easements, when feasible. The City also should negotiate with developers of large or strategically located parcels to protect existing trails and/or set aside additional land, if feasible, for a trail system or connection.

Stewardship of City-owned conservation properties should continue to be guided by management plans developed by professional land stewards, with policy oversight from the Lebanon Conservation Commission. Implementation of management recommendations should be achieved by a combination of professional staff and volunteer assistance, with outreach to neighbors of these properties.

5 | D-4c Working Lands

Agriculture is an important contributor to Lebanon's scenic, historic, and cultural quality of life. The municipality should continue to support such uses and try to meet the needs of the local agricultural community.

Sustainable local food production has a positive economic impact, saves energy on transportation, can promote healthy habits among local residents, and has the potential to be regenerative to the soil and to ecosystems. The community should continue to actively support the Lebanon Farmer's Market and

the marketing of Lebanon’s agricultural resources, and the City should work with farmers to target the fiscal, regulatory, and practical obstacles to sustaining local agriculture.

Local working forests supporting active commercial harvests provide local economic benefits, as well as a sustainable source of building products. A well-managed working woodlot can support sequestration measures by restoring the forest closer to its natural condition.

In conducting silvicultural activities, sound forestry practices should be followed, especially on ridge-lines, steep slopes, and adjacent to waterways, to prevent sedimentation and erosion that contribute to the degradation of water quality. The New Hampshire Division of Forests and Lands has a publication *Best Management Practices for Erosion Control on Timber Harvesting Operations in New Hampshire* (2016) that is a good reference for anyone working in the woods, along with *Good Forestry in the Granite State: Recommended Voluntary Forest Management Practices for New Hampshire* (2010).

5 | D-5 Plants and Animals

5 | D-5a Biodiversity

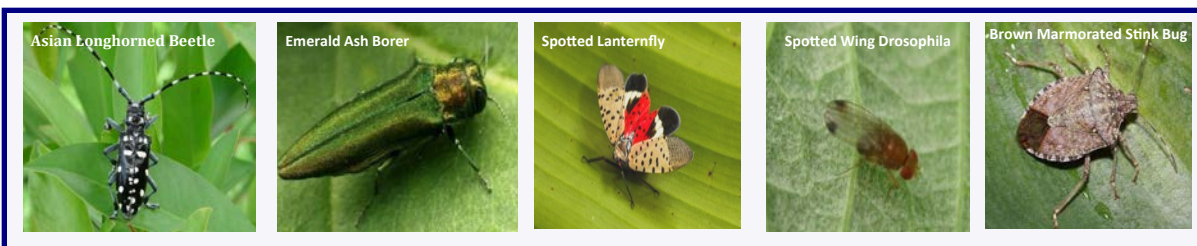
It is important to maintain diverse ecosystems in Lebanon that can better survive disease and disturbance and can maintain essential biological services. The Natural Resource Inventory, Open Space Plan, and Wildlife Corridor Analysis provide the basis for proposing changes to zoning, site plan, and/or subdivision regulations to minimize adverse development impacts on Lebanon’s diverse plant and animal communities. Several state agencies and other organizations can offer the City practical, research-based suggestions, such as NHDES fact sheets on minimizing development impacts on wildlife, and on habitat-sensitive site design and development practices; the 2015 New Hampshire Wildlife Action Plan; and numerous planning tools from NHDES, NHF&G, and UNH Extension.

When parcels are developed near important natural areas, existing wildlife corridors should be identified and preserved, including road crossings and wildlife-friendly culverts constructed with the advice of wildlife biologists. Conservation design and other innovative zoning techniques (elaborated on in the Land Use chapter of this Master Plan) might also be utilized to provide or protect habitat.

Efforts should be made to mitigate the impacts of climate change on plants and local and migratory animals and to develop and implement strategies for adaptation.

5 | D-5b Invasive Species

The proliferation of invasive plant species is having a negative impact on plant diversity as well as wildlife habitat in the City. The City should inventory infestations of invasive species in Lebanon, develop plans to control these plants, and increase awareness of the damage that can be done when they are left unchecked. City staff, private landowners, and contractors should follow best management practices for removal and disposal of invasive species. Roadside mowing, for example, should be done prior to seed development and the blades should be scrupulously cleaned before leaving the mowing site. Invasive insects including Asian Longhorned Beetle, Emerald Ash Borer, Spotted Lanternfly, Spotted-Wing Drosophila, and Brown Marmorated Stink Bug pose various risks to local agriculture, urban trees, and forests.



5 | D-5c Forests

Lebanon's forests, one of its most defining natural features, are important wildlife habitat, sources of forest products, and are central to much of our local recreation and nature economy.

Forest fragmentation and conversion to other uses have many ecological, economic, and social impacts, such as reduced water quality, habitat loss, fewer traditional recreational opportunities, and reduced carbon sequestration. The City should implement road and driveway standards to reduce further fragmentation of undeveloped blocks of land by private roads and lengthy driveways. Other steps the City should take to further protect forest blocks are expanding the Steep Slope District; implementing a ridgeline ordinance; and continuing to pursue the Lebanon Conservation Program's conservation goals of permanent land protection through conservation easements, purchases, and donations.

