



**LEBANON CITY COUNCIL
JUNE 16, 2021 - 7:00 PM
COUNCIL CHAMBERS, CITY HALL OR
REMOTE VIA VIRTUAL PLATFORM
LEBANONNH.GOV/LIVE**

1. Call to Order

To participate in this meeting, please [join live via WebEx](#) or call 415-655-0001 (access code: 1325 59 6080). If you have trouble accessing this meeting, please [email Shaun Mulholland](#).

B. The June 16, 2021 Lebanon City Council Meeting is hereby called to order.

2. Pledge of Allegiance

3. Public Forum Announcement by the Mayor

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

4. Open to the Public

5. Recognitions: None

6. Approval of Minutes

A. A MOTION TO approve the minutes as presented in the June 16, 2021 agenda packet

7. Appointments

A. Library Board of Trustees, Tina Van Kley (Alternate Member)

8. Public Hearing Items

A. MID-GRANT UPDATE HEADREST REHABILITATION PROJECT – A public hearing for the purpose of receiving public input and apprising Lebanon residents on the progress of the rehabilitation project of the Headrest Facility at 14 Church Street, Lebanon.

- 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. CDBG APPLICATION AMENDMENT HEADREST REHABILITATION PROJECT – A public hearing for the purpose of receiving public input and taking action on a proposed Housing and Public Facilities grant application amendment for up to \$63,677 in CDBG funds (to be sub-granted to Headrest); and to authorize the City Manager to sign, submit, and execute any documents which may be necessary to effectuate the

CDBG application amendment.

- 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

- A. Presentation of Second Reading to Amend Ordinance #18, Salary Plan as follows:
 - 1. Amend Article II, Non-Affiliated & LPASE Employees, Section A - Regular Full-time and Part-time Benefit Eligible Positions to reclassify the position of Human Services Director from a Grade 10 to a Grade 12; and to add the position of Deputy Assessor (Grade 9).
 - 2. Amend Article II, Non-Affiliated & LPASE Employees, Section B – Seasonal/Temporary & Stipend Employees to increase the wage ranges for Seasonal Laborers and CDL Seasonal Drivers.
- B. Rescission of Prior Funding Authorization & Appropriation for 2017 WWTP Underground Fuel Storage Tank in the amount of \$6,440
- C. Action to Rescind Emergency Ordinance #2020-11, Face Masks

10. New Business

- A. Warrant for Civil Forfeiture Notice
- B. Approval of “Juniper Circle” as the street name for the roadway to serve a 309 unit residential development at 401 Mount Support Road, Lebanon
- C. Discussion & Direction to City Administration: Preparation of Regulations to Permit Natural Burials in Old Pine Tree Cemetery
- D. Discussion & Set Public Hearing for July 7, 2021: Ordinance #2021-05 to amend City Code Chapter 68, Fees, Article III, Miscellaneous Fees, §68-15, Enumeration of Fees to correct the water rate charge approved as part of Ordinance #2020-20 for a four-inch water meter
- E. Authorization for the City Manager to enter into a lease agreement with Townsend Family Trust for property to house a tower anchor and guy wire for a communication tower at 125 Storrs Hill Road, Lebanon
- F. Request by Rock Ridge Lebanon, LLC for an abatement of Sewer Development Charges pursuant to City Code Chapter 136, Sewer Service, §136-124

11. City Manager Report

12. Council Representatives to Other Bodies Report

13. Future Agenda Items

14. Non-Public Session

15. Adjournment

Lebanon City Council Agenda
June 16, 2021

Meetings are open for in-person and remote attendance. Members of the public who 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 visit LebanonNH.gov/Live for full details.

FUTURE BOARD/COMMITTEE/COMMISSION APPOINTMENTS

Board/Committee: Heritage Commission
Position: City Historian
Applicant: C. Porter
Assigned Councilor: K. Hill
Reassigned Date: 5/26/2021

Board/Committee: Heritage Commission
Position: City Historian
Applicant: N. Burling
Assigned Councilor: C. Below
Reassigned Date: 6/1/2021

Board/Committee: Heritage Commission
Position: Regular
Applicant: M. Smith
Assigned Councilor: G. Sykes
Reassigned Date: 5/27/2021

Board/Committee: Conservation Commission
Position: Alternate
Applicant: M. Smith
Assigned Councilor: K. Zook
Reassigned Date: 5/27/2021

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

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

JULY 7, 2021

PUBLIC HEARING ITEMS:

- A. AMEND ORDINANCE NO. 18, SALARY PLAN – A public hearing for the purpose of receiving public input and taking action to Amend Ordinance #18, Salary Plan as follows:
1. Amend Article II, Non-Affiliated & LPASE Employees, Section A - Regular Full-time and Part-time Benefit Eligible Positions to reclassify the position of Human Services Director from a Grade 10 to a Grade 12; and to add the position of Deputy Assessor (Grade 9)
 2. Amend Article II, Non-Affiliated & LPASE Employees, Section B – Seasonal/Temporary & Stipend Employees to increase the wage ranges for Seasonal Laborers and CDL Seasonal Drivers.

NEW BUSINESS:

- A. Review and discussion of Proposed Open Space Plan.
- B. Review and Adoption of City Council Policy CC-105, Community Revitalization Tax Relief Incentive Program Guidelines.
- C. Presentation & Discussion of Proposed Amendment to City Council Rules, Section A191-5, Robert's Rules of Order
- D. Discussion & Set Public Hearing for July 7, 2021: Ordinance #2021-06 to amend City Code Chapter 31, Boards, Committees & Commissions to establish a Diversity, Equity & Inclusion Commission

JULY 19, 2021 – SPECIAL MEETING:HOUSING

JULY 21, 2021

OLD BUSINESS:

- A. Action to adopt amendment to Council Rules, Section A191-5, as presented on July 7, 2021

NEW BUSINESS:

- A. Annual review and re-adoption of Cash Management & Investment Policy (Tentative)
- B. Annual review of Fund Balance Policy (Tentative)

- C. Annual review of Capital Reserve Fund Policy (Tentative)
- D. Review and Discussion of 2021 2nd Quarter Budget Reports and Release of Public Schools Impact Fees

**AGENDA
LEBANON CITY COUNCIL
JUNE 16, 2021**

6. ACCEPTANCE OF MINUTES:

MINUTES TO BE ACCEPTED

- June 2, 2021 (Regular Meeting)

MOVED, to approve the minutes as presented in the June 16, 2021 agenda packet.

DRAFT

**LEBANON CITY COUNCIL
MINUTES, REGULAR SESSION
Wednesday, June 2, 2021, 7:00 p.m.
Remote Via Webex: [LebanonNH.gov/Live](https://lebanonnh.gov/Live)**

MEMBERS PRESENT: Mayor Tim McNamara, Assistant Mayor Clifton Below, Erling Heistad, Karen Liot Hill, George Sykes, Douglas Whittlesey, Devin Wilkie, Jim Winny and Karen Zook

MEMBERS ABSENT: None

STAFF PRESENT: City Manager Shaun Mulholland, Deputy City Manager Paula Maville, Deputy City Clerk City Clerk Lori Gould, Assistant City Clerk Alesia Williams, City Manager Executive Assistant Beth Beraldi, Director of Planning & Development David Brooks, Airport Director Carl Gross, Recreation, Arts & Parks Director Paul Coats, GIS Coordinator Mark Goodwin, City Consultant Shelley Hadfield

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

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

All Councilors attending the meeting remotely are listed above.

2. PLEDGE OF ALLEGIANCE: Mayor McNamara led the Council in the Pledge.

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

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

5. RECOGNITIONS: NONE

6. ACCEPTANCE OF MINUTES:
- May 5, 2021 (Non-Public Session)
- May 19, 2021 (Special Meeting)
- May 19, 2021 (Regular Session)

*Councilor Heistad MOVED to approve the May 5, 2021 (Non-Public Session), the May 19, 2021 (Special Meeting, and the May 19, 2021 (Regular Session) minutes as written and presented in the June 2, 2021 City Council agenda packet.
Seconded by Councilor Liot Hill.*

Roll Call Vote:

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

None voted Nay.

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

7. APPOINTMENTS:

- Economic Development Commission, Johanna Cicotte (Citizen Representative)

Councilor Whittlesey put forth the NOMINATION of Johanna Cicotte as a Citizen Representative to the Economic Development Commission. Two Year Term (6/21 – 6/23)

Roll Call Vote:

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

None voted Nay.

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

8. PUBLIC HEARING ITEMS:

- A. SPECIAL ASSESSMENT DISTRICT MOUNT SUPPORT ROAD/LAHAYE DRIVE – A public hearing for the purpose of receiving public input and taking action to establish a special assessment district to pay for traffic improvements at the intersection of Mount Support Road and Lahaye Drive, Lebanon.**

For complete details, please see the following documents that were included in the agenda packet:

1. April 12, 2021 Memorandum from David Brooks, Planning & Development Director, re: Proposed Mount Support Road Special Assessment District
2. Map of Mount Support Road – Special Assessment District, dated May 19, 2021
3. Property Owner Spreadsheet for Mount Support Road – Special Assessment District, dated May 19, 2021
4. City Code Chapter 147 – Special Assessment Procedure
5. Notice of Public Hearing as Published in the May 22, 2021 Edition of the Valley News

Information available but not included in this Section:

1. City of Lebanon Charter, Section C419:57 - Special Assessments - Council Resolutions
2. NH RSA 52-A – Special Assessment Districts

Councilor Whittlesey recused himself from this discussion/vote.

Planning & Development Director David Brooks came forth representing the above Special Assessment District and shared a map and reviewed the background on this project.

During the course of Planning Board review for several large development projects along Mt. Support Road in the last 12-18 months, traffic studies prepared on behalf of the applicants have highlighted that the intersection of Mt. Support Road and Lahaye Drive is approaching its operational capacity overall and that certain turning movements are already over capacity and failing from a transportation standpoint. In response, the Planning and Public Works Departments worked jointly to prepare a capital improvement project proposal to determine the improvements required to address the existing deficiencies and future operating needs at the intersection.

In December 2020, the City Council approved a capital project for the initial design and permitting phase for traffic and transportation improvements at the intersection. The source of funding for the project was

1 to come from a Special Assessment District to be created, which would be comprised of properties that
2 would be specially benefitted by the proposed improvements.

3
4 Pursuant to NH RSA 52-A, Special Assessment Districts are districts in which public facilities and
5 services are to be provided and in which special assessments and charges may be levied and collected to
6 pay for those public facilities and services. Pursuant to Chapter C419:57 of the City of Lebanon Charter,
7 the City Council has the power to determine that the whole or any part of the expense of any public
8 improvement shall be defrayed by special assessments upon the properties especially benefitted and shall
9 so declare by resolution.

10
11 On March 30th, the Planning and Development Department hosted a Community Conversation with
12 potentially affected property owners and provided an overview presentation of the reasons for proposing
13 the District, the methodology for calculating each property's proportionate share, the anticipated capital
14 improvements needed for the intersection, and the additional steps necessary to create and implement the
15 proposed District. On May 5th, the Planning and Development Department provided a similar
16 presentation to the City Council.

17
18 **Councilor Sykes arrived remotely at 7:15 PM.**

19
20 **Mayor McNamara opened the Public Hearing. Hearing no comments from the public, the Public**
21 **Hearing was closed.**

22
23 **ACTION:**

24 ***Councilor Liot Hill MOVED the following:***

25
26 **RESOLUTIONS:**

27
28 ***1. INITIATION OF SPECIAL ASSESSMENT DISTRICT PROCESS***

29
30 ***FOR THE PURPOSE OF*** initiating the process to create a Special Assessment District under
31 Chapter 147 of the City Code to propose that the expense of design and permitting of traffic and
32 transportation improvements in and near the intersection of Mt. Support Road and Lahaye Drive
33 in the Mount Support Road Special Assessment District shall be paid in whole by a special
34 assessment levied upon the properties which shall receive such special benefit.

35
36 ***NOW THEREFORE BE IT RESOLVED,*** by the City of Lebanon, that on May 5, 2021, the City
37 Manager and the Planning and Development Department presented plans, specifications, and
38 estimated costs for the proposed public improvements, and prepared a special assessment list
39 containing all properties on which the special assessment is to be levied, and informed the City
40 Council as to the completion of such actions, for the purpose of enabling the Council to schedule a
41 public hearing on the proposal.

42
43 ***2. ESTABLISHMENT OF MOUNT SUPPORT ROAD SPECIAL ASSESSMENT DISTRICT***

44
45 ***FOR THE PURPOSE OF*** declaring that the expense of design and permitting of traffic and
46 transportation improvements in and near the intersection of Mt. Support Road and Lahaye Drive

in the Mount Support Road Special Assessment District shall be paid in whole by a special assessment levied upon the properties which shall receive such special benefit.

WHEREAS plans, specifications and estimated costs of the proposed public improvement have been obtained or estimated and such documents and information have been made available for public inspection; and

WHEREAS a public hearing upon the proposal was held on June 2, 2021, following proper notice to the public and to all owners of property to be part of the Special Assessment District.

NOW THEREFORE BE IT RESOLVED that a Special Assessment District to be known as the “Mount Support Road Special Assessment District” is herewith established for the purpose of funding the design and permitting 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 | Alfred P. & Lorelee S. West, Jr. |
| • 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 10 | Pat Lumber Jack, Inc. |
| • Map 24, Lot 9 | Sylvia D. Lahaye Estate |
| • Map 24, Lot 7 | Upper Valley Supportive |

NOW THEREFORE 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

1 **Dartmouth Hitchcock Medical Center Expansion, prepared by VHB, dated November 2019; the**
2 **Traffic Impact Assessment for the Dartmouth College/Michael's Student Living residential**
3 **development, prepared by VHB, dated February 7, 2020; the Traffic Impact Assessment for Saxon**
4 **Partners (The Marek at Lebanon, NH) residential development, prepared by VHB, dated February**
5 **28, 2020; and the Traffic Impact Study for Ivy Commons (now known as Timberwood Commons),**
6 **prepared by RSG, dated July 2007; as well as trip generation information published by the**
7 **Institute of Transportation Engineers (ITE). The methodology and calculations for each property's**
8 **proportionate share shall be consistent with the plan that was presented to the Lebanon City**
9 **Council on May 5, 2021 by the Planning and Development Department, including the proportionate**
10 **share attributable to the City of Lebanon. Such calculations shall be adjusted to reflect the prior**
11 **contribution of Dartmouth-Hitchcock Medical Center in the amount of \$10,011.00 for conceptual**
12 **design work for the intersection of Mt. Support Road and Lahaye Drive, which has been provided**
13 **to the City to advance the proposed public improvements.**

14
15 ***NOW THEREFORE BE IT FURTHER RESOLVED*, that each time the Lebanon Planning Board**
16 **grants final approval for new development of property within the Mount Support Road Special**
17 **Assessment District, subsequent to the establishment of the District and prior to the actual expense**
18 **of the proposed public improvements being fully repaid to the City, the proportionate share of**
19 **traffic through the Mt. Support Road/Lahaye Drive intersection shall be recalculated using the**
20 **same methodology consistent with the plan presented to the Lebanon City Council on May 5, 2021**
21 **and incorporating the projected traffic generated from such new development. The new**
22 **proportionate share calculations shall be reflected in the next installment of special assessments to**
23 **each property in the District and shall apply to the remaining balance of appropriated funds.**

24
25 **3. TO TRANSFER THE SUM OF \$250,000 FOR DESIGN AND PERMITTING OF TRAFFIC**
26 **AND TRANSPORTATION IMPROVEMENTS IN AND NEAR THE INTERSECTION OF MT.**
27 **SUPPORT ROAD AND LAHAYE DRIVE IN ANTICIPATION OF FUTURE CONSTRUCTION**
28 **TO BENEFIT PROPERTIES COMPRISING THE MOUNT SUPPORT ROAD SPECIAL**
29 **ASSESSMENT DISTRICT; AND TO IMPOSE A SPECIAL ASSESSMENT FOR THE**
30 **PROPOSED PUBLIC IMPROVEMENTS**

31
32 ***FOR THE PURPOSE OF* authorizing expenditures for costs in connection with the design and**
33 **permitting of traffic and transportation improvements in and near the intersection of Mt. Support**
34 **Road and Lahaye Drive benefiting those properties comprising the Mount Support Road Special**
35 **Assessment District, with such costs consisting of, but not limited to, engineering design, permitting**
36 **fees, and all other related costs; and**

37
38 ***FOR THE FURTHER PURPOSE* of imposing a special assessment for the proposed public**
39 **improvements.**

40
41 ***NOW THEREFORE BE IT RESOLVED*, by the City of Lebanon, that funds be transferred in the**
42 **amount of \$250,000.00 (TWO HUNDRED FIFTY THOUSAND DOLLARS), from the City's**
43 **General Fund Unassigned Fund balance to the Mt. Support Road/Lahaye Drive Intersection capital**
44 **improvement fund, supported in its entirety through a special assessment apportioned among the**
45 **properties comprising the Mount Support Road Special Assessment District, including the**
46 **proportionate share attributable to the City of Lebanon, with said special assessment not exceeding**
47 **the actual cost of the design and permitting work voted to be paid by the special assessment.**

NOW THEREFORE BE IT FURTHER RESOLVED that the City Manager, after completion of the design and permitting 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, engineering design, permitting fees, 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 10 equal payments over a period not to exceed 5 years. Such special assessments shall be included as part of each property's semi-annual tax bill beginning with the July 2021 tax bill.

NOW THEREFORE 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 Assistant Mayor Below.

Roll Call Vote:

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

None voted Nay.

Recused: Councilor Whittlesey

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

Councilor Whittlesey returned as regular member of the City Council.

B. SUPPLEMENTAL APPROPRIATION LEBANON RUSTY BERRINGS SKATEPARK

A public hearing for the purpose of receiving public input and taking action to appropriate \$15,000 for final phase improvements at Lebanon Rusty Berrings Skatepark and to authorize disbursement of \$15,000 in Recreation Arts & Parks Impact Fees as the means to pay for the work.

Included in the agenda packet: April 26, 2021 memo from Paul Coats, Recreation, Arts & Parks Director re: Authorization for disbursement of impact fee funds for Skatepark Final Phase Improvements

City Manager Shaun Mulholland came forth representing the above request, noting the phased improvements to the Lebanon Rusty Berrings Skatepark have been ongoing since 2017 as part of the Skatepark Redevelopment Capital Improvement Project. Final phases of the planned improvements are underway and include adding a transition into the park from the parking lot, removing prefabricated concrete retaining wall blocks and replacing them with a skateable retaining wall, adding some retaining walls around some Phase II features (currently experiencing erosion), and landscaping around new features. The total cost for the final phase improvements is \$70,000.

Friends of Lebanon Recreation are financing \$55,000 of the total cost, leaving a balance of \$15,000 to complete the project. Ample funds exist in the Recreation Arts & Parks Impact Fee account which Administration is requesting be utilized to fund the \$15,000 balance.

As this is an appropriation after the adoption of the 2021 Municipal Budget, Council action is required. Transfer of existing funds from the Recreation Arts & Parks Impact Fee account to the Skatepark Redevelopment Capital Improvement Project will have no adverse impacts on the tax rate.

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

ACTION:

Councilor Sykes *MOVED* the following:

***RESOLVED*, by the City of Lebanon, that funds, in the amount of \$15,000 (Fifteen Thousand Dollars), be appropriated for expenditure from the Capital Improvements Fund for final phase improvements at Lebanon Rusty Berrings Skatepark to be paid for by Recreation Arts & Parks Impact Fees.**

***BE IT FURTHER RESOLVED*, by the City of Lebanon, that funds, in an amount not to exceed \$15,000 (Fifteen Thousand Dollars), be disbursed from the Recreation Arts & Parks Impact Fees Fund to the Skatepark Redevelopment Capital Improvement Project for the purpose of financing final phase improvements at Lebanon Rusty Berrings Skatepark.**

This Resolution shall be effective upon passage.

Seconded by Councilor Wilkie.

Roll Call Vote:

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

None voted Nay.

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

C. ACCEPTANCE OF DEDICATION OF SEGMENT OF AIRPARK ROAD

A public hearing for the purpose of receiving public input and taking action to accept a dedication of a segment of Airpark Road originally dedicated in 1983 and constructed in approximately 2007.

For complete details, please review the March 31, 2021 Memorandum from Planning & Development Director David Brooks that was included in agenda packet:

Planning & Development Director David Brooks came forth representing the above and shared a map depicting the dedication of the segment of Airpark Road for the public and Council's review.

The City Council was requested to accept the dedication of an existing segment of Airpark Road, originally dedicated in 1983 and constructed in approximately 2007 to provide access to the Magic Bird facility (now Big Green Aviation). This segment of right-of-way extends from the intersection of Commerce Avenue to the northern boundary of the Airport TIF parcel and is shown on a plan approved by the Planning Board and recorded in the Grafton County Registry of Deeds as Plan #2039 (attached).

While the dedication occurred in 1983, there is no indication that the Council ever accepted the dedication.

Please see attached memo from Planning & Development Director David Brooks for more information.

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

ACTION:

Assistant Mayor Below MOVED, that the Lebanon City Council hereby accepts dedication of a segment of Airpark Road, constructed in approximately 2007, and shown on a plan titled “Subdivision Plan of Land in Lebanon, New Hampshire,” prepared by Hoyle, Tanner & Associates, Inc., dated June 1978, and recorded in the Grafton County Registry of Deeds on September 30, 1983 as Plan #2039.

Seconded by Councilor Heistad.

Roll Call Vote:

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

None voted Nay.

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

D. POTENTIAL RESCISSION OF OR AMENDMENT TO EMERGENCY ORDINANCE 2020-11, FACE MASKS

A public hearing for the purpose of receiving public input and taking action on the potential rescission of or amendment to Emergency Ordinance #2020-11, Face Masks, originally adopted by the City Council on August 12, 2020.

For detailed information, please refer to the documents below that were included in agenda packet:

1. Emergency Ordinance 2020-11, Face Masks (pages 64-68)
2. Objective Goals in New Hampshire for Continued COVID-19 Mask Wearing (Released by the NH Medical Society April 21, 2021) (pages 69)
3. May 17, 2021 NH Division of Public Health Services Recommendations for People Who Are Fully Vaccinated When Around Others from Outside the Household (pages 70-71)
4. May 18, 2021 Email from James Potter, Executive Vice President/CEO, NH Medical Society re: NHMS Mask Goal (pages 72-73)
5. May 19, 2021 Information from Michael Calderwood, DHMC Chief Quality Officer re: Masking at DHMC (pages 74-76)

Information available but not included in this section:

1. May 5, 2021 City Council Regular Session Agenda
2. State of NH COVID-19 Response Website <https://www.covid19.nh.gov/dashboard>

On August 12, 2020, the City Council adopted Emergency Ordinance 2020-11 relative to requirements of wearing face masks under certain circumstances. The City Manager, in cooperation with the Health Officer and Emergency Management Director, made recommendations to the Council to implement the provisions of 2020-11 due to the impacts of the COVID-19 virus. The ordinance itself details the reasons for implementation of the face mask requirements.

At the May 5, 2021 City Council meeting, the Council was presented with recommendations from the City Manager to:

1. Schedule a public hearing to rescind Emergency Ordinance 2020-11, but not effectuate the rescission until June 30, 2021; and
2. Determine whether the public health situation requires the wearing of face masks through an Emergency Order under the policing powers of the City or whether public health warnings and recommendations are adequate to mitigate the impacts of COVID-19.

At the May 19, 2021 City Council meeting, the Council discussed potential evaluation criteria to be utilized when considering rescission of or amendment to Ordinance 2020-11 and scheduled this public hearing to gather public input in advance of making a decision.

Data was retrieved from the COVID-19 NH.gov Dashboard (<https://www.covid19.nh.gov/dashboard>) for this discussion and was current as of Tuesday, May 25, 2021. (Please refer to graphs on page 62 of the June 2, 2021 City Council agenda packet for this information.)

Assistant Mayor Below came forth to present new data from the NH COVID-19 Response link, but first discussed his proposed amendment to Section 2 of the Mask Ordinance, noting that one of the predicates for the Mask Ordinance was the Governor's Declaration of an emergency due to the pandemic. It has been continually extended up until last Friday, May 28, 2021, at which time the Governor only extended this Emergency Declaration until June 11, 2021.

In thinking about a potential amendment to the Mask Ordinance, he addressed Section 2 of the Ordinance to align this better with the CDC's recommendations about what people who are fully vaccinated can do. Since this was not in the agenda packet, he read what the proposed language should be for Section 2 of the Mask Ordinance as highlighted in red below:

2. Members of the public entering or queued to enter; remaining in or exiting from, any business, governmental or non-profit owned premises including without limitation any outdoor area where business of any sort is conducted, work site, work place, or government building, must wear a face covering, such as a fabric mask, scarf, or bandana over their nose and mouth. This requirement shall also apply to persons traveling on public transportation such as Advance Transit buses. Policies regarding face coverings in governmental buildings within the geographical boundaries of the City of Lebanon adopted by the governmental entity having jurisdiction over such buildings are hereby recognized by this ordinance and shall control in such buildings. Property owners shall have the authority to regulate the requirement to wear masks by any person, while on the premises of their property, by allowing persons to temporarily remove their masks while remaining on the premises when it is practical or becomes necessary to do so based upon the requirements of the services provided. In addition, building owners, operators, managers, lessees, employers, businesses and non-profit organizations, as appropriate, shall have the authority to waive masking and social distancing requirements for employees and volunteers who are known to be fully vaccinated against Covid-19 while within the workplace or building space managed by them, provided however that mask requirements shall not be waived for employees and volunteers who are not fully vaccinated or whose vaccination status is unknown or who are interacting in person with members of the public who are not vaccinated or whose vaccination status is unknown.

Essentially, this allows people who are fully vaccinated in their workplace, if their employer allows it, to operate without masks. If the status is unknown, it does not require that anybody be asked about their vaccination status, nor does it require that anybody volunteer this information. However, if their status is

1 unknown, or if an employee is not vaccinated, or if employees interact with the public, masking would
2 still be required in these indoor spaces under the Ordinance.

3
4 Assistant Mayor Below then reviewed the NH COVID-19 Response link that included the updated points
5 discussed at the last meeting on May 19, 2021. These points touched on where Lebanon is at according to
6 the metrics suggested by the NH Medical Association as listed below:

- 7 1) COVID-19 vaccination levels should reach a community-wide immunity of at least 70%.
8 2) Community spread of COVID-19 should be less than 50 new infections per 100,000 population over
9 the prior 14 days.
10 3) 7-Day PCR test positivity levels should be below 5%.

11
12 This interactive link can be found at: (<https://www.covid19.nh.gov/dashboard>)

13
14 Significant key indicators for Lebanon are as follows:

- 15 • Grafton County is right at 65 per 100K population. If you drill down a little closer, we are also
16 divided by public health regions and the public health regions are a little more specific to what is
17 really the catchment area for Lebanon.
- 18 • We are in the Upper Valley area and Lebanon is down to 29, below that which is recommended
19 by the NH Medical Society. This was a change from last week's numbers, and it continues to
20 drop each time the data is updated.
- 21 • Keene, which repealed their Mask Ordinance some time ago, as well as Claremont have
22 continued to have significantly higher levels of transmission than Lebanon is presently having.
- 23 • The positivity test rate for Lebanon has been quite low for quite a while in the Upper Valley
24 Public Health Region. We have been down to 1% and while the number of tests conducted has
25 been starting to drop off, the positivity rate has continued to drop. Lebanon is well below that 5%
26 indicator.
- 27 • In terms of vaccination rates, it is interesting to note that the way Vermont is tracking it, they
28 have Windsor County at just under 72% who have been vaccinated. This figure used everyone
29 who has at least received one (1) dose. Orange County right now is just under that at 69.4%.
- 30 • In terms of Grafton County, on the COVID Act Now website, their estimation of the percent
31 vaccinated in Grafton County with at least one dose, is 69.4%
- 32 • Lebanon is in the best positioned County in all of the State in terms of all the different metrics,
33 including a very low vulnerability rate at this point. We are not quite there yet, but we are fast
34 approaching it and are now back to where we were at the end of October 2020. We are rapidly
35 seeing a drop off in the number of new infection rates, which means the community transmission
36 is shrinking.
- 37 • The Mayo Clinic uses a ratio for data in New Hampshire for those who are fully vaccinated vs. at
38 least 1 dose ration and estimates that we are pretty close to that 70% level right now. They also
39 use a different indicator, which is actually average daily cases per 100K and using their
40 interactive COVID mapping system, it shows New Hampshire is at the lowest level of
41 community transmission since last summer.
- 42 • The New York Times data also shows that cases per 100K is going down, as well as all the other
43 indicators. Grafton County is leading the State in terms of vaccination levels.

44
45 The issue is that with the expected expiration of the Governor's Emergency Orders on Friday June 11,
46 2021, we are faced with starting Monday, June 14th, 2021 starting with the Planning Board meeting, of
47 going back to in-person meetings, noting the current Ordinance requirements may be difficult to
48 administer with in-person meetings, particularly if we are trying to provide virtual connection for people
49 who can attend remotely. The City Manager, Mayor and Assistant Mayor felt it might be prudent to
50 consider a repeal 48-hours after the Governor's Emergency Order expires, if it is not extended, and that

1 would allow us to get through the weekend of June 12-13 since June 13th is Dartmouth College's
2 graduation. Mayor McNamara noted his understanding is that the Dartmouth College graduation
3 activities will be masked events with social distancing.

4
5 **Mayor McNamara opened the Public Hearing and the following came forth to speak about the**
6 **Mask Ordinance:**

- 7 • Ira Richards (West Lebanon Feed & Supply): His biggest concern is from the perspective of staff
8 who are dealing with this on a daily basis, noting as more things roll back, they are seeing a more
9 aggressive responsive from customers coming into the store. Changing the language as an
10 intermediary step to the rescission will be problematic with enforcement of who has/has not been
11 vaccinated.
- 12 • Derek Tsakiris: He felt the Mask Ordinance was misguided and spoke about a study that just
13 came out in the Annals of Internal Medicine, March 2021: Effectiveness of Adding a Mask
14 Recommendation to other Public Health Measures to Prevent SAR COV-2 Infection in Danish
15 Mask Wearers and noted there is little to no benefit to mask wearing. He asked the Council to
16 end the Mask Ordinance immediately.
- 17 • Ira Richards (West Lebanon Feed & Supply): Asked if there was clarification for protecting
18 businesses by asking clientele if they have been vaccinated, noting he has heard varied opinions
19 on this and questioned if this was an invasion of privacy. City Manager Mulholland stated there
20 is nothing illegal about asking that information; however, there is a bill before the NH State
21 Legislature that would prohibit employers from asking those questions. Right now, there is
22 nothing prohibiting you from asking that question, but there is also no requirement for people to
23 answer that question.

24
25 **Hearing no further comments from the public, Mayor McNamara closed the Public Hearing and**
26 **opened this up for the Council's comments.**

27
28 Councilor Whittlesey: We cannot just look at the Upper Valley, we need to consider the greater Sullivan
29 County and other abutting areas because of the significant commuter population coming to Lebanon from
30 them, noting that Sullivan County's rate of new case per 100K over the last 14 days is at 89, and they are
31 at risk. From a vaccination perspective, Lebanon is at 69.4% first dose and 59% second dose, which is a
32 long way away from 70%. Sullivan County is only at 58% first dose and only 47% have been fully
33 vaccinated. In terms of research studies related to the efficacy of masks, he cautioned that there are very
34 different contexts and environments in comparing the studies of Danish populations vs. studying
35 American populations and read a study done by Annals of Internal Medicine noting their conclusion
36 noting the positive efficacy of universal mask wearing policies did prevent infections and deaths.
37 Rescinding the Mask Ordinance would put an unfair burden on businesses to either enforce, or not to
38 enforce the Mask Ordinance. Even with the mask mandate from the City, we are seeing aggressive
39 actions taken by individuals and if enforcement is left up to the businesses, this could only worsen.

