FINAL

LEBANON PLANNING BOARD
MEETING ROOM ONE, CITY HALL
OR REMOTE VIA MICROSOFT TEAMS
LEBANNONNH.GOV/LIVE
MONDAY, APRIL 29, 2024, 6:30 PM

MEMBERS PRESENT:	Andrew Faunce (Chair), Jeremy Rutter, Patrick Kennelly, Brandon Hill, Kathie Romano
MEMBERS ABSENT:	Richard Ford Burley (Vice Chair), Karen Zook (City Council Rep)
STAFF PRESENT:	Tim Corwin (Deputy Planning Director), Nate Reichert (Director of Planning & Development/Zoning Admin), Erica Douglas (Solid Waste Manager)

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1. CALL TO ORDER

Chair Faunce called the meeting to order at 6:31pm.

Mr. Corwin reviewed the City's meeting in-person and REMOTE attendance policies and procedures.

Chair Faunce said the group would discuss Agenda Item 3.A. first, which is out of the order of the agenda for this meeting.

3. OTHER BUSINESS

A. Public Hearing Determination Per RSA 674:54 - City of Lebanon Landfill Gas to Energy Project

Mr. Corwin explained that the Planning Board can decide whether to have a public hearing for Government Use projects. He said this project had undergone an extensive public review process in 2020. He said the project has not changed since 2020. Solid Waste Manager Erica Douglas said the City Council held a public hearing on this project recently because the Council reviewed a request for additional funding. She said the project has been publicized in the Valley News and on local TV stations as well.

Ms. Douglas gave an overview of the project, which involves the conversion of methane gas currently burned at the Landfill into power to be used by the City.

The Board Members decided to decline to hold a public hearing for this project.

2. STUDY ITEMS

A. Rules of Procedure Discussion

The group reviewed the current Rules of Procedure information, which was provided in the agenda packet for the meeting. Mr. Corwin asked the group to discuss items that may be unclear, incomplete, or irrelevant.

The following items were discussed:

> 2.2 **ALTERNATE MEMBERS.** Alternate members of the Board shall be appointed by the City Council, by majority vote, upon nomination by the City Manager. Alternate members shall join the regular members in all presentations, public hearings, and discussions except that such alternates may not vote on any proposal or motion before the Board unless so directed by the Chair. In the absence of any regular member, except the ex-officio member of the City Council, the Chair shall appoint an alternate member to fill such vacancy. Said alternate shall then act as a regular member.

Item 2.2 Alternate Members – Mr. Rutter asked why an alternate would not be appointed in the absence of the ex-officio member of the City Council. Mr. Corwin explained that there are three (possible) Board Member alternates that would be appointed for an absent Board Member, and one alternate City Council Representative that would be appointed for the City Council Representative. He noted that there are some inconsistencies between the current make-up of the Lebanon Planning Board (per City Code) and what the statute provides. He said he is going to review the issue with the City's legal counsel.

> 2.4 **ATTENDANCE.** A Board member may be excused for non-attendance of a meeting or hearing for valid reasons if he or she notifies the Chair or Clerk prior to the meeting or hearing. Any Board member may leave the Board chambers for pressing business while in regular session after notice to the Chair.

Item 2.4 Attendance – The group discussed whether non-attendance includes remote attendance, given that remote attendees do not "count" toward a quorum and can only vote on motions if a quorum is present in person.

The group discussed how many unexcused absences should be allowed, and whether members can be removed prior to the end of their term if they are consistently absent from meetings. Mr. Corwin said most boards have a rule that members can be removed if they have three consecutive unexcused absences from meetings. He said a request like this would be made to the City Council by the City Manager.

> 2.5 **TRAINING.** All newly-appointed Board members shall attend one (1) orientation meeting with the Planning and Zoning Director, prior to sitting as a member of the Board, unless waived or extended by the Chair at the request of the Planning and Zoning Director.

Item 2.5 Training – Mr. Corwin said this should be "Planning and Development Director" not "Planning and Zoning Director."

Item 3.2 Duties of the Chair
The group discussed the meaning of the third paragraph and whether it should be removed. They discussed the difference between roll call votes and straw polls. The group agreed to leave the paragraph in because it may be beneficial to record how the Board voted for applicants, and residents. The group agreed that the language of the final paragraph could be revised.

> 3.2 **DUTIES OF THE CHAIR.** The Chair shall call the meeting together, preside over all meetings and hearings of the Board, put all questions to a vote, maintain order, decide all questions of order and procedure, subject to these rules, and shall appoint any committees found necessary to carry out the business of the Board.
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> The Chair may present to the Board such matters as in the Chair's judgment require attention.
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> At the request of any Board member, the Chair shall direct that the yeas and nays be taken and entered on the record on any question before the Board.
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> When the Board has no established rule of parliamentary practice, the Chair shall be guided as nearly as may be by Robert's Rules of Order, which may be simplified by the Chair as deemed necessary and appropriate. In the event of a challenge by a Board member of any modification of Robert's Rules by the Chair, Robert's Rules shall prevail
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> The Chair shall exercise a general supervision over the business, papers, and property of the Board and shall execute all formal documents on behalf of the Board.