Among the many threats to the City's forests are invasive insects such as the Emerald Ash Borer. In the next few years Lebanon will experience a dramatic shift in the health and composition of its forests as ash trees succumb to this insect. The City should prepare for future impacts of other invasive insects, in combination with the impacts of climate change, on our forest health and composition.

Deer overabundance inhibits the regeneration of native tree species, reduces the regeneration and diversity of native forest understory species, and leads to the spread of invasive plant species. The City should encourage doe hunting in areas showing signs of overbrowse to better manage deer populations.

Resident and visitor use of Lebanon's natural areas has increased significantly in recent years, putting pressure on our trails and the quality of wildlife habitats. Trail use has physiological and behavioral impacts on wildlife, and can impact reproductive success and predation. For example, the upland forest surrounding vernal pools is essential for the successful life cycle of many amphibians, who in turn are an important component in the forest ecosystem. A trail's corridor of influence - how far in either direction our presence can be detected by wildlife - might be 60 feet for amphibians, but is about 400 feet in both directions for larger animals. The City should evaluate its trail network using guidelines such as those from the NH Trails for People and Wildlife Program.

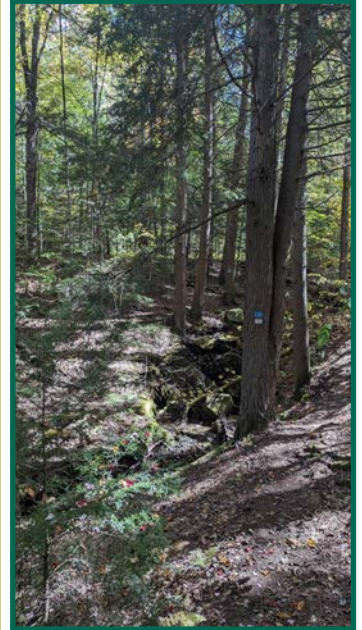
Maintaining healthy forests is an important climate mitigation measure as forests naturally store carbon, absorb rainwaters, and filter pollutants. Programs to provide financial incentives to landowners to engage in forest carbon sequestration are beginning to emerge and could be an attractive option for Lebanon landowners.

5 | D-5d Urban Trees and Greenways

The City is losing urban trees to development, disease, and damage faster than it is replacing them. Lebanon's estimated urban (places served by sidewalks) tree canopy is below 30% and falling, while many American cities are striving for 40% or greater. As people become more aware of the benefits of trees, they realize the importance of maintaining the health of existing trees and the desirability of planting new ones. It is very important that native and site-suitable species be properly planted in appropriate places, to keep maintenance costs low and reduce impacts from natural hazards such as ice storms.

The City should continue to support the recently established Tree Advisory Board's efforts to inventory important trees, especially those in the City's urban centers, and to develop a tree ordinance outlining proper tree planting, care, and maintenance. The City should hire a tree warden as defined in RSA 231:139 to help plant, maintain, and protect shade and ornamental trees and shrubs in urban

Forested Trail at Goodwin Park



public spaces and along municipal rights-of-way. Such an effort might even produce valuable input for greening locations such as the Route 120/I-89 (Exit 18) interchange.

Public education is also important in regards to the proper choice, placement, and care of residential, public, and other street trees. The City should continue observing Arbor Day, maintain its Tree City USA status, and utilize the resources available through the State's Urban and Community Forestry program and the UNH Extension County Forestry program to promote the health and appreciation of its urban tree canopy.

The City needs to diversify its urban forest. History has shown us the risks of overreliance on one or a few main species in the urban forest. When a species-specific pest or disease inevitably attacks, the impacts on the urban forest canopy are dramatic. This has happened with the American Elm and is soon to happen in Lebanon with species of ash, which line many roads, parking lots, and developments across the City. Lebanon currently has an overreliance on maples in the urban forest, and should encourage the planting of other tree species to diversify its urban tree canopy.

5 | D-6 Coordination & Outreach

It is imperative that the City manage development to preserve its open land and scenic resources. This can best be achieved by implementing the Open Space Plan; coordinating zoning, site plan, and subdivision regulations; and using the Capital Improvement Plan.

The Conservation Commission and related staff play a pivotal role as stewards of the City's natural and scenic assets and, along with the Recreation Department, its recreational assets. As volunteers, Conservation Commissioners have an important job to do with limited time and resources. Accordingly, City staff and Conservation Commission members should continue to keep one another apprised of ongoing opportunities for training and education, so that they can be better-informed and more effective decisionmakers. Communication should be improved among the City's boards, departments, and residents, to ensure that the policies and actions of one body are not inconsistent with those of others, and that Lebanon's treasured natural resources are not compromised. Efforts to partner with local and regional organizations, neighboring towns, state agencies, and private landowners should continue on behalf of conservation.

Through successive master plans, land conservation efforts, municipal elections, partnerships with the private sector, and other processes, the people of Lebanon have sustained an interest in protecting the City's natural resources and scenic character. The Conservation Commission, with its partners in schools, scouting, other service organizations, neighborhood groups, and other conservation and natural resource organizations, should continue to engage the public in conservation by encouraging participation in the Stewardship Program and by sponsoring community educational events, outings, workdays, and celebrations.