40
41 Councilor Liot Hill: Her concern was about those who are in vulnerable situations, particularly the
42 children, and those who are required as part of their job to interact with the public (i.e., people who have
43 to work in restaurants, retail, and grocery stores). We are talking about public health and life or death
44 situations where many people have died, but not in the City of Lebanon because we have taken a very
45 cautious approach that has contributed to the low levels of COVID-19 relative to the State and to the rest
46 of the country. She was not ready to rescind the Mask Ordinance, noting there are too many vulnerable
47 people at this time, noting vaccines are not even available to a large portion of people in our city. Masks
48 allow the City to open up and re-engage with each other in a way that makes people feel comfortable and
49 safe. It allows for children who are not vaccinated to be able to interact with each other and with other
50 people outside of their family. For mental health, it does not sound like masks have been causing the

1 problem – it is isolation. The City is moving in a very positive trajectory and if we can hold our ground
2 and continue the good work that we have done over the last 14 months we can provide the best protection
3 for our entire community. She encouraged the Council to think about rescinding this mask mandate at a
4 date in the future because it has been so effective. It is not asking too much for people to wear their
5 masks in certain situations so that we can take care and protect our children, the people who have
6 compromised immune systems, and people who must interact with the public in order to earn their living.
7

8 Councilor Zook: From her perspective, she was more comfortable with having the City be the bad guy
9 and questioned if the language in Assistant Mayor Below's proposed amendment to Section 2 could be
10 tweaked where it says: "if the status is unknown," changing it to say "in the situation of being public
11 facing" in order to give those employees a little support as we are transitioning toward a less-masked
12 situation. She wanted to find a middle ground.
13

14 Councilor Wilkie: For some people getting the vaccine is not an option. He understands that we are not
15 quite at the levels to rescind the Ordinance, but are very close. He felt it was important to keep the
16 Ordinance in place until our criteria is reached as set by the NH Medical Society, but also felt people
17 should be made aware that we may reach that point very soon by trying to set an end date that could be
18 reversed if we see a rise in infection rates.
19

20 The Council reviewed and discussed data from different geographic regions surrounding Lebanon.
21

22 Councilor Whittlesey: He noted that Cornish, Claremont, Croydon, Newport, Sunapee, New London,
23 Springfield, and Charlestown are all part of the greater Sullivan County Public Health Region and we
24 have a large number of commuters who come to Lebanon from those areas. He concurred with
25 Councilors Liot Hill and Zook that it is a tradeoff between the health and safety of people who either are
26 not, or who cannot be vaccinated right now vs. the inconvenience of wearing a mask. Keeping people
27 safe is our job, and the number of front-line people who are going to be put at risk by rescinding the
28 Ordinance is huge.
29

30 City Manager Shaun Mulholland informed the Council that there is no requirement, effective this week,
31 to wear a mask at the Farmer's Market, noting this was not part of the Mask Ordinance.
32

33 Councilor Winny: He agreed that we are close to the metrics but are just not there yet. Waiting a little
34 longer would give us some time to see if these numbers are real, noting that in our area 1 or 2 positive
35 cases can swing things more significantly than in a more densely populated area. The public side of this
36 is important since there are people who cannot be vaccinated for various reasons. This is not a case where
37 close is good enough.
38

39 Councilor Heistad: While visiting the hospital last week, he was assured that mask wearing was
40 singularly responsible for saving lots of lives in the United States, particularly among infants. We have
41 made a decision to be data driven and with the only data he knows of that we can look to is that of the NH
42 Medical Society. He supports staying with their criteria points until we have met those requirements.
43

44 Councilor Sykes: He spent much of his adult working life in areas trying to prevent bad things from
45 happening to people. It is clear to him that masks prevent transmission of not just COVID-19, but the
46 general regular flu. It is time for us recognize that erring on the side of caution for a little longer is the
47 right thing to do. He noted that there are a number of people who are afraid to leave their homes because
48 of COVID-19 and rushing into a repeal of this mask mandate would set some of those folks a little further
49 behind in their ability to go back to a regular life. Having to wear a mask is a minor inconvenience to
50 help people feel safe and able to leave their home to participate with their communities as much as
51 possible. He was not ready to rescind the Mask Ordinance at this time, but would happily look at it again.

1
2 The Council continued to discuss vaccinations rates and whether they were for all the eligible populations
3 or an entire population; how vaccination rates were being measured in different ways by different
4 databases; how the CDC, who is compiling this information, does not necessarily know the County
5 people are living in so the numbers may not quite match-up; how expectations for the Farmer's Market
6 are problematic & unfair because mask wearing is not required, which would cause some folks to not feel
7 safe and prevent them from attending; establish and sharing with the public what the data criteria should
8 be before rescinding the Mask Ordinance; establishing geographical areas (Sullivan County in NH and
9 Windsor County, VT) that should be included in the metrics for lifting the mask mandate; the efficacy of
10 masks from the CDC in the prevention/spreading of COVID-19; the difficulty in enforcing the City's
11 mask mandate once the Governor's Emergency Order is dropped; vaccinations from Pfizer/Moderna for
12 children ages 2-11 years and when they might be expected; and, how retailers will potentially face
13 difficulties in enforcing the mask mandate.

14
15 ***Assistant Mayor Below MOVED to amend paragraph 2 of the regulations by adding the following***
16 ***sentence at the end of the paragraph that reads: "In addition, building owners, operators,***
17 ***managers, lessees, employers, businesses and non-profit organizations, as appropriate, shall have***
18 ***the authority to waive masking and social distancing requirements for employees and volunteers***
19 ***who are known to be fully vaccinated against Covid-19 while within the workplace or building***
20 ***space managed by them, provided however that mask requirements shall not be waived for***
21 ***employees and volunteers who are not fully vaccinated or whose vaccination status is unknown or***
22 ***who are interacting in person with members of the public who are not vaccinated or whose***
23 ***vaccination status is unknown."***

24
25 ***Such amendment to be effective immediately upon passage.***

26 ***Seconded by Council Zook.***

27
28 Councilor Whittlesey suggested Assistant Mayor Below adjust his amendment by striking out "who are
29 not vaccinated or whose vaccination status is unknown."

30
31 Assistant Mayor Below agreed to make this change in his Motion.

32
33 Modified Amended Motion:

34 ***Assistant Mayor Below MOVED to amend paragraph 2 of the regulations by adding the following***
35 ***sentence at the end of the paragraph that reads: "In addition, building owners, operators,***
36 ***managers, lessees, employers, businesses and non-profit organizations, as appropriate, shall have***
37 ***the authority to waive masking and social distancing requirements for employees and volunteers***
38 ***who are known to be fully vaccinated against Covid-19 while within the workplace or building***
39 ***space managed by them, provided however that mask requirements shall not be waived for***
40 ***employees and volunteers who are not fully vaccinated or whose vaccination status is unknown or***
41 ***who are interacting in person with members of the public."***

42
43 ***Such amendment to be effective immediately upon passage.***

44 ***Seconded by Council Zook.***

45
46 ***Roll Call Vote:***

47 Assistant Mayor Below, and Councilors Whittlesey, Wilkie, Winny, Zook and Mayor McNamara all
48 voting Yea.

49 Voting Nay: Councilors Heistad, Liot Hill, and Sykes.

50 ****The Vote on the MOTION was approved (6-3).***

The Council decided to wait until their next meeting on June 16, 2021 before making a Motion on the criteria that would be used to determine when the Mask Ordinance would be rescinded.

9. OLD BUSINESS: NONE

10. NEW BUSINESS

A. Discussion with Kathy Urffer of Connecticut River Conservancy re: Federal Energy Regulatory Commission (FERC) Relicensing of Great River Hydro Dam (Connecticut River – Route 10)

For complete details, please refer to the two presentations below that were included in the agenda packet:

1. PowerPoint Presentation: Connecticut River Conservancy – Hydropower in NH & VT: Three dams, two states, one better deal for rivers! (pages 79-103)
2. May 23, 2021 Article by Li Shen “Will Relicensing of Three Hydroelectricity Dams Help With Riverbank Collapse and Fish Passage?” (pages 104-111)

Connecticut River Conservancy River Steward Kathy Urffer shared her presentation and spoke about the Federal Energy Regulatory Commission (FERC) relicensing of the Great River Hydro Dam (Connecticut River –Route 10).

The Wilder, Bellows and Vernon Dam licenses were last licensed in 1979 (licenses usually last for 30-50 yrs. and are known as Green River Hydro, which is owned by ArcLight Capital Partners, LLC).

FERC (Federal Energy Regulatory Commission) relicensing process began October 2012. Studies were conducted between 2014 and 2019 and a “Final” Application was submitted in May 2017. Stakeholder held discussions between May and November 2020, which resulted in significant proposed operational changes and the Amended Final License Application (AFLA) was submitted in December 2020.

The GRH (Green River Hydro) operations proposal is a win for the river because it improves flows to benefit the ecosystem such as the Inflow = outflow as base ops; stabilizes the reservoir; increases baseflows; reduced fluctuations upstream and downstream; reduced rates of change; improves aquatic habitat; will likely reduced erosion on upstream properties and shorelands; increases availability and persistence of downstream habitat; maintains energy & economic value; dams maintain ability to support and respond to regional energy needs and emergencies; and, maintains the company’s flexibility and responsiveness to energy markets

GRH Mitigation Discussions resource that were NOT included in the relicensing application were Recreation, Fish Passage, Erosion, and a Cultural Resources Resource.

Ms. Urffer encouraged everyone to become involved and speak up for your rivers! She can be contacted at: Kathy Urffer River Steward, NH/VT kurffer@ctriver.org 802-258-0413

Councilor Heistad asked if they had a good response from FERC on their proposals (i.e., the bank erosion on the Connecticut River from Claremont up through Wilder). Ms. Urffer said she did come across the 1979 license application and noted there were several people in the area who were instrumental in getting Congress to have the Army Corp. of Engineers do a study to look at the causes of erosion, but that study came out after FERC chose to issue the licenses. She knows erosion has been an issue for over 40 years and was not addressed, but she wants to make sure it is addressed this time around.

1 In response to Councilor Liot Hill's request about sharing examples/mitigation efforts, Ms. Urffer stated
2 she had no good examples from the east coast. They are working on putting together three documents to
3 distribute to towns: 1) Step-by-step "How to make comments;" 2) A template letter that would reference
4 some parts of the Statute; and 3) A document which shows what they have put forth in the application and
5 what CRC would recommend for mitigation. Also, companies can choose to allow this regulatory
6 pathway to move forward, where FERC makes the decision. The other pathway is that a company can
7 choose to enter into a Settlement Agreement where they propose something that would not necessarily be
8 proposed by PERC.

9
10 **Councilor Winny *MOVED* to extend the meeting to 10:30 PM.**
11 ***Seconded by Councilor Heistad.***
12

13 **Roll Call Vote:**

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

16 None voted Nay.

17 ****The Vote on the MOTION was unanimously approved (9-0).***
18

19 Councilor Winny asked about what steps can be taken, other than the FERC process, for the Rail Trail's
20 recreational use, noting that along the Connecticut River there is a portage and a poorly maintained
21 parking lot where we would like to link up with the Mascoma River Greenway through West Lebanon.
22 Ms. Urffer suggested that he connect with the State's Outdoor Recreation Department and they can put
23 forward recommendations for what the company can do. In addition to commenting to FERC, he should
24 also make comments to State staff to be included in the 401 Certificate process. Because of the structure
25 of Section 401 of the Clean Water Act, anything that the State decides needs to go into the license will
26 automatically go into the license. Taking part in the 401 process, attending those hearings, and then
27 commenting on the draft 401 Water Quality Certificate would also be another pathway. From the City's
28 perspective, the most appropriate thing would be to put forward, how the company might mitigate for
29 recreational impacts to the City and whatever projects might help to benefit the City over the next 40
30 years, such as ADA compliance.

31
32 **ACTION:**

33 **No action is required. Item was for informational purposes only.**
34

35 **B. Set Public Hearing for June 16, 2021: Mid-Grant Update on Housing and Public**
36 **Facilities Community Development Block Grant for Headrest for the rehabilitation of**
37 **their facility at 14 Church Street, Lebanon**
38

39 City Consultant Shelley Hadfield came forth and spoke about the background history and reasons for the
40 Block Grant listed above.

41
42 In 2019, the City of Lebanon was awarded \$496,500 in Housing and Public Facility CDBG funds
43 to support the rehabilitation of the HEADREST facility located at 14 Church Street, Lebanon. The funds,
44 less administrative costs, were sub-granted to HEADREST to complete the needed renovations which
45 included both structural and energy upgrades. The project is behind schedule but expected to be
46 completed by the end of the year. Unfortunately, COVID-19 hit just as the project went out to bid. After
47 multiple bid attempts resulting in few bids and much higher than anticipated costs, the project applied to
48 CDFA to Sole Source and has been working with subcontractors to develop a plan. COVID also impacted
49 the project financially with the increased cost of materials currently estimated at \$60,645. The project is

1 applying to CDFA for GAP funding to offset the materials costs and to increase the administration budget
2 by \$3,032.

3
4 A public hearing is required by CFR 570.486 and RSA 162:L:14 in order to receive public input
5 and apprise Lebanon residents on the progress of the project.

6
7 **ACTION:**

8 *Assistant Mayor Below MOVED*, that the Lebanon City Council hereby schedules a public hearing
9 for Wednesday, June 16, 2021, beginning at 7:00 pm, either Remote via WebEx or in-person
10 depending on whether the Governor’s Emergency Order expires on June 11, 2021 or not, for the
11 purpose of receiving public input and apprising Lebanon residents on the progress of the
12 rehabilitation project of the Headrest facility at 14 Church Street, Lebanon.

13 *Seconded by Councilor Heistad.*

14
15 **Roll Call Vote:**

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

18 None voted Nay.

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

20
21 **C. Discussion & Set Public Hearing for June 16, 2021: Housing and Public Facilities grant**
22 **application amendment in the amount of \$63,677 for the rehabilitation of the Headrest**
23 **facility at 14 Church Street, Lebanon**

24
25 City Consultant Shelley Hadfield came forth and spoke about the application amendment for the
26 rehabilitation of the Headrest facility at 14 Church Street, Lebanon.

27
28 The HEADREST project has experienced delays primarily due to the COVID-19 pandemic. The cost of
29 materials and lack of contractor interest in the project has resulted in being months behind schedule. This
30 issue is consistent with projects throughout the state. The City, on behalf of HEADREST, is requesting an
31 amendment to the project’s CDBG grant award to add \$63,677 to address both the COVID-19 related
32 increases in materials cost, as well as a small increase in administration fees. The original cost estimates
33 were developed under the 2018 Headrest Feasibility Study which estimated the total construction budget
34 as \$447,019. Once the current CDBG implementation grant was in place, Headrest advertised for sealed
35 bids in a newspaper of general circulation and the construction trade publications in June, August,
36 September, and November 2020. Extensions were published to obtain more bids. Few bids were received
37 at any bid openings, and ones received were well in excess of available funds.

38
39 The total rehabilitation budget has also increased due to additional work determined necessary during
40 building reassessment in the amount of \$146,156. This will be covered by secured funds from Liberty
41 Utilities in the amount of \$15,000 and Headrest will be contributing \$70,511. The HEADREST team is
42 working closely with their architect and construction manager. Hurdles to completion are expected to be
43 remedied and the project should be done by year end. However, an application can be made for an
44 extension, if required.

45
46
47 **ACTION:**

48 *Assistant Mayor Below MOVED*, that the Lebanon City Council hereby schedules a public hearing
49 for Wednesday, June 16, 2021, beginning at 7:00pm, either Remote via WebEx or in-person
50 depending on whether the Governor’s Emergency Order expires on June 11, 2021 or not, for the

1 purpose of receiving public input and taking action on a proposed Housing and Public Facilities
2 grant application amendment for up to \$63,677 in CDBG funds (to be sub-granted to Headrest);
3 and to authorize the City Manager to sign, submit, and execute any documents which may be
4 necessary to effectuate the CDBG application amendment.

5 *Seconded by Councilor Heistad.*

6
7 **Roll Call Vote:**

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

10 None voted Nay.

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

12
13 **D. Presentation of First Reading and Set Public Hearing for July 7, 2021: Amend**
14 **Ordinance #18, Salary Plan as follows:**

- 15 1. Amend Article II, Non-Affiliated & LPASE Employees, Section A - Regular Full-time
16 and Part-time Benefit Eligible Positions to reclassify the position of Human Services
17 Director from a Grade 10 to a Grade 12; and to add the position of Deputy Assessor
18 (Grade 9).
- 19 2. Amend Article II, Non-Affiliated & LPASE Employees, Section B – Seasonal/Temporary
20 & Stipend Employees to increase the wage ranges for Seasonal Laborers and CDL Seasonal
21 Drivers.

22
23 Deputy City Manager Paula Maville came forth and spoke about the amendments to Ordinance #18,
24 Salary Plan.

25
26 **RECLASSIFY THE POSITION OF HUMAN SERVICES DIRECTOR**

27
28 The Human Services Director supervises the Assistant Human Services Director and works
29 closely with staff of outside Human Services Agencies to create and maintain a wrap-around set
30 of services, referred to as a “safety net” for the betterment of jointly served clients. This position
31 coordinates partnerships to comprehensively address issues that may adversely affect/impact
32 the ability to serve clients (i.e., homelessness, lack of affordable housing, access to medical
33 services, etc.)

34
35 Over the past few years, the Human Services Director’s responsibilities have expanded in
36 several different directions caused by configurations of geographical circumstances. These
37 configurations included the lack of affordable housing, homelessness, economics, and the
38 effects of COVID-19. This position has assumed additional duties and responsibilities due to the
39 changing demographics of the Upper Valley and the effects placed on the changes in the
40 housing market, and the global pandemic.

41
42 Additionally, the Human Services Director represents the City Manager and acts as the
43 representative of the City on statewide and regional coalitions, committees and working groups
44 focusing on human services issues.

45
46 Due to the evolution of the position and supervisory duties not previously considered, a review
47 of the job description was conducted, and revisions were made to accurately reflect the
48 additional duties and responsibilities. This resulted in the reclassification of the position from a
49 Grade 10 to a Grade 12.

ADD DEPUTY ASSESSOR

Due to the reorganization of the Finance Department - encapsulating the Assessing Department and contracting with Municipal Resources, Inc., to oversee the physical assessment changes to residential and commercial property values, we have discovered a need for elevated assessing functions in the day-to-day administration of the department. For this reason, we are recommending the position of Deputy Assessor be added to the department. A job description has been created and is classified as a Grade 9 position.

We are fortunate to have an experienced Assessing Clerk with the knowledge and credentials needed to fill the position. Therefore, we are proposing that our existing Assessing Clerk be promoted to Deputy Assessor and the position of Assessing Clerk be vacated. While the role of the Assessing Clerk is needed, the Deputy Assessor would be charged with those duties while taking on the more elevated tasks required to manage the upper-level needs of the department adequately and efficiently. For example, incorporating a Deputy position will enable the department to communicate effectively and more timely with the State Department of Revenue and other State or outside agencies; process the necessary tax, property, and exemption changes more efficiently, and better manage difficult tax situations posed by members of the public.

SEASONAL/TEMPORARY & STIPEND EMPLOYEES

Due to the nationwide shortage and difficulties hiring and attracting seasonal, temporary and stipend staff, the City is recommending increasing the hourly wages and/or stipends of seasonal CDL drivers and seasonal laborer positions identified in red below.

Process to Amend Ordinance No. 18

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

The Council was asked to recognize the first of three presentations on June 2, and to schedule a public hearing for July 7, 2021 to amend the Ordinance. The second and third presentations will follow on June 16, and July 7, respectively.

ACTION:**1. ACKNOWLEDGE FIRST PRESENTATION:**

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

- 1. Amend Article II, Non-Affiliated & LPASE Employees, Section A – Regular Full-time and Part-time Benefit Eligible Positions to reclassify the position of Human Services Director from a Grade 10 to a Grade 12; and to add the position of Deputy Assessor, (Grade 9); and**
- 2. Amend Article II, Non-Affiliated & LPASE Employees, Section B – Seasonal/Temporary & Stipend Employees to increase the wage ranges for Seasonal Laborers and CDL Seasonal Drivers.**

- 1
2 **Changes in the table below shown in red.**

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

<u>Grade</u>	<u>Position Title</u>	<u>Hourly</u>		<u>Weekly</u>	
		<u>Minimum</u>	<u>Maximum</u>	<u>Minimum</u>	<u>Maximum</u>
1	General Intern II	\$16.77	\$22.64	-	-
2	Custodian	\$17.78	\$23.99	-	-
	Department Secretary	-	-	-	-
3	Airport Maintenance Worker	\$18.84	\$25.44	-	-
	Custodian I	-	-	-	-
	Accounting Clerk				
4	Library Assistant	\$19.98	\$26.97	-	-

5		\$21.17	\$28.57	-	-
6	-	\$22.44	\$30.29	-	-
7	Administrative Assistant	\$23.78	\$32.45		
	Administrative Secretary			-	-
	Assessing Clerk	-	-	-	-
	Assistant City Clerk	-	-	-	-
	Assistant Human Services Director	-	-	-	-
	Communications Specialist	-	-	-	-
	Library Administrative/Technical Assistant	-	-		-
8	Administrative Assistant	\$25.21	\$34.04	-	-
	Benefits Coordinator/Payroll Specialist	-	-	-	-
	Deputy City Clerk	-	-	-	-
	Deputy Tax Collector	-	-	-	-
	Field Inspector**	-	-	-	-
	Electrical Inspector**	-	-	-	-
	Utility Billing Clerk	-	-	-	-
	Outreach Librarian	-	-	\$1,008.55	\$1,361.65
	Young Adult Librarian	-	-	-	-
9	Code Health Inspector**	\$27.73	\$37.43	-	-
	Executive Assistant	-	-	-	-
	Deputy Assessor	-	-	-	-
	Digital Media Officer	-	-	-	-
	Cyber Services Technical Specialist	-	-	-	-
	Real Estate Appraiser II**	-	-	-	-
	Children's Librarian			\$1,109.20	\$1,497.36
	Associate Planner**	-	-	-	-
	Systems Librarian	-	-	-	-
	Information Technology Librarian	-	-	-	-
10	Assistant City Engineer**	\$30.50	\$41.18	-	-
	Cemetery Sexton**	-	-	-	-
	Financial Analyst	-	-	-	-
	Fleet Maintenance Supervisor**	-	-	-	-
	Maintenance Superintendent**	-	-	-	-

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

	City Planner**	-	-	-	-
	Deputy Finance Director	-	-	-	-
	Energy & Facilities Manager**	-	-	-	-
	Human Services Director	-	-	-	-
	Police Lieutenant**	-	-	-	-
	Prosecuting Attorney	-	-	-	-
	Solid Waste Manager**	-	-	-	-
13	Airport Manager	-	-	\$1,509.21	\$2,037.39
	Assistant Fire Chief	-	-	-	-
	Deputy Fire Chief	-	-	-	-
	Deputy Police Chief	-	-	-	-
	Human Resources Director	-	-	-	-
	Information Systems Manager**	-	-	-	-
	Maintenance Manager**	-	-	-	-
	Recreation Director	-	-	-	-
	Police Captain**	-	-	-	-
	Systems and Information Technology Administrator				
14	Assistant Director/Public Works	-	-	\$1599.77	\$2,159.70
	Chief Assessor	-	-	-	-
	Library Director	-	-	-	-
15	Cyber Services Director	-	-	\$1,695.84	\$2,289.20
16	Technical Advisor II	\$44.93	\$60.66		
	Chief of Police	-	-	\$1,797.42	\$2,426.40
	Director of Planning and Zoning	-	-	-	-
	Director of Public Works	-	-	-	-
	Finance Director	-	-	-	-
	Fire Chief	-	-	-	-
	Deputy City Manager	-	-	-	-

1 **denotes LPASE Positions.

- 1
2 *Changes to the compensation and classification schedules are shown in red below. Strikeout*
3 *text represents a deletion of the position due to consolidation or to remove duplicates.*

POSITION TITLE	HOURLY	
ELECTION POSITIONS (HOURLY)		
Ballot Clerk		\$10.15
Election Assistant		\$10.15
Supervisors of the Checklist		\$10.15
Moderator		\$12.69
Ward Clerk		\$12.69
FIRE DEPARTMENT POSITIONS		
Call Firefighter	\$11.25	\$28.54
PARK AND RECREATION POSITIONS		
Front Desk Attendants – Pool	\$10.15	\$15.25
Lifeguards	\$10.15	\$17.50
Head/Lead Counselors	\$13.20	\$16.24
Head & WSI Lifeguards	\$12.18	\$18.25
Head Front Desk Attendant - Pool	\$12.18	\$15.50
Outdoor Adventurer - Educator	\$12.69	\$16.24
Softball Coordinator	\$12.69	\$16.24
Camp Director	\$13.20	\$20.00
Day Camp Counselors	\$10.15	\$15.25
Arts & Craft Director	\$13.20	\$17.00
Farmers Market Coordinator	\$14.21	\$18.27
Market Assistant	\$12.18	\$15.23
Tennis Instructor	\$15.23	\$19.29
Stomp & Romp	\$15.23	\$19.29
Asst. Pool Director	\$15.23	\$21.00
Pool Director	\$16.24	\$24.00
LIBRARY POSITIONS		
Circulation Substitutes		\$13.41
Reference Librarian Substitutes		\$22.65
PUBLIC WORK POSITIONS		
Engineering Clerk	\$11.17	\$14.21
GIS Clerk - (or Intern) These are the landfill interns	\$15.23	\$17.26
Seasonal Laborers – Summer & Fall DPW, Parks & Rec. & Airport	\$16.24	\$19.29 \$20.52
CDL Seasonal Drivers	\$22.81	\$27.30 \$50.00
PLANNING POSITIONS		
Park Ranger	\$15.23	\$17.26
POLICE DEPARTMENT POSITIONS		
Crossing Guard		\$16.53
Communications Specialist	\$23.78	\$32.45
Police Administrative Aide	\$20.30	\$23.35
Parking Control Officer	\$20.30	\$23.35
Police Officers	\$26.86	\$32.39
CITY CLERK POSITIONS		
Assistant City Clerks (Part-Time/Temp. <20)	\$23.41	\$31.61

Recording Secretary	\$21.82	\$23.85
Recording Secretary Coordinator	\$22.82	\$24.36
SHARED POSITION		
General Intern I	\$13.20	\$16.75
STIPEND POSITIONS		
Sport Coaches – Seasonally (Lacrosse, Track, Youth – Basketball, Field Hockey, Football, Cheerleader Coach etc. – may vary due to Programs)	\$205	\$715
(Chair) Supervisors of the Check List	\$155	\$255
Supervisor of the Voter Checklist	\$155	\$255

2. SCHEDULE PUBLIC HEARING:

Councilor Liot Hill FURTHER MOVED, that the Lebanon City Council hereby schedules a public hearing for Wednesday, July 7, beginning at 7:00 pm, Council Chambers, City Hall, Lebanon, and Remote via City’s Virtual Platform, for the purpose of receiving public input and taking action to amend Ordinance No. 18, Salary Plan, as follows:

- 1. Amend Article II, Non-Affiliated & LPASE Employees, Section A – Regular Full-time and Part-time Benefit Eligible Positions to reclassify the position of Human Services Director from a Grade 10 to a Grade 12; and to add the position of Deputy Assessor, (Grade 9); and**
- 2. Amend Article II, Non-Affiliated & LPASE Employees, Section B – Seasonal/Temporary & Stipend Employees to increase the wage ranges for Seasonal Laborers and CDL Seasonal Drivers**

Seconded by Councilor Heistad.

Roll Call Vote:

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

None voted Nay.

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

E. Discussion and direction to the City Manager: Proposal to partner with the Lebanon School District regarding the acquisition, renovation, and use of the former Seminary Hill School Building.

Included in agenda packet:

1. May 11, 2021 Letter of Support by the West Lebanon Revitalization Advisory Committee
2. May 18, 2021 Letter of Support by the Friends of Recreation and Parks
3. May 18, 2021 Letter of Support by the Lebanon Housing Authority

The Seminary Hill School building is owned and operated by the Lebanon School District. The building serves as the offices of the Lebanon School Administrative Unit. The building also has a gymnasium and auditorium.

1 The structure is old and in need of renovation. The heating system is at the point of failure and needs
2 replacement at an estimated cost of \$500,000. The building is not adequately insulated, the windows are
3 in need of replacement, and the building is not fully accessible to persons with disabilities.

4
5 The City is reviewing options to construct a community center. The City presently rents office space for
6 the Human Services Department and the Recreation, Arts and Parks Department. City Administration is
7 planning to rent space for the Cyber Services Department starting in the middle of 2022. This will be as a
8 result of moving the Cyber Services Department from City Hall to allow the Lebanon Opera House to
9 fully utilize the third floor of City Hall.

10
11 The City formed a working group last year that explored the needs for a community center. The City has
12 looked at different locations including the exploration of a partnership with the CCBA. The CCBA has
13 chosen a different path and has decided this is not in their best interest at this time. The West Lebanon
14 Revitalization Advisory Committee has expressed an interest in renovating the Seminary Hill School
15 building to serve as a community center.

16
17 The Joint School/City Task Force met on 5/20/21 to discuss the level of interest in potential partnership
18 between the City and the School District regarding the building. Both School Board Chairperson Richard
19 Milius and Mayor Timothy McNamara agreed that although there are many issues that would have to be
20 resolved, there is an interest in exploring possibilities further. Chairman Milius would be interested in a
21 formal proposal from the City. Mayor McNamara proposed a possible concept such that the School
22 District would turn the building over to the City. The City would pay for the cost of renovating the building
23 by exploring several possible revenue sources. The City would then lease back to the School District
24 space for the SAU administrative offices at a reasonable cost. The City would move the Human Services
25 Department, Recreation Arts and Parks Department, and the Cyber Services Department into the building
26 which would offset the City's cost to lease space elsewhere for these functions. The renovated space
27 would house a community center and fully utilize the auditorium and gymnasium for public use.

28
29 Further, the building is located adjacent to the Civic Memorial field complex, the Dana House and the City
30 property located at 3 Seminary Hill Road. Efforts to demolish and clean up the Westboro Yard continue to
31 move forward. This proposal would aid in the redevelopment of the West Lebanon downtown area and
32 provide a facility for the public to utilize more readily.

33
34 Councilors Liot Hill, Winny, and Heistad each spoke about their support for this initiative and what it
35 means for the revitalization of West Lebanon.

36
37 **ACTION:**

38 ***Councilor Winny MOVED, that the Lebanon City Council hereby proposes the exploration of***
39 ***a partnership with the Lebanon School District regarding the acquisition, renovation and use***
40 ***of the former Seminary Hill School Building and directs the City Manager to make a formal***
41 ***written proposal to the School Board for that purpose. Further, the City Manager is***
42 ***authorized to take actions necessary to formalize a plan with the School District that could be***
43 ***acted upon by the City Council regarding the acquisition, renovation, and use of the building.***

44
45 ***Seconded by Councilor Heistad.***
46

Roll Call Vote:

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

None voted Nay.

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

11. City Manager Report:

City Manager Shaun Mulholland updated the Council on the following:

- West Central Behavioral Health: They have received authorization from the State for funding a 24/7 Mobile Response Team starting July 1, 2021.
- 20 Spencer Street: Due to PCBs, a larger testing of the area will need to be done. Currently, this area is 40 ft. x 50 ft. Soil samples will need to be shipped to Michigan for analysis at a cost of +/- \$275K.
- It looks like the Governor's Executive Emergency Order will expire on June 11, 2021. The hope was that he would allow us to continue these Emergency Orders at least through June 24, 2021, when SB-95, which would allow Boards, Commissions, and Committees to attend meetings remotely, will be going to the floor for a vote. In case SB-95 does not pass, we should plan to have a quorum for all Boards, Commissions, and Committees to be physically present moving forward. Face masks will be required until such a time that the City's Mask Ordinance is rescinded.
- The July 19th Council Meeting will be a special meeting on housing.
- Tunnel: The Dome will be delivered next week, which is earlier than expected.
- On June 8, 2021, at 8:30 a.m., there will be a meeting and short walking tour with City Staff and local businesses to discuss the beautification of Downtown Lebanon. All Councilors are invited to attend if they are available.

12. Council Representatives to Other Bodies Reports: None

13. Future Agenda Items: None

14. Non-Public Session: None

15. Adjournment:

Councilor Heistad MOVED for adjournment.

Seconded by Assistant Mayor Below.

Roll Call Vote:

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

None voted Nay.

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

The meeting was adjourned at 10:28 PM.

Respectfully submitted,

Dona E. Gibson, Recording Secretary

**AGENDA
LEBANON CITY COUNCIL
JUNE 16, 2021**

7. APPOINTMENTS:

APPOINTMENTS

Board/Committee Appointments as presented by City Clerk Kristin Kenniston

- Library Board of Trustees, Tina Van Kley (Alternate Member)

Included in this Section:

1. Memo from City Clerk Kristin Kenniston dated June 9, 2021

OFFICE OF THE CITY CLERK

MEMORANDUM

DATE: June 9, 2021

TO: The Honorable Mayor & City Council

FROM: Kristin M. Kenniston, City Clerk

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

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

Library Board of Trustees

- ***Tina Van Kley***- Appointment as an alternate to the Library Board of Trustees for a one-year term. The Library Board supports this nomination.
Interviewed by: Councilor Winny
Term (6/21 – 6/22)

From: [cityclerk](#)
To: [Kristin Kenniston](#)
Subject: FW: [EXTERNAL]Online Form Submission #5055 for Board Member Application
Date: Monday, May 24, 2021 7:12:41 AM

Alesia Williams
Assistant City Clerk
City of Lebanon
(603)448-3054

CONFIDENTIALITY NOTICE

The information contained in this electronic message and any attachments are intended for the exclusive use of the addressee(s) and may contain confidential, privileged information. If you are not the intended recipient, please notify the City Clerk's Office at 603-448-3054 and delete or destroy all copies of this message and any attachments. Any unauthorized use, disclosure, or distribution of this message and any attachments is strictly prohibited.

Website: lebanonnh.gov
Subscribe to Leb E-News at lebanonnh.gov/subscribe

From: noreply@civicplus.com <noreply@civicplus.com>
Sent: Sunday, May 23, 2021 4:08 PM
To: [cityclerk](mailto:cityclerk@lebanonnh.gov) <cityclerk@lebanonnh.gov>; [webmaster](mailto:webmaster@lebcity.com) <webmaster@lebcity.com>
Subject: [EXTERNAL]Online Form Submission #5055 for Board Member Application

Board Member Application

Board Member Application
City of Lebanon board / committee member application.