Item 3.4 Clerk – Mr. Corwin suggested that the word "Clerk" be changed to "Staff."

The Recording Secretary confirmed that draft minutes must be provided to the City within five business days. The group suggested that "144 hours" should be changed to "120 business hours."

The group discussed the completeness of applicants' materials and how important it is that applicants provide all materials to be reviewed by the Board. A suggestion was made to add "Staff should have agenda packets to the Board Members by the Thursday before the meeting" to this item, and, if the full materials are not provided, the application will be postponed until the following meeting.

> 3.4 **CLERK.** With the approval of the City Manager, the Director of Planning & Zoning, through the Department of Planning & Zoning, shall function as the Clerk for the Board. The Clerk shall administer official correspondence, subject to these rules and at the direction of the Board; shall issue the proper forms, compile all information, maps, and records for the Board's review; shall send all notices required by law; shall keep the minutes of all Board actions and proceedings; shall prepare reports and perform other duties as directed by the Chair; and, shall keep records of its examinations and other official actions.
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> The Clerk shall direct the recording secretary to take complete and accurate minutes, to tape record all meetings, to prepare in writing the official minutes of all meetings; to show the vote of each regular member upon every question, or if absent, disqualified, or failing to vote so indicate; to include in the minutes the names and addresses of all witnesses, a summary of the facts on which the decision is based and the decision rendered; and to deliver to the Clerk within 144 hours the completed document for submission to the Board for acceptance.
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> The Clerk, in consultation with the Chair, shall prepare the agenda for each meeting, provide all supportive documentation, and deliver said materials to each Board member no later than the Thursday preceding any scheduled Monday meeting. The Clerk shall

Ms. Romano noted that the Board rarely (if ever) goes against the staff's recommendation that an application is complete and ready for review, but many times, applicants do not provide all the information they need, and the application discussion is continued at the next (or even more) meeting(s). Mr. Reichert suggested the Board could approve the established calendar and filing deadlines for applicants for the year at the annual meeting.

Item 4.5 Place of Meeting – Mr. Corwin suggested that site visits, which are mentioned in Item 4.5, should have a separate section, which should elucidate how site visits should be conducted, how are questions handled, whether the public can participate, etc.

> 4.5 **PLACE OF MEETING.** Meetings of the Board shall normally be held at City Hall, in the City of Lebanon, or at some other public place in the City of Lebanon, or at the site of a proposed project for the express purpose of inspecting said site as part of the review for a proposed project.

Item 4.6 Open Meetings - Mr. Corwin said this Item should mention RSA 91:A.

> 4.6 **OPEN MEETINGS.** All meetings of the Board and its committees shall be open to the public except as stipulated by State Law.

Items 5.4 Presentations During Public Hearings - The group discussed the idea that perhaps a member of the Staff could provide the Board with the initial overview/presentation of the application. Chair Faunce said this would provide clarity for the Board and Mr. Reichert said it would help provide focus on pertinent issues. The group discussed whether Staff could provide a recommendation on whether the Board should approve the application. Mr. Hill said he felt it is better for the applications to be presented in a neutral way initially and the Board can ask questions to determine Staff opinion.

> 5.4 **PRESENTATIONS DURING PUBLIC HEARINGS.** The Chair shall request that before the start of each Public Hearing a representative of the proposal give a brief presentation of the request before the Board. The brief presentation shall be adequate so as to inform all abutters and members of the public as to the nature of the project in order that they may comment on the proposed project.

Item 5.5 Permission to Address the Board – The group suggested the language could be reworded to indicate it should not be required to submit subject matter prior to the meeting for review during Open Discussion, but the Chair could require prior submittal, if desired.

> 5.5 **PERMISSION REQUIRED TO ADDRESS THE BOARD.** Persons other than members of the Board shall not be permitted to address the Board except by consent of the Chair. Anyone wishing to address the Board during Open Discussion should indicate their intent and subject matter to the Chair prior to the meeting. A time limit of 3 minutes shall normally be in effect. The speaker shall not enter into any debate with anyone present and shall speak only to the subject matter indicated. A group may have one person act as its spokesperson and shall follow the same rules.

Items 6.1-6.2
Mr. Corwin suggested that, if the Board is happy with how votes are currently handled, the rule should be rewritten to match how it is currently being done.

> 6.1 **MOTION TO BE STATED BY THE CHAIR.** When a motion is made and seconded, it shall be stated by the Chair before debate. At the request of the Chair or any member of the Board, the motion shall be in writing. A motion may not be withdrawn or amended by the mover without the consent of the second.
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> 6.2 **MAJORITY VOTE REQUIRED.** Determinations on any matter before the Board shall require the concurrence of a majority of the regular members present.

The group agreed that Item 6.2 is unclear and confusing and should be rewritten. Mr. Corwin said if a quorum is five members, then at least five in-person members need to be present. In that case, he said three members would be considered the majority.

Item 6.4 Conflicts of Interest –
Mr. Reichert said this item should include references from the City's ethics training (which was provided by the City Manager) regarding how it should handle conflicts of interest.