Agenda

Lebanon City Council

June 5, 2024

10. New Business:

10.F – Request for Zoning Amendment: Text Amendment for Section 214, Governmental Uses, of the Lebanon Zoning Ordinance

Background

On March 20, 2024, the City Council voted to move a proposed amendment to Section 214 (“Governmental Uses”) of the Zoning Ordinance through the amendment process outlined in Section 1000 of the Zoning Ordinance. Since then, the amendment has been reviewed by the City’s legal counsel, the Planning Board, the Zoning Board of Adjustment, and the Conservation Commission. The City attorney’s legal opinion and excerpts of the Planning Board, Zoning Board of Adjustment, and Conservation Commission draft meeting minutes are attached.

As set forth in the attached excerpt of the draft meeting minutes from April 22, 2024, the Planning Board adopted the following motion with respect to the proposed amendment:

[T]he Planning Board authorizes the Planning Board’s City Council Representative to convey that, in the Planning Board’s discussion of the proposed Zoning Amendment [to Section 214 (Governmental Uses)], the Members expressed concerns over the potential impact of removing a step in the regulatory review process, and suggested that, if the City Council were to pass the proposed amendment, it should revisit the language of Section 214 in no more than two years’ time, taking into account any new data that arises.

As reflected in the attached excerpt of the draft meeting minutes from May 6, 2024, the Zoning Board of Adjustment “was unanimous in recommending the change[.]” and as set forth in the attached excerpt of the draft meeting minutes from May 9, 2024, the Conservation Commission approved an extensive motion expressing opposition.

Following discussion of the requested amendment, if the City Council decides to move forward with consideration of the proposal, a public hearing will need to be scheduled.

Discussion

“Governmental use” is defined in NH RSA 674:54, I, as meaning: “a use, construction, or development of land owned or occupied, or proposed to be owned or occupied, by the state, university system, the community college system of New Hampshire, or by a county, town, city, school district, or village district, or any of their agents, for any public purpose which is statutorily or traditionally governmental in nature.” Pursuant to the statute, governmental uses are not subject to local land use regulations, including zoning regulations and site plan review regulations. Projects that meet the statutory definition of “governmental use” may be reviewed by the governing body or by the Planning Board, but any comments issued pursuant to such reviews are non-binding and advisory only.

By contrast, Section 214 of the Lebanon Zoning Ordinance regulates Governmental Uses as follows: “Governmental Uses shall be governed by RSA 674:54; provided, however, that

governmental uses proposed by the City of Lebanon shall be considered to be subject to this Ordinance, unless expressly exempted from it by vote of the City Council.” Rather than rely on NH RSA 674:54, which exempts governmental uses from local zoning regulations, Section 214 specifically requires the City’s governmental use projects to conform to the requirements of the Zoning Ordinance.

Requiring the City’s governmental use projects to comply with local zoning regulations has the potential effect that certain projects will be designed in a suboptimum manner in order to comply with Zoning Ordinance requirements that were primarily drafted and intended to apply to private land developments and not public infrastructure projects. Alternatively, it requires those projects to obtain zoning relief from the Zoning Board of Adjustment. This concern was recently brought to the Council’s attention in the context of the Trues Brook Road bridge reconstruction project, which would have required both a Variance and a Special Exception from the Zoning Board.

Similarly, the Lahaye Drive/Mt. Support Road Intersection Project and the Lahaye Drive Multi-Use Path/TAP Project would have required Special Exceptions from the Zoning Board. The City Council ultimately exempted all three projects from the requirements of the Zoning Ordinance.

The conditions for granting a variance or special exception, as the case may be, are listed in the Zoning Ordinance and the Zoning Board is tasked with approving or denying the request on the merits of the application. Even if approved, any aggrieved abutter could appeal the ZBA decision. Any appeal could adversely affect a project’s construction schedule and potentially lead to an undesirable result that is contrary to public interest.

As explained further in the attached memorandum from Attorney Christine Johnston, the statutory exemption of governmental uses from local zoning regulations reflects the nature of governmental uses, which have fundamentally different issues than private development. It is City staff’s position that modifying Section 214 to exempt all governmental uses from the requirements of the Zoning Ordinance will ensure that municipal improvement projects, such as building roads, replacing bridges, constructing public facilities, and other governmental needs, are optimally designed to serve the public interest and aren’t jeopardized by having to obtain approval from the Zoning Board of Adjustment. However, it is understood and acknowledged that projects undertaken by the City, or on City land or property, which do not meet the statutory definition of a Governmental Use, would continue to be fully subject to the provisions of the local zoning ordinance and land use regulations.

Action

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

MOVED, that the Lebanon City Council hereby schedules a public hearing for Wednesday, June 19, 2024, beginning at 7:00pm, in Council Chambers, City Hall, and Remote via the City’s Virtual Platform, for the purpose of receiving public input and taking action to amend Section 214 (“Governmental Uses”) of the Lebanon Zoning Ordinance.

Included in this Section:

1. Proposed amendment (redline) of Section 214 of the Zoning Ordinance, prepared on March 11, 2024

2. Memorandum of Background Information on Section 214 of the Zoning Ordinance from C. Christine Johnston, Esq., dated March 10, 2024
3. NH RSA 674:54, Governmental Land Uses
4. Legal opinion pursuant to Section 1000.3.B.2 of the Zoning Ordinance from C. Christine Johnston, Esq., dated March 21, 2024
5. Excerpt of draft Planning Board meeting minutes from April 22, 2024
6. Excerpt of draft Zoning Board of Adjustment meeting minutes from May 6, 2024
7. Excerpt of draft Conservation Commission meeting minutes from May 9, 2024

DRAFT AMENDMENT TO SECTION 214 OF THE CITY OF LEBANON ZONING ORDINANCE

ARTICLE II GENERAL PROVISIONS

SECTION 214 GOVERNMENTAL USES.