Basic Requirements

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

(Section Break)

First Name Tina

Last Name	Van Kley
Physical Address	89 Trues Brook Road
City	West Lebanon
State	NH
Zip Code	03784
Is this your mailing address?	Yes
Home Phone Number	603-790-8195
Work Number	<i>Field not completed.</i>
Email Address	tvankley@gmail.com
How long have you resided in Lebanon?	4 years
(Section Break)	
Is this an application for re-appointment?	This application is not for re-appointment.
For which board, committee, or commission are you applying?	Library Board of Trustees
Other Committee	<i>Field not completed.</i>
Why would you like to serve?	I highly value the civic role of public libraries in providing inviting and accessible spaces for community members to learn and grow together. I am also pursuing a career in library work and seek broader knowledge about the governance and functions of the public library. I also frequently use and appreciate Kilton Library and want to be involved in my community in a more direct way.
State a few of what you feel your qualifications are or why you wish to be appointed to this board / committee.	I am a strong listener and collaborator with some knowledge of library services, policies, and procedures and I want to use my knowledge and expertise to serve the community.

I hereby certify that I meet the basic requirements for applying to

Certification

a Lebanon board / committee.

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

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

Councilor Interview Report Form

Councilor Name: Jim Winny

Date of Interview: 6/8/21

Applicant Name: Tina Van Kley

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: May Meeting

Recommend Appointment: ☒ Yes ☐ No

☐ Regular Seat

☒ Alternate Seat

General Comments: Tina is interested in joining the Library Board as her first foray into public service, she will be an excellent addition to the board based on this interview.

(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?

Serve as public governance and advisory for Library's funding and strategy

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, yes, depending on timing

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, this will be first time volunteering for civic function

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, as needed, she is intending to do some of this already

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, this should not be an issue

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

Funding allocation, managing reopening, managing changing needs and technology

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

Reopening and programming, assessing effectiveness of future planning for libraries

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

Keeping momentum of anticipating community needs and how to respond to them, keep up active involvement.

**AGENDA
LEBANON CITY COUNCIL
JUNE 16, 2021**

8. PUBLIC HEARING ITEMS:

**8.A – MID-GRANT UPDATE ON CDBG FOR
HEADREST REHABILITATION PROJECT**

A public hearing is required by CFR 570.486 and RSA 162:L:14 in order to receive public input and apprise Lebanon residents on the progress of the project.

The City Council scheduled this public hearing at their June 2, 2021 regular meeting. The public hearing was properly noticed in the *Valley News* on June 5, 2021 in accordance with City Code and State Law.

BACKGROUND

In 2019, the City of Lebanon was awarded \$496,500 in Housing and Public Facility CDBG funds to support the rehabilitation of the HEADREST facility located at 14 Church Street, Lebanon. The funds, less administrative costs, were sub-granted to HEADREST to complete the needed renovations which included both structural and energy upgrades. The project is behind schedule but expected to be completed by the end of the year. Unfortunately, COVID 19 hit just as the project went out to bid. After multiple bid attempts resulting in few bids and much higher than anticipated costs, the project applied to CDFA to Sole Source and has been working with subcontractors to develop a plan. COVID also impacted the project financially with the increased cost of materials currently estimated at \$60,645. The project is applying to CDFA for GAP funding to offset the materials costs and to increase the administration budget by \$3,032.

ACTION

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

Included in this Section:

1. Notice of Public Hearing as Published in the June 5, 2021, Edition of the *Valley News*

June 7, 2021



LEBANON CITY COUNCIL
NOTICE OF PUBLIC HEARINGS
Wednesday, June 16, 2021 - 7:00pm
Council Chambers, City Hall or
REMOTE VIA VIRTUAL PLATFORM
LebanonNH.gov/LIVE

The Lebanon City Council will hold public hearings on June 16, 2021, beginning at 7:00pm for the following:

A. MID-GRANT UPDATE HEADREST REHABILITATION PROJECT – A public hearing for the purpose of receiving public input and apprising Lebanon residents on the progress of the rehabilitation project of the Headrest Facility at 14 Church Street, Lebanon.

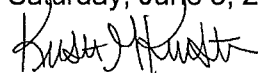
B. CDBG APPLICATION AMENDMENT HEADREST REHABILITATION PROJECT – A public hearing for the purpose of receiving public input and taking action on a proposed Housing and Public Facilities grant application amendment for up to \$63,677 in CDBG funds(to be sub-granted to Headrest); and to authorize the City Manager to sign, submit, and execute any documents which may be necessary to effectuate the CDBG application amendment.

The June 16, 2021 City Council agenda package will be available on the City's website beginning June 11, 2021 and documents pertaining to the above described public hearings can be reviewed online at LebanonNH.gov/Agendas

Meetings are open for in-person and remote attendance. Members of the public who 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 visit LebanonNH.gov/Live for full details.

NE-361605

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, June 5, 2021.



Kristin M. Kenniston, City Clerk

**AGENDA
LEBANON CITY COUNCIL
JUNE 16, 2021**

8. PUBLIC HEARING ITEMS:

**8.B – HOUSING and PUBLIC FACILITIES CDBG APPLICATION
AMENDMENT FOR HEADREST**

Public hearing for the purpose of receiving public input and taking action on a proposed Housing and Public Facilities grant application Amendment for up to \$63,677 in CDBG funds (to be sub-granted to Headrest); and to authorize the City Manager to sign, submit, and execute any documents which may be necessary to effectuate the CDBG Application Amendment.

The City Council scheduled this public hearing at their June 2, 2021, regular meeting. The public hearing was properly noticed in the *Valley News* on June 5, 2021, in accordance with City Code and State Law.

BACKGROUND

CDFA has made funds available for projects experiencing increased construction costs due to the COVID 19 pandemic. Up to \$900,000 is available for counties and communities on existing projects facing hardship due to the pandemic and which may be prevented from moving forward.

Headrest was awarded a CDBG grant of \$496,500 to complete the rehabilitation of the 14 Church Street facility in Lebanon. The 2019 grant award was finalized in early 2020 just as the COVID 19 pandemic hit. The impact of the pandemic on the construction industry has been significant with many projects experiencing dramatic cost increases in materials and labor. Headrest is now requesting that the Council support an application amendment to its current Community Development Block Grant for up to \$63,677 to offset the increased cost of materials due to COVID 19 and a small increase in administration.

Please see the attached request for Amendment for more information. Note that the Request has been submitted to CDFA to reserve the funds, but CDFA approval of the amendment request is contingent upon the City Council.

ACTION

As part of the application process, the following language must be read into the record:

Community Development Block Grant funds are available to municipalities for economic development, public facility and housing rehabilitation projects and feasibility studies that primarily benefit low and moderate-income persons. The purpose of the public hearings required for CDBG funding is to solicit the view of the citizens on community development; furnish the citizens with information concerning the amount of funds available and the range of community development activities which may be undertaken under the Community Development Act.

The City of Lebanon is eligible for up to \$500,000 per year for public facility/housing rehabilitation, up to \$500,000 per year for economic development projects, as well as up

to \$500,000 per year in emergency funds. Feasibility Study funds are available for up to \$12,000 per year.

This application Amendment is specific to the up to \$900,000 that CDFA is making available for housing and public facilities projects impacted by COVID 19.

BE IT HEREBY MOVED, that the Lebanon City Council approves the submittal of the CDBG application amendment to the existing HEADREST CDBG project and authorizes the City Manager to sign, submit, and execute any documents which may be necessary to effectuate the CDBG contract amendment for Headrest in the amount of up to \$63,677.

Included in this Section:

1. Project Description: Headrest CDBG Housing and Public Facilities Application Request for Amendment May 24, 2021 (note: award is conditional upon City Council approval)
2. Notice of Public Hearing as Published in the June 5, 2021, Edition of the *Valley News*



CITY of LEBANON, NH

City Manager's Office
51 North Park Street
Lebanon, NH 03766
(603) 448-4220
www.LebanonNH.gov

May 24, 2021

Chris Monroe,
Community Development Manager
NH CDFA
14 Dixon Avenue, Suite 102
Concord, NH 03301

RE: 19-094-CDPF-01; Headrest/Church Street Rehabilitation

Dear Mr. Monroe,

This letter is to serve as a verification of a need for the amendment request submitted by the City of Lebanon to the CDBG Gap Fund for the above project. The original cost estimates were developed under the 2018 Headrest Feasibility Study which estimated the total construction budget as \$447,019. Once the current CDBG implementation grant was in place, Headrest advertised for sealed bids in a newspaper of general circulation and the construction trade publications in June, August, September and November 2020. Extensions were published to obtain more bids. Few bids were received at any bid openings, and ones received were well in excess of available funds.

The project requests additional CDBG funding in the amount of \$63,677 to cover estimated increased in construction costs due to the COVID 19 pandemic and a small increase in administration. The total rehabilitation budget has also increased due to additional work determined necessary during building reassessment in the amount of \$146,156. This will be covered by secured funds from Liberty Utilities in the amount of \$15,000 and Headrest will be contributing \$70,511. Without additional funding from the CDBG Gap Fund, the ability for the project to move forward will likely be compromised. Please see the attached documents pertinent to the request checklist.

Sincerely,

Shaun Mulholland
City Manager

**Headrest, Church Street Renovation
Project
Amended Budget**

	Original Budget				Additional Budget				TOTAL PROJECT COSTS
	CDBG	Liberties Utilities	Totals		CDBG (COVID Related Request)	Liberty Utilities (Add. Confirmed)	Headrest Match (Add. Confirmed)	Totals	
<i>Uses:</i>									
Construction	\$387,000	\$60,019	\$447,019		\$60,645	\$15,000	\$70,511	\$146,156	\$593,175
Architectural/Engineering	77,000		\$77,000		0	0	0	0	\$77,000
Professional Fees	3,500		\$3,500		0	0	0	0	\$3,500
CDBG Adm Costs	29,000		\$29,000		3,032	0	0	3,032	\$32,032
TOTALS	\$496,500	\$60,019	\$556,519		\$63,677	\$15,000	\$70,511	\$149,188	\$705,707

Administrative Costs:	Original	Additional
Grant Administrator	\$23,000	3,032
Advertising	1,000	0
Legal	1,000	0
Grant Writing	4,000	0
TOTALS	\$29,000	\$3,032

*Construction estimate of \$593,175 does not include any contingency. The additional administration is 5% of the additional CDBG request for construction.

5/24/2021

Applicant/Recipient Disclosure/Update Report

U.S. Department of Housing
and Urban Development

OMB Approval No. 2510-0011 (exp. 11/30/2018)

Instructions. (See Public Reporting Statement and Privacy Act Statement and detailed instructions on page 2.)

Applicant/Recipient Information

Indicate whether this is an Initial Report ☐

or an Update Report ☒

1. Applicant/Recipient Name, Address, and Phone (include area code): City of Lebanon, 51 North Park Street, Lebanon, NH 03766	2. Social Security Number or Employer ID Number: 02-6000473
3. HUD Program Name CDBG	4. Amount of HUD Assistance Requested/Received \$560,177
5. State the name and location (street address, City and State) of the project or activity: 14 Church Street, Lebanon, NH 03766	

Part I Threshold Determinations

- | | |
|--|---|
| 1. Are you applying for assistance for a specific project or activity? These terms do not include formula grants, such as public housing operating subsidy or CDBG block grants. (For further information see 24 CFR Sec. 4.3).
☐ Yes ☒ No | 2. Have you received or do you expect to receive assistance within the jurisdiction of the Department (HUD), involving the project or activity in this application, in excess of \$200,000 during this fiscal year (Oct. 1 - Sep. 30)? For further information, see 24 CFR Sec. 4.9
☒ Yes ☐ No. |
|--|---|

If you answered "**No**" to either question 1 or 2, **Stop!** You do not need to complete the remainder of this form. **However**, you must sign the certification at the end of the report.

Part II Other Government Assistance Provided or Requested / Expected Sources and Use of Funds.

Such assistance includes, but is not limited to, any grant, loan, subsidy, guarantee, insurance, payment, credit, or tax benefit.

Department/State/Local Agency Name and Address	Type of Assistance	Amount Requested/Provided	Expected Uses of the Funds

(Note: Use Additional pages if necessary.)

Part III Interested Parties. You must disclose:

- All developers, contractors, or consultants involved in the application for the assistance or in the planning, development, or implementation of the project or activity and
- any other person who has a financial interest in the project or activity for which the assistance is sought that exceeds \$50,000 or 10 percent of the assistance (whichever is lower).

Alphabetical list of all persons with a reportable financial interest in the project or activity (For individuals, give the last name first)	Social Security No. or Employee ID No.	Type of Participation in Project/Activity	Financial Interest in Project/Activity (\$ and %)

(Note: Use Additional pages if necessary.)

Certification

Warning: If you knowingly make a false statement on this form, you may be subject to civil or criminal penalties under Section 1001 of Title 18 of the United States Code. In addition, any person who knowingly and materially violates any required disclosures of information, including intentional non-disclosure, is subject to civil money penalty not to exceed \$10,000 for each violation.

I certify that this information is true and complete.

Signature: X	Date: (mm/dd/yyyy)
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June 7, 2021



LEBANON CITY COUNCIL
NOTICE OF PUBLIC HEARINGS
Wednesday, June 16, 2021 - 7:00pm
Council Chambers, City Hall or
REMOTE VIA VIRTUAL PLATFORM
LebanonNH.gov/LIVE

The Lebanon City Council will hold public hearings on June 16, 2021, beginning at 7:00pm for the following:

A. MID-GRANT UPDATE HEADREST REHABILITATION PROJECT – A public hearing for the purpose of receiving public input and apprising Lebanon residents on the progress of the rehabilitation project of the Headrest Facility at 14 Church Street, Lebanon.

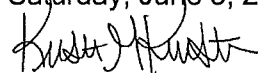
B. CDBG APPLICATION AMENDMENT HEADREST REHABILITATION PROJECT – A public hearing for the purpose of receiving public input and taking action on a proposed Housing and Public Facilities grant application amendment for up to \$63,677 in CDBG funds(to be sub-granted to Headrest); and to authorize the City Manager to sign, submit, and execute any documents which may be necessary to effectuate the CDBG application amendment.

The June 16, 2021 City Council agenda package will be available on the City's website beginning June 11, 2021 and documents pertaining to the above described public hearings can be reviewed online at LebanonNH.gov/Agendas

Meetings are open for in-person and remote attendance. Members of the public who 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 visit LebanonNH.gov/Live for full details.

NE-361605

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, June 5, 2021.



Kristin M. Kenniston, City Clerk

**AGENDA
LEBANON CITY COUNCIL
JUNE 16, 2021**

9. OLD BUSINESS:

**9.A – PRESENTATION OF SECOND READING:
AMEND ORDINANCE NO. 18 TO RECLASSIFY THE POSITION OF
HUMAN SERVICES DIRECTOR TO GRADE 12; INCLUDE THE POSITION OF
DEPUTY ASSESSOR, GRADE 9; AND TO AMEND THE PAY PLAN FOR
SEASONAL/TEMPORARY& STIPEND EMPLOYEES**

BACKGROUND

RECLASSIFY THE POSITION OF HUMAN SERVICES DIRECTOR

The Human Services Director supervises the Assistant Human Services Director and works closely with staff of outside Human Services Agencies to create and maintain a wrap-around set of services, referred to as a “safety net” for the betterment of jointly served clients. This position coordinates partnerships to comprehensively address issues that may adversely affect/impact the ability to serve clients (i.e., homelessness, lack of affordable housing, access to medical services, etc.)

Over the past few years, the Human Services Director’s responsibilities have expanded in several different directions caused by configurations of geographical circumstances. These configurations included the lack of affordable housing, homelessness, economics, and the effects of COVID 19. This position has assumed additional duties and responsibilities due to the changing demographics of the Upper Valley and the effects placed on the changes in the housing market, and the global pandemic.

Additionally, the Human Services Director represents the City Manager and acts as the representative of the City on statewide and regional coalitions, committees and working groups focusing on human services issues.

Due to the evolution of the position and supervisory duties not previously considered, a review of the job description was conducted, and revisions were made to accurately reflect the additional duties and responsibilities. This resulted in the reclassification of the position from a Grade 10 to a Grade 12.

ADD DEPUTY ASSESSOR

Due to the reorganization of the Finance Department - encapsulating the Assessing Department and contracting with Municipal Resources, Inc., to oversee the physical assessment changes to residential and commercial property values, we have discovered a need for elevated assessing functions in the day-to-day administration of the department. For this reason, we are recommending the position of Deputy Assessor be added to the department. A job description has been created and is classified as a Grade 9 position.

We are fortunate to have an experienced Assessing Clerk with the knowledge and credentials needed to fill the position. Therefore, we are proposing that our existing Assessing Clerk be promoted to Deputy Assessor and the position of Assessing Clerk be vacated. While the role of the Assessing Clerk is needed, the Deputy Assessor would be charged with those duties while taking on the more elevated tasks required to manage the upper-level needs of the department

adequately and efficiently. For example, incorporating a Deputy position will enable the department to communicate effectively and more timely with the State Department of Revenue and other State or outside agencies; process the necessary tax, property, and exemption changes more efficiently, and better manage difficult tax situations posed by members of the public.

SEASONAL/TEMPORARY & STIPEND EMPLOYEES

Due to the nationwide shortage and difficulties hiring and attracting seasonal, temporary and stipend staff; the City is recommending increasing the hourly wages and/or stipends of seasonal CDL drivers and seasonal laborer positions identified in red below.

Process to Amend Ordinance No. 18

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

The first presentation was recognized by the Council on June 2, 2021. The Council is now asked to recognize the second of three presentations on June 16 to amend the Ordinance. The third presentation will follow on July 7, along with a public hearing to adopt the amendments as proposed.

ACTION

The following motion is offered for consideration:

1. ACKNOWLEDGE SECOND PRESENTATION:

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

- 1. Amend Article II, Non-Affiliated & LPASE Employees, Section A – Regular Full-time and Part-time Benefit Eligible Positions to reclassify the position of Human Services Director from a Grade 10 to a Grade 12; and to add the position of Deputy Assessor, (Grade 9); and**
- 2. Amend Article II, Non-Affiliated & LPASE Employees, Section B – Seasonal/Temporary & Stipend Employees to increase the wage ranges for Seasonal Laborers and CDL Seasonal Drivers**

Changes in the table below shown in **red**.

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

<u>Grade</u>	<u>Position Title</u>	<u>Hourly</u>		<u>Weekly</u>	
		<u>Minimum</u>	<u>Maximum</u>	<u>Minimum</u>	<u>Maximum</u>
1	General Intern II	\$16.77	\$22.64	-	-
2	Custodian	\$17.78	\$23.99	-	-
	Department Secretary	-	-	-	-
3	Airport Maintenance Worker	\$18.84	\$25.44	-	-
	Custodian I	-	-	-	-
	Accounting Clerk				

4	Library Assistant	\$19.98	\$26.97	-	-
5		\$21.17	\$28.57	-	-
6	-	\$22.44	\$30.29	-	-
7	Administrative Assistant	\$23.78	\$32.45		
	Administrative Secretary			-	-
	Assessing Clerk	-	-	-	-
	Assistant City Clerk	-	-	-	-
	Assistant Human Services Director	-	-	-	-
	Communications Specialist	-	-	-	-
	Library Administrative/Technical Assistant	-	-		-
8	Administrative Assistant	\$25.21	\$34.04	-	-
	Benefits Coordinator/Payroll Specialist	-	-	-	-
	Deputy City Clerk	-	-	-	-
	Deputy Tax Collector	-	-	-	-
	Field Inspector**	-	-	-	-
	Electrical Inspector**	-	-	-	-
	Utility Billing Clerk	-	-	-	-
	Outreach Librarian	-	-	\$1,008.55	\$1,361.65
	Young Adult Librarian	-	-	-	-
9	Code Health Inspector**	\$27.73	\$37.43	-	-
	Executive Assistant	-	-	-	-
	Deputy Assessor	-	-	-	-
	Digital Media Officer	-	-	-	-
	Cyber Services Technical Specialist	-	-	-	-
	Real Estate Appraiser II**	-	-	-	-
	Children's Librarian			\$1,109.20	\$1,497.36
	Associate Planner**	-	-	-	-
	Systems Librarian	-	-	-	-
	Information Technology Librarian	-	-	-	-
10	Assistant City Engineer**	\$30.50	\$41.18	-	-
	Cemetery Sexton**	-	-	-	-
	Financial Analyst	-	-	-	-
	Fleet Maintenance Supervisor**	-	-	-	-
	Maintenance Superintendent**	-	-	-	-
	Utilities Maintenance Superintendent**				
	Police Communications Supervisor**	-	-	-	-
	Human Services Director	-	-	\$1,220.15	\$1,647.20
	Recreation Program Coordinator**	-	-		
11	Technical Advisor I	\$33.59	\$45.34	-	-
	Administrative Services Manager**	-	-	\$1,343.60	\$1,813.60
	Airport Operations Supervisor**	-	-	-	-
	Assistant Recreation Director**	-	-	-	-
	Code Enforcement Director**	-	-	-	-
	Deputy Library Director	-	-	-	-
	Fire Marshall**	-	-	-	-
	Planner/GIS Coordinator**	-	-	-	-
	Senior Planner**	-	-	-	-
12	Wastewater Treatment Superintendent**	\$35.60	\$48.05	-	-
	Water Treatment Superintendent**	-	-	-	-
	City Assessor**	-	-	\$1,424.00	\$1,922.00
	City Clerk/Tax Collector	-	-	-	-

	City Engineer**	-	-	-	-
	City Planner**	-	-	-	-
	Deputy Finance Director	-	-	-	-
	Energy & Facilities Manager**	-	-	-	-
	Human Services Director	-	-	-	-
	Police Lieutenant**	-	-	-	-
	Prosecuting Attorney	-	-	-	-
	Solid Waste Manager**	-	-	-	-
13	Airport Manager	-	-	\$1,509.21	\$2,037.39
	Assistant Fire Chief	-	-	-	-
	Deputy Fire Chief	-	-	-	-
	Deputy Police Chief	-	-	-	-
	Human Resources Director	-	-	-	-
	Information Systems Manager**	-	-	-	-
	Maintenance Manager**	-	-	-	-
	Recreation Director	-	-	-	-
	Police Captain**	-	-	-	-
	Systems and Information Technology Administrator				
14	Assistant Director/Public Works	-	-	\$1599.77	\$2,159.70
	Chief Assessor	-	-	-	-
	Library Director	-	-	-	-
15	Cyber Services Director	-	-	\$1,695.84	\$2,289.20
16	Technical Advisor II	\$44.93	\$60.66		
	Chief of Police	-	-	\$1,797.42	\$2,426.40
	Director of Planning and Zoning	-	-	-	-
	Director of Public Works	-	-	-	-
	Finance Director	-	-	-	-
	Fire Chief	-	-	-	-
	Deputy City Manager	-	-	-	-

**denotes LPASE Positions.

Changes to the compensation and classification schedules are shown in red below. Strikeout text represents a deletion of the position due to consolidation or to remove duplicates.

POSITION TITLE	HOURLY	
ELECTION POSITIONS (HOURLY)		
Ballot Clerk		\$10.15
Election Assistant		\$10.15
Supervisors of the Checklist		\$10.15
Moderator		\$12.69
Ward Clerk		\$12.69
FIRE DEPARTMENT POSITIONS		
Call Firefighter	\$11.25	\$28.54
PARK AND RECREATION POSITIONS		
Front Desk Attendants – Pool	\$10.15	\$15.25
Lifeguards	\$10.15	\$17.50
Head/Lead Counselors	\$13.20	\$16.24
Head & WSI Lifeguards	\$12.18	\$18.25
Head Front Desk Attendant - Pool	\$12.18	\$15.50
Outdoor Adventurer - Educator	\$12.69	\$16.24
Softball Coordinator	\$12.69	\$16.24
Camp Director	\$13.20	\$20.00

Day Camp Counselors	\$10.15	\$15.25
Arts & Craft Director	\$13.20	\$17.00
Farmers Market Coordinator	\$14.21	\$18.27
Market Assistant	\$12.18	\$15.23
Tennis Instructor	\$15.23	\$19.29
Stomp & Romp	\$15.23	\$19.29
Asst. Pool Director	\$15.23	\$21.00
Pool Director	\$16.24	\$24.00
LIBRARY POSITIONS		
Circulation Substitutes		\$13.41
Reference Librarian Substitutes		\$22.65
PUBLIC WORK POSITIONS		
Engineering Clerk	\$11.17	\$14.21
GIS Clerk - (or Intern) These are the landfill interns	\$15.23	\$17.26
Seasonal Laborers – Summer & Fall DPW, Parks & Rec. & Airport	\$16.24	\$19.29 \$20.52
CDL Seasonal Drivers	\$22.81	\$27.30 \$50.00
PLANNING POSITIONS		
Park Ranger	\$15.23	\$17.26
POLICE DEPARTMENT POSITIONS		
Crossing Guard		\$16.53
Communications Specialist	\$23.78	\$32.45
Police Administrative Aide	\$20.30	\$23.35
Parking Control Officer	\$20.30	\$23.35
Police Officers	\$26.86	\$32.39
CITY CLERK POSITIONS		
Assistant City Clerks (Part-Time/Temp. <20)	\$23.41	\$31.61
Recording Secretary	\$21.82	\$23.85
Recording Secretary Coordinator	\$22.82	\$24.36
SHARED POSITION		
General Intern I	\$13.20	\$16.75
STIPEND POSITIONS		
Sport Coaches – Seasonally (Lacrosse, Track, Youth – Basketball, Field Hockey, Football, Cheerleader Coach etc. – may vary due to Programs)	\$205	\$715
(Chair) Supervisors of the Check List	\$155	\$255
Supervisor of the Voter Checklist	\$155	\$255

**AGENDA
LEBANON CITY COUNCIL
JUNE 16, 2021**

9. OLD BUSINESS

**9.B – RESCISSION OF PRIOR FUNDING AUTHORIZATION AND
APPROPRIATION FOR ONE (1)
CAPITAL PROJECT TOTALING \$6,440.00**

A public hearing for the purpose of receiving public input and taking action to rescind prior authorizations and appropriations for nine (9) capital projects totaling \$1,602,723.62 was held on Wednesday, May 19, 2021.

At the hearing it was noted that the resolution for the 2017 WWTP Underground Fuel Storage Tank in the amount of \$6,440.00 was inadvertently omitted.

The City Council scheduled the public hearing at their April 21, 2021 regular meeting. The public hearing was properly noticed in the *Valley News* on May 1 and May 8, 2021 in accordance with City Code and State Law.

BACKGROUND

The purpose of this agenda item is to request the City Council rescind a prior authorization and appropriation for unissued bonds or notes that are no longer required, and therefore will not be issued. Total amount to be rescinded is \$6,440.00 and includes prior funding authorization for the 2017 WWTP Underground Fuel Storage Tank project.

ACTION

The following is offered for consideration:

RESOLUTION

WHEREAS, the Lebanon City Council on December 21, 2016, authorized the issuance of bonds or notes in the amount of \$8,030,000 including \$6,440.00 to finance the 2017 Wastewater Treatment Plant Underground Fuel Storage Tank project; and

NOW, THEREFORE BE IT RESOLVED, by the Lebanon City Council, that unissued bonds or notes in the amount of \$6,440.00, authorized on December 21, 2016, to finance the 2017 Wastewater Treatment Plan Underground Fuel Storage Tank project is hereby rescinded.

This resolution shall take effect upon its passage.

<u>Date Authorized</u>	<u>Total Authoriation</u>	<u>Project Authorization</u>	<u>Balance of Amount Authorized by City to be rescinded</u>	<u>Project</u>
12/21/2016	\$ 8,030,000.00	\$ 90,000.00	\$ 6,440.00	2017 WWTP Underground Fuel Storage Tank

**AGENDA
LEBANON CITY COUNCIL
JUNE 16, 2021**

9. OLD BUSINESS:

9.C – ACTION TO RESCIND

EMERGENCY ORDINANCE 2020-11 – FACE MASKS

BACKGROUND

The Council held a public hearing on June 2nd regarding a rescission of or amendment to Emergency Ordinance 2020-11.

At the close of the public hearing, the Council opted to retain the ordinance, but amended Provision #2 as follows (changes in bold text):

2. Members of the public entering or queued to enter; remaining in or exiting from, any business, governmental or non-profit owned premises including without limitation any outdoor area where business of any sort is conducted, work site, workplace, or government building, must wear a face covering, such as a fabric mask, scarf, or bandana over their nose and mouth. This requirement shall also apply to persons traveling on public transportation such as Advance Transit buses. Policies regarding face coverings in governmental buildings within the geographical boundaries of the City of Lebanon adopted by the governmental entity having jurisdiction over such buildings are hereby recognized by this ordinance and shall control in such buildings. Property owners shall have the authority to regulate the requirement to wear masks by any person, while on the premises of their property, by allowing persons to temporarily remove their masks while remaining on the premises when it is practical or becomes necessary to do so based upon the requirements of the services provided. **In addition, building owners, operators, managers, lessees, employers, businesses and non-profit organizations, as appropriate, shall have the authority to waive masking and social distancing requirements for employees and volunteers who are known to be fully vaccinated against Covid-19 while within the workplace or building space managed by them, provided however that mask requirements shall not be waived for employees and volunteers who are not fully vaccinated or whose vaccination status is unknown or who are interacting in person with members of the public.**

Action on whether and how to rescind the ordinance was postponed to this meeting.

ACTION

Action by the Council will be based on the outcome of the discussion at the meeting.

Included in this Section:

1. Emergency Ordinance 2020-11 (as amended June 2, 2021)

Information available but not included in this section:

1. State of NH COVID-19 Response Website <https://www.covid19.nh.gov/dashboard>

EMERGENCY ORDINANCE 2020-11 FACE MASKS

FOR THE PURPOSE OF reducing the risk of the spread of the COVID-19 virus; reducing the potential shutdown of the local economy and the negative impacts associated with such a shutdown; and potentially reducing the need for hospitalization and the number of fatalities, the City of Lebanon ordains as follows:

WHEREAS, a primary function of municipal government is the health and safety of those persons residing within or entering into it; and

WHEREAS, infectious diseases are caused by germs, such as viruses, bacteria, and parasites. COVID-19 is a viral illness that has the ability to be spread from person to person very easily through respiratory droplets. Public Health Officials have determined that it is well established that an individual infected with COVID-19 can transmit the disease whether or not they are exhibiting any symptoms; and

WHEREAS, on January 23, 2020, the World Health Organization declared a Public Health Emergency of International Concern and the United States Department of Health and Human Services declared a Public Health Emergency related to the COVID-19 outbreak on January 31, 2020; and

WHEREAS, on March 11, 2020 the World Health Organization declared COVID-19 a pandemic; and

WHEREAS, on March 13, 2020, the President of the United States declared a National Emergency under the federal Stafford Act due to the spread of COVID-19; and

WHEREAS, on March 13, 2020, the Governor of the State of New Hampshire declared a state of emergency exists due to the impacts of the COVID-19 pandemic; and

WHEREAS, the top officials of the World Health Organization, the Centers for Disease Control, the National Institute of Health and the New Hampshire Department of Health and Human Services (NH DHHS) Division of Public Health have all determined that COVID-19 is most commonly spread from an infected person to others through the dispersion of respiratory droplets, including:

1. Through the air by coughing or sneezing;
2. Close personal contact, such as touching or shaking hands;
3. Touching an object or surface with the virus on it, then touching mouth, nose, or eyes before washing of hands.

And,

WHEREAS, the CDC has determined that COVID-19 may also be spread before an infected person shows symptoms of the virus and are therefore, unaware they are infected; and

WHEREAS, it is clinically established that the best means of slowing the spread of a virus is through minimizing close personal contact with individuals in a public environment, social/physical distancing, covering one's mouth and nose by wearing a face covering, and utilizing frequent and proper hand washing. For optimal protection, the following key factors should be considered while wearing a face covering. The safe use of face coverings requires the wearer to maintain proper hand hygiene by hand washing frequently with either soap and water or hand sanitizer for at least 20 seconds. The wearer should prevent the spread of disease by avoiding touching their face, nose, or eyes and not touching the outside of the face coverings at all times; and

WHEREAS, cloth face coverings are most likely to reduce the spread of COVID-19 when they are widely used by people in public settings as they reduce the spray of respiratory droplets, particularly when combined with social/physical distancing and other sanitary measures such as washing hands or utilizing hand sanitizer; and

WHEREAS, the NH DHHS Division of Public Health has found that community-based transmission of COVID-19 has been identified in all counties of the State; and

WHEREAS, as of August 5, 2020 there have been 696,147 deaths worldwide related to COVID-19, 156,311 in the United States, and 418 in the State of New Hampshire. As of this date worldwide there have been 18,354,342 persons infected with COVID-19, 4,748,806 in the United States, 6,693 in the State of New Hampshire and 20 in the City of Lebanon. As of this date there have been 130.1 persons hospitalized per 100,000 people due to COVID-19 in the United States, and 698 persons in the State of New Hampshire; and

WHEREAS, the provisions of RSA 47:17, XV provide authority to city councils to adopt By-Laws and Ordinances for the well-being of the cities. Further, RSA 147:1 allows towns to make regulations for the public health and safety of the people and RSA 47:12 vests the authority of towns to make such public health regulations to city councils; and

WHEREAS, the City's goal is to reduce the risk of the spread of the COVID-19 virus, and reduce the potential for additional impacts to the local economy, while also acknowledging that community mitigation measures reduce the number of fatalities and those needing hospital care.