> 6.4 **CONFLICT OF INTEREST or PREJUDGEMENT.** In accordance with RSA 673:14, no Board member shall participate in deciding or shall sit upon the hearing of any question if that member has a direct personal or pecuniary interest in the outcome which differs from the interests of other citizens, or if that member would be disqualified for any cause to act as a juror upon the trial of the same matter in any action at law.

Item 6.6 Extension of Time -
Mr. Reichert suggested this item needs to be rewritten to better reflect the Planning Board's current procedures regarding extensions of time for deliberation on applications.

6.6 **EXTENSION OF TIME.** Any three Board members may request an extension of time before voting on any proposal before the Board. If such an extension is requested, the Board shall schedule a special meeting not more than two weeks from the date of the request to take action on the proposal or otherwise such special meeting may be scheduled for a date agreeable by all requestors. There shall be no new business placed on the agenda of any special meeting scheduled under this section.

Item 7.2 Definition of Committee -
Mr. Reichert suggested this definition should match the description of the function of committee discussed earlier in the document.

7.2 **DEFINITION OF COMMITTEE.** A group of Board members delegated by the Chair to perform a function.

Item 7.5 Committee Chair –
The group agreed to rewrite this item.

7.5 **COMMITTEE CHAIR.** The first Board member named on the Committee shall be the Chair thereof.

Item 8.3 Activities Between Meetings-
The group discussed instances where this might happen. Ms. Romano noted that members would be required to present research they have done outside of the meeting. Mr. Reichert said, if a board member attains evidence or information that may affect the judgment on the application, they are required to disclose it and enter that into the record. Mr. Hill said there should be general guidelines added to clarify what kind of information should be disclosed.

8.3 **ACTIVITIES BETWEEN MEETINGS OF INDIVIDUAL MEMBERS.** Individual Board members may, between meetings, prepare drafts of motions or other potential Board actions. They may also research or investigate general or specific factual issues. However, if the research pertains to a case, the Board member shall, at the public hearing, report all findings to the Board, and parties to the case shall be given a meaningful opportunity to respond.

Item 8.4 Distributions -
The group discussed how to communicate via email outside of meetings. Mr. Hill explained how he is handling conveying information to the Conservation Commission members for a Trail Maintenance project that he is working on. He said no discussion about his reports has been generated between committee members or himself. Mr. Reichert said it is probably a better practice to communicate this kind of information via the Planning Department Staff, and the group agreed that should be added to the language of this Item.

8.4 **DISTRIBUTIONS.** A Distribution may be made to any number of Board members, so long as it does not become an Exchange. Whenever a Board member makes a Distribution concerning a pending or future case and it involves a quorum of the Board (counting all senders and recipients):
A. A copy shall be forwarded to the Director of Planning & Zoning, who shall determine, under RSA 91-A or other applicable law, whether the Distribution is subject to public disclosure and shall place the copy in the appropriate file;
B. The Board member making the Distribution shall report on it, and its contents, at the public hearing on the case unless the information is exempt from disclosure under RSA 91-A; and,
C. Parties to the case shall be given a meaningful opportunity to respond to the information in the Distribution.

Item 8.5 Exchanges – The group discussed whether a quorum is based on the number of meeting members present, or the total number of Board Members. Mr. Corwin said the quorum is five members for the Planning Board.

8.5 **EXCHANGES.** Exchanges involving a quorum or more of the Board or of any Planning Board Committee are prohibited. Such Exchanges shall be considered deliberations and shall occur only at meetings noticed in accordance with RSA 91-A. An Exchange pertaining to any activity allowed under Subsection 8.3 is permitted if the number of Board or Committee members involved is less than a quorum; however:
A. Each Board member involved shall be responsible for preventing the number of members involved from reaching a quorum;
B. Information discussed in, or generated by, an Exchange between Board members shall not be subject to further Distribution; and
C. No Exchange shall include any vote or straw vote, or any Ex Parte Communication.

The group discussed the importance of engaging more residents to serve on committees to ensure enough members are available at each meeting to achieve a quorum. Ms. Romano suggested an article in the Valley News to encourage participation.

The group discussed at length whether discussions can be had between Board members outside a meeting. Mr. Rutter and Ms. Romano said they have been chastised in the past if they discussed anything about an application after a meeting when a quorum was not present. Mr. Corwin said that rule will stand but there could be more details added to the rules regarding the type of discussion that can be had. He said an application can be discussed if it is closed.

Rules of Decorum -
The group discussed situations where staff or Board members have been verbally attacked by applicants/residents during the deliberation of an application, which should never be allowed. Mr. Reichert asked the Board members to speak to anyone who launches a verbal attack in a meeting to curtail that behavior immediately.

3. APPROVAL OF MINUTES
None

4. ADJOURNMENT

A MOTION was made by Brandon Hill to adjourn the meeting at 9:26pm. The motion was seconded by Jeremy Rutter.

****The MOTION was approved (5-0).***

The meeting was adjourned at 9:26pm.

Respectfully submitted,
Paula Roux
Recording Secretary