Governmental ~~u~~Uses ~~shall be governed by as defined in~~ RSA 674:54; ~~whether proposed by the City of Lebanon or another governmental entity, shall be subject to the provisions of that statute and shall not be subject to the City of Lebanon Zoning Ordinance. Any use, construction, or development of land occurring on governmentally owned or occupied land but which is not a governmental use as defined in RSA 674:54 is fully subject to the City of Lebanon Zoning Ordinance;~~ provided, however, that ~~the City Council may vote governmental uses proposed by the City of Lebanon shall be considered to be subject to this Ordinance, unless to~~ expressly exempted from it by vote of the City Council ~~any non-governmental use by the City of Lebanon from compliance with the Ordinance.~~

TO: Lebanon City Council; Shaun Mulholland, City Manager

FROM: C. Christine Johnston

DATE: March 10, 2024

RE: Background Information –Section 214 of Zoning Ordinance

This information is provided pursuant to a request from the City Manager’s Office for background information on Section 214 of the City’s Zoning Ordinance and the current discussion of a potential amendment to that section.

Section 214 currently reads as follows:

“Governmental Uses shall be governed by RSA 674:54; provided, however, that governmental uses proposed by the City of Lebanon shall be considered to be subject to this Ordinance, unless expressly exempted from it by vote of the City Council.”

In other words, governmental uses by any governmental entity other than the City are not subject to the Zoning Ordinance, but governmental uses proposed by the City itself are subject to it unless the Council votes specifically to make it exempt.

Historical background of the regulation of governmental uses of land:

Historically, municipalities have not been subject to their own zoning ordinances unless they have affirmatively chosen to include a provision in the zoning ordinance stating that the ordinance applies to the municipality itself. *McGrath v. Manchester*, 113 N.H. 355 (1973). In 1996, however, there was still some confusion about whether subdivision and site plan regulations applied to municipal land use projects. RSA 674:54 was first enacted in 1996 to answer this question and provide a clear process for municipalities to follow for their own land use projects.

The original form of the 1996 bill would have made almost all governmental projects subject to local land use ordinances and regulations to the same extent as private developments. However, significant concerns were raised by NH DOT, the university system, other state agencies, and some municipalities. Aside from the costs associated with the application and hearing process before various land use boards, the major concerns involved the very real potential for significant delays that could make many projects difficult or impossible to complete, and the potential that approvals would be denied, either at the local level or by a court on appeal. Although the new land use docket and the Housing Appeals Board have sped up land use appeals somewhat, complicated cases can still be tied up on appeal for a year or more, and a further appeal to the NH Supreme Court usually takes another year. Furthermore, many appeals go to court and are remanded back to the local land use board, only to be appealed again after the next round. This kind of delay can make some projects impossible to complete or take so long that they are no longer useful or effective.

Ultimately, the bill that was adopted in 1996 as RSA 674:54 was one that had been changed to substantially the form it is in today, in which a governmental entity planning a project for a governmental use is required to notify the Planning Board and governing body of the project, provide details, and obtain non-binding comments before the project can occur. In reaching this final language (which is, other than a few additions over the years, still the law today), the legislature concluded that there are fundamentally different issues involved with governmental land uses than there are with private development. While some private development may be focused on the common good (and that is usually the goal of land use regulation, of course), governmental land uses are intended to carry out governmental functions, which are, by definition, intended to benefit the public good in some way. The reason we have local government is to provide services and structure that society needs. When a government needs to build a road, replace a bridge, operate a wastewater treatment facility, build a fire station, expand or renovate City offices, develop a park, etc., such projects are all intended to directly or indirectly benefit the public. The legislature recognized that government can't be subjected to all of the same regulations as private developers because, if it is, government can't function in the way that we all need it to.

As a practical matter, very few cities and towns around New Hampshire have provisions in their zoning ordinances that specifically subject the municipality itself to its own zoning restrictions. Of the 13 cities, Lebanon is one of only two in which city land use projects are entirely subject to zoning (Nashua is the other one). Two others subject themselves to some but not all zoning: The City of Laconia requires its projects to obtain a conditional use permit from the planning board but is otherwise exempt; Keene includes standards for the construction of public infrastructure, regardless of who constructs them, but otherwise does not subject itself to its own land use regulations. The remainder of the cities are not subject to their own zoning.

RSA 674:54:

This statute applies to “governmental uses” of land, which are defined in the law as “a use, construction, or development of land owned or occupied, or proposed to be owned or occupied, by the state, university system, the community college system of New Hampshire, or by a county, town, city, school district, or village district, or any of their agents, for any public purpose which is statutorily or traditionally governmental in nature.” RSA 674:54, I.

- When a governmental entity plans a land use project which is “statutorily or traditionally governmental in nature” and which “constitutes a substantial change in use or a substantial new use,” it must provide written notice to the governing body and planning board of the municipality in which the project will occur.
- The notice must include plans, specifications, explanations of the proposed changes available at the time, a statement of the governmental nature of the use, and a proposed construction schedule.
- This notice must be provided at least 60 days before the beginning of construction.
- Either the governing body or planning board of the municipality where the project will occur may conduct a public hearing relative to the proposed governmental use. If a hearing is to be held, it must occur within 30 days after receipt of the notice. A representative of the governmental entity which provided the notice must be available at

the hearing to present the plans, specifications, and construction schedule, and to provide explanations.