WHEREAS, it has been determined that the virus which causes COVID-19 spreads very easily and sustainably between people, particularly within indoor environments with limited fresh air exchange but also amongst persons in close physical proximity who cannot adequately social distance; and

WHEREAS, Lebanon serves as a regional hub, visited by thousands on a daily basis traveling from other areas of the State, Nation and Internationally; and

WHEREAS, in September 2020, more than 2,000 college students are expected to return to the Upper Valley to resume classes, traveling to the region from across the United States and

countries around the world; and

WHEREAS, the CDC, NIH, the Surgeon General of the United States and NH DHHS Division of Public Health have all recommended that persons wear a face covering to reduce the risk of spreading COVID-19 when within 6 feet of other persons (along with other mitigation measures); and

WHEREAS, the City's Emergency Management Director and Health Officer have discussed this matter in detail and recommend the following emergency ordinance measures to the City Council for adoption; and

WHEREAS, COVID-19 presents a clear and present danger to the general population of Lebanon and it behooves the community for the Council to take this emergency measure requiring the wearing of face coverings in certain situations to protect the public health.

NOW, THEREFORE the Lebanon City Council adopts the following Emergency Public Health regulations:

1. Employees of all businesses shall wear a face covering over their mouth and nose when interacting with the public and whenever they are within six feet of a customer or any co-worker who is not a member of the same household.
2. Members of the public entering or queued to enter; remaining in or exiting from, any business, governmental or non-profit owned premises including without limitation any outdoor area where business of any sort is conducted, work site, work place, or government building, must wear a face covering, such as a fabric mask, scarf, or bandana over their nose and mouth. This requirement shall also apply to persons traveling on public transportation such as Advance Transit buses. Policies regarding face coverings in governmental buildings within the geographical boundaries of the City of Lebanon adopted by the governmental entity having jurisdiction over such buildings are hereby recognized by this ordinance and shall control in such buildings. Property owners shall have the authority to regulate the requirement to wear masks by any person, while on the premises of their property, by allowing persons to temporarily remove their masks while remaining on the premises when it is practical or becomes necessary to do so based upon the requirements of the services provided.
In addition, building owners, operators, managers, lessees, employers, businesses and non-profit organizations, as appropriate, shall have the authority to waive masking and social distancing requirements for employees and volunteers who are known to be fully vaccinated against Covid-19 while within the workplace or building space managed by them, provided however that mask requirements shall not be waived for employees and volunteers who are not fully vaccinated or whose vaccination status is unknown or who are interacting in person with members of the public. (As amended by City Council on 06/02/2021)
3. Members of the public entering or queued to enter; remaining in or exiting from a restaurant or an establishment serving alcoholic beverages for the purpose of picking up food for take-out or any other purpose must wear a face covering over their mouth

and nose. Members of the public dining indoors or outdoors at a restaurant may remove face covering while seated at their table. Members of the public must wear a mask when entering, using or leaving the restroom of a restaurant.

4. Residents, visitors, and members of the public entering or present at a residential or commercial building complex of greater than two (2) units must wear a face covering over their nose and mouth while in common areas and communal spaces when social distancing of at least six feet from non-household members is not practiced.
5. Members of the public utilizing the Mascoma Greenway, the Northern Rail Trail, sidewalks and other pedestrian public ways, or public recreational lands, are strongly encouraged but not required to wear a face covering to the fullest extent practicable and especially when there is a high likelihood of coming into contact with others and social distancing of at least six feet may not be possible.
6. As used herein “face covering” means a covering made of cloth, fabric, or other soft or permeable material, without holes or exhalation air valves, that covers the nose, mouth, and surrounding areas of the lower face. A face covering may be factory made or homemade and improvised from ordinary household materials.
7. Notwithstanding the above this order does not require children under 10 years of age to wear face covering (parents should make their own judgment). Face covering is not recommended for children less than 2 years of age.
8. A face covering is also not required to be worn by any person if said person can show a medical professional has advised that wearing a face covering may pose a risk to said person for health-related reasons.
9. Any person who violates this ordinance shall be subject to a fine for the first offense in the amount of \$100, for a second offense or subsequent offense the fine shall be \$250.
10. A person may temporarily remove their mask when in a business if obtaining a service or product that requires verification of the person’s identity or age.

This ordinance shall be effective immediately upon passage and shall continue in effect until rescinded by action of the Council.

Effective date June 2, 2021.

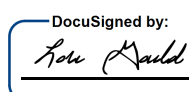
The ordinance shall be effective immediately upon passage and shall continue in effect until rescinded by action of the Council.

This Emergency Ordinance was adopted by the City Council on August 12, 2020, and amended on June 2, 2021 and is hereby authenticated by the undersigned as required by Section C419:22 of the City Charter.

CITY OF LEBANON

By: 
F08A405F81504ED...

Timothy J. McNamara, Mayor

By: 
409DEC9B3CE5455...

Lori Gould, Deputy City Clerk

Effective Date: June 2, 2021

Date of Publication of Notice of Public Hearing: May 22, 2021

Date of Public Hearing: June 2, 2021

Date of Adoption: June 2, 2021

Date of Notice of Adoption: June 7, 2021

Date of Recording of the Ordinance by the City Clerk: June 7, 2021

**AGENDA
LEBANON CITY COUNCIL
JUNE 16, 2021**

10. NEW BUSINESS:

10.A – WARRANT FOR CIVIL FORFEITURE NOTICE

BACKGROUND

Per statute, dogs are required to be licensed annually by April 30th. To procure a dog license, a current rabies vaccination must be on file with the City Clerk's Office. The month of May is a grace period which allows dog owners to follow up on expired rabies vaccinations in order to obtain a license. Any dog that remains unlicensed as of June 1st is assessed with a \$25.00 Civil Forfeiture fine and \$1.00 late fee which accumulates each month that the dog remains unlicensed.

ACTION

The following motion is offered for City Council consideration:

MOVED, that the Lebanon City Council hereby issues a warrant to City Clerk, Kristin Kenniston, authorizing the issuance of a civil forfeiture for each dog which remains unlicensed at the close of business on June 16, 2021.

Included in this Section:

1. Warrant for Civil Forfeiture Notice
2. NH RSA Applicable to Dog Licensing



WARRANT FOR UNLICENSED DOGS

City of Lebanon
OFFICE OF THE CITY CLERK
51 North Park Street
Lebanon, NH 03766

To the Lebanon City Council:

RSA 466:11 The town or city clerk shall annually, between June 1 and June 20, present to the local governing body a list of those owners of dogs that have failed to license or not renewed their dog licenses pursuant to RSA 466:1. The local governing body shall, within 20 days from June 20, issue a warrant to a local official authorized to issue a civil forfeiture for each unlicensed dog.

It is the intention of the City Clerk to have a Civil Forfeiture issued to all the owners listed. These owners were sent a reminder letter.

The undersigned City Councilors agree to this warrant and authorize the Lebanon City Clerk's Office to issue Civil Forfeiture notices to all delinquent dog owners.

Timothy J. McNamara, Mayor

Clifton Below, Assistant Mayor

Douglas Whittlesey, City Councilor

Erling Heistad, City Councilor

Karen Liot Hill, City Councilor

George Sykes, City Councilor

Devin Wilkie, City Councilor

Jim Winny, City Councilor

Karen Zook, City Councilor

Date: June 16, 2021

Submitted by City Clerk, Kristin M. Kenniston

466:1 Procuring License; Tag. – Every owner or keeper of a dog 4 months old or over shall annually, cause it to be registered, numbered, described, and licensed for one year in the office of the clerk of the city or town in which the dog is kept, and shall cause it to wear around its neck a collar to which shall be attached a metal tag with the following information thereon: the name of the city or town, year of issue of license and its registered number. The tag and license shall be furnished by the clerk at the expense of the city or town. Regardless of when the license is obtained, the license shall be effective from May 1 of each year to April 30 of the subsequent year.

Source. 1891, 60:1. 1925, 96:1. PL 150:6. RL 180:6. RSA 466:1. 1957, 217:1. 1995, 298:1. 1996, 67:1. 1997, 273:1, eff. Jan. 1, 1998.

466:11 Records. –

I. Clerks of towns and cities shall keep a record of all licenses issued by them, with the names of the keepers or owners of dogs licensed, and the names, registered numbers and descriptions of all such dogs. Clerks of towns and cities shall furnish yearly to the local governing body a list of those owners who have failed to renew their license for use in preparing the warrant of unlicensed dogs.

II. With the owner's consent, a veterinarian may report the euthanizing or death during treatment of a licensed dog to the town or city clerk in order to have the record reflect that the dog was euthanized or died. A veterinarian providing such a report may also provide the town or city clerk with the mailing and street addresses of the owner of the dog. Written reports, if any, shall be destroyed after receipt by the town or city clerk, and any resulting record reflecting the dog's death shall not specify the manner or cause of death.

Source. 1891, 60:5. PL 150:13. RL 180:13. RSA 466:11. 1994, 353:5, eff. Jan. 1, 1995. 2008, 42:1, eff. July 11, 2008.

466:13 Forfeiture. – Whoever is the owner or keeper of a dog and who fails to license or renew the dog license pursuant to RSA 466:1 shall forfeit \$25 to the town or city clerk of the municipality in which the dog is kept. If the forfeiture is not made to the town or city clerk within 15 calendar days of the notice of forfeiture, the case may be disposed of in a district court as a violation with a fine not to exceed \$50, notwithstanding the provisions of RSA 651:2, IV. A forfeiture shall not relieve the owner or keeper of the requirement of proper licensing of the dog as required by RSA 466:1. This section shall also apply to cats, if the municipality licenses cats. Any forfeitures collected under this section may be retained by the city or town for the administration and enforcement of this chapter.

Source. 1891, 60:8. PL 150:15. RL 180:15. RSA 466:13. 1994, 353:6. 1995, 298:9. 1996, 67:4.

Unlicensed Dogs

Section 466:14

466:14 Warrants; Proceedings. – The town or city clerk shall annually, between June 1 and June 20, present to the local governing body a list of those owners of dogs that have failed to license or not renewed their dog licenses pursuant to RSA 466:1. The local governing body shall, within 20 days from June 20, issue a warrant to a local official authorized to issue a civil forfeiture for each unlicensed dog. The warrant may also authorize a local law enforcement officer to seize any unlicensed dog. The civil forfeiture may be sent by certified mail, or delivered in hand, or left at the abode of the dog owner. The cost of service shall not exceed \$7 and may be recovered by the city or town in addition to the amount of the civil forfeiture. If the unlicensed dog is seized, it shall be held in a town or city holding facility for a period of 7 days, after which time full title to the dog shall pass to the facility, unless the owner of the dog has, before the expiration of the period, caused the dog to be licensed. The owner shall pay the facility a necessary and reasonable sum per day, as agreed upon by the governing body of the town or city and the facility, for each day the dog has been kept and maintained by the facility, plus any necessary veterinary fees incurred by the facility for the benefit of the dog. Before a local law enforcement officer seizes any unlicensed dog, a written warning shall be given to the dog owner.

Source. RS 127:5. CS 133:5. GS 105:5. GL 115:7. PS 118:8. 1891, 60:11. PL 150:18. RL 180:18. RSA 466:14. 1965, 325:2. 1967, 150:1. 1977, 559:1. 1983, 198:1. 1987, 91:1. 1994, 353:7. 1995, 298:10. 1996, 67:5. 2000, 128:1. 2001, 274:7, eff. July 16, 2001. 2014, 178:1, eff. July 1, 2014.

466:16 Returns. – Each local law enforcement officer to whom the warrant named in RSA 466:14 is issued shall return the warrant, on or before August 31, to the local governing body issuing it and, shall state in the return the number of owners who received and paid the civil forfeiture, the number of dogs in the city or town which have been seized and held under the provisions of RSA 466:14, and the number of owners who have received summons to a district or municipal court for failure to pay the civil forfeiture pursuant to RSA 466:13 or to license the dog pursuant to RSA 466:1.

Source. 1891, 60:12. PL 150:20. RL 180:20. RSA 466:16. 1994, 353:8. 2000, 128:2, eff. Jan. 1, 2001.

**AGENDA
LEBANON CITY COUNCIL
JUNE 16, 2021**

10. NEW BUSINESS:

**10.B – REQUEST FOR NEW STREET NAME WITHIN THE 401 MT. SUPPORT ROAD
GRADUATE HOUSING DEVELOPMENT: “JUNIPER CIRCLE”**

BACKGROUND

A residential graduate housing development located at 401 Mt. Support Road, Lebanon, New Hampshire is currently under construction with the expectation to begin leasing units in August 2021 and occupying units in July 2022. Trustees of Dartmouth College request Lebanon City Council approve the street name “Juniper Circle” for the private drive located within the development site (see attached letter and map).

In accordance with NH RSA 231:133, Street Names and Markers, the governing body has the responsibility of naming and renaming streets.

ACTION

Should the Council decide to move forward with this street naming as proposed, the following motion is offered in consideration:

MOVED, that the Lebanon City Council hereby names the private drive within the 401 Mt. Support Road Graduate Housing Development as “Juniper Circle”.

Included in this Section:

1. May 25, 2021 letter and attachment from Kristina Vagen on behalf of the Trustees of Dartmouth College
2. NH RSA 231:133

TMO Lebanon I, LLC
PO Box 90708 (2 Cooper Street)
Camden, NJ 08101

Submitted Via Email

May 25, 2021

Mr. Douglas Albanese
Communications Supervisor
Lebanon Police Department
36 Poverty Lane
Lebanon, NH 03766

Re: New Street Name within the 401 Mt Support Road Graduate Housing Development

Dear Doug:

On behalf of the project ownership entity and the landowner, Trustees of Dartmouth College, for this new residential development located at 401 Mt Support Road, Lebanon, NH, it is my pleasure to present this letter as our formal request to the City Council of the City of Lebanon to designate our private ring road located within the site and as highlighted in our City-approved site plan provided as *Attachment 1*, as **“Juniper Circle.”**

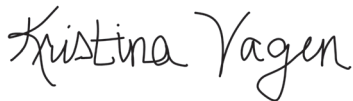
This letter is a follow up to the initial conversations I had with you last year where you approved Juniper Rise Lane, and just recently again, as **Juniper Circle**, that this name is not close to any already existing in the City and will therefore, not create any conflicts within in the City, as it relates to logistics for emergency services.

This new project is currently under construction and we expect to deliver our clubhouse for lease-up purposes this coming August 2021, with the 309 new apartment units receiving its TCO and opening in July of next year, 2022 for graduate student occupancy.

We hope that this letter and supporting documentation addresses all the information required by you and the City of Lebanon to assign this street name. We look forward to receiving written confirmation from your office, after the City Council’s review, that this street designation is acceptable. In the interim, if you have any questions and/or require any further clarification, please feel free to contact me at 856-341-4401 or kvagen@tmo.com.

Thank you in advance for your timely review.

Sincerely,



Kristina Vagen
Authorized Signatory

CC: Daniel Justynski, Dartmouth College
Tim Corwin, City of Lebanon
David Fenstermacher, VHB

Attachment 1 –

**Site Plan with the new road,
Juniper Circle, highlighted**

APARTMENT BUILDING UNITS	
GROSS SQUARE FOOTAGE	
BUILDING 1	SF
FIRST FLOOR	18,065
SECOND FLOOR	18,279
THIRD FLOOR	18,279
FOURTH FLOOR	18,279
TOTAL	72,902

BUILDING 2	SF
GROUND FLOOR	5,822
FIRST FLOOR	18,149
SECOND FLOOR	18,279
THIRD FLOOR	18,279
FOURTH FLOOR	18,279
TOTAL	76,808

BUILDING 3	SF
FIRST FLOOR	18,094
SECOND FLOOR	18,307
THIRD FLOOR	18,307
FOURTH FLOOR	18,307
TOTAL	73,015

BUILDING 4	SF
FIRST FLOOR	18,065
SECOND FLOOR	18,279
THIRD FLOOR	18,279
FOURTH FLOOR	18,279
TOTAL	72,902

TOTAL SQUARE FOOTAGE 297,627

DARTMOUTH UNIT MIX

BUILDING 1		
UNIT	SF	QUANTITY
1 BEDROOM	515	16
1 BEDROOM - SMALL	513	2
2 BEDROOM	759	10
2 BEDROOM - BUMPOUT	773	36
3 BEDROOM	830	1
4 BEDROOM - END CAP	1,166	8
4 BEDROOM - CORNER	1,241	3

TOTAL/BUILDING 76

BUILDING 2		
UNIT	SF	QUANTITY
1 BEDROOM	515	16
1 BEDROOM - SMALL	513	2
1 BEDROOM - END	600	1
2 BEDROOM	759	10
2 BEDROOM - BUMPOUT	773	40
3 BEDROOM	830	1
4 BEDROOM - END CAP	1,166	8
4 BEDROOM - CORNER	1,241	4

TOTAL/BUILDING 81

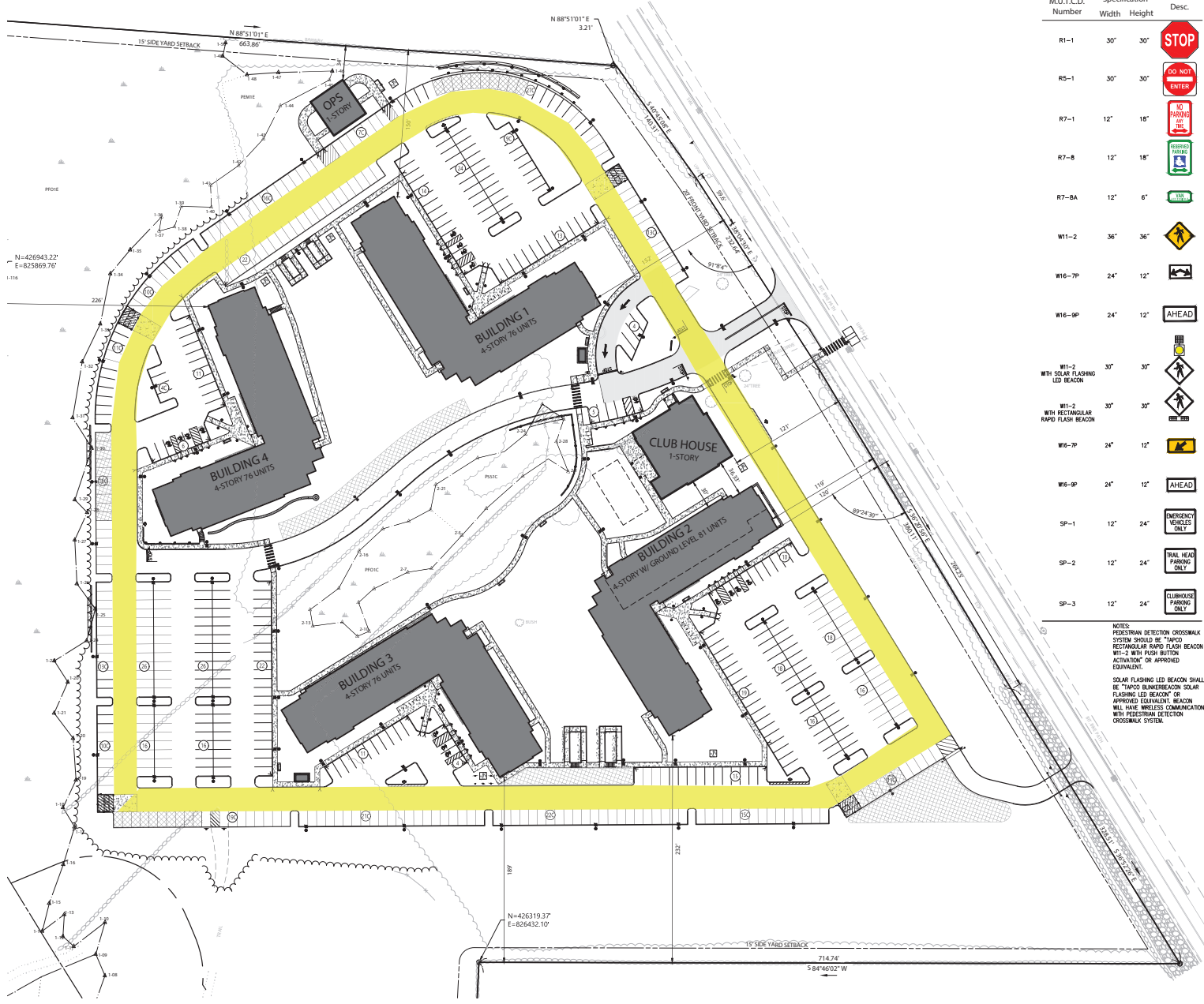
BUILDING 3		
UNIT	SF	QUANTITY
1 BEDROOM	515	16
1 BEDROOM - SMALL	513	2
2 BEDROOM	759	10
2 BEDROOM - BUMPOUT	773	36
3 BEDROOM	830	1
4 BEDROOM - END CAP	1,166	8
4 BEDROOM - CORNER	1,241	3

TOTAL/BUILDING 76

BUILDING 4		
UNIT	SF	QUANTITY
1 BEDROOM	515	16
1 BEDROOM - SMALL	513	2
2 BEDROOM	759	10
2 BEDROOM - BUMPOUT	773	36
3 BEDROOM	830	1
4 BEDROOM - END CAP	1,166	8
4 BEDROOM - CORNER	1,241	3

TOTAL/BUILDING 76

TOTAL UNITS 309



Sign Summary

M.U.T.C.D. Number	Specification	Width	Height	Desc.
R1-1	STOP	30"	30"	
R5-1	DO NOT ENTER	30"	30"	
R7-1	NO PARKING ANY TIME	12"	18"	
R7-8	PERMITTED PARKING	12"	18"	
R7-BA	VA	12"	6"	
W11-2	WALK	36"	36"	
W16-7P	WALK	24"	12"	
W16-9P	AHEAD	24"	12"	
W11-2 WITH SOLAR FLASHING LED BEACON		30"	30"	
W11-2 WITH RECTANGULAR RAPID FLASH BEACON		30"	30"	
W16-7P		24"	12"	
W16-9P	AHEAD	24"	12"	
SP-1	EMERGENCY VEHICLES ONLY	12"	24"	
SP-2	TRAIL HEAD PARKING ONLY	12"	24"	
SP-3	CLUBHOUSE PARKING ONLY	12"	24"	

NOTES:
PEDESTRIAN DETECTION CROSSWALK SYSTEM SHOULD BE "TAPCO RECTANGULAR RAPID FLASH BEACON W11-2 WITH PUSH BUTTON ACTIVATION" OR APPROVED EQUIVALENT.
SOLAR FLASHING LED BEACON SHALL BE "TAPCO BARRIER BEACON SOLAR FLASHING LED BEACON" OR APPROVED EQUIVALENT. BEACON WILL HAVE WIRELESS COMMUNICATION WITH PEDESTRIAN DETECTION CROSSWALK SYSTEM.

vhb
2 Bedford Farms Drive
Suite 200
Bedford, NH 03110
603.391.3900

NOTE:
1) NO FENCE SHALL BE INSTALLED IN THE DOCUMENTED WILDLIFE CORRIDOR AS IDENTIFIED IN THE "SEABOARD WILDLIFE CORRIDORS" STUDY, PREPARED BY ROCK VAN DE POLL, PH.D., DATED NOVEMBER 2016.
2) FINAL ADDRESS AND STREET NAME PENDING FINAL REVIEW BY POLICE DEPARTMENT.

SNOW STORAGE CALCULATION
220,087 SF PAVEMENT ASSUMING 1" OF SNOWFALL = 220,087 SF X 1" = 220,087 CF OF SNOW TO BE STORED
ASSUMING A 5:1 COMPACTION OF SNOW PILES - 220,087 CF / 5 = 44,017 CF OF SNOW PILES
ASSUMING THE PILE HEIGHT WILL BE 5', 44,017 CF / 5' = 8,803 SF OF SNOW STORAGE NEEDED
16,000 SF IDENTIFIED ON THE PLAN FOR SNOW STORAGE



Proposed Multi-Family
Housing Project
401 Mount Support Road
Lebanon, New Hampshire

Designed by	SJH	Checked by	DHF
Drawn by		Date	
Construction		August 21, 2020	

Overall Site Plan

C-3.0

Sheet 04 of 29

Project Number
52621.01

TITLE XX

TRANSPORTATION

CHAPTER 231

CITIES, TOWNS AND VILLAGE DISTRICT HIGHWAYS

Street Names and Markers

Section 231:133

231:133 Names; Changes; Signs. –

I. In all towns, cities, and those village districts which maintain public highways, every highway and street under the control of the town, city, or village district shall have a name which shall be given it by the governing body. Said name shall be legibly marked on a suitable signboard or other marker and placed in at least 2 conspicuous places on said street. The governing body may change the name of any such street or highway at any time when in its judgment there is occasion for so doing. The governing body may change the name of a private street or highway when the name change is necessary to conform to the requirements of the enhanced 911 telecommunications system. In towns and village districts the governing body may at its discretion provide for public hearing and submit such names for approval at any meeting of the legislative body, and voters may submit a petitioned warrant article for such a name change under the procedure of RSA 39:3.

II. The naming of any new street or highway shall form a part of the return of the layout of the street or highway, or of the acceptance of any dedicated way. The municipality shall not be bound by any name previously assigned to the street or highway by any private owner, developer, or dedicicator. No name for a highway or street shall be selected which is already in use, or which is confusingly similar to any such existing name, or which otherwise might delay the locating of any address in an emergency.

III. Whenever a name is assigned to any new street or highway, or a change is made in the name of any street or highway, the governing body shall make a return of the same to the town, city, or village district clerk, who shall make a record of the new name or name change, and shall forward a copy of such record to the commissioner of transportation.

Source. 1911, 79:1. PL 93:5. RL 109:5. 1945, 188:1, part 21:1. RSA 251:1. 1981, 87:1. 1991, 53:1. 2005, 113:1, eff. Aug. 14, 2005.

**AGENDA
LEBANON CITY COUNCIL
JUNE 16, 2021**

10. NEW BUSINESS:

**10.C – DISCUSSION & DIRECTION TO CITY ADMINISTRATION:
PREPARATION OF REGULATIONS TO PERMIT NATURAL BURIALS IN
OLD PINE TREE CEMETERY**

BACKGROUND

The discussion of Natural Burials in Lebanon Cemeteries has been with the Board of Cemetery Trustees for the past several months. The topic is new for Lebanon and is charged with passion on both sides of the discussion (for and against). A motion made and voted upon by the Board of Trustees has stalled development of regulations in favor of more study over the next 5 years.

Administration is willing to consider the option of natural burials but wishes to do so at a pace that allows opportunity to learn as we go. Old Pine Tree Cemetery is the one cemetery in the city where (more than likely) all burials were natural, and there is room for more burials to occur. Should natural burials be permitted, administration would opt to only allow them in Old Pine Tree Cemetery.

The regulation of municipal cemeteries is contained in City Code Chapter 46, Cemeteries. While the Board of Cemetery Trustees have the authority to adopt bylaws, regulations, and forms consistent with Chapter 46, when it comes to actually amending the Chapter, they are only advisory to the Council.

A point of discussion (confusion) during review of possible regulations centered around the question of whether the Council had previously “directed” the Board of Trustees to bring forth a recommendation on natural burials in the City. Minutes have been researched and there was no past direction.

In order to facilitate further review and discussion on natural burials, Administration is requesting the Council direct the City Manager to develop regulations for presentation to the Board of Trustees for their review and recommendation to the Council.

ACTION

Should the Council wish to provide direction to the City Manager with regards to the development of regulations for natural burials, the following motion is offered for consideration:

MOVED, that the City Manager is hereby directed to develop regulations to permit natural burials in Old Pine Tree Cemetery for review and recommendation by the Board of Cemetery Trustees.

BE IT FURTHER MOVED, that such proposed regulations and recommendations shall be presented to the Council no later than October 2021.

**AGENDA
LEBANON CITY COUNCIL
JUNE 16, 2021**

10. NEW BUSINESS:

10.D – DISCUSSION AND SET PUBLIC HEARING FOR JULY 7, 2021:
ORDINANCE 2021-05 TO AMEND CITY CODE CHAPTER 68, FEES, §68-15,
ENUMERATION OF FEES TO CORRECT THE WATER RATE CHARGE FOR A
FOUR-INCH WATER METER

BACKGROUND

On December 2, 2020, the Council authorized an 8.0% increase in water service rates through the passage of Ordinance 2020-20. As part of this ordinance, the rate for a four-inch water meter was inaccurately provided due to a transposition of numbers in the previously approved rate.

Four water accounts were affected by this error in the amounts of \$457.20 each (total overcharge of \$1,828.80). Each account holder will be reimbursed accordingly.

Administration is requesting the Council approve an adjustment in the rate for a four-inch water meter from \$2,629.90 to \$2,532.70 to accurately reflect the 8.0% increase.

ACTION

Should the Council wish to move forward with proposed Ordinance #2021-05, the following motion is offered for consideration:

MOVED, that the Lebanon City Council hereby schedules a public hearing for Wednesday, July 7, 2021, beginning at 7:00pm, in Council Chambers, City Hall, Lebanon, and Remote via City's Virtual Platform, for the purpose of receiving public input and taking action on proposed Ordinance #2021-05 to amend City Code Chapter 68, Fees, §68-15, Enumeration of Fees to correct the water rate charge for a four-inch water meter.

Included in this Section:

1. Proposed Ordinance 2021-05

**CITY OF LEBANON
ORDINANCE #2021-05**

AN ORDINANCE TO AMEND the Code of the City of Lebanon, Chapter 68 FEES, Article III, Miscellaneous Fees, Section 68-15 Enumeration of Fees, to amend the fixed meter charge for a Four-inch water meter.

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 68 FEES, Article III, Miscellaneous Fees, Section 68-15 Enumeration of Fees, for the purpose effecting a change to the fixed meter charge for a Four-inch water meter:

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

§68-15 B(1) Water service rates:

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

[7] Four-inch: ~~\$2,629.90~~ \$2,532.70

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 the remaining sections, subsections, sentences, clauses or part of this ordinance.

Section 3. Effective Date

This Ordinance shall become effective upon passage.

**AGENDA
LEBANON CITY COUNCIL
JUNE 16, 2021**

10. NEW BUSINESS:

**10.E – AUTHORIZATION FOR CITY MANAGER TO ENTER INTO A
LEASE AGREEMENT WITH TOWNSEND FAMILY TRUST FOR TOWER ANCHOR
AND GUY WIRE FOR AN EXISTING COMMUNICATION TOWER**

BACKGROUND

The City presently has an agreement with the Townsend Family regarding the placement of a tower anchor and guy wire for a public safety communications tower located on public property. The tower anchor and guy wire are located on the Townsend property. The property has been subdivided to another member of the Townsend family. This agreement addresses the subdivision of the property and the proper lessor. The amount of the lease is \$2,000 per year. The agreement is for five years after which it can be renewed.

Authorization from the Council is required for the City Manager to execute a lease agreement with Townsend Family Trust.

ACTION

MOVED, that the Lebanon City Council hereby authorizes the City Manager to enter into and execute a lease agreement with Townsend Family Trust for use of a portion of their property to house a tower anchor and guy wire for an existing communication tower located at 125 Storrs Hill Road, Lebanon.

**AGENDA
LEBANON CITY COUNCIL
JUNE 16, 2021**

10. NEW BUSINESS:

**10.F – REQUEST FOR ABATEMENT OF SEWER DEVELOPMENT
CHARGES FROM ROCK RIDGE LEBANON, LLC**

BACKGROUND

The City received a letter dated March 19, 2021 from Attorney Barry Schuster representing Rock Ridge Lebanon, LLC disputing the imposition of a sewer development charge (SDC) within the Rock Ridge Development. Attorney Matthew Decker, on behalf of the City, responded to Attorney Schuster on April 7, 2021 stating the “City stands on its position that pending sewer use permits for new homes in the Rock Ridge subdivision will not be issued until the sewer development charges have been paid”.

On May 24, 2021, Todd Westhaver, the Manager of Rock Ridge Lebanon, LLC submitted a letter objecting to the imposition of the Sewer Development Charge on the construction of buildings in the Rock Ridge Development off of Old Pine Tree Cemetery Road. Mr. Westhaver stated that the Rock Ridge Development was approved prior to the City amending Chapter 136 of the City Code by adopting Article XIV and Article XV.

The City adopted the provisions of Chapter 136 Articles XIV and XV on December 4, 2019. The Sleeper Village subdivision, now known as Rock Ridge, was approved on July 7, 2005. (See the letter to Attorney Schuster by Attorney Decker on April 7, 2021) The provisions of Article XIV regard the issue of sewer allocation and sewer permits. When this Article was developed, the City had limitations regarding capacity in the main sewer interceptor that prohibited new sewer connections other than for those developments already approved. Rock Ridge was one of those projects that was previously approved.

Subsequently, the City has made considerable progress in the renovation of the City’s main sewer interceptor which allows for additional capacity in the sewer collection system. Whether this work was completed or not, the capacity needed for the Rock Ridge development had already been calculated for the capacity needed in the sewer interceptor pre-renovation. In other words, Rock Ridge would have received an allocation and sewer permit.

However, Article XV, a separate article, applies to the implementation of a sewer development charge. The SDC applies to any new application for a building permit for which City sewer service is needed. The legal analysis is detailed in the letter from Attorney Decker to Attorney Schuster.

Mr. Westhaver, on behalf of Rock Ridge Lebanon, LLC, is requesting the City find that the sewer development charge is not applicable to the Rock Ridge Development as it is presently approved. Mr. Westhaver is requesting the Council to agree to abate the present sewer development charge which has been assessed and paid by Rock Ridge Lebanon, LLC as indicated below,

38 Dogwood Circle	\$	2,404.80
36 Dogwood Circle	\$	3,907.80
39 Dogwood Circle	\$	3,907.80
43 Dogwood Circle	\$	2,404.80
42 Dogwood Circle	\$	3,006.60
44 Dogwood Circle	\$	3,907.80
45 Dogwood Circle	\$	2,404.80
TOTAL:	\$	21,944.40

Further, Mr. Westhaver is requesting a decision by the Council regarding the abatement of future assessment of the sewer development charge regarding structures in the approved development which have yet to be constructed (94 units). Chapter 136, Article XV, Section 124 provides for a process to review abatement requests,

§ 136-124 Abatement of sewer development charges.

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.

ACTION

MOVED, that the Lebanon City Council, after hearing the request by Rock Ridge Lebanon, LLC for abatement of Sewer Development Charges in the amount of \$21,944.40 and any future Sewer Development Charges regarding sewer permits in the presently approved Rock Ridge development, hereby denies (or approves) the request for abatement.

Included in this Section:

1. March 19, 2021 letter from Attorney Barry Schuster re: Sewer Fees
2. April 7, 2021 letter from Attorney Matthew Decker re: Sewer Development Charges at Rock Ridge Development – 36, 38 & 39 Dogwood Circle
3. May 24, 2021 letter from Manager Todd Westhaver, Rock Ridge Lebanon, LLC re: Sewer Development Charge
4. May 25, 2021 letter from City Manager Shaun Mulholland re: Request to Abate Sewer Development Charge
5. Rock Ridge Exhibits submitted by Attorney Barry Schuster (06-09-2021)

Information available but not included in this Section:

1. Link to City Code Chapter 136, Article XV, Sewer Development Charge
<https://ecode360.com/36134591>

ROCK RIDGE
LEBANON, LLC
MARCH 19, 2021
LETTER FROM
ATTORNEY
BARRY
SCHUSTER

LAW OFFICES OF
SCHUSTER, BUTTREY & WING
Professional Association
79 Hanover Street
P.O. Box 388
Lebanon, New Hampshire 03766
Practice of Law in New Hampshire and Vermont

Barry C. Schuster
barry@ivylegal.com

Telephone
603-448-4780
Fax
603-448-3683

March 19, 2021

Todd Westhaver
Rock Ridge Lebanon, LLC
130 Old Pine Tree Cemetery Road
Lebanon, NH 03784

Re: Sewer Fees

Dear Todd:

Rock Ridge has requested that we review the City's adoption of its revised Sewer Ordinance, Chapter 136, and specifically Article XV the Sewer Development Charge of that Chapter, adopted on December 4, 2019, Chapter 136-120 through 136-124. Based our review of the Ordinance, the Council's deliberation, the record supporting the adoption of that ordinance and the prior approval of sewer flows for Rock Ridge, the sewer development charge does not apply to Rock Ridge because it already had a permitted sewer flow and the charge applies only to new developments.

The purpose of the Sewer Development Charge is as follows:

It is regarded as inequitable to finance future capital improvements to the municipal sewer system solely through sewer use (rental) rates. Major capital improvements to a municipal sewer collection and treatment system are most frequently required in order to service future customers, and it appears unfair to require present users to finance this future development, except on some equitable basis. Persons and organizations responsible for development within the City (e.g., developers) are in the best position to allocate costs applicable to the development to the persons and organizations requiring the future services.

This Ordinance amendment was developed after extensive study of the capacity of the existing sewer lines and the anticipated future needs. A review of the City's actions in 2018 and subsequently shows that the City calculated its existing capacity and then acted to develop a funding mechanism for future connections. The Council minutes for November 7, 2018, include a memorandum and table from Weston & Sampson that present the "Current and Previously Permitted Flows" as of that time. The Table accompanying that memorandum shows that Rock Ridge has a "permitted sewer flow" of 56,474 gallons per day. That recognition of Rock Ridge's

allocation is consistent with the approvals granted to Rock Ridge by the City extending back to at least September 2016, when the City Council approved the extension of sewer connections to Phase 3 of the Rock Ridge Development.

The apparent purpose of the Weston report was to provide a starting point examining sewer capacity while the City examined the decreasing capacity of the sewer system to absorb new developments, new users and new connections to the system. In December 2018, the Council discussed amending the City Code, Chapter 181, in order to restrict new connections. Once again, a report provided to the Council for its discussion of that ordinance amendment shows that Rock Ridge had already allocated to it 56,474 gpd of permitted sewer flow.

On October 23, 2019, the City Council again took up the possible adoption of a revised sewer ordinance. The minutes from that meeting specify that the ordinance would apply only to new developments.

Councilor Hill noted that one of the biggest changes made was that individuals and businesses would be able to apply for an allocation before starting the Planning Board Process.

Mr. Mulholland said individuals/businesses would know if they have enough sewer capacity before they spend a lot of money putting together a full Planning Board Application just for sewer capacity. They would have to pay for the non-refundable application fee and sewer development charge (20%), which is refundable if they do not get Planning Board approval....

The approach that the ordinance would apply to new developments, and not those which had been previously identified like Rock Ridge, is further illustrated by the chart that was included in the Council's informational package for that October 23, 2019, meeting. On page 25 of that package, a color chart explains how the imposition of the sewer development fee would be assessed. The chart begins with a developer filing an application for a sewer allocation. DPW would analyze the application to determine capacity, the City Manager would then either approve or deny the sewer allocation and, only then, would the developer proceed to the Planning Board for approval of the proposed development. This process is now stated in §136-105 of the Ordinance, but none of that process applies to Rock Ridge which received its sewer allocation from the City Council and Planning Board approvals years ago.

That same informational package for the Council on October 23, 2019, also included on page 23 an exhibit showing "Proposed Regulatory Changes" which stated that "Capacity would be allocated to applicants prior to beginning the Planning Board process."

Rock Ridge had its planning board approval and had a sewer allocation approved and granted to by the City council. That allocation was included in the analysis provided to the City when it considered amending its sewer ordinance and creating a sewer development charge (SDC). The language of that Ordinance, and the commentary by the Council at the time that it adopted the Ordinance provide a clear process for imposing the SDC, namely, that an applicant

or developer must apply to the City for the extension of sewer service prior to proceeding to the Planning Board for approval. The studies on which the City relied in adopting the Ordinance and the SDC identified the existing developments for which the City had allocated and adequate capacity, including that for Rock Ridge, and developed a mechanism for new and other projects for which no Planning Board or City Manager review had yet occurred.

By virtue of its previous Planning Board and City Council approvals, the SDC does not apply to Rock Ridge and should be removed from any billing to Rock Ridge.

Very truly yours,



Barry C. Schuster

BCS/sf
cc: Rock Ridge Lebanon, LLC

ROCK RIDGE
LEBANON, LLC
APRIL 7, 2021
LETTER FROM
ATTORNEY
MATTHEW
DECKER

April 7, 2021

Via E-mail Only

Barry C. Schuster, Esq.
Law Offices of Schuster, Buttrey & Wing, P.A.
79 Hanover Street
Lebanon, NH 03766
barry@ivylegal.com

RE: Sewer Development Charges at Rock Ridge Development -
36, 38 and 39 Dogwood Circle in Lebanon NH

Dear Attorney Schuster,

My office represents the City of Lebanon. I understand your client Rock Ridge Lebanon, LLC is disputing the imposition of a sewer development charge (SDC) relating to the connection of three new homes (at 36, 38 and 39 Dogwood Circle) to the City's sewer system. The City has shared with me your March 19, 2021 letter to your client, and I am responding to that letter to provide you and Rock Ridge with an explanation for the imposition of SDCs for the new houses at Rock Ridge.

An allocation of permitted sewer flow is not a vested property right. Instead, as described in City Code §136-105, an allocation merely reserves sewer capacity for an applicant's use, so that available capacity is not inadvertently consumed by other projects before a developer is able to connect to the system. *See* §136-105(D) ("The effect of the notice of allocation shall be to allow the applicant to reserve the permitted capacity for the applicant's use while other land use permits required for the particular development are applied for and reviewed.") After a development permit (*e.g.* subdivision) becomes final and vested, the sewer impacts of that permit are accounted for through the City's ongoing monitoring of its sewer collection system. *See* §136-105(E). However, per §136-105(I), "the issuance of a notice of allocation shall not be deemed to create any kind of vested or property right in the City-owned sewer system."

Although these cited sections were only added to the City Code in 2019, they are consistent with New Hampshire law that has been in effect long before the Lebanon planning board granted final approval to the Sleeper Village/Rock Ridge subdivision plat on July 7, 2005. In the 1991 case of *Adams v. Bradshaw*, 135 N.H. 7, the New Hampshire Supreme Court held that under RSA 149-I:1, which grants municipalities the authority to construct and maintain sewers and declares that a sewer constructed by a municipality "shall be the property of the [municipality]", a municipality may discontinue its sewer, "leaving those previously served by it to dispose of their sewage by other means." *Id.* at 11-12. The court affirmed that "the right given to a property owner to connect with a municipal sewer is in the nature of a license only,

and ... [s]uch a license may be revoked for cause at any time.” *Id.* at 12. The court also held that revocation of a sewer license is not an unconstitutional taking, because “a property owner has no vested right in a sewer connection.” *Id.* at 14.

It is within the context of the law set out in *Adams v. Bradshaw* that (1) a sewer use permit is explicitly made “separate from, and in addition to, any other land use approval required by law or ordinance for the underlying development”, §136-105(A), and (2) a “notice of allocation” is defined as a notice that reserves for the future use of an applicant “the privilege” – as opposed to a right – “to utilize a stated amount of sewer capacity”. *See* §136-6.

Because Rock Ridge cannot have a vested or irrevocable property right to sewer capacity based on an allocation, it is subject to modifications in the terms by which sewer service is offered and regulated, including the imposition of SDCs for new connections occurring after the adoption of the SDC ordinance on December 4, 2019. SDCs are authorized by RSA 149-I:7, which provides that the City “may assess upon the persons whose drains enter such main drains, common sewers, stormwater treatment, conveyance, and discharge systems, or treatment facilities, ...their just share of the expense of constructing and maintaining the same or paying off any capital debt or interest incurred in constructing and/or maintaining the same.” RSA 47:11 also empowers the City Council to “construct drains and common sewers through highways, streets or private lands” and to “require all persons to pay a reasonable sum for the right to open any drain into any public drain or common sewer.”

Prior to adoption of the SDC ordinance, capital improvements to the City’s sewer system were financed by sewer use (rental) rates. *See* §136-120(A). Newly-constructed houses in the Rock Ridge subdivision, which will absorb some of the City’s existing sewer capacity and contribute to increased maintenance costs and a need for future system expansion, are not among the existing customers who have already invested in core facilities on behalf of future customers. *See* §136-120(C). They are “future customers” under §136-121(A).

In the alternative, even if, for the sake of argument, there did exist a right to connect to and use capacity in a municipal sewer system, Rock Ridge still would not be exempt from SDCs. The SDCs are akin to an impact fee as defined in RSA 674:21(V), a fee imposed upon development, including subdivision, building construction, or other land use change, in order to help meet the needs occasioned by that development. Wastewater treatment and disposal facilities, and sanitary sewers, are specifically included in the list of capital improvements that may be funded by impact fees. RSA 674:39, I, provides that approved subdivisions are exempt from changes in local land use regulations only for five years after approval. RSA 674:39, II also specifically provides that changes in impact fees do apply to substantially complete improvements, even where other rights (*e.g.* against subsequent changes in subdivision regulations) have vested.

Consistent with these laws, a City planning staff memorandum, presented to the planning board for its January 13, 2020 meeting to review Rock Ridge’s request for an extension of time for completion of Phase 3 development, noted that impact fees instituted in September 2010 would apply for future building permits “as more than 5 years has elapsed since the date of the

April 7, 2021
Page 3

Planning Board's final approval of the plat on July 6, 2006." SDCs would apply in the same way.

In light of all of the foregoing, the City stands on its position that pending sewer use permits for new homes in the Rock Ridge subdivision will not be issued until the sewer development charges have been paid. Please do not hesitate to contact me with any other questions or concerns.

Sincerely,



Matthew C. Decker

cc: Shaun Mulholland, City Manager
James Donison, Director of Public Works
Brian Vincent, City Engineer

ROCK RIDGE
LEBANON, LLC
MAY 24, 2021
LETTER FROM
TODD
WESTHAVER



Rock Ridge Lebanon, LLC
130 Old Pine Tree Cemetery Road
West Lebanon, NH 03784
603-790-8449

May 24, 2021



Mr. Shaun Mulholland
City Manager
City of Lebanon
North Park Street
Lebanon, NH 03766

Re: Sewer Development Charge

Dear Mr. Mulholland:

Please accept this letter as the objection by Rock Ridge Lebanon, LLC, to the determination that Rock Ridge is subject to the sewer development charge asserted by the City on the future sewer connections at the Rock Ridge development. Although Article XV in City Code Section 136-100 does not provide a procedure for contesting the application of a sewer development charge, Rock Ridge presents this objection to your office under Section 136-111. If your office declines to rule on this request, then Rock Ridge requests that you present this request to the City Council under Section 136-124 of the City Code for determination by the Council.

Articles XIV and XV, Chapter 136, were adopted on December 4, 2019. As the title explains, those sections regulate "Sewer Connections, Extensions and Expanded Sewer Use Allocations." The Articles set forth the procedure by which sewer connections are allocated and the calculations for determining the capacity of the City's sewer system. The regulations in Article XIV require that an application for a sewer use permit and fee be filed prior to any land development. At that point, the City undertakes a sewer capacity analysis. Once that analysis is completed and the manager determines that there is adequate capacity, only then can the manager issue a notice of allocation to the developer. Then, the developer can proceed with all other land use approvals. If Planning Board approval is not received or development does not thereafter proceed, the sewer permits lapse.

In the case of Rock Ridge, it did not file a sewer permit application to the manager under Article XIV, the manager did not undertake a sewer capacity analysis - one had already been completed demonstrating adequate capacity for the Rock Ridge development when the Council considered the adoption of Articles XIV and XV - and Rock Ridge had already proceeded to and had its plans approved by the Planning Board. None of the procedures applicable to the imposition of the sewer development charge applied to Rock Ridge or were followed by the City. Further, Rock Ridge was not enlarging its previously approved sewer allocation but was simply building out that which had already been approved.

The record and minutes of the City demonstrate that when the City Council considered the adoption of Articles XIV and XV, all of the presentations and deliberations concerned new developments for which no sewer allocation had previously been made. The Council minutes for November 7, 2018, include a memorandum and table from Weston & Sampson that present the "Current and Previously Permitted Flows" as of that time. The Table accompanying that memorandum shows that Rock Ridge has a "permitted sewer flow" of 56,474 gallons per day. That recognition of Rock Ridge's allocation is consistent with the approvals granted to Rock Ridge by the City extending back to at least September 2016, when the City Council approved the extension of sewer connections to Phase 3 of the Rock Ridge development.

The apparent purpose of the Weston report was to provide a starting point for examining sewer capacity while the City examined the decreasing capacity of the sewer system to absorb other as-yet-unidentified developments and new users to the system. In December 2018, the Council again discussed amending the City Code, Chapter 181, in order to restrict new connections. Once again, a report provided to the Council for its discussion of the ordinance amendment shows that the City has already allocated to Rock Ridge 56,474 gpd of permitted sewer flow.

On October 23, 2019, the City Council resumed its consideration of the possible adoption of a revised sewer ordinance. The minutes from that meeting specify that the ordinance would apply only to new developments.

Councilor Hill noted that one of the biggest changes made was that individuals and businesses would be able to apply for an allocation before starting the Planning Board Process.

Mr. Mulholland said individuals/businesses would know if they have enough sewer capacity before they spend a lot of money putting together a full Planning Board Application just for sewer capacity. They would have to pay for the non-refundable application fee and sewer development charge (20%), which is refundable if they do not get Planning Board approval....

The approach that new developments, prior to applying for planning board approval, would be subject to the new ordinance, and not to those which had been previously identified like Rock Ridge, is further illustrated by the chart that was included in the Council's informational package for that October 23, 2019, meeting. On page 25 of that package, a color chart explains how the imposition of the sewer development fee would be assessed. The chart begins with a developer filing an application for a sewer allocation. DPW would analyze the application to determine capacity, the City Manager would then either approve or deny the sewer allocation and, only then, would the developer proceed to the Planning Board for approval of the proposed development. This process is now stated in §136 of the Code. None of the steps in that process apply to Rock Ridge which received its sewer allocation from the City Council and Planning Board approvals years ago. That same informational package provided to the Council on October 23, 2019, also included on page 23 an exhibit showing "Proposed Regulatory

Changes” which stated that “Capacity would be allocated to applicants prior to beginning the Planning Board process.”

In his letter of April 7, 2021, Attorney Decker writes that “Rock Ridge cannot have a vested or irrevocable property right to sewer capacity based on an allocation....” However, the issue is not one of allocation. The issue is whether the intent and adoption of the sewer development charge can be applied, retroactively, to a development where the City did not follow and could not have followed the procedures of the ordinance and where Rock Ridge, itself, also could not have followed those procedures since it was an existing, previously approved development. Further, since Article XV was not adopted under the requirements applicable to impact fees, the reference in Attorney Decker’s letter to RSA 674:39, II, is not applicable. Since the charge is not an “impact fee” as that is defined by state law, Rock Ridge is exempt from the sewer development charge.

The provisions of Chapter 130-120 do not apply to the Rock Ridge development. Rock Ridge, LLC requests that the sewer development charge be removed.

Sincerely,

Rock Ridge Lebanon LLC

A handwritten signature in black ink, appearing to read "Todd Westhaver". The signature is written in a cursive, flowing style.

Todd Westhaver,
Its duly authorized Manager

ROCK RIDGE
LEBANON, LLC
MAY 25, 2021
LETTER FROM
CITY MANAGER
SHAUN
MULHOLLAND



CITY MANAGER'S OFFICE

City of Lebanon, NH
51 North Park Street
Lebanon, NH 03766
(603) 448-4220
www.LebanonNH.gov

May 25, 2021

Todd Westhaver
Manager
Rock Ridge Lebanon, LLC
130 Old Pine Tree Cemetery Rd.
West Lebanon, NH 03784

RE: Request to Abate Sewer Development Charge

I received your request for abatement of the Sewer Development Charge on May 24, 2021. For the reasons detailed in the letter from the City's legal counsel, Attorney Matthew Decker dated April 7, 2021, the City's Sewer Development Charge is applicable to any new construction with requires sewer service, and is due upon the issuance of a building permit/sewer use permit which require sewer service. The City Manager has the authority to abate fees and assessments relative to sewer use under the provisions of City Code Section 136-80 for good cause shown. However, City Code Article XV, Section 136-124 reserves specific authority for the City Council to abate a Sewer Development Charge as indicated below,

§ 136-124 Abatement of sewer development charges.

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.

Although your letter does not indicate my presumption is that you are requesting the abatement of the following Sewer Development Charges for the properties indicated below,

38 Dogwood Circle	\$	2,404.80
36 Dogwood Circle	\$	3,907.80
39 Dogwood Circle	\$	3,907.80
43 Dogwood Circle	\$	2,404.80
42 Dogwood Circle	\$	3,006.60
44 Dogwood Circle	\$	3,907.80
45 Dogwood Circle	\$	2,404.80
TOTAL:	\$	21,944.40

Further, that the Rock Ridge Lebanon, LLC not be subject to the Sewer Development Charge for any new structures that may be constructed which have been approved by the Planning Board prior to the enactment of Article XV

As the City Manager I decline to act on your request. In accordance § 136-124, this request for abatement is scheduled for a hearing before the City Council on June 16, 2021 at 7 PM. You may appear before the Council on this date and time to make your request for abatement and present any relevant information you would like the Council to consider. This meeting is being conducted virtually. I will provide you with a link to access the meeting via. email.

If I can be of any further assistance or if you have further questions regarding this letter, please do not hesitate to contact me.

DocuSigned by:

AE8C225904D9436...
Shaun Mulholland
City Manager

Cc: Matthew Decker, Attorney, DW
James Donison, DPW Director

ROCK RIDGE
LEBANON, LLC
ROCK RIDGE
EXHIBITS as
SUBMITTED by
ATTORNEY
BARRY
SCHUSTER



CITY OF LEBANON ~ PLANNING OFFICE
51 North Park Street ~ Lebanon, NH ~ 03766

NOTICE OF ACTION
LEBANON PLANNING BOARD

Notice is hereby given that on **April 11, 2005**, the following action was taken by a majority of the Lebanon Planning Board in accordance with the City of Lebanon Subdivision and Site Plan Review Regulations:

Matthew Brown moved that the Lebanon Planning Board finds that the application of **ALEX & BONNIE ISKANDAR** for a site plan and final review of a major subdivision is complete enough to accept jurisdiction and commence review.

The motion was seconded by James Dean. The vote on the motion was unanimous in favor.

Notice is hereby given that on **July 7, 2005**, the following action was taken by a majority of the Lebanon Planning Board in accordance with the City of Lebanon Subdivision and Site Plan Review Regulations:

Carl Porter moved that the Lebanon Planning Board **APPROVES** the request by **ALEX & BONNIE ISKANDAR** for a Conditional Use Permit and Final Major Subdivision for Sleeper Village, in accordance with the Site Plan Review Regulations and the Subdivision Regulations, for development of a Planned Unit Residential Development (PURD) consisting of 141 residential units on 120 lots, on Old Pine Tree Cemetery Road, Tax Map 74, Lots 1, 2, 3, 11, & 3-100, Lebanon, NH, in the R-3, RL-2, and RL-3 zoning districts, application #PB2003-16, as shown on plans titled "Sleeper Village - A Residential Community" drawn by Bruno Associates, Inc, dated 02-14-05, Drawing No. 03-015, consisting of 93 sheets, and further described with the following materials:

1. Application Packet for final subdivision, submitted by Dan Nash of Bruno Associates, March 28, 2005. Packet includes support documentation for the Sleeper Village - Final Subdivision Application.
2. Plan Sheet titled "Wetlands Review for Sleeper Village", drawn by Bruno Associates Inc., dated March 28, 2005, project number 03015
3. Plan Sheet titled "Wetlands Exhibit with Overlay", drawn by Bruno Associates Inc., dated March 28, 2005, project number 03015

**NOTICE OF ACTION
LEBANON PLANNING BOARD
ALEX & BONNIE ISKANDAR - SLEEPER VILLAGE
JULY 7, 2005**

4. Plan Set titled "Intersection Improvement - Seminary Hill / Old Pine Tree Cemetery Road" drawn by Bruno Associates Inc., dated February 28, 2005, project number 03015
5. Plan Set titled "Intersection Improvement - Mascoma Street / RR Underpass" drawn by Bruno Associates Inc., dated February 28, 2005, project number 03015
6. Plan Sheet titled "Open Space Plan," drawn by Bruno Associates Inc., dated March 28, 2005, project number 03015
7. Power Point Presentation (finalpb_21apr05.ppt). Document contains applicant responses to "issues/concerns" from the preliminary review
8. Property Tax Impact Analysis: Proposed Sleeper Village, Old Pine Tree Cemetery Road, Lebanon NH by Applied Economic Research dated November 2003.
9. Property Tax Impact Analysis: Proposed Sleeper Village, Old Pine Tree Cemetery Road, Lebanon NH by Applied Economic Research dated July 2003.
10. Traffic Impact Study: Sleeper's Village Housing Development, Lebanon, New Hampshire, by Resource Systems Group dated July 2003.
11. City of Lebanon Conservation Commission minutes from February 24, 2005 & March 10, 2005, including review and comment on wetland impact.
12. City of Lebanon ZBA minutes from April 4th, 2005, including approval for a wetlands conditional use permit, with conditions.
13. Drainage Report by Bruno Associates dated March 2005

DRAWINGS AND OTHER SUBMITTALS RECEIVED DURING PRELIMINARY REVIEW:

1. Plan Set titled "Sleeper Village, A Residential Community, Lebanon, New Hampshire, Permit Plans - Preliminary Subdivision", consisting of 32 sheets, dated 7/28/03, revised Project Number (PN) 03-015.
2. Ownership Diagram (8 1/2" by 11").
3. Sleeper's Village Land Use Diagram (11" by 17").
4. Letter from Bruno Associates to the Lebanon Planning Board dated July 14, 2003.

**NOTICE OF ACTION
LEBANON PLANNING BOARD
ALEX & BONNIE ISKANDAR - SLEEPER VILLAGE
JULY 7, 2005**

5. Letter with attachments from Bruno Associates to the Lebanon Planning Board dated July 28, 2003.
6. Letter from Verizon to Bruno Associates dated July 28, 2003.
7. Letter from Granite State Electric to Alex Iskandar dated July 2, 2003.
8. Letter from living Heating Oil to Alex Iskandar dated July 28, 2003.
9. Letter from Bruno Associates to Lebanon Planning Board dated July 28, 2003.
10. Preliminary Drainage Report by Bruno Associates dated July 28, 2003.
11. Areas of proposed lots dated July 14, 2003.
12. Sleeper Village Proposed Covenants dated July 11, 2003.
13. Sleeper Village Impact Statement by Alex Iskandar undated.

THE FOLLOWING CONDITIONS MUST BE MET:

1. COVENANTS, DEED RESTRICTIONS & OWNERS ASSOCIATION

- 1.1 The applicant shall provide proposed Declaration of Covenants and Deed Restrictions that govern the proposed owners association (Homeowners) including specific provisions for the collection of fees, assessments and charges to pay for the operation and maintenance of all common facilities. Owners Association documents shall be reviewed and approved by the City Attorney. Owners Association documents shall include but not be limited to the following:
 - a. The Owners' Association shall provide a list identifying invasive vegetation species with instructions to residents to avoid use of such vegetation. (Site Plan Review Regulations 6.2.H.3). Restrictions on the use of these species shall be enforceable by both the Association and the City as set forth in paragraphs (g) and (h) below.
 - b. On-site sewer lines and appurtenances shall be maintained as common facilities by the Owners' Association.
 - c. Detention ponds and all related drainage facilities shall be maintained as common facilities by the Owners' Association.

**NOTICE OF ACTION
LEBANON PLANNING BOARD
ALEX & BONNIE ISKANDAR - SLEEPER VILLAGE
JULY 7, 2005**

- d. All landscaping, streets, and street lighting shall be maintained as common facilities by the Owners' Association.
 - e. On-street parking within the proposed development shall be limited to one side of street, and where applicable, adjacent to sidewalk system in order to permit unimpeded access by large service and emergency vehicles. Markings reflecting these limitations shall be installed and maintained by the Owners' Association.
 - f. Maintenance of proper pavement markings and signage for all traffic controls as depicted on the approved plan shall be the responsibility of the Owners Association, and enforceable as set forth in paragraphs (g) and (h) below.
 - g. The covenants shall require that the applicant and subsequent Owners' Association must maintain the development in full compliance with all express and implied conditions of final approval, and with all other City and State regulations and requirements applicable to such approval, and shall contain a mechanism for enforcing, and funding the correction of, any violations of such requirements.
 - h. The covenants shall also contain a mechanism providing for City enforcement, in the event that, the Owners Association fails to do so under the mechanism described under paragraph (g) above. (Language to be approved by the City Attorney)
 - i. Covenants and Deeds Restrictions governing open space shall be written to ensure compliance with Section 501.2.K of the Zoning Ordinance. (Language to be approved by the City Attorney)
 - j. On page 16 of the Covenants, Section #8, Clotheslines, shall be deleted.
- 1.2 The Owners Association, together with the Articles of Agreement and Covenants, shall be formed, in existence and legally effective prior to issuance of the first building permit.

2. BONDING-INSPECTION-FEES

- 2.1 The City shall obtain the services of a 3rd party inspector, for which the applicant shall be responsible for all inspection fees related to construction and installation of streets and utilities. Applicant shall provide funding for inspection services in a form acceptable to the City, and in accordance with Section 14.2 of the Subdivision Regulations. 3rd party engineer inspection reports and as-built drawings shall be reviewed and approved by the City Engineer and the Fire Department, prior to acceptance of the water system by the City.

**NOTICE OF ACTION
LEBANON PLANNING BOARD
ALEX & BONNIE ISKANDAR - SLEEPER VILLAGE
JULY 7, 2005**

- 2.2 Pursuant to Section 14.6 of the Subdivision Regulations and Section 8.2 of the Site Plan Review Regulations, the applicant shall provide a Performance Bond for all required improvements, both on and off-site, to include but not limited to: intersection improvements, landscaping, lighting, paving, utilities, sidewalks, etc., prior to signing and recording of the final mylar in an amount considered adequate by the City Engineer, and in a form satisfactory to the City Attorney. Performance Bond shall be secured by an insurance bond, a letter of credit, or an escrow account.

3. SITE CONSTRUCTION

- 3.1 There shall be no construction work between the hours of 5 PM to 7 AM. There shall be no construction work on Sundays.
- 3.2 Applicant shall implement NH DES Site Specific Best Management Practices during construction.
- 3.3 Edge-of-Disturbance fencing shall be in place prior to initiation of any site work, to be verified by City Engineer on site.

4. UTILITIES

- 4.1 Applicant shall dedicate water lines within the development to the City. The applicant shall request that the City Council delegate to the City Manager the authority to accept, on the City's behalf, a conveyance, to be recorded, which would include the utility facilities. The applicant shall also grant an easement to the City providing access to service on-site water utilities which are to be conveyed to the City. The easement shall be recorded in the Grafton County Registry of Deeds prior to the issuance of the first Certificate of Occupancy. Transfer documents shall be approved by the City Attorney and the Director of Public Works prior to signing and recording of the final mylar.
- 4.2 The applicant shall submit final design, including construction drawings, of utility, and infrastructure features to the City Engineer for approval prior to signing and recording of the final mylar.
- 4.3 Proposed drainage throughout the development, and including culvert location and functionality along or across Old Pine Tree Cemetery Road, shall be approved by the City Engineer, prior to signing and recording of the final mylar. The development shall not increase drainage onto abutting properties.

5. STREETS/SIDEWALKS/TRAFFIC SAFETY

- 5.1 The applicant shall submit final design, including construction drawings, of all proposed streets and sidewalks to the City Engineer for approval prior to signing and recording of the final mylar.
- 5.2 As proposed and funded entirely by the applicant, and depicted on the submitted plan, a left turn lane from Seminary Hill onto Old Pine Tree Cemetery Road shall be constructed. This turn lane shall be constructed in accordance with the approved plan, prior to issuance of the Certificate of Occupancy for the 30th dwelling unit.
- 5.3 Street names shall be approved by the City Engineer prior to signing and recording of the final mylar. The sole purpose of such review and approval shall be to assure that such names do not create confusion under the State's Enhanced 911 system.
- 5.4 Applicant shall provide sidewalks using standards identical to those proposed along internal streets, and depicted on submitted plan Sheet No. OA-5 and construction drawing sheet D-1 (typical pavement/sidewalk/curb section), to be constructed from the intersection of Sleeper Boulevard and Old Pine Tree Cemetery Road to the traffic rotary within the development at the end of the Sleeper Boulevard, as well as connecting Sleeper Boulevard with the proposed sidewalk on Community Avenue. Construction shall be completed prior to issuance of the first Certificate of Occupancy for this development.
- 5.5 Applicant shall install a bus shelter along Old Pine Tree Cemetery Road, within 100' of the entrance to the proposed development, in accordance with specifications provided by the City Engineer. Such a shelter shall meet with the approval of the City Engineer, in consultation with the Lebanon School District and Advanced Transit, prior to issuance of the applicant's final Certificate of Occupancy.
- 5.6 Applicant to provide a 1.5% contribution for installation of signalization at the Mechanic Street/Slayton Hill Intersection. The 1.5% contribution matches the average of the am and pm traffic contribution, as stated in the Resource Systems Group traffic study. Contribution not to exceed \$1,500 dollars (e.g. 1.5% of estimated cost of traffic signalization). Contribution contingent upon signalization occurring within six (6) years of the issuance of the Final Certificate of Occupancy, as set forth in Section 213 of the Lebanon Zoning Ordinance.

- 5.7 As proposed and funded entirely by the applicant, and depicted on the submitted plan, applicant shall construct roadway improvements along Old Pine Tree Cemetery Road, from station 39.5 to station 46, as shown on sheet R-10. Additionally, the applicant will include a 4ft gravel shoulder into the proposed construction plan, that will extend from station 37.5 to station 46. Gravel shoulder supporting bicycle and pedestrian movement to be located on the South side of Old Pine Tree Cemetery Road. Improvements to be completed prior to the issuance of the certificate of occupancy for the first dwelling unit.
- 5.8 Applicant shall provide traffic calming for Old Pine Tree Cemetery Road, Westerly of the "Bonnie View" access driveway and Easterly of the "Sleeper Boulevard" access to meet the approval of the Director of Public Works, contingent upon review and recommendation by the Lebanon Safety Committee.
- a. Applicant shall provide a striped crosswalk on Old Pine Tree Cemetery Road to connect with the "Sleeper Boulevard" sidewalk to meet the approval of the City Engineer and Director of Public Works, contingent upon review and recommendation by the Lebanon Safety Committee.