- Within 30 days after the hearing, the governing body or planning board may issue non-binding written comments to the entity proposing the project regarding whether the proposal conforms (or not) with the normally-applicable land use regulations.

Of course, sometimes governmental entities are involved in land use projects which are not traditionally or statutorily “governmental” in nature (such as building a housing development). In those cases, the government would be fully subject to the provisions of the local zoning ordinance and land use regulations. RSA 674:54, II-a.

Certain kinds of projects are exempt from both local zoning and from the RSA 675:54 process:

- The layout and construction of public highways of any class
 - Distribution lines or transmission apparatus of governmental utilities (not including wireless communications facilities)
 - Erection, installation, or maintenance of poles, structures, conduits, and cables, or wires in, under, or across any public highways under RSA 231
 - Licenses or leases for telecommunication facilities in, under, or across railroad rights of way (other than wireless communications facilities)
 - The Governor also may declare any governmental use exempt from RSA 674:54 in the event of exigent circumstances where the delay entailed by compliance with that statute would endanger public health or safety
- RSA 674:54, III and IV.

TITLE LXIV PLANNING AND ZONING

CHAPTER 674 LOCAL LAND USE PLANNING AND REGULATORY POWERS

Governmental Use of Property

Section 674:54

674:54 Governmental Land Uses. –

I. In this section, "governmental use" means a use, construction, or development of land owned or occupied, or proposed to be owned or occupied, by the state, university system, the community college system of New Hampshire, or by a county, town, city, school district, or village district, or any of their agents, for any public purpose which is statutorily or traditionally governmental in nature.

II. The state, university system, community college system of New Hampshire, county, town, city, school district, or village district shall give written notification to the governing body and planning board, if such exists, of a municipality of any proposed governmental use of property within its jurisdiction, which constitutes a substantial change in use or a substantial new use. Written notification shall contain plans, specifications, explanations of proposed changes available at the time, a statement of the governmental nature of the use as set forth in paragraph I, and a proposed construction schedule. Such notification shall be provided at least 60 days prior to the beginning of construction. Either the governing body or planning board of the municipality may conduct a public hearing relative to the proposed governmental use. Any such hearing shall be held within 30 days after receipt of notice by the governing body or planning board. A representative of the governmental entity which provided notice shall be available to present the plans, specifications, and construction schedule, and to provide explanations. The governing body or planning board may issue nonbinding written comments relative to conformity or nonconformity of the proposal with normally applicable land use regulations to the sponsor of the governmental use within 30 days after the hearing.

II-a. Any use, construction, or development of land occurring on governmentally owned or occupied land, but which is not a governmental use as defined in paragraph I, shall be fully subject to local land use regulations.

II-b. The construction and operation of any solid waste disposal facility on land owned or occupied by any city or town within another city or town shall be subject to local land use regulations to the same extent as if the land were owned and occupied by a private entity. Nothing in this paragraph shall affect the construction and operation of a solid waste facility on land owned by a solid waste management district formed under RSA 53-A or RSA 53-B or any combination of municipalities authorized by an act of the general court, if the land is located within a city or town that is part of the district.

III. This section shall not apply to:

(a) The layout or construction of public highways of any class, or to the distribution lines or transmission apparatus of governmental utilities, provided that the erection of a highway or utility easement across a parcel of land, shall not, in and of itself, be deemed to subdivide the remaining land into 2 or more lots or sites for conveyance for development purposes in the absence of subdivision approval under this title. For purposes of this subparagraph, "transmission apparatus" shall not include wireless communication facilities.

(b) The erection, installation, or maintenance of poles, structures, conduits and cables, or wires in, under, or across any public highways under RSA 231, or licenses or leases for telecommunication facilities in, under, or across railroad rights of way. For purposes of this subparagraph, "structures" shall not include wireless communications facilities.

IV. In the event of exigent circumstances where the delay entailed by compliance with this section would endanger public health or safety, the governor may declare a governmental use exempt from the requirements of this section.

Source. 1996, 262:1. 1998, 281:2. 2007, 29:1, eff. May 14, 2007; 361:32, eff. July 17, 2007.

March 21, 2024

Nathan Reichert, Director of Planning & Development
City of Lebanon
51 S. Park Street
Lebanon, NH 03766

**RE: Proposed Zoning Amendment
Governmental Uses; Section 214**

Mr. Reichert:

This is a preliminary legal opinion as required by Section 1000.3(B)(2) of the Lebanon Zoning Ordinance concerning a proposed amendment to revise Section 214 ("Governmental Uses"). The proposed amendment would provide that "governmental uses" as defined in RSA 674:54, whether by the City or by another governmental entity, are subject to the process in RSA 674:54. Uses by the City which do not constitute governmental uses would be fully subject to the provisions of the Zoning Ordinance unless the City Council voted to make a particular use exempt.

I have reviewed the following documents in connection with this opinion:

- Proposed amendment language dated March 11, 2024
- Staff Memo to City Council provided March 20, 2024 regarding the requested amendment

The Ordinance requires this legal review to cover: (a) whether such amendments are within the authority delegated to the City under State law; (b) whether the form is appropriate; and (c) whether, from an administrative point of view, the amendments can be administered and enforced.

My answer to the three questions in Section 1000.2.B(2) is "yes" and I discern no legal or administrative issues of concern with that request.

Please do not hesitate to contact me about any aspect of this.

Sincerely,



C. Christine Johnston

1 **Map 10, Lot 11, Plot 100), zoned IND-L do not have the potential for regional impact. The**
2 **motion was seconded by Patrick Kennelly.**

3
4 ***The MOTION was approved (7-0).**

5
6 **3. STUDY ITEMS**

7
8 **A. Review and Comment for the Proposed Zoning Amendment for Section 214**
9 **(Governmental Uses) of the Zoning Ordinance**

10
11 Mr. Corwin said Section 214 (Governmental Uses) of the zoning ordinance currently states that
12 governmental use projects are (by default) subject to the zoning ordinance unless exempted by
13 the City Council. He said some recent public works projects that have a general benefit to the
14 City have had impacts on adjacent properties that triggered review by the Zoning Board of
15 Adjustments under the City's wetlands regulations. He said the additional review/approval
16 process creates delays and additional costs, particularly when the City Public Works employees
17 are not aware that the review is needed and must get the wetlands permit after work has started.
18 He said the Planning Department also had to get a wetlands permit for an Airport expansion
19 project that was well underway, which he said added more than \$16,000 to that project.

20
21 He said the proposed zoning amendment would exempt Public Works projects that are for the
22 public good from compliance with the City's zoning ordinance. He said these projects would still
23 require state wetland approval and all other state and local regulations if the zoning ordinance is
24 changed.

25
26 The group discussed the differences between the City's and the state's wetlands regulations. Mr.
27 Corwin said the City requires a 150-buffer to be maintained for all wetlands areas and the state
28 does not. He noted that wetlands impacts identified on projects are reviewed by the Conservation
29 Commission. He said the City Council can vote to grant an exemption of the zoning ordinance
30 for these projects. Chair Faunce said that Lebanon and Nashua are the only New Hampshire
31 cities that require local ZBA review. Mr. Corwin noted that public improvement projects provide
32 ample chances for public hearing through public hearings.

33
34 The group discussed how detrimental this additional level of review might be to Public Works
35 projects. Mr. Ford Burley asked, if the Board decides in favor of amending the zoning ordinance,
36 if that decision could be revisited in 24 months, so the impact of the decision could be assessed.
37 Mr. Corwin said that could be included in the Board's recommendation to the City Council.

38
39 **A MOTION was made by Richard Ford Burley that the Planning Board authorizes the**
40 **Planning Board's City Council Representative to convey that, in the Planning Board's**
41 **discussion of the proposed Zoning Amendment [to Section 214 (Governmental Uses)], the**
42 **Members expressed concerns over the potential impact of removing a step in the regulatory**
43 **review process, and suggested that, if the City Council were to pass the proposed amendment,**
44 **it should revisit the language of Section 214 in no more than two years' time, taking into**
45 **account any new data that arises. The motion was seconded by Jeremy Rutter.**
46

Roll Call Vote:**Voting in Favor –Mr. Faunce, Mr. Ford Burley, Mr. Hill, Mr. Kennelly, Mr. Rutter****Voting Against – Ms. Romano****Abstaining from the Vote: Ms. Zook*****The MOTION was approved (5-1, with Ms. Zook abstaining).****B. Master Plan Discussion**

Ms. Hembree gave an overview of the current Master Plan update process, and the group reviewed the outline and update timeframes of the Master Plan Chapters. She said the plan is to update a small number of chapters each year and to do a complete rewrite of the Master Plan in 2030. She said the following chapters are under review this year:

- Natural Resources (by the Conservation Commission)
- Energy (by the Lebanon Energy Advisory Committee)
- Economic Development (by the Lebanon Economic Development Committee)

She said each committee can decide how it solicits public input; for example, she said LEAC plans to have a kiosk at the Lebanon Farmers Market to encourage the public to provide input.

The group discussed the importance of the Housing and Land Use Chapters at length, and whether those chapters/sections should be reviewed sooner and before other chapters. Ms. Hembree noted that, since the Housing Chapter will need a complete overhaul, the Planning Department has already begun contacting consultants to help in that effort. Mr. Ford Burley said the Land Use Chapter review needs to start much earlier than 2029. Chair Faunce said Land Use review should be ongoing and the Master Plan should be an interactive, living document. He noted that the public's ability to access and comment on the Master Plan has been a challenge. Mr. Reichert said the City needs to encourage increased and consistent public engagement in the Master Plan process. Mr. Rutter asked if the Board could receive status/updates on the huge housing projects that have been approved by the City Council in recent years.

The group discussed the upcoming Route 120 Corridor Study. Ms. Hembree said there is a Route 120 Corridor Study meeting on April 24 at 5:00pm at DHMC in Auditorium E (3rd Floor), which will include a public charrette.