6. MISCELLANEOUS

- 6.1. Applicant shall locate and protect all installed propane tanks pursuant to the Fire Dept. approval.
- 6.2 Applicant shall submit a lot line merger application for Planning Office approval, prior to signing and recording of the final mylar.
- 6.3 Applicant shall obtain approval of any parcel and house numbering from the City Assessor, Police Department and City Engineer prior to any such permanent markings. The purpose of such review and approval shall be to assure that such numbers do not create confusion under the State's Enhanced 911 system, and to ensure accurate City records for accounting purposes.
- 6.4 Applicant shall sign a Subdivision Agreement in accordance with Section 6.25 of the Lebanon Subdivision Regulation, prior to signing the mylar.
- 6.5 Prior to signing and recording of the final mylar, the applicant shall obtain State approvals including but not limited to the following:
- NHDOT approval for the rail crossing to construct the water main crossing of the Northern Railway corridor
 - NHDES approval for a Site Specific Permit
 - NHDES approval for Wetland Application - Standard Dredge and Fill

NOTICE OF ACTION
LEBANON PLANNING BOARD
ALEX & BONNIE ISKANDAR - SLEEPER VILLAGE
JULY 7, 2005

6.6 Pursuant to Chapter 134 of the Code of the City of Lebanon, applicant shall obtain permission from the City Council to construct the improvements to Old Pine Tree Cemetery Road, a Scenic Road of the City of Lebanon, prior to the signing of the mylar.

7. ADDITIONAL SUBMISSION MATERIALS

7.1 Applicant shall provide two complete sets of revised plans in accordance with submission requirements outlined in the Subdivision and Site Plan Review Regulations. Plans are to be submitted to the Planning Office and shall be reviewed and approved prior to signing and recording of the final mylar

7.2 Provision of a digital record drawing (CAD.dwg Format) prior to the signing of the mylar.

The motion was seconded by Matthew Brown. The vote on the motion was 8 in favor, 1 opposed.

Matthew Brown moved that the Lebanon Planning Board authorizes the Chair to sign the plat for Sleeper Village, as described above. The motion was seconded by Carl Porter. The vote on the motion was 8 in favor with 1 abstention.

SIGNED: _____

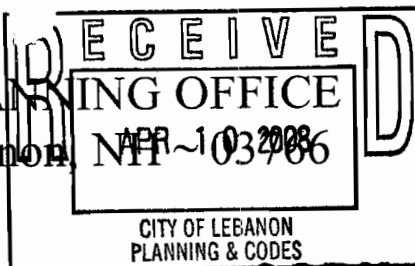
Kenneth Morley, Chair

DATED: _____

15 Aug. 2005



CITY OF LEBANON ~ PLANNING OFFICE
51 North Park Street ~ Lebanon, NH ~ 03786



**NOTICE OF ACTION
LEBANON PLANNING BOARD**

COPY

Notice is hereby given that on **FEBRUARY 11, 2008**, the following action was taken by a majority of the Lebanon Planning Board in accordance with the City of Lebanon Site Plan Review Regulations.

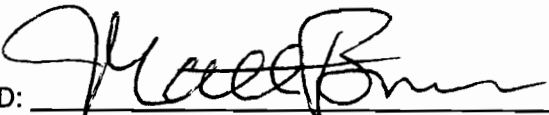
Stephanie Jackson moved that the Lebanon Planning Board finds the application of **WITTEK DEVELOPMENT, LLC** for an Amendment to an Conditional Use Permit, #PB2008-02, is complete enough to accept jurisdiction and commence review.

The motion was seconded by Cliff Desrosiers. The vote on the motion was unanimous in favor.

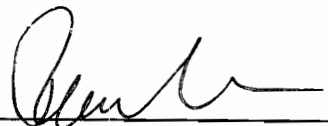
Notice is hereby given that on **MARCH 10, 2008**, the following action was taken by a majority of the Lebanon Planning Board in accordance with the City of Lebanon Site Plan Review Regulations.

Ken Morley moved that the Lebanon Planning Board approve the application of **WITTEK DEVELOPMENT, LLC**, for an Amendment to a Conditional Use Permit to implement a construction phasing schedule for the Rock Ridge Planned Unit Residential Development at Old Pine Tree Cemetery Road, Tax Map 74, Lot 3, Lebanon, NH, in the RL-2 zone, #PB2008-02, as shown on sketch plan titled "Construction Phasing for Sleeper Village," drawn by Bruno Associates, Inc., PC, dated March 28, 2005, including any and all supplemental submissions, and testimony provided during the Public Hearing. Completion of Phase 2 site improvements would be required by February 11, 2011, and completion of Phase 3 site improvements would be required by February 11, 2014. The applicant's Letter of Credit for the project shall cover all remaining improvements regardless of phasing and shall be extended, as necessary, to not expire before August 11, 2011 for Phase 2 improvements and August 11, 2014 for Phase 3 improvements.

The motion was seconded by Joan Monroe. The vote on the motion was unanimous in favor.

SIGNED: 
Matt Brown, Chair

DATED: MARCH 24, 2008

SIGNED: 
DATED: 4/4/08



CITY OF LEBANON ~ PLANNING OFFICE
51 North Park Street ~ Lebanon, NH ~ 03766

NOTICE OF ACTION
LEBANON PLANNING BOARD

Notice is hereby given that on **April 9, 2012** the following action was taken by majority of the Lebanon Planning Board in accordance with the City of Lebanon Subdivision Regulations.

Ken Morley moved that the Lebanon Planning Board finds the application of **ROCK RIDGE LEBANON, LLC**, for an extension of time in order to complete infrastructure and site improvements associated with Phase 1 of "Rock Ridge" (formerly Sleeper Village), a 140-unit Planned Unit Residential Development located off Old Pine Tree Cemetery Road, Tax Map 74, Lots 1, 2, 3, 3-100 and 11, West Lebanon, NH, in the R-3, RL-2 and RL-3 zones, #PB2012-05-EXT, is complete enough to accept jurisdiction and commence review.

The motion was seconded by Chris Armen. The vote on the motion was unanimous in favor.

Notice is hereby given that on **April 9, 2012** the following action was taken by majority of the Lebanon Planning Board in accordance with the City of Lebanon Subdivision Regulations.

Tim McNamara moved that the Lebanon Planning Board approve the request of **ROCK RIDGE LEBANON, LLC**, for an extension of time in order to complete infrastructure and site improvements associated with Phase 1 of "Rock Ridge" (formerly Sleeper Village), a 140-unit Planned Unit Residential Development located off Old Pine Tree Cemetery Road, Tax Map 74, Lots 1, 2, 3, 3-100 and 11, West Lebanon, NH, in the R-3, RL-2 and RL-3 zones, #PB2012-05-EXT, including any and all supplemental submissions, and testimony provided during the public hearing, with the following conditions:

1. The applicant shall comply with all conditions of the Planning Board's Notices of Action for the Rock Ridge (f/k/a Sleeper Village) development, including, but not limited to, the original Subdivision and Conditional Use approval dated July 7, 2005 and the Notice of Partial Suspension of Final Subdivision Approval dated January 26, 2009.
2. The applicant shall now be required to complete Phase 1 site improvements by March 10, 2014.
3. The applicant shall update, if appropriate, and extend the current Performance Security Letter of Credit for remaining Phase 1 site improvements to not expire prior to September 10, 2014, six months following the expected completion date for such improvements.
4. No further extensions shall be granted for completion of the remaining Phase 1 site improvements required under the original site-plan approval.

The motion was seconded by Gregory Schwarz. The vote on the motion was eight in favor and one opposed.

SIGNED: _____

The City of Lebanon, Planning Board Chair

DATE: _____

Request for Proposal Construction Services Rock Ridge Phase 2

Contact: Christina Hall, P.E., City Engineer
City of Lebanon
193 Dartmouth College Highway
Lebanon, NH
603-448-3112
E-mail: Christina.hall@lebcity.com

RFP Issuance: November 6, 2015

RFP Response Deadline: 2:00pm, November 20, 2015

I. INTRODUCTION

The City of Lebanon, NH, requests proposals from qualified consultants that are independent to the project to provide construction services, advisory/administrative advisory services, and provide construction inspection services on behalf of the City of Lebanon for infrastructure improvements corresponding to the Rock Ridge Phase 2 Project in Lebanon, NH. Enclosed are the Notice of Action for the project, the construction plans, and the contractor's schedule.

In your responses, please attach references for similar projects. Please only include projects that your firm has had similar experience performing these duties including a project summary. Please provide certification that your company is not working or has not worked on this project in any capacity for the developer/owner on this project.

II. SCOPE OF WORK

1. The project was originally designed by Bruno Associates Inc. P.C. and the current design engineer is Advanced Geomatics & Design. The project will have been approved for construction by the City of Lebanon. The project consists of the construction of phase 2 residential subdivision project, to include new gravity sewers, water mains, services, roadways, sidewalks and drainage improvements.
2. The City will require a representative on site full time (up to 8 hours per day with overtime as needed) to observe all water and sewer infrastructure including services up to 5 feet from buildings, sidewalks, roadway construction (including subbase pavement), embankment placement, erosion control and drainage to verify that the project is constructed in accordance with the approved plans and specifications.
3. It has been estimated by the contractor/engineer that the project will take approximately (32) weeks of required inspection time of which (29) weeks for on and off site water and sewer installation, drainage construction, erosion control, etc. and three (3) weeks for roadway construction based on the schedule provided. Attached is the proposed schedule estimating this time. This is an estimate used for equal comparison between proposals. Actual construction dates may differ and time in excess of the estimate will be billed at the rate schedule to be provided as part of this proposal.

4. The City will require a representative to monitor construction materials being installed on the project; to observe installation, backfill, and compaction procedures; to verify horizontal and vertical alignment of utility installations and roadway construction; to attend job meetings; and to coordinate any issues or concerns between the contractor and the City.
5. The City will require a representative to assist with the review of design and/or construction material modifications that may be proposed by the owner and/or contractor for conformance with City standards, once reviewed by the owners representative/designer.
6. The City will require a representative to review construction material submittals that have been approved by Advanced Geomatics & Design and use them on-site for determining that the contractor's materials and/or methods are in accordance with the approved construction drawings and specifications. These are to be reviewed and approved prior to materials being brought on site.
7. Construction administration including change orders, pay requests, requests for information will be by others. The City will require the third party representative to determine the date of substantial completion and final completion for the work described in the scope of work. The third party representative will accompany the city on the final inspection walkthrough and the warranty walkthrough.
8. Testing services will be by others. The representative will be required to ensure adequate frequency of testing is done in accordance with the project specifications and City of Lebanon Standards and to review the testing reports to confirm that construction is in accordance with the contract specifications.
9. The City will require that observations be documented in a field book to be provided to the City with daily typed construction observation summary reports. The City will require a typed final construction observation summary report, with testing reports and digital photographs, once the project has been completed.
10. The City will require a representative to document the horizontal and vertical alignment for the work described in the scope of work in a "red line" set of plans. These plans are to be used to create a record drawing set of plans to verify that the work is in compliance with the approved set of drawings and City of Lebanon specifications. The owner and/or contractor will be responsible for providing digital as built drawings and tie sheets to the City. The representative will then review the record drawings for the City.
11. Provide a limited budget for coordination with City representatives labeled "City Meetings".
12. Services to be provided shall be based on local, state, and federal regulations currently in effect and applicable to services of this nature.
13. Provide a rate schedule and the conditions of the City's Professional Services Agreement (PSA). The rate schedule will be used to determine the rate to be billed to the developer in the event the actual construction takes longer than estimated. Include what additional costs would be included onto that rate in the event of work over 40 hours requiring overtime pay. It is understood that whenever there is a difference between this proposal and the PSA that conditions contained in the PSA are binding.
14. The City will require that field verification of elevations be documented for the work described in the scope of work in a "red line" set of plans. (A level at minimum should be onsite to verify all elevations and grades.)

III. PROPOSAL FORMAT AND SELECTION

A. Proposals

Consultant shall submit five (5) copies of their proposal to:

City of Lebanon
193 Dartmouth College Highway
Lebanon, NH 03766
Attn: Christina Hall, PE, City Engineer

Questions about the project should be directed to Christina Hall at the above address or at:

E-mail: Christina.hall@lebcity.com

All proposals become the property of the City of Lebanon upon submission. The expense of preparing and submitting a proposal is the sole responsibility of the Consultant. The City reserves the right to reject any or all proposals received, to negotiate with any qualified source, or to cancel in part or in its entirety this RFP as in the best interest of the City of Lebanon. This solicitation in no way obligates the City to award a contract.

A set of plans, the notice of action and the schedule can be found on the City's FTP site at the following link.

<http://lebcity.net/Vendors/Rock%20Ridge/>

Responses to this RFP should consist of the following:

1. A technical proposal consisting of:
 - a. A cover letter signed by an authorized representative expressing the firm's interest in working with the City of Lebanon on this particular project, identification of the principal individuals that will provide the requested services, and the proposed total cost to complete the project.
 - b. A description of the general approach to be taken toward completion of the project and an explanation of any variances to the proposed scope of work as outlined in the RFP.
 - c. A scope of work that includes detailed steps to be taken, any products or deliverables resulting from each task (these should be inclusive of administrative support services, mileage, etc.) with a summary of estimated labor hours by task.
 - d. A list of individuals that will be committed to this project and their professional qualifications related to this type of work. The names and qualifications of any sub-consultants shall be included in this list.
 - e. Demonstration of success on similar projects, including a brief project description and a contact name and address for reference.
2. A cost proposal consisting of:
 - A composite schedule by task of direct labor hours, direct labor cost per class of labor, inclusive

of overhead rate, and inclusive of administrative support staff hours, mileage, etc. for the project broken into subtotals for the project components listed in the Scope of Work. Please make sure that the amount of time for redline and record drawing review is broken out as part of the administrative support.

- A breakdown of costs into two totals separated into the following:
 1. Roadway, sidewalk, Drainage and erosion control (inclusive of all administrative support staff hours, mileage, overhead rates, etc. specific to Roadway and Drainage)
 2. Water and Sewer (inclusive of all administrative support staff hours, mileage, overhead rates, etc. specific to Water and Sewer)

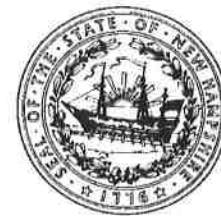
Technical and cost proposals must be submitted in two separate, sealed envelopes or packages with the following information clearly printed on the outside of each:

- 1. Name and address of prime consultant**
- 2. Due date and time**
- 3. Envelope contents (technical or cost proposal)**
- 4. Project name – Rock Ridge Phase 2 Third Party Inspection Services**

B. Consultant Selection

The basis for selection will be:

1. Demonstrated ability and prior experience of the firm and the personnel to be assigned to this project.
2. Clarity of the proposal.
3. Creativity and thoroughness of the proposal in addressing the scope of work.
4. Experience reviewing construction specifications, shop drawings, and plans for site development.
5. Experience in construction observation for streets and utilities.
6. Ability to work with citizen groups, municipal government and State agencies.
7. Proven record of successful completion of similar projects.
8. Cost of the proposal.



SEWER CONNECTION PERMIT

Project Name: Rock Ridge
Location : Dogwood Circle
Engineer : Advanced Geomatics & Design; Daniel A. Nash, PE

Municipality/POTW : Lebanon
Official Signature : Christina Hall, PE
Date of Request : 11/13/2015

PERMIT/REQUEST NUMBER

D2015-1103

FLOW :

24.034

gallons/day

APPROVAL DATE

11/30/2015

The New Hampshire Department of Environmental Services (NHDES) has reviewed and hereby approves the request as follows:

Approval of the connection to the municipality's wastewater facilities is based on a review of the supporting information submitted and is subject to the conditions indicated below.

CONDITIONS :

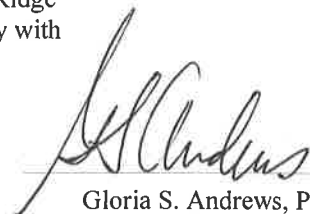
Approval applies only to the sewerage plans and sewer connection application received by NHDES.

This approval will become void if the sewerage construction or discharge has not begun within three years of the approval date.

All sewerage construction must comply with the requirements of Chapter Env-Ws 700, the Standards of Design and Construction for Sewerage and Wastewater Treatment Facilities.

Design dwgs and specs for 2,384 lf of 8 in SDR 35 PVC sewer serving Rock Ridge Phase 2 Development have been approved by NHDES. Sewerage shall comply with NHDES and local requirements for materials, installation and testing.

Issued by :



Gloria S. Andrews, PE



**APPLICATION FOR SEWER
CONNECTION PERMIT**
Water Division/Wastewater Engineering Bureau
Design Review Section



RSA/Rule: Env-Wq 700

On behalf of Rock Ridge Lebanon, LLC
(Project Name or Description)

The Town/City of Lebanon hereby requests authorization to

- A. Connect additional domestic wastewater to its existing wastewater collection, treatment and disposal system, in the amount of:

24,034 Gallons / day;

And, if applicable,

- B. Extend its existing wastewater collection system by installing the following:

2,384 LF of 8 -inch sewer at Dogwood Circle street
" " " "

The municipal sewage collection system and wastewater treatment facilities have been demonstrated, pursuant to Env-Wq 703.02(c), to have adequate processing capability for the proposed added hydraulic flow and organic flow at the time of connection. The proposed sewer connection and/or sewerage design meet with the approval of the local jurisdictional authority.

Name: Christina Hall, P.E.
(Municipal Official; Please Print or Type)

Title: City Engineer

Signature: Christina Hall

Date: 11/13/15

See reverse side for additional instructions. Contact the NHDES/Wastewater Engineering Bureau at the address on the masthead if you need clarification regarding this form or connection permit requirements.

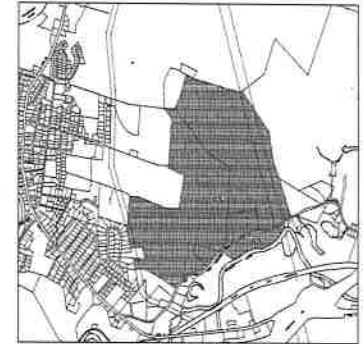
Sharon.Rivard@des.nh.gov or (603) 271-2508
NHDES WWEB, PO Box 95, Concord, NH 03302-0095
www.des.nh.gov



VICINITY SKETCH
SCALE: 1" = 3000'

ROCK RIDGE

(FORMERLY KNOWN AS SLEEPER VILLAGE)
A RESIDENTIAL COMMUNITY
LEBANON, NEW HAMPSHIRE
NHDES WASTEWATER EXTENSION PLANS



SITE LOCATION
SCALE: 1" = 1,500'

OWNER:
ROCK RIDGE LEBANON, LLC
10 NORTHWOOD DRIVE
BLOOMFIELD, CT 06002
PHONE: (860) 218-2428

ENGINEER:
DAN NASH, PE
ADVANCED GEOMATICS & DESIGN
P.O. BOX 512
18 BANK STREET
LEBANON, NH 03786
PHONE: (603) 446-5295

INDEX OF SHEETS

OVERALL SEWER PLAN
SEWER & WATER PLAN
SEWER, GRAVITY PROFILES
SEWER DETAILS
WATER DETAILS

OA-3
SW-3 & SW-4
SW-16, SW-18 THRU 20
D-2
D-3

REVIEWED
For Compliance With
The Requirements Of The
N.H. DEPT. OF ENVIRONMENTAL SERVICES
WATER DIVISION

11/30/15
Date
NHDES Official

THIS PROJECT SUBJECT TO THE FOLLOWING PERMITS:

- 1) LEBANON ZBA WETLANDS SPECIAL EXCEPTION DATED APRIL 4, 2005
- 2) NHDES DREDGE AND FILL PERMIT #2005-00198 DATED SEPTEMBER 22, 2005
- 3) LEBANON PLANNING BOARD FINAL SUBDIVISION APPROVAL DATED JULY 7, 2005
- 4) NHDES WASTEWATER CONNECTION PERMIT DATED APRIL 15, 2005
- 5) NHDES SITE SPECIFIC PERMIT NUMBER WPS-7400A, DATED 11/21/2006.

NOTES:

1. THIS PARCEL IS SHOWN AS LOTS 74-1, 74-2, 74-3, 74-3-1, AND 74-11 ON THE LEBANON TAX MAPS.
2. THIS PROJECT WILL BE SERVED BY MUNICIPAL WATER AND SEWER.
3. THIS PARCEL IS SUBJECT TO THE WETLANDS OVERLAY DISTRICT.
4. THIS PARCEL IS SUBJECT TO THE FLOOD OVERLAY DISTRICT.
5. THIS PARCEL IS NOT SUBJECT TO EITHER THE HISTORIC OR AIRPORT OVERLAY DISTRICTS.
6. SUBJECT PARCEL IS ZONED RL-2, RL-3, AND R-3.

FOR
CONSTRUCTION



PN: 06-007

REV 11/23/15
11/12/15

TECHNICAL SPECIFICATIONS

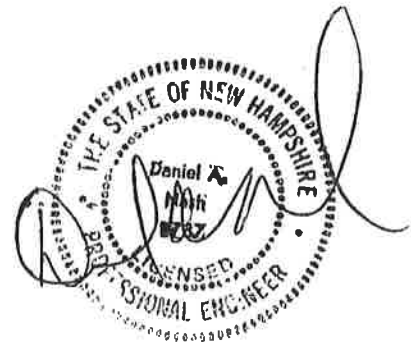
FOR

THE CONSTRUCTION OF
SEWER MAINS AT
ROCK RIDGE IN
LEBANON, NH

NOVEMBER 2015

PREPARED FOR:

ROCK RIDGE LEBANON, LLC
LEBANON, NH



PREPARED BY:

ADVANCED GEOMATICS AND DESIGN, LLC
P.O. BOX 512
LEBANON, NH 03766
(603) 448-6295

REVIEWED

For Compliance With
The Requirements Of The
N.H. DEPT. OF ENVIRONMENTAL SERVICES
WATER DIVISION

11/30/15
Date

NHDES Official

**CITY OF LEBANON, NEW HAMPSHIRE
WATER MAIN EXTENSION AND INFRASTRUCTURE IMPROVEMENTS
EXTENSION AND INSPECTION AGREEMENT -PHASE II ONLY**

AGREEMENT made this 11th day of December, 2015 by and between:

ROCK RIDGE LEBANON, LLC, with a place of business at 10 Northwood Drive., Bloomfield, CT 06002 (hereinafter referred to as "**Developer**")
and

The **CITY OF LEBANON**, a New Hampshire municipal corporation, having its principal place of business at 51 North Park Street, Lebanon, NH 03766 (hereinafter referred to as "**City**")

WHEREAS, Developer owns lands located northerly and southerly of Old Pine Tree Cemetery Road and being described as consisting of 326 acres, more or less, in the City of Lebanon, County of Grafton, New Hampshire, and described in a deed dated January 7, 2000, and recorded at Book 2447, Page 0429 (the "Property"); and

WHEREAS, Developer is proposing to construct a residential housing project on the Property (the "Project"), including the utility improvements set forth in Section 4 of the Planning Board's Notice of Action dated July 7, 2005, and wishes to connect the Project to municipal sewer and water on Mechanic Street, and

WHEREAS, on January 26, 2009, the Lebanon Planning Board approved an amendment to suspend Final Subdivision Approval of Phases II and III of the project as recorded on July 6, 2006 in the Grafton County Registry of Deeds as Plan #12379 (Sheets 1 through 9) and re-recorded on September 24, 2007 as Plan #12963 (Sheets 1 through 9). In accordance with the terms of the Notice of Partial Suspension of Final Subdivision Approval, recorded in the Grafton County Registry on October 15, 2009 at Book 3653, Page 0671, and

WHEREAS, on April 14, 2014, the Lebanon Planning Board granted an amendment to modify condition #3 of the Notice of Partial Suspension of Final Subdivision Approval, dated January 26, 2009, for Phase II only to allow the applicant to restore adequate performance security and to complete installation of all site improvements for Phase II of Rock Ridge; and

WHEREAS, pursuant to Chapter 181 of the Lebanon City Code and Section 14 of the Lebanon Subdivision Regulations, the Lebanon Planning Board requires construction and completion of certain improvements, both on-site and off-site, to include the water, sewer main extensions and hydrants, roadways, sidewalks, storm drainage and erosion control within the development, at the sole expense of the Developer for development of the Project as shown on plans referenced in the Notice of Action within the time period set forth in the Subdivision Regulations; and

WHEREAS, after construction is completed, **Developer** intends to transfer the new water extensions and hydrants to the **City**, and the **City** intends to accept the same;

NOW THEREFORE, **Developer** and the **City** for good and valuable consideration, receipt of which is acknowledged by each party, agree as follows:

1. **Cost of Extension:** The **Developer** shall pay the full cost of design and construction of the water and sewer main extensions and all expenses incidental thereto, in

accordance with the **City's** requirements in accordance with the approved plans and specifications prepared by Advanced Geomatics for the **Developer** dated last revised March 31, 2014 and including any subsequent revisions, subject to Planning Board approval.

2. Approval of Extension Plan: All plans for the design of the water, sewer main extensions and hydrants, roadways, sidewalks, storm drainage and erosion control shall be submitted to the City Engineer or such other person as designated by the Public Works Director, for written approval. Any cost incurred by the **City** in reviewing the design by persons other than the City Engineer shall be paid for by the **Developer**.

3. Payment for Inspection Services: The **Developer** shall pay to the **City** the sum of **\$100,750.00 (ONE HUNDRED THOUSAND SEVEN HUNDRED FIFTY DOLLARS)** prior to any construction of the water, sewer main extensions and hydrants, roadways, sidewalks, storm drainage and erosion control representing the cost estimated by the **City** to pay for independent engineering inspection services hired by the **City** for such improvements. A minimum balance of \$2,500 for these services shall be maintained by the **City** until the project has been completed and accepted. If the **City** spends less than the amount paid by the **Developer**, the balance shall be refunded to the **Developer**. If the **City** spends more than the payment made by the **Developer**, the **Developer** shall reimburse the **City** to maintain the minimum balance. The **City's** review of the construction documents and inspection during the period of construction and inspection prior to acceptance shall not bar or preclude, in any way, the rights of the **City** to assert claims against the **Developer** for defects in construction.

4. Developer's Construction Contract Documents: : The **Developer** shall provide a copy of the contract documents for the construction of the water, sewer main extensions and hydrants, roadways, sidewalks, storm drainage and erosion control to the **City** prior to undertaking any construction for review and approval by the **City** to ensure that the requirements of this Extension and Inspection Agreement have been met. The **Developer** shall include in any construction documents the following language *"The sewer and/or water extension is intended to meet applicable requirements of the **City** and after completion, the water mains and hydrants will be transferred to the **City** for ownership and maintenance."* The purpose of this requirement is to protect the **City** after acceptance of the water main and hydrants and to preserve the **City's** rights. The **Developer** shall also provide 3 sets of as-built drawings along with AutoCad digital files and 3 bound books of tie sheets in the City of Lebanon format.

5. Deposit: As the **Developer** is paying for the cost of all preliminary surveys, preparation of designs and plans and other expenses of preliminary engineering, no deposit is required to be paid to the Treasurer of the City.

6. Indemnification: To the fullest extent permitted by law, **Developer** shall indemnify and hold harmless the **City** and any agents or employees of it from and against all claims, damages, losses, expenses, actions or liabilities of every kind or character, either direct or indirect, at law or in equity, including but not limited to reasonable attorney's fees, arising out of or resulting from the performance of all work or services rendered by **Developer** or any of **Developer's** subcontractors, regardless of the negligence of any party. None of the foregoing provisions shall deprive the **City** of any action, right or remedy otherwise available to it under law. In the event that any party is requested but refuses to honor the indemnity obligations hereunder, then the party indemnifying shall, in addition to all other obligations, pay the cost of bringing any action at law or in equity, including but not limited to attorney's fees, by the party requesting indemnity, during or beyond the term of this Agreement.

7. Security: The **Developer** shall provide to the **City** a performance security in the of **\$3,057,921.00 (Three Million Fifty Seven Thousand Nine Hundred Twenty One dollars)** which is a 100% of the amount currently estimated for the construction cost of all the off all site improvements for Phase 2 covered by the Performance Security Agreement, signed by the Developer and the Lebanon City Manager on September 23, 2015. The Performance Security Agreement shall be attached and made part of this Agreement. Acceptable performance security shall be in the form of surety bond, and irrevocable letter of credit, an escrow account, or similar security.

8. Rights-of-Way in Private Land : If any portion of the proposed water main extension is not in a City highway, the Developer shall acquire, and then convey and transfer to the City, as a condition of acceptance of the extension, adequate rights-of-way in compliance with the City's requirements and in conformity with the requirements of the City as to the form of the deed, a title opinion, monuments and recordable plan. The Developer shall also provide partial mortgage releases, where applicable, to satisfy the attorney for the City..

9. Maintenance Period: After the water main extension has been substantially completed, the **Developer** shall be responsible to repair and maintain the extension for a period of one (1) year or until such time as the acceptance of such improvements by the **City** is finalized. In addition the developer shall be required to enter into a Maintenance Security Agreement with the City for the duration of the maintenance period of the improvements to be offered for dedication to the City, in an amount considered adequate by the City Engineer and in a form satisfactory to the City's attorney, in order to assure the maintenance of such improvements until acceptance of those improvements by the City.

10. City Manager's Certification: After the expiration of the maintenance period discussed in Section 9 of this Agreement, the **Developer** shall obtain the certification of the City Manager or such person as the City Manager designates, that the water main extension is in accordance with the plans, specifications and standards of the **City** and that all roadways, curbs, walks and other surfaces and appurtenances disturbed by the work have been properly restored. The City Manager may, in his or her discretion, require a report of a professional engineer, hired by the **City** and paid for by the **Developer** in determining whether certification is warranted .

11. Acceptance of the Extension: : After receipt of the certification discussed in Section 10 of this Agreement and compliance with all the conditions set forth herein, the **Developer** may request that the **City** accept the transfer of the water main extension and hydrants and easements to the **City** . Upon acceptance said extension and rights of way become part of the **City** water system and the responsibility of the **City** thereafter. Before acceptance by the **City**, the water main shall be pressure tested in accordance with State law at the expense of **Developer** .

12. Warranty Against Defects: It is a condition of this Agreement and any **City** acceptance of the improvements that the **Developer**, and its successors or assigns, shall warranty the public improvements covered by this Agreement against all defects discovered within eight (8) years from the date of substantial completion, as set forth in RSA 508:4-b, including all defects in design, materials or workmanship, and shall be liable to the **City**, upon written notice by the **City**, for the cost of repairs or replacements of all defective improvements. In the event that the **Developer** conveys or transfers the Project, the subsequent owner shall be responsible for the obligations of the **Developer** for the remainder of the eight-year period. Although the **Developer** covenants and agrees to insert this obligation in any of the documents transferring ownership of the Project to a subsequent owner, the subsequent owner shall be responsible for the obligations of the **Developer**

for the remainder of eight-year period regardless of whether or not such obligation is expressly assumed. The **City's** review of the construction documents, inspection during the period of construction, and inspection prior to acceptance of the improvements shall not bar or preclude, in any way, the rights of the **City** to assert claims against the **Developer** for defects in the improvements pursuant to this paragraph. In the event of litigation to enforce this paragraph, if the **City** prevails, the Court shall award to the **City** reasonable attorney's fees and costs incurred in connection therewith.

13. Recoupment of Developer's Costs From Additional Future Connections: (If applicable) The **City** shall not issue any permits for additional connections to the water, sewer main extensions and hydrants, roadways, sidewalks, storm drainage and erosion control installed by the **Developer** pursuant to this Agreement for any other property owners requesting service for a period of ten (10) years from the date of acceptance of such water mains by the **City** unless such property owners agree to pay to **Developer** a *pro rata* share of the costs relating to the extension as determined by the City Manager.

14. Binding Effect: This Agreement shall be binding on the successors and assigns of the parties.

15. Dispute Resolution: Any controversy arising out of or relating to this Agreement or the breach hereof shall be settled in the following manner:

First, the parties agree to attempt to resolve such disputes through direct negotiations between appropriate representatives of each party.

Second, if such negotiations are not fully successful, the parties agree to attempt to resolve any remaining dispute by formal non-binding mediation conducted in accordance with rules and procedures to be agreed upon by the parties.

Third, if any controversy arising out of or relating to this Agreement remains unresolved after the above steps, it shall be settled by litigation.

DATED this 11th day of December, 2015

ROCK RIDGE LEBANON, LLC,

By: Todd A. Whitwell

Title: Project Manager, RRL, LLC

CITY OF LEBANON

By: Dennis J. Lattin

Title: City Manager
Duly Authorized

**AGENDA
LEBANON CITY COUNCIL
SEPTEMBER 7, 2016**

9. NEW BUSINESS:

**9.A – WATER & SEWER EXTENSION REQUEST – ROCK RIDGE (PHASE 3),
OLD PINE TREE CEMETERY ROAD, LEBANON**

BACKGROUND

Rock Ridge LLC received City Council approval in May 2004 for the construction and acceptance of water and sewer mains to serve a Planning Board approved 140-unit Planned Unit Residential Development (then known as “Sleeper Village”). Infrastructure for the development has occurred in phases, with phase 2 being completed now. Rock Ridge would like to begin Phase 3 immediately following the completion of Phase 2, but due to a change in City Standards for Flow Calculations, will not be able to do so without an amendment to their original approval.