C. Discussion and Set Public Hearing: Impact Fees

Mr. Corwin provided the following to the Board members:

- Red line comparison of 2024 supportable Impact Fee rates compared with existing Impact Fee rates (adopted in October 2021)
- Impact Fee schedules for 2018, 2016, and 2010
- Community comparison of Impact Fee rates (assembled by consultant Bruce Mayberry) including Thedford, Dover, Newmarket, Rochester, and Salem

1 *Seconded by Mr. Newlove.*

2
3 **The Vote on the Motion was (5-0).*

4
5 **4. STAFF COMMENTS**

6
7 There was a late item added to the agenda relative to City Council seeking advice about a proposed
8 Zoning amendment. Mr. Reichert gave examples of two situations where the City incurred additional
9 expense because the City is required to follow all Zoning Regulations. This amendment allows the
10 City to be exempt from Zoning Ordinance for traditional City functions. Things are not automatically
11 exempt. There is a distinction for traditional use compared to housing on a City property and a new
12 bridge that would still require approval of the Zoning Board because they are not traditional
13 governmental use. The City Council seeks the input of the Zoning Board. Is the code as proposed
14 simple, usable, and interpretable by the Board. Is the amendment understandable and is there
15 anything that is inconsistent. A response is requested this evening.

16
17 The Zoning Board of Adjustment was unanimous in recommending the change.

18
19 **5. ADJOURNMENT**

20
21 *Mr. Katz MOVED to adjourn the meeting at 7:21 PM.*

22 *Seconded by Mr. Newlove*

23
24 **The Vote on the Motion was (5-0).*

25
26 Respectfully submitted,
27 Linda Billings, Recording Secretary

1 included in the site plan. Ms. Hirai noted that the area would be filled before the site plan is
2 provided.

3
4 Chair Riley said she is uncomfortable with the proposal because she said it seems like the plan is
5 trying to separate the impacts of the development of the site from the impacts of filling the
6 wetlands. She said it does not seem like the applicant has shown they have done as much as they
7 can to avoid impacted wetlands as they can. She said perhaps the project should involve three
8 houses instead of five, thereby avoiding wetland impacts.

9
10 The group discussed the condition and age of the water main pipe that exists under Barros Street.
11 They also discussed the slopes and water flow in the area at length.

12
13 Chair Riley asked if the past wetland fill should be included in the total impacts for the area. Mr.
14 Finley said there is no evidence that there have been wetlands that have been previously filled in
15 this area.

16
17 *A MOTION was made by Don Lacey that the Lebanon Conservation Commission*
18 *recommends approval of the City of Lebanon's application at 2 Barrow St, Tax Map 77 Lot*
19 *106 for a minimum impact wetlands application to fill, regrade and stabilize approximately*
20 *945 square feet of wetlands (permanent impact) that exist within an isolated depression on the*
21 *subject property CC-2024-02 (NH DES 2024-00988) with the following additional conditions:*

- 22 • *That DES consider the stability and quantity of the fill proposed to minimize the*
23 *risk of washout relative to possible upcoming major weather events.*
- 24 • *That DES consider whether possible prior wetland impacts from previous activity*
25 *on this property should be taken into account.*
- 26 • *That DES consider the quality and rate of flow of water being discharged from this*
27 *project into the existing wetlands outside the property to the northwest.*

28
29 *The motion was seconded by Ernst Oidtmann.*

30
31 **The MOTION was approved (6-1).*

32
33 At 7:37pm, Chair Riley called for a five-minute break.

34 The meeting resumed at 7:43pm.

35 36 **5. STUDY ITEM**

37 **A. Review and Comment on Proposal to Amend Section 214 of the Zoning Ordinance** 38 **Re: Regulation of Governmental Uses**

39 Mr. Goodwin gave an overview of the proposed amendment, which he noted has been discussed
40 by the Planning Board at a recent meeting. He said the current zoning ordinance provides that
41 government projects are subject to local regulations by default. He confirmed that the City
42 Council can exempt municipal projects from local regulations. He said the Planning Board had
43 discussed how the additional level of regulation added extra costs and delays to municipal
44 projects. He said the proposed amendment would exempt municipal projects from local
45 regulation. He noted these projects would still be subject to state regulations.

1 Mr. Hill confirmed that the Planning Board had recommended that the Council accept the zoning
2 ordinance with a review after two years to ascertain the impact of the amendment.

3
4 Chair Riley noted that the draft minutes from the Planning Board meeting when this amendment
5 was discussed included two inaccuracies:

- 6
7 • One of the justifications for amendment was that additional review and approval process
8 creates delays and additional costs particularly when Public Works employees are not aware
9 that the review is needed and must get the wetlands permit after work has started.

10 She said that means City employees need to be better informed and collaborate with other
11 departments and boards before starting projects. She said this has been a goal of the
12 Conservation Commission.

- 13
14 • It was stated that the City requires a 150-foot buffer to be maintained for all wetlands, and
15 that the state does not.

16 Chair Riley said the City of Lebanon has a 100-foot buffer for our high and very high value
17 wetlands.

18
19 The group discussed the environmental protections that have been put in place by the City for
20 more than 15 years, and how supportive Lebanon residents have been of them. They also
21 discussed how removing the local regulation of municipal projects could be detrimental to the
22 protection of wetlands in the City. Mr. Hill noted that, by removing local regulation, there will be
23 no record of any objection that committees such as the Conservation Commission might have to
24 a project.

25
26 Chair Riley read the following letter, which she said she drafted as the Conservation
27 Commission's comments to the City Council regarding the proposed amendment:

28
29 *2024_05_09*

30 *Lebanon Conservation Commission Comments on Proposed Change to Section 214 of the*
31 *Zoning Ordinance*

32
33 *With respect to the proposed change to Section 214 of the Zoning Ordinance, the Lebanon*
34 *Conservation Commission respectfully recommends that the Lebanon City Council vote NO on*
35 *this proposed zoning amendment, and submits the following comments for consideration by the*
36 *Lebanon City Council.*

37
38 *While NH DES has the ultimate say with respect to wetland impacts, the City of Lebanon has*
39 *wisely chosen to enact additional environmental protections in its Zoning Ordinance (ZO).*
40 *Among other environmental protections included in the ZO is a 100-foot protective buffer*
41 *around wetlands designated as high- or very-high-value (HVW). DES has no jurisdiction over*
42 *these protective buffers, even though it is well known that wetland functions and values are*
43 *impacted by the surrounding landscape, not only by the jurisdictionally delineated wetland itself.*
44 *For example, many of the City's wetlands function as seasonal habitat for wildlife that also*

1 *depend on the adjacent upland landscape, or depend on the adjacent upland trees to shade and*
2 *cool the aquatic habitat for certain species.*

3
4 *These protections of HVW and their buffers were implemented by the City as an alternative to*
5 *the State-level designation of Prime wetlands. If Lebanon had gone the route of designating its*
6 *HVWs as Prime, then the State would indeed have jurisdiction over these buffers. The residents*
7 *of Lebanon have entrusted City Staff (including Public Works) and Boards (including the Zoning*
8 *Board) with protecting these important natural resources and we hope the City will continue to*
9 *do so.*

10
11 *The city attorney states:*

12 *The reason we have local government is to provide services and structure that society*
13 *needs. When a government needs to build a road, replace a bridge, operate a wastewater*
14 *treatment facility, build a fire station, expand or renovate City offices, develop a park,*
15 *etc., such projects are all intended to directly or indirectly benefit the public. The*
16 *legislature recognized that government can't be subjected to all of the same regulations*
17 *as private developers because, if it is, government can't function in the way that we all*
18 *need it to.*

19
20 *We would argue that the public good includes the proper adherence to natural resource*
21 *protections built into the City regulations.*

22
23 *The Conservation Commission is not and should not be the sole body striving to protect Natural*
24 *Lebanon. Ideally, city staff, boards, contractors, and consultants should familiarize themselves*
25 *with the City's rules and resources and protections from the outset. Exempting public*
26 *infrastructure from these protections will only lead to a further disconnect from the residents of*
27 *the City who have said time and time again that they value wildlife and wetlands and open space.*

28
29 *Rather than pursuing this zoning change, the Lebanon Conservation Commission instead*
30 *respectfully requests that it be consulted earlier on in the process of project development in*
31 *order to provide meaningful comment and avoid costly confusion and delays. Furthermore, we*
32 *request more opportunities to collaborate with the various city departments on the numerous*
33 *natural resource priorities and initiatives spelled out in the Master Plan.*

34
35 *The Lebanon Conservation Commission respectfully recommends that the Lebanon City Council*
36 *vote NO on this proposed zoning amendment.*

37
38 ***A MOTION was made by Brandon Hill that, with respect to the proposed change to Section***
39 ***214 of the Zoning Ordinance, the Lebanon Conservation Commission respectfully***
40 ***recommends that the Lebanon City Council vote no on this proposed zoning amendment and***
41 ***submits the letter dated May 09, 2024 written and read by Chair Sarah Riley, as the reasons***
42 ***why. The motion was seconded by Don Lacey.***

43
44 ****The MOTION was approved (7-0).***
45

**Agenda
Lebanon City Council
June 5, 2024**

10. New Business:

10.G – Discussion of Proposed Acquisition of Westboro Yard

Background

For nearly 25 years, the City of Lebanon has pursued acquisition of portions of the Westboro Yard property from the NH Department of Transportation (NHDOT). As of last summer, the City and State had reached a conceptual agreement on the prospective boundary of the lands proposed for acquisition by the City, and the general location of necessary easements between the parties.

On June 2, 2023, the City forwarded a draft Purchase & Sale Agreement to NHDOT for review by the Department and by the Attorney General's Office. In several meetings since the beginning of the year, it has become clear that environmental liability is the primary sticking point preventing a broader agreement on a proposed conveyance. On May 17, 2024, the City received comments and alternative language from NHDOT concerning environmental liability, which were discussed at a meeting on May 28th.

NHDOT's position can be summarized as follows: the State is willing to accept and retain responsibility for the existing Groundwater Management Permit and any future expansion thereof, and for any known contamination of hazardous materials and currently regulated substances across the entire Westboro Yard property, including the portion that would be conveyed to the City. However, the State is not willing to retain responsibility for any unknown contamination or contaminants that might be found at any time in the future and/or for any currently unregulated materials that may become regulated as hazardous materials or regulated substances at any time in the future. In the State's proposal, upon conveyance of the property, the City would assume responsibility and liability for any currently unknown contamination that may be discovered in the future or any currently unregulated substances that may become regulated in the future.

The Council should discuss whether the City is prepared to continue pursuing acquisition of portions of the Westboro Yard property with the State's position on environmental liability in mind.

Action

No action is required by the City Council. This item is for informational purposes only.