City Standards require that Rock Ridge be approved for additional sewer flows totaling 4,860 GPD (23 sewer units). In accordance with Chapter 181 of the Code, Council approval is required for flows exceeding three (3) sewer units.

By letter dated August 3, 2016, Daniel Nash, on behalf of Rock Ridge LLC is requesting acceptance of the proposed additional sewer flows. City Engineer Christina Hall has reviewed the request and determined that capacity is available at both the water and wastewater treatment plants to supply, accept, and treat the projected flows.

Please see attached memo to Interim City Manager Paula Maville from City Engineer Christina Hall dated August 31, 2016 along with an updated Water and Sewer Extension Tally Sheet.

ACTION

If Council wishes to proceed with granting this request the following motion is offered for consideration:

MOVED, that the Lebanon City Council hereby authorizes the City Manager to negotiate and execute all necessary agreements in accordance with Chapter 181, Water and Sewer Main Extensions, of the Code of the City of Lebanon, for the construction, connection, and acceptance of water and sewer flows to serve Phase 3 of the Rock Ridge Development, Old Pine Tree Cemetery Road, Lebanon (Tax Map 74, Lot 3)

Included in this Section:

1. August 3, 2016 Letter from Advanced Geomatics & Design re: Re-approval of Water & Sewer Extension
2. August 31, 2016 Memo from City Engineer Christina Hall
3. August 31, 2016 Tally Sheet for Water & Sewer Capacity



3 August 2016

Honorable Mayor and City Council
City of Lebanon
51 North Park Street
Lebanon, NH 03766

Re: Extension of Water and Sewer Lines, Rock Ridge Phase 3
Lot 74-1, Old Pine Tree Cemetery Road

Dear Mayor Tuttle and Councilors:

On behalf of Rock Ridge LLC, this letter is being written to update a request made to and approved by the Council in the 2003 timeframe. The issue is the re-approval of the extension of water and sewer lines. Since the initial approval, the city standards for flow calculations have changed. The city now requires the use of flow estimations that are based on subsurface systems (on-site septic systems). Use of the city's numbers increases the estimated flow to be generated by the project by 60%. The project includes the same number of houses and proposed bedroom units as when approved by the council in the 2003 timeframe.

Rock Ridge LLC is currently constructing phase 2 of the project and anticipates a Fall 2016 completion. Rock Ridge LLC would like to start Phase 3 as soon as Phase 2 is complete.

We request that we be placed on the Council's 17Aug16 agenda to re-approve the water and sewer extension. Please let us know if you need any additional materials to support this request.

Sincerely,

A handwritten signature in black ink, appearing to read "Daniel A. Nash". The signature is fluid and cursive, with a large initial "D" and "A".

Daniel A. Nash, PE
Principal

Attachments:

- Design flow estimates.
- Sheet OA-3 Overall Sewer plan

CC: Todd Westhaver, Rock Ridge LLC

M:\2006_PROJECTS\06-007\sewer\phase3\letter_col_3Aug16.doc

#03-015

Sleeper Village

Old Pine Tree Cemetery Road

Lebanon, N.H.

Single Family Detached	# Of Units	Flow/Unit	Net Flow
		Gal/day	Gal/day

2BR	29	210	6090
3BR	47	280	13160
4BR	19	350	6650

Single Family Attached	# Of Units	Flow/Unit	Net Flow

2BR	22	210	4620
3BR	23	280	6440

TOTAL	36960
Round up to 40,000	

Submitted to Council
(Original approval)

Notes:

1. Average Daily Flow based upon first bedroom with 2 persons and each additional bedroom with 1 person.
2. Flow per person 70 gal/day
3. Flows by Unit type: 2BR = 210 gpd
3BR = 280 gpd
4BR = 350 gpd
4. Unit Breakdown based upon 11/13/03 Economic Impact Study by AER.
5. Rounding allows for Unit type adjustments and infiltration.

15 houses phase 1 -
26 multi phase 1
41

Phase 2 ok
51 houses
27,034

000103

ROCK RIDGE SUBDIVISION					
PROPOSED SEWER FLOWS					
LEBANON, NEW HAMPSHIRE					
PROJECT # 06-007					
Residential Use Lot Numbers	Number of House Lots	Number of BR	Flow Rate (gpd/per unit)	Flow (GPD)	
Phase 1					
SF	19	2	300	5,700	*Construction completed
SFA	26	2	300	7,800	"
Phase 2					
SF	51	2	300	15,300	*Under construction
Phase 3					
SF	42	2	300	12,600	**This request.
TOTALS			N/A	41,400	gpd
			TOTAL	41,400	
Notes:					
1. Design flow for 1BR units is 225gpd.					
2. Design flow for 2BR units is 300gpd; 150gpd/BR.					
3. Design flows taken from City of Lebanon Sewer Construction Standards dated July 2013.					
4. Design flows specified in City of Lebanon Sewer Construction Standards dated July 2013					
are taken from NHDES Env-Wq 1000, Standards for design of subsurface wastewater disposal systems (septic systems).					

ROCK RIDGE SUBDIVISION, PHASE 3					
PROPOSED SEWER FLOWS					
LEBANON, NEW HAMPSHIRE					
PROJECT # 06-007					
SEWER INFILTRATION ALLOWANCE					
SEWER RUN	LENGTH (FT)	LENGTH (MI)	DIAMETER (IN)	ALLOWANCE (GPD/IN DIA/MI/DAY)	INFILTRATION (GPD)
EXIST to SMH43	30	0.0057	8	300	14
SMH43 to SMH44	116	0.0220	8	300	53
SMH43 to SMH45	107	0.0203	8	300	49
SMH48 to SMH51	135	0.0256	8	300	61
SMH51to SMH52	242	0.0458	8	300	110
SMH53A to SMH54	41	0.0078	8	300	19
SMH54 to SMH55	139	0.0263	8	300	63
SMH55 to SMH56	95	0.0180	8	300	43
SMH56 to SMH57	74	0.0140	8	300	34
SMH57 to SMH58	123	0.0233	8	300	56
SMH58 to SMH59	197	0.0373	8	300	90
SMH59 to SMH60	151	0.0286	8	300	69
SMH60 to SMH61	124	0.0235	8	300	56
SMH61 to SMH62	113	0.0214	8	300	51
SMH62 to SMH63	136	0.0258	8	300	62
SMH63 to SMH64	300	0.0568	8	300	136
SMH47 to SMH48	262	0.0496	8	300	119
SMH48 to SMH49	148	0.0280	8	300	67
SMH49 to SMH50	155	0.0294	8	300	70
Totals	2,688	0.5091	N/A	N/A	1,222
TOTAL SEWER INFILTRATION ALLOWANCE=					1,222 gpd



APPLICATION FOR SEWER CONNECTION PERMIT

Water Division/Wastewater Engineering Bureau
Design Review Section



RSA/Rule: Env-Wq 700

On behalf of Rock Ridge LLC,
(Project Name or Description)

The Town/City of Lebanon hereby requests authorization to

A. Connect additional domestic wastewater to its existing wastewater collection, treatment and disposal system, in the amount of:

13,822 Gallons / day;

And, if applicable,

B. Extend its existing wastewater collection system by installing the following:

2,688 LF of 8 -inch sewer at Meadow Overlook Street
" " " Falcon Terrace
" " " Rock Ridge Boulevard

The municipal sewage collection system and wastewater treatment facilities have been demonstrated, pursuant to Env-Wq 703.02(c), to have adequate processing capability for the proposed added hydraulic flow and organic flow at the time of connection. The proposed sewer connection and/or sewerage design meet with the approval of the local jurisdictional authority.

Name: _____ Title: _____
(Municipal Official; Please Print or Type)

Signature: _____ Date: _____

See reverse side for additional instructions. Contact the NHDES/Wastewater Engineering Bureau at the address on the masthead if you need clarification regarding this form or connection permit requirements.

Sharon.Rivard@des.nh.gov or (603) 271-2508
NHDES WWEB, PO Box 95, Concord, NH 03302-0095
www.des.nh.gov



**CITY OF LEBANON
DEPARTMENT OF PUBLIC WORKS**

193 Dartmouth College Highway

Lebanon, NH 03766

Christina Hall, P.E.

City Engineer

MEMORANDUM

To: Paula Maville, Interim City Manager
From: Christina Hall, P.E. City Engineer
Date: August 31, 2016
Subject: Rock Ridge Subdivision

Paula,

Rock Ridge, LLC is requesting to the City to provide an additional 518 gallons per day of water and to accept approximately an additional 4860 gallons per day of wastewater to treat, which accounts for the estimated infiltration of 4342 gallons/day. This request is equivalent to 23.7 sewer units.

The City does have the ability to provide the potable water and the capacity in the lines to carry and to treat these additional flows. Attached please find the additional updated water and sewer capacity tally sheet.

Thank you,

Christina B. Hall, PE
City Engineer

CC: Mike Lavalla, Director of Public Works
Jay Cairelli, Assistant Public Works Director

Water and Sewer Extension Tally Sheet

To: Paula Maville

From: Christina Hall

Date: Revised 8/31/16

Subject: Updated to reflect built, future approved allocations as well as projects under review

The water plant has the supply capacity to serve the proposed developments, based on the proposed flows that were calculated by the City of Lebanon's Department of Public Works. The City has the capacity to accept the flows of the currently approved flows into our system and the flow highlighted is being requested for acceptance. Our WWTP Facility has the capacity to treat the proposed design flows. The chart below identifies the design capacities at both the City of Lebanon water and wastewater treatment facilities, current average daily demands as of December 2015 and previously approved project connection requests. This in turn gives the best projected flow information that we can provide to the Council at this time. Projects under review are also shown in the second subtotal numbers.

	Water (Gal/Day)	Sewer (Gal/Day)	Status
Plant Capacity	3,500,000	3,180,000	
Current Daily Usage (Year 2015)	1,644,800	1,608,400	water: 47.0% Sewer-45.09%
Current Projects			
Rock Ridge (formerly Sleeper Village)	40,882	40,882	Under Construction
M&M – Prospect Hills	38,475	38,475	Phase 1- constructed (8/13)-Phase 2 back on Planning Document for ammendment
Westboro Woods	15,150	15,150	Under Construction-approx. 1/2 constructed
Quail Ridge	13,500	0 (Hanover)	Approved 13,500 gpd -Sewer to Hanover (Rte 10- unknown schedule)
Enfield Reserve	0	210,000	Reserved
Riverpark	150,000	150,000	Unknown schedule-Approved Project- Estimated 15 year build-out
Iron Horse Park	107,770	110,838	Project Approved-estimated 20 year build-out/ CC approval of flows- Schedule unknown
4 South Park Street	675	675	constructed-change from 1200 to 1875gpd
250 Bank Street		500	constructed
DHMC Williamson Translational Research Building	18,164	0	Planning Board and Council approved- Sewer to Hanover- 12,664 gpd-under construction
21 lafayette	420	0	Constructed
DHMC Office Building-change in Use(Ambulance Bay to office)	450	0	Constructed- No temp co
Executive Building, add office, studies, KDR	1,953	1,953	increase to 7953 gal/day
Tractor Supply 360 Miracle Mile	960	960	constructed

Execusuite-Building Use Change-Jr. High School to Condos	2,715	2,715	Constructed 2014
Valley News- 17 Interchange Drive	200	200	increase from 1100 to 1300 gpd
Cantories Pizza	1,000	1,000	increase-constructed
Route 120 Hotel (Chaloux	11,550	11,550	Designed-construction 2016
DHMC-cart washer	960	0	Construction 2015/2016
Centerra RVC Fit Kids DayCare	3,615	0	Construction 2016
APD- Multi-Specialty Clinic	1,010	1,227	Construction 2016
Altaria Phase II- PBP	70,000	0	Unknown- Approved -sewer flows to Hanover 72,023 gpd (approx. 14 year build-out)
12 Morgan Drive- t10-l11-b12 condos	8,325	0	To Hanover 8490 gpd
AVA Community Gallery Inc. -AVA 3D Studio parcel 92-69	215	250	2016 Construction - change of use so less gallons requested compared to the
DHMC Pallative Care	3,000	3,000	To Hanover for Sewer-12 Bed Facility
ICV-2	18,675	18,965	new request-75 housing units-pending planning approval april 2016
Provisions International lot 130-15	560	460	3 sewer units- under const 2016
Hypertherm 100 Etna Road	4,000	4,000	Industrial discharge operations moving from Airpark Road to Etna Road
Altaria Phase I- PUD	48,700	0 (49368 to Hanover)	Approved-Discharging to Hanover-under Construction- 14 year build-out
Subtotal Approved projects	2,207,724	2,221,200	
Percentage Used and/or Committed	63.1%	69.8%	
Rock Ridge (formerly Sleeper Village)- additional request	518	4,860	infiltration accounted for in sewer request additional of 118 gallons/day for water
Subtotal- pending of approval of projects	2,208,242	2,226,060	
Percentage Used and/or Committed+pending/under-review projects	63.1%	70.0%	

Constructed projects do not come off until 1 year of occupancy so that flows are captured in the Treatment Facility usage number

OFFICIAL

**CITY OF LEBANON
CITY COUNCIL
Minutes, Regular Session, September 7, 2016
City Hall—Council Chambers
7:00 p.m.**

MEMBERS PRESENT: Assistant Mayor Suzanne Prentiss, Councilors Clifton Below, Bruce Bronner, Erling Heistad, Karen Liot Hill, Tim McNamara, Sarah Welsch

MEMBERS ABSENT: Mayor Georgia Tuttle, Councilor William Finn Jr.

STAFF PRESENT: Interim City Manager Paula Maville, City Clerk Sandra Allard, Fire Chief Chris Christopoulos, Assistant Fire Chief Jeff Libbey, Police Chief Richard Mello, Administrative Assistant Tina Stearns, Assistant Public Works Director Jay Cairelli

The meeting was called to order at 7:00 p.m. by Assistant Mayor Prentiss.

I. PLEDGE OF ALLEGIANCE

Councilor Bronner led the Council in the Pledge.

II. PUBLIC FORUM ANNOUNCEMENT BY THE MAYOR

Assistant Mayor Prentiss made the announcement.

III. OPEN TO PUBLIC

Melissa Billings, Ward 2, said last month, she came to a meeting with 25 others and spoke about concerns expressed in a letter that had not been answered, questions that have been asked by more and more people, especially those fighting the “Houses on the Hill” project. They are asking whether the Master Plan has any practical value, or if the Planning Board has been given what it needs to reflect Lebanon’s best interests. She said apparently, no one understood that they were all there for the same reason. She said any of those present could have reiterated her point. She said they meant no disrespect by leaving after her presentation, but it was her belief that the Council could not discuss an issue that was not on the agenda. She said all of those who came with her are Lebanon residents, and all are concerned about a gigantic development that might be approved and is in conflict with the Master Plan and City Council guidelines.

Councilor Hill said it is her understanding that the Planning Office responded to Ms. Billings’ letter. She asked if Ms. Billings was unsatisfied with the response. Ms. Billings said she wrote to

the City Council because they are her elected representatives, and she puts her faith in them. She said she hopes the Council can pursue these matters. She said she would love for the Council to discuss why the Master Plan cannot be enforced.

IV. RESOLUTIONS None

V. ACCEPTANCE OF MINUTES:

August 3, 2016 (Non-Public Sealed Minutes); August 17, 2016 (Work Session); August 17, 2016 (Regular Session)

Karen Liot Hill moved to approve the minutes as presented in the September 7, 2016 agenda packet as written. Seconded by Erling Heistad.

****The motion passed 7-0.***

VI. APPOINTMENTS: Ms. Allard reminded Councilors to do interviews.

VII. PUBLIC HEARING ITEMS

- A. Amend Ordinance No. 18, Salary Plan, Article III, Bargaining Unit Employees, to include the position of Fire Alarm and Communication Technician**—Public hearing for the purpose of receiving public input and taking action to adopt the proposed amendment to Ordinance No. 18, Salary Plan, Article III, Bargaining Unit Employees, to include the position of Fire Alarm and Communication Technician to Lebanon Permanent Firefighters' Association Local 3197/International Association of Fire Fighters (IAFF).

Chief Christopoulos said this position was brought forward late in the budget process in 2015, and it has taken time to complete a job description. Most of those in the state in this position are in the firefighters' union, so the City negotiated with the union to include it. He said the communication system is very complex and connects all of the schools, the Fire Department, the Police Department, and IT. This position will have no firefighter duties. Councilor Hill asked how many miles of wire the City has. Chief Christopoulos said they are doing an inventory, but there are over 50 miles of copper and fiber optic cable.

Assistant Mayor Prentiss opened the public hearing. Hearing no public comment, she closed the public hearing.

Tim McNamara moved that the Lebanon City Council acknowledges the third of three presentations to amend Ordinance No. 18, Salary Plan, Article III, Bargaining Unit Employees, to include the position of Fire Alarm and Communication Technician to Lebanon Permanent Firefighters' Association Local 3197/International Association of Fire Fighters (IAFF).

He also moved passage of the following resolution:

FOR THE PURPOSE OF amending Ordinance No. 18, Salary Plan, Article III, Bargaining Unit Employees.

NOW THEREFORE BE IT RESOLVED, that the Lebanon City Council amends Ordinance No. 18, Salary Plan, Article III, Bargaining Unit Employees, to add the position of Fire Alarm and Communication Technician to the Lebanon Permanent Firefighters' Association Local 3197/International Association of Fire Fighters (IAFF) pay plan, a shown below in italics:

LEBANON FIREFIGHTERS ASSOCIATION LOCAL 3197/INTERNATIONAL ASSOCIATION OF FIREFIGHTERS (IAFF)

(INSERT CHART)

Seconded by Karen Liot Hill.

Councilor Heistad asked how many end points there are in the system. Chief Christopoulos said there are well over 300 copper/fire alarm end points. Users pay an annual fee totaling approximately \$76,000-\$77,000 per year. He said he does not know the number of end points. He said every City building is connected to the system.

****The motion passed 6-0. Abstaining: Prentiss.***

- B. Ordinance #2016-04 to amend the City Code to add Chapter 180, Wards—**
Public hearing for the purpose of receiving public input and taking action on proposed Ordinance #2016-04 to amend the City Code to add new Chapter 180, Wards.

Ms. Allard said this will solidify action taken by the voters in 2012.

Assistant Mayor Prentiss opened the public hearing. Hearing no public comment, she closed the public hearing.

Karen Liot Hill moved that the Lebanon City Council hereby adopts Ordinance #2016-04, to amend the City Code by adding new Chapter 180, Wards, as presented in the September 7, 2016 City Council agenda packet. Seconded by Sarah Welsh.

Councilor Hill said residents can contact the City Clerk's Office if they need to know what ward they are in.

****The motion passed 7-0.***

VIII. OLD BUSINESS

- A. Traffic calming measures on Crafts Avenue, West Lebanon**

Chief Mello said this was discussed in May, and the Council wanted updated numbers. He said the Public Safety Committee met; traffic data show that the street does not meet the criteria for speed tables. He said the City is seeing a lot of these requests, and most do not meet the criteria, but on many quiet streets, traffic can create a hazard. He said he recommends banning left turns from Bridge Street to Crafts Avenue from 6:00-9:00 a.m. and 3:00-6:00 p.m. They can ban all traffic, or they can limit it to local traffic only, but the latter is difficult to enforce. He said he believes this will largely solve the problem over time. He said the speeds noted were not outrageous, but it makes sense to lower the speed limit to 25 miles per hour.

Councilor Hill asked if this proposal was presented to neighbors and how it has been received. Chief Mello said he has not, but there have been some emails back and forth, and he believes he understands their concerns. Councilor McNamara asked if it makes sense to limit right turns onto Chandler and Beyerle streets in the afternoon. Chief Mello said that seems to be less of a problem because drivers can turn right on red at the Bridge Street light. He said that need could be addressed in the future. Councilor McNamara asked if the morning volume differs significantly from the afternoon peak. He said when he lived there, he saw a lot of traffic cutting down Chandler. Councilor Welsch asked if Crafts Avenue residents coming from White River Junction would have to go all the way around to get home. Chief Mello said they would. Councilor Welsch asked if the restriction would be Monday through Friday. Chief Mello said it would. Councilor Below said it is his guess that the biggest problem is people turning left on Crafts to avoid the light. He suggested reducing the speed limit and restricting left turns onto Crafts in the morning and right turns onto Chandler and Beyerle in the afternoon.

Kristin Swan of Crafts Avenue said she is very grateful for the time staff has spent on this issue. She said a lot of children and pets are impacted by the traffic. She said she is thrilled that the Council is considering lowering the speed limit. She said she understands the logic of restricting turns; cars with Vermont plates frequently cut through the neighborhood at all times of the day at high speeds. During the summer, there are children playing in the road all day long. She said they should consider a local-traffic-only designation full time. She said she would love to see the situation re-evaluated in a year to see if measures are working. Assistant Mayor Prentiss said residents will see changes in the area when River Park is built out. They could discuss striping options. Councilor McNamara said a center stripe on Crafts Avenue would encourage people to go faster. Assistant Mayor Prentiss said there are other striping options.

Beth Young, Ward 1, said in the afternoon, the neighborhood gets traffic from Hanover. She said she would like to see a stop sign at the end of Chandler, at the Crafts Avenue intersection. Sarah Greenstein said she lives near the stop sign, and people go through it. She would like a lower speed limit and a different striping option. Chief Mello said as development continues there, they may need another traffic study. That could push the numbers into justifying other options. He said they discussed striping, and there are a lot of unknowns; they need to investigate that further. Side striping of the road would eliminate parking there.

Clifton Below moved that the Lebanon City Council hereby approves the lowering of the speed limit on Crafts Avenue, Beyerle Street, and Chandler Street, West Lebanon, from 30 miles per hour to 25 miles per hour, with signs to be placed at locations as approved by the Department of Public Works. Seconded by Bruce Bronner.

Perry Young of Chandler Street asked if Crafts Avenue will have to have a center stripe when it is repaved. Tom Harkins asked what the timeline is for the changes. Chief Mello said the speed limit will change when the signs go up, and they will engage in a public relations campaign to get the word out. Ms. Maville said restricting turns requires her to prepare an ordinance for the Council to consider. Ms. Allard said if more public outreach is needed, the Council could wait until another meeting to change the speed limit on Chandler and Beyerle. Assistant Mayor Prentiss said there has been a lot of discussion about this. Isaac Old of Beyerle Street encouraged the Council to look at narrowing the road. He said enforcement is difficult. If Crafts Avenue is not a faster shortcut, traffic will be reduced there.

Councilor Hill said she appreciates the neighbors working with the City on this. She said it raises the question of how to preserve neighborhoods while accommodating larger volumes of traffic. She said they should explore adding a stop sign at the end of Chandler Street. They should look at aesthetic and behavioral solutions as well as regulatory ones. Councilor McNamara noted that people who live there like on-street parking. He suggested no left turn on Crafts from 6:00-9:00 a.m. and no right turn on Chandler or Beyerle from 4:00-6:00 p.m., Monday through Friday. Ms. Swan said buses drop off children starting at around 3:00, so the restriction should start at 2:30 or 3:00 p.m.

****The motion passed 7-0.***

IX. NEW BUSINESS

A. Water & Sewer Extension Request: Rock Ridge Lebanon, LLC; Phase 3 on Old Pine Tree Cemetery Road

Mr. Cairelli said this is an extension of an existing project that was laid out in phases. Ms. Maville said this approval has been on the table for awhile. There are no capacity issues. This relates only to a change in standards since the original approval. Dan Nash of Advanced Geomatics & Design, representing the developer, said there was a change in the calculation methodology by Public Works, but the project has not changed.

Councilor Hill asked if this should go back to the Planning Board. She said capacity has become more valuable since this project was approved. Assistant Mayor Prentiss said the Planning Board has to approve extension requests. Councilor Hill asked if the next phase will be constructed. She said she does not want to reserve capacity for a project that will not be built. She said Public Works may need to adjust their capacity tally sheet. Assistant Mayor Prentiss said they could ask the City Manager to check with the City Engineer to make sure it is updated. Councilor McNamara said if the developer wants to change the unit mix, they must come to the Planning Board. Councilor Hill said there is a certain risk factor for each project; the longer it is on the list, the more variability there could be. Councilor McNamara said Public Works has changed the way they calculate sewer use, but that does not mean the project is using more. He said they may be reserving capacity that the project does not need. Mr. Cairelli said when a project is complete, it comes off the list, and the tally sheet will show the actual plant flow. They are not holding

capacity that is not needed. Councilor Heistad said they should be able to compare the projection with the actual flow.

Karen Liot Hill moved that the Lebanon City Council hereby authorizes the City Manager to negotiate and execute all necessary agreements in accordance with Chapter 181, Water and Sewer Main Extensions, of the Code of the City of Lebanon, for the construction, connection, and acceptance of water and sewer flows to serve Phase 3 of the Rock Ridge Development, Old Pine Tree Cemetery Road, Lebanon (Tax Map 74, Lot 3). Seconded by Bruce Bronner.

***The motion passed 7-0.**

X. REPORTS

A. City Manager

Ms. Maville said the NHMA policy conference is on Sept. 23, and Councilor Finn has agreed to represent Lebanon. There were no objections to this. She said budget review has begun, and union negotiations are starting up. The first Bridge-Naming Task Force meeting will be held on Sept. 15, with a public meeting in West Lebanon on Sept. 22 and a wrap-up meeting on Sept. 29. Assistant Mayor Prentiss noted that she is a member and will be out of town on Sept. 22. Councilor Hill asked if White River Junction has been invited to be involved. Assistant Mayor Prentiss said Lebanon needs to arrange this with the State, but they could inform White River Junction. Ms. Maville said the Homelessness Task Force will meet on Sept. 9, and recommendations will come to the Council on Oct. 5. She asked if a separate meeting should be scheduled. Assistant Mayor Prentiss said they should set the public hearing and see if the Opera House is available. Ms. Maville said on Oct. 19, they will review the final draft of the Downtown Visioning Study, as well as proposed zoning amendments. The consensus was that the homelessness issue should be discussed on a separate night. Ms. Maville said the social services subgroup has been great at dealing with people on a case-by-case basis; 12 of the 15 people at the Market Street site have been sheltered. Councilor Bronner said they have done a great job, but there are abandoned vehicles and trash there. Ms. Maville said the vehicles have been taken care of, and they will develop a plan about the trash.

B. Council Representatives to Other Bodies

Planning Board—Councilor McNamara said he was recused from this, but the Twin Pines project in West Lebanon was approved, and they hope to move forward next summer. The Board also discussed a new stormwater ordinance.

XI. FUTURE AGENDA ITEMS

Councilor Hill asked about addressing Ms. Billings' concerns. She asked if that is a Council responsibility and if she should submit an agenda request. She said she would like to have a constructive engagement with the neighborhood. Councilor McNamara said he does not want the Council to get into Planning Board business when it relates to an active application. Councilor Heistad said the question is how the Master Plan moves forward through the boards. Assistant

Mayor Prentiss said some parts of the Master Plan have been adopted, but there is a lag time. Councilor McNamara said the Steering Committee for Implementation of the Master Plan has not dealt with the land use chapter yet. He said once there is an active application, it is grandfathered, and they cannot change the zoning. He said he does not know if the neighbors want to change the rules for this project. Councilor Hill said they should compare the zoning plan that was defeated with the Master Plan. There could be a letter from the mayor stating that the Council cannot discuss a project that is under review by the Planning Board. Councilor Below said the Planning Office has been working on zoning amendments to conform with the Master Plan. Ms. Maville said she and Planning & Zoning Director David Brooks have been discussing zoning amendments. There needs to be broad-based communication in 2017, especially with regard to the land use chapter.

XII. NON-PUBLIC SESSION: None

XIII. ADJOURNMENT

Bruce Bronner moved for adjournment. Seconded by Karen Liot Hill.

****The motion passed 7-0.***

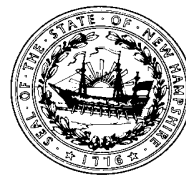
The meeting was adjourned at 8:52 p.m.

Respectfully submitted,

Charles Glazer
Recording Secretary



**APPLICATION FOR SEWER
CONNECTION PERMIT**
Water Division/Wastewater Engineering Bureau
Design Review Section



RSA/Rule: Env-Wq 703.07

On behalf of Rock Ridge Lebanon,
(Project Name or Description)

The Town/City of Lebanon hereby requests authorization to

- A.** Connect additional domestic wastewater to its existing wastewater collection, treatment and disposal system, in the amount of:

18,472 Gallons / day;

And, if applicable,

- B.** Extend its existing wastewater collection system by installing the following:

2,688 LF of 8" -inch sewer at Meadow Overlook, Falcon Terrace Street
" " " and Rock Ridge Boulevard "

The municipal sewage collection system and wastewater treatment facilities have been demonstrated, pursuant to Env-Wq 703.07(d), to have adequate processing capability for the proposed added hydraulic flow and organic flow at the time of connection. The proposed sewer connection and/or sewerage design meet with the approval of the local jurisdictional authority.

Name: Christina Hall, PE Title: City Engineer
(Municipal Official; Please Print or Type)

Signature: _____ Date: _____

Email Address: Christina.Hall@lebcity.com

See reverse side for additional instructions. Contact the NHDES/Wastewater Engineering Bureau at the address below if you need clarification regarding this form or connection permit requirements.

dennis.greene@des.nh.gov or phone (603) 271-2980
NHDES WWEB, PO Box 95, Concord, NH 03302-0095
www.des.nh.gov

INSTRUCTIONS - APPLICATION FOR SEWER CONNECTION PERMIT

GENERAL: Use this APPLICATION FOR SEWER CONNECTION PERMIT to request:

(A) NHDES authorization to connect additional domestic wastewater flow to the municipal collection system. (See details below.) and/or

(B) NHDES review/approval of designs for *any* proposed sewerage (sanitary sewers; pump stations; force mains; etc.). (See details below.)

A. WASTEWATER CONNECTIONS: An APPLICATION FOR SEWER CONNECTION PERMIT must be submitted to NHDES for any proposed domestic wastewater connection in excess of 5,000 gallons/day ADF. Provide pertinent information on the lines provided on the form. The form must be signed by an authorized municipal official to signify local approval, and forwarded to NHDES together with a \$50 review fee payable to *Treasurer, State of New Hampshire*. (Applications need not be submitted for domestic connections smaller than 5,000 gallons/day *provided that* no new sewerage construction is proposed.)

B. DESIGN SUBMITTALS: Under RSA's 485 and 485-A, design plans for new sewerage facilities – whether publicly or privately owned, and regardless of design flow – must be submitted to NHDES for review/approval action at least 30 days prior to construction. Pursuant to Env-Wq 703, design submittals must include 1 set of engineering plans/specifications, pertinent design calculations, and an APPLICATION FOR SEWER CONNECTION PERMIT, as signed by an authorized municipal official.

The design submittal must also be accompanied by a review fee payment as based on the project's average daily design flowrate – \$0.10 per gal/day ("a dime a gallon") for design flows up to 10,000 gal/day, plus \$0.05 per gal/day for any flows in excess thereof. Make checks payable to *Treasurer, State of New Hampshire*.

NOTE: A separate INDUSTRIAL WASTEWATER INDIRECT DISCHARGE REQUEST (IDR) may be required for industrial waste contributions, depending on quantity and quality. For further information, contact the Industrial Pretreatment Supervisor of the Wastewater Engineering Bureau at (603) 271-2052.

dennis.greene@des.nh.gov or phone (603) 271-2980
NHDES WWEB, PO Box 95, Concord, NH 03302-0095
www.des.nh.gov

ROCK RIDGE SUBDIVISION, PHASE 3					
PROPOSED SEWER FLOWS					
LEBANON, NEW HAMPSHIRE					
PROJECT # 06-007					
SEWER INFILTRATION ALLOWANCE					
SEWER RUN	LENGTH (FT)	LENGTH (MI)	DIAMETER (IN)	ALLOWANCE (GPD/IN DIA/MI/DAY)	INFILTRATION (GPD)
EXIST to SMH43	30	0.0057	8	300	14
SMH43 to SMH44	116	0.0220	8	300	53
SMH43 to SMH45	107	0.0203	8	300	49
SMH48 to SMH51	135	0.0256	8	300	61
SMH51to SMH52	242	0.0458	8	300	110
SMH53A to SMH54	41	0.0078	8	300	19
SMH54 to SMH55	139	0.0263	8	300	63
SMH55 to SMH56	95	0.0180	8	300	43
SMH56 to SMH57	74	0.0140	8	300	34
SMH57 to SMH58	123	0.0233	8	300	56
SMH58 to SMH59	197	0.0373	8	300	90
SMH59 to SMH60	151	0.0286	8	300	69
SMH60 to SMH61	124	0.0235	8	300	56
SMH61 to SMH62	113	0.0214	8	300	51
SMH62 to SMH63	136	0.0258	8	300	62
SMH63 to SMH64	300	0.0568	8	300	136
SMH47 to SMH48	262	0.0496	8	300	119
SMH48 to SMH49	148	0.0280	8	300	67
SMH49 to SMH50	155	0.0294	8	300	70
Totals	2,688	0.5091	N/A	N/A	1,222
TOTAL SEWER INFILTRATION ALLOWANCE=					1,222
					gpd

**AGENDA
LEBANON CITY COUNCIL
NOVEMBER 7, 2018**

9. NEW BUSINESS:

9.D – LEBANON SEWER INTERCEPTOR CAPACITY

RESULTS OF ADDITIONAL MODELING BY WESTON & SAMPSON

BACKGROUND

At a work session on October 25, 2017, the City Council was presented with findings relative to available residual capacity in the sewer interceptor system that carries wastewater from Lebanon to the Wastewater Treatment Plant. Based on those findings, on January 3, 2018, the City Council enacted a temporary limitation on sewer extensions.

On May 9, 2018, a work session was held with our engineers from Weston & Sampson to review findings of sewer metering and modeling completed between spring and fall, 2017; and to discuss potential next steps for improving capacity within the interceptor. Action items coming out of the May 9th work session included additional modeling to project the amount of available residual capacity, post CSO 11 construction (TASK 1); and developing a project for inclusion in the Capital Improvement Program to rehab/upgrade the interceptor to increase capacity (TASK 2).

The purpose of this discussion is to review the results of TASK 1 and discuss next steps for addressing the continued limitation of capacity in the sewer interceptor. Administration is proposing the following timeline, which will be discussed in greater detail during the meeting:

November 7, 2018

Review the results of Task 1 (current available residual capacity).

December 5, 2018

Review proposed ordinance and set public hearing for January 2, 2019 to amend City Code Chapter 181 to extend the current temporary limitation on sewer extensions for a period of 6 months.

December 6, 2018

Review Capital Improvement Projects for Sewer System Rehabilitation (projected available future capacity, post 2020 construction)

January 2, 2019

Public Hearing to amend Chapter 181 to extend current temporary limitation on sewer extensions

1st Quarter 2019

Administration developing process for managing short-term limitation on capacity, returning to Council for action on solution(s).

Engineers from Weston and Sampson will be present to discuss the findings of their additional modeling.

ACTION

No action required at this time. Item is for informational purposes only.

Included in this Section:

1. November 1, 2018 Memo from Weston & Sampson re: Additional Modeling Results; Recent Permitted Sanitary Flows
2. PowerPoint Presentation: Sewer System Model – Recap, Results, and Next Steps
3. May 9, 2018 Excerpt of City Council Work Session Minutes

M E M O R A N D U M

TO: City of Lebanon
FROM: Weston & Sampson
DATE: November 1, 2018
SUBJECT: Additional Modeling Results: Recent Permitted Sanitary Flows

The purpose of this memorandum is to discuss the design, calibration process, and results of the following models:

- 5-Year/24-hour Storm, Post CSO Contract #11 with Permitted Flows
- Peak Sanitary with Modified Peaking Factors with Infiltration and Permitted Flows

Permitted Flow Models

The additional work as requested by the City of Lebanon (the City) for Amendment #5, had Weston & Sampson incorporating recent permitted sanitary flows granted for development before the establishment of the January 2018 sewer flow limitation into two separate model structures: "5-Year/24-hour Storm, Post CSO Contract #11" (5-Year/24-Hour) model, and the "Peak Sanitary with Modified Peaking Factors with Infiltration" (Peak Sanitary) model. Following the simulated addition of these permitted flows to each model, the results were converted into tabular format which listed each pipe segment in the Lebanon Interceptor with the estimated remaining theoretical flowrate capacities at the 80%, 90% and 95% full pipe thresholds (See Appendix A).

Table 1 – Current and Previously Permitted Flows on the next page was generated with the assistance of the City to identify all the development projects, the estimated additional sewer flow rates and the closest downstream manhole. Of the 251,317 gallons per day in which all the developments on Table 1 detail, only 156,368 gallons per day will be tributary to the Lebanon Interceptor via gravity sewer pipe and thus have been included in the permitted flow models.

Table 1 - Current and Previously Permitted Flows
Flows Tributary to the Lebanon Interceptor

New Project	Approximate Address	Permitted Sewer Flows (gpd)	Closest Downstream Manhole	Notes
4 South Park	4 South Park	675	LI-239	Added to Model
The Route 120 Hotel	35 Labombard Road	11,550	EL-26C	Added to Model
APD Multi-Specialty Clinic	Alice Peck Day Campus	1,227	LI-280	Added to Model
AVA	9 Alice Peck Day Drive	250	LI-274	Added to Model
ICV2	67 Etna Road	18,965	EL-33	Added to Model
Iron Horse	82 & 118 Seminary Hill	110,838	Split between LI-12 and LI-28	Added to Model
Westboro	Westboro Woods Lane	8,000	LI-28	Added to Model
Unnamed 1	22 School Street	691	CS-9	Added to Model
Unnamed 2	68 Etna Road	1,272	EL-33	Added to Model
Lucky's	1 North Park Street	980	CS-4	Added to Model
Unnamed 3	70 Hanover Street	1,920	HS-77	Added to Model
Prospect Hills	Mountain View Drive	38,475	PZ-2 -> HX-11	Absorbed into Pump Station
Rock Ridge	Rock Ridge Boulevard	56,474	RZ-3 -> LI-338	Absorbed into Pump Station
TOTAL		251,317		
TOTAL TO MODEL		156,368		

RESULTS AND DISCUSSION

Both the 5-Year/24-Hour and the Peak Sanitary model scenarios which included the permitted flows yielded the following results:

- Several pipe segments project to be flowing greater than the 80% depth of full pipe flow.
- The 90% full threshold for both models projects a single pipe segment, LI-7 to LI-7A, to be flowing greater than its 90% depth of full pipe flow. Every other pipe in the models is below the 90% threshold. However, a few pipe segments project to have under 100,000 gallons per day in residual capacity at this 90% threshold.
- Lastly, the 95% full threshold projects every pipe segment in the model to be flowing with a minimum residual capacity of approximately 200,000 gallons per day.

We find that in order for the City to maintain a sewer flow capacity surplus, official policy should be to revise the current definition of full flowing pipe from 80% full to 95% full, and a comprehensive system wide infiltration and inflow removal program be established to gain capacity for future development as the City continues to grow.



Sewer System Model

Recap, Results and Next Steps

Definitions

- Base Sanitary: Wastewater generated by users directed to the sewer system
- Infiltration: Groundwater entry into sewer system via pipe and manhole defects
- Inflow: Surface runoff entry into sewer system via storm system, roof leaders, sump pumps, etc.
- I/I: Infiltration and Inflow
- mgd: million gallons per day
- gpd: gallons per day

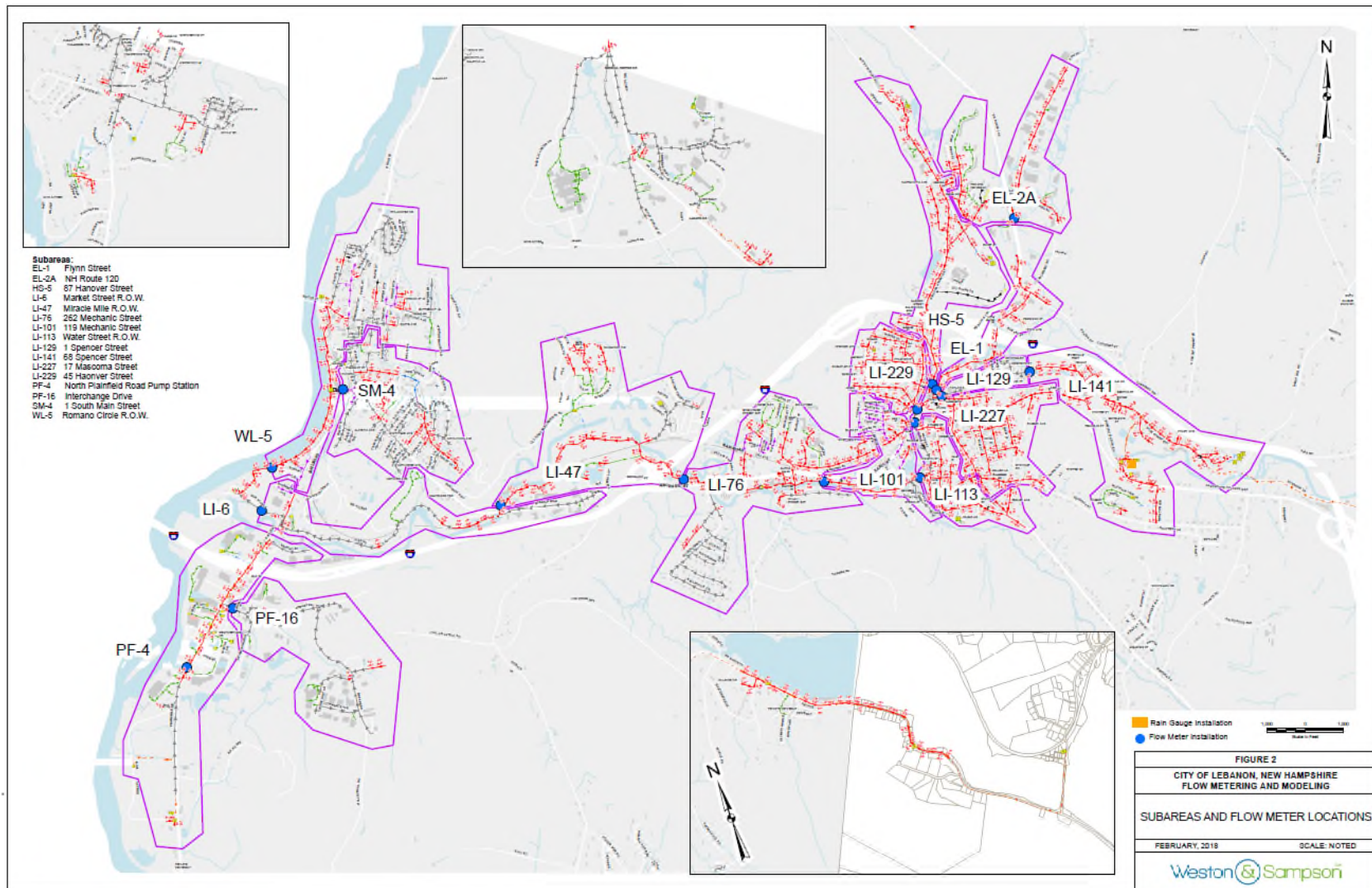
Sewer Modeling Status to Date

– 2017:

- City-wide Flow Metering

– 2018:

- Flow data used to build multiple hydraulic models, all of which indicate the Lebanon Interceptor capacity is very limited
- Modeling results being used to identify projects to increase capacity



What We Learned

Base Sanitary:
1.07 mgd

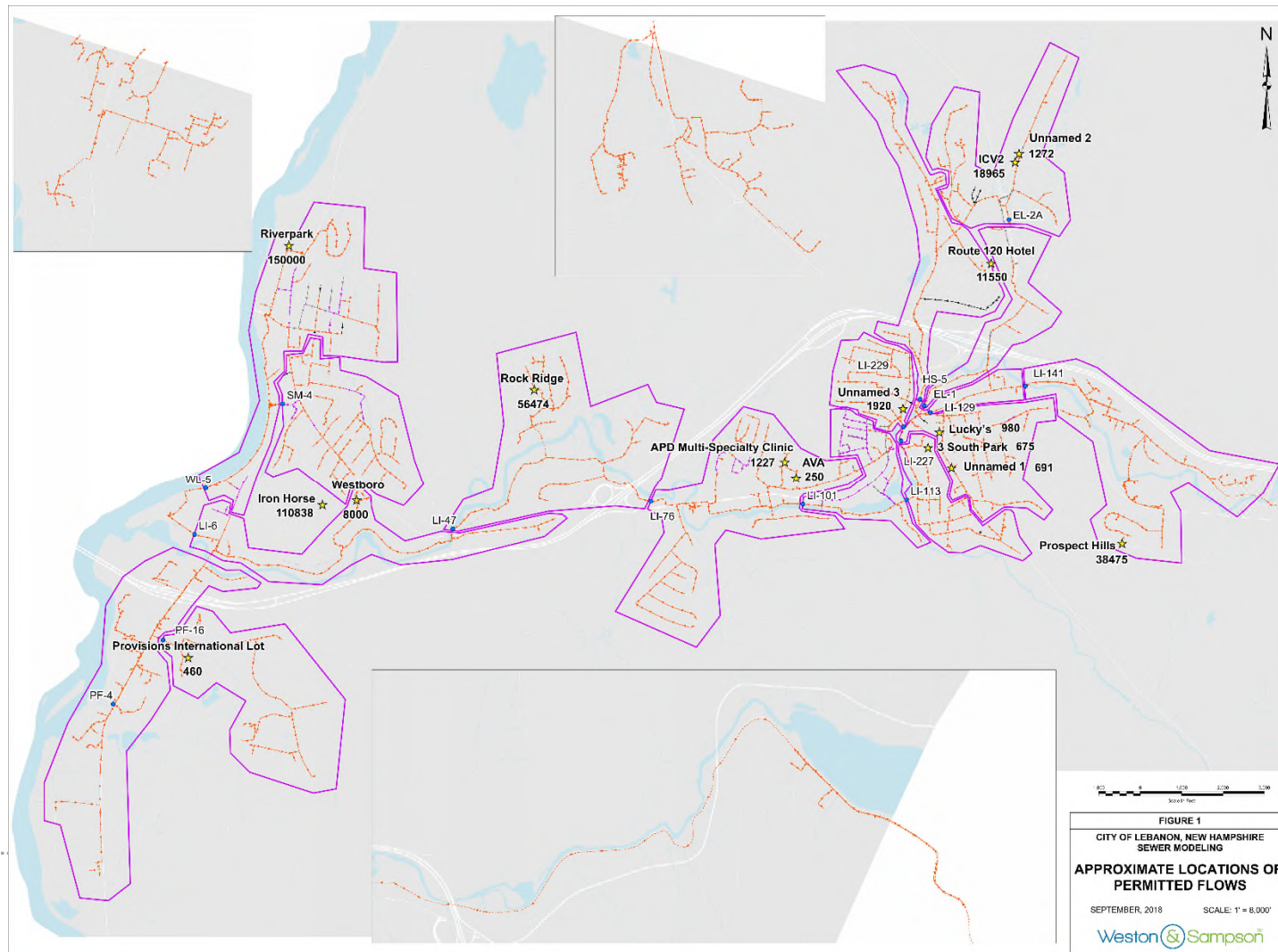
Infiltration:
1.59 mgd

Inflow:
3.29 mgd

Meter	Base Sanitary, gpd	Infiltration, gpd	Inflow, gpd
HS-5	44,591	38,909	45,500
LI-141	149,084	59,316	215,600
EL-2A	91,552	42,148	107,700
LI-229	24,989	73,011	79,700
EL-1	41,449	8,017	86,200
LI-129	13,872	162,528	178,900
LI-227	50,063	152,837	373,200
LI-113	71,585	97,715	149,300
LI-101	118,622	189,098	753,300
LI-76	90,140	178,595	336,000
LI-47	72,576	37,024	339,500
LI-6	94,677	263,723	260,900
PF-4	68,547	56,353	69,163
PF-16	37,626	81,174	86,400
WL-5	41,578	29,922	171,900
SM-4	61,563	121,237	33,900
TOTAL	1,072,514	1,591,607	3,287,163

Recent Steps

- Modeled Post-CSO Contract 11
- Modeled addition of approved / planned developments (~156k gpd)
- Calculated Residual Capacity after each iteration



What is the Residual Capacity of the Lebanon Interceptor?

Modeled Residual Capacity of the Lebanon Interceptor

- Post CSO Contract 11 w/ Permitted Flows
 - 95% full threshold= 200,000 GPD

Next Steps

- FY 2019/2020 CIP Projects (I/I Reduction):
 - LI-6
 - LI-76
 - LI-101
 - LI-113
 - LI-129
 - LI-227
- These areas total approximately 1.04 mgd of the metered 1.59 mgd infiltration
- Conservative estimate: 50% infiltration reduction

Meter	Base Sanitary, gpd	Infiltration, gpd	Inflow, gpd
HS-5	44,591	38,909	45,500
LI-141	149,084	59,316	215,600
EL-2A	91,552	42,148	107,700
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LI-113	71,585	97,715	149,300
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SM-4	61,563	121,237	33,900
TOTAL	1,072,514	1,591,607	3,287,163

thank you
westonandsampson.com



FINAL

**CITY OF LEBANON
CITY COUNCIL
Minutes, Work Session, May 9, 2018
City Hall—Council Chambers
6:00 p.m.**

MEMBERS PRESENT: Mayor Suzanne Prentiss, Councilors Clifton Below, Bruce Bronner, Erling Heistad, Karen Liot Hill, Shane Smith, Karen Zook

MEMBERS ABSENT: Assistant Mayor Tim McNamara, Councilor Jim Winny

STAFF PRESENT: City Manager Shaun Mulholland, Deputy City Manager Paula Maville, Assistant City Engineer Erica Brittner, Planning & Zoning Director David Brooks, Deputy Public Works Director Jay Cairelli, City Engineer Christina Hall, Public Works Director Michael Lavalla, Associate Planner Rebecca Owens

I. CALL TO ORDER

Mr. Mulholland led the Council in the Pledge.

**II. PRESENTATION: Capacity, Management, Operations & Maintenance (CMOM)
Sewer System Model Findings; Discussion of Next Steps**

Chris Perkins and William Blais of Weston & Sampson appeared. Mr. Mulholland said this was a study of the current capacity and what they hope to gain from the CSO work, and they will discuss the possibility of an urban services boundary.

Mr. Perkins reviewed the definitions. He said in ideal conditions, there are sewer, stormwater, and water pipes. Inflow and infiltration can occur when there is a faulty connection between sewer and stormwater pipes. Infiltration can also come from private sources, such as roof systems that go into the sewer line or sump pumps connected to the sewer line. These add to capacity, especially during storm events, and limits the sanitary flow. He showed a map of 16 areas that were studied during the 2017 flow metering program. They did a statistical analysis of the meter data and compared it to the maximum threshold of 80%. Nine areas never exceeded the threshold, and six of these were below the 80% threshold more than 99% of the time. LI-113 exceeded the threshold half of the time.

Mr. Perkins said on July 1, 2017, there were brief periods of peak intensity, corresponding to a 10-year event. CSO-23 at Mechanic Street had an overflow of 346,000 gallons, and CSO-22 at Water Street had an overflow of 1,300 gallons. They look at how the system responds during

extreme events. The base sanitary is 1.07 million gallons per day (MGD). Infiltration is 1.59 mgd, and inflow is 3.29 mgd. Infiltration and inflow are clean water. Councilor Hill said they may want to treat the inflow, but the private inflow is unbilled. Mr. Perkins said that is correct. Councilor Hill said it doesn't seem fair, especially since the inflow is much greater than the base sanitary; people should be paying for what they are using. Mr. Perkins said the flow meter cannot distinguish between public and private inflow. The City is transporting and treating clean water, and they need to address this in the most cost-effective way possible. Councilor Hill asked if most municipal systems are that inefficient. Mr. Perkins said all are at a different place, and some are far worse.

Councilor Bronner asked if they can determine where the inflow is coming from. Mr. Perkins said it is very difficult. Even after the CSO work, they will not get it all. Aging systems lead to defects. Councilor Smith asked if there was a relationship between the amount of base sanitary, infiltration, and inflow. He noted that LI-129 has a base of 13,872 gallons per day (gpd), while the infiltration is 162,528 and the inflow is 178,900. Mr. Perkins said there is not necessarily a relationship. He said the base sanitary is a function of what is connected there. LI-129 does not have a lot of services connected to it, but there is still a lot of flow through there. There could be a lot of defects.

Mr. Perkins reviewed the analysis graphs. He said average rain events cause a large temporary increase in inflow to the wastewater treatment plant, pushing flow to 59-68% full. The issue is that there are more previously rare and more substantial events. He reviewed the next steps. He said CSO-11, Phase 1 is complete; CSO-11, Phase 2 will be completed in late 2019; CSO-12 is in design and will be completed in late 2019. He recommended additional modeling. They can add approved and planned developments and re-run detailed peak sanitary flows with infiltration to model post-CSO-11 conditions. He said the City should consider a sewer rehabilitation project; the first target areas would be LI-6, LI-76, LI-101, LI-113, LI-227, and LI-129. They can run a cost-effectiveness analysis for those areas, which total 1.04 mgd in inflow and 1.59 mgd in infiltration. He said the second priority is LI-229, PF-16, and SM-4.

Councilor Hill asked why they do not focus on inflow. She asked if that is harder to determine. Mr. Perkins said it is. They have to decide if they want to go after private inflow, and that means house-to-house inspections and providing some sort of solution. Councilor Hill said they could identify buildings that are likely to have roof leaders. Mr. Perkins said they have identified some. Councilor Hill said from a fairness perspective, people who are using a lot more of the system should bear the cost. Councilor Bronner said LI-129 looks very small. Ms. Maville said that is Spencer Street. Councilor Below said that is probably ground-level water from the river.

Mr. Perkins said they should run an additional modeling scenario to see what the problems will be at the end of the CSO work. The CIP projects can focus on private inflow; they have to determine what is most cost-effective. Councilor Below asked if there are cost-effective ways to rehab in place. Mr. Perkins said there are many different solutions; part of the design process is identifying the places they want to attack and the best solution. Councilor Below said during the urban renewal, sewer and stormwater were separated, and there are probably older buildings that were not separated, so there may be opportunities there.

Ms. Maville said next, they should do additional modeling to see the results of the CSO and what they can gain in capacity without doing any rehab. Councilor Heistad said if they identify a building that is a problem, they have to consider the expense. Mr. Perkins said most of the city was smoke-tested, and they have a lot of data, but only in non-CSO areas. Ms. Hall said they probably have data for 80% of the city. Mr. Mulholland said there may be an owner of a home that was built in the 1800s, and the owner has no idea where the water goes. Do they dig up the street or have someone pay to tie into the stormwater system? If someone who lives on a hill pumps a sump pump into the yard, the water could flow into others' yards. They may have to separate out the stormwater and treat it.

Ms. Maville said they can see what they have and craft regulations that would require people to bring everyone into compliance and determine how the expenses will be resolved. Councilor Bronner asked if there is nothing they can do this summer. He asked if there is a pinch point they can address. He said they have shut down development on one side of the city. Mr. Perkins said the timing is up to the City staff. It is not a question of whether work is needed; it is a question of when. Additional modeling can tell how quickly things can improve. He said he expects staff to pull together projects for 2019. The interceptor is difficult to assess because there is so much flow. They could do longer-term metering and divert the flow temporarily to video the interceptor, which they would have to do in the spring.

Councilor Hill said she thought they would get more data on the pinch point so they could put together a strategy to start addressing the problem this fall or sooner. Now it appears that they do not have the data they need and cannot collect it until a year from now, which mean projects would be in the CIP for 2020. Mr. Mulholland said the deadline for the CIP is in May. Hopefully, they will have information by May 2019, so they can bring projects forward for 2020. That is assuming they can get applications in for the revolving loan fund. Mayor Prentiss said the temporary restriction on adding sewer units is starting to feel more like a permanent one. If they rush to fix one piece they could miss the larger picture.

Ms. Maville said the data they expected to get is the data they received. They know where the pinch points are. They cannot say if replacing one section will be worth the cost because it buys a certain amount of capacity. They need to make sure the money they invest gets them as much capacity as possible. Councilor Bronner said they have had this information since October, but they are just getting it now. He said he would like a clear timeline regarding when they will get data. Councilor Hill said if projects are further out, they need to identify the sources of inflow that reduce capacity. Councilor Heistad said the information was collected last spring, and it could have been analyzed during the fall. Mr. Perkins said they collected data through Labor Day weekend, it was analyzed during the fall, and they did the modeling during the winter. He said there was a limited amount of information available in October.

Table 1 - Current and Previously Permitted Flows
Flows Tributary to the Lebanon Interceptor

New Project	Approximate Address	Permitted Sewer Flows (gpd)	Closest Downstream Manhole	Notes
4 South Park	4 South Park	675	LI-239	Added to Model
The Route 120 Hotel	35 Labombard Road	11,550	EL-26C	Added to Model
APD Multi-Specialty Clinic	Alice Peck Day Campus	1,227	LI-280	Added to Model
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Iron Horse	82 & 118 Seminary Hill	110,838	Split between LI-12 and LI-28	Added to Model
Westboro	Westboro Woods Lane	8,000	LI-28	Added to Model
Unnamed 1	22 School Street	691	CS-9	Added to Model
Unnamed 2	68 Etna Road	1,272	EL-33	Added to Model
Lucky's	1 North Park Street	980	CS-4	Added to Model
Unnamed 3	70 Hanover Street	1,920	HS-77	Added to Model
Prospect Hills	Mountain View Drive	38,475	PZ-2 -> HX-11	Absorbed into Pump Station
Rock Ridge	Rock Ridge Boulevard	56,474	RZ-3 -> LI-338	Absorbed into Pump Station
TOTAL		251,317		
TOTAL TO MODEL		156,368		

**AGENDA
LEBANON CITY COUNCIL
DECEMBER 5, 2018**

9. NEW BUSINESS:

9.B – DISCUSSION & SET PUBLIC HEARING FOR JANUARY 2, 2019:
ORDINANCE 2019-01 TO AMEND CITY CODE
CHAPTER 181, WATER AND SEWER MAIN EXTENSIONS

BACKGROUND

The Council is being asked to consider an amendment to City Code Chapter 181, Water and Sewer Main Extensions, by amending Section 181-8, Temporary Limitation on Sewer Extensions, to extend the current sunset provision to July 31, 2019.

At a work session on October 25, 2017, the City Council was presented with findings relative to available residual capacity in the sewer interceptor system that carries wastewater from Lebanon (east of Terri Dudley Bridge) to the Wastewater Treatment Plant. Based on those findings, and to avert a potential emergent health and environmental situation due to the possible overflow of the sewer interceptor, on January 3, 2018, the City Council amended Chapter 181 of the City Code to enact a one-year temporary limitation on sewer extensions to flows of up to 13,600 gallons per day.

Part of the October 25, 2017 presentation involved a discussion about our Capacity, Management, Operations, & Maintenance (CMOM) sewer system modeling and its applicability to fully understanding our sewer system (pipe sizes, capacities, locations, conditions, etc.) Weston & Sampson is the engineering firm being utilized for the CMOM project.

At a work session on May 9, 2018, Chris Perkins of Weston & Sampson presented findings of sewer metering and modeling completed between spring and fall 2017 and discussed recommendations and potential next steps for improving capacity within the interceptor. It was decided that prior to finalizing plans to upgrade portions of the interceptor, additional modeling should be completed to determine residual capacity post CSO 11 construction (taking into consideration projects that have been approved but not yet constructed).

Results of the additional modeling were presented to the Council at the November 7, 2018 meeting. Residual capacity in the interceptor has been determined to be approximately 200,000 gallons per day, if the full threshold for pipes is increased from 80% to 95%, which is the recommendation by Weston & Sampson.

The completion of the sewer model has provided administration with the information necessary to move forward with improvements to the interceptor. It has also provided us an opportunity to reassess how we calculate the impact of sewer flows entering the interceptor. With that said, we will need time beyond the current temporary limitation (set to expire January 3, 2019) to develop language that helps us best manage the 200,000 gpd of residual capacity as we work to construct upgrades to the interceptor and increase capacity. We are thereby requesting the Council extend the current sunset provision on the temporary limitation to July 31, 2019.

ACTION

If the Council decides to move forward with proposed Ordinance 2019-01, the following motion is offered for consideration:

MOVED, that the Lebanon City Council hereby schedules a public hearing for January 2, 2019, beginning at 7:00pm in Council Chambers, City Hall, for the purpose of receiving public input and taking action on Proposed Ordinance 2019-01, to amend the Code of the City of Lebanon, Chapter 181, Water and Sewer Main Extension, by amending section 181-8.D, Temporary Limitation on Sewer Extensions, to extend the Sunset Provision to July 31, 2019.

Included in this Section:

1. Proposed Ordinance 2019-01
2. City Code Chapter 181, Water and Sewer Main Extensions

**CITY OF LEBANON
ORDINANCE #2019-01**

AN ORDINANCE TO AMEND Chapter 181, Water and Sewer Main Extension, of the Code of the City of Lebanon, Section § 181-8, Temporary Limitation on Sewer Extensions.

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

SECTION 1.

The Code of the City of Lebanon, Chapter 181, Water & Sewer Main Extensions, Section §181-8, Temporary Limitation on Sewer Extensions is amended as follows:

§ 181-8. Temporary Limitation on Sewer Extensions.

D. ***Sunset Provision.*** The restriction imposed by this Section shall expire ~~one year from the date of its enactment~~ July 31, 2019, or upon repeal or amendment by the Council based on new or additional information, whichever occurs earlier.

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 jurisdictions, such decisions shall not affect the validity of any remaining sections, subsections, sentences, clauses or part of this ordinance.

Section 3. Effective Date.

This ordinance shall become effective upon passage.

Chapter 181. Water and Sewer Main Extensions

[HISTORY: Adopted by the City Council of the City of Lebanon 2-21-2001 by Ord. No. 2001-3, effective 2-21-2001. Amendments noted where applicable.]

GENERAL REFERENCES

Building construction — See Ch. 36.

Fees — See Ch. 68.

Sewer service — See Ch. 136.

Water service — See Ch. 182.

Attachment 1 - Exhibit A

§ 181-1. Authority.

This chapter is adopted pursuant to the authority contained in RSA 47-17.

§ 181-2. Declaration of purpose.

The purpose of this chapter is to provide the procedure, terms and conditions for extensions of city water mains and sewer mains to protect the public welfare and safety of residents of the City of Lebanon.

§ 181-3. Approval.

[Amended 9-14-2005 by Ord. No. 2005-5]

- A. Extensions of water and sewer mains to serve more than three sewer units within the City of Lebanon shall require the approval of the City Council. The City Manager may approve an extension to serve three or fewer sewer units.
- B. The procedure outlined in § 181-5 shall govern extensions of water and sewer mains to serve not more than three sewer units. Any requests for extensions of water and sewer mains to serve more than three sewer units shall be governed by the procedure outlined in § 181-6. Prior to any request for extensions under § 181-6, the developer shall apply to the Lebanon Planning Board for approval under the applicable development review regulations. After receiving findings and a decision from the Lebanon Planning Board concerning whether the proposal meets applicable subdivision or site plan review regulations, but prior to the approval becoming final, the developer shall request approval from the City Council of necessary extensions.

§ 181-4. Winter construction.

Except in cases of emergency, or unseasonably good weather, as determined by the Director of Public Works, no extensions of water and/or sewer mains or service lines shall be installed in or near any public right-of-way from November 1 through March 31. In the event of any emergency, the property owners/developer shall bear the increased cost of construction as determined by the Director of Public Works.

§ 181-5. Determination by City Manager for three or fewer sewer units.

- A. Upon the petition of property owners or developer for the extension of water or sewer mains to provide service for three or fewer sewer units, the City Manager shall make a determination upon the request and shall base his decision upon:
 - (1) Topographic limitations of the city to supply.
 - (2) Proximity of a supply point or source to the street or streets to be served.
 - (3) Priority considerations.
 - (4) Need.
 - (5) Estimated costs and schedule of financing.
 - (6) Whether or not the petitioners or developer shall pay for all costs relating to the extension.
- B. Method of construction. The method of construction shall be determined by the City Manager in accordance with city standards.
- C. Cost estimates. Unless the petitioners or the developer are paying the full cost of the extension, prior to a determination by the City Manager to extend water and/or sewer main or mains in any street, the City Manager shall prepare and submit to the Council the estimated cost of the proposed extension and a schedule of financing based on the procedure outlined in the following section.
- D. Procedure for financing:
 - (1) For the purpose of water and/or sewer main extensions, if deemed necessary, the City Council shall appropriate the necessary funds.
 - (2) The total cost of an extension shall be assessed to each benefited property owner in accordance with the procedure, to the extent applicable, set forth in the Code of the City of Lebanon, Chapter 147, Special Assessment.
[Amended 9-14-2005 by Ord. No. 2005-5]
- E. Additional connections and recoupment by the property owners/developer. No additional connections to the extension will be made for any other property owners requesting service for a period of 10 years from the date of acceptance of the extension by the city unless such property owners agree to reimburse the property owners/developer a pro rata share of the cost of construction of the extension as paid by them, determined by the City Manager in a manner and method as if the extension had been paid by a special assessment.

§ 181-6. City Council approval for extension serving more than three units.

- A. Extension agreements.
 - (1) All requests for extensions of water and sewer service for more than three units shall require approval by the City Council and an extension agreement between the city and the developer containing the following:
 - (a) The developer shall pay the full cost of design and construction of the extension in accordance with the city's requirements. All plans for the design of the extension shall be submitted to the City Engineer or such other person as designated by the Public Works Director, for written approval. Any cost incurred by the city in reviewing the design by persons other than the City Engineer shall be paid for by the developer.

- (b) The developer shall pay to the city, prior to any construction, an amount estimated by the city to pay for independent engineering inspection services hired by the city if deemed necessary by the City Manager. If the city spends less than the amount paid by the developer, the balance shall be refunded to the developer. If the city spends more than the payment made by the developer, the developer shall reimburse the city. The city's review of the construction documents and inspection during the period of construction and inspection prior to acceptance shall not bar or preclude, in any way, the rights of the city to assert claims against the developer for defects in construction under Subsection A(1)(g) below.
 - (c) The developer shall provide indemnification to the City for any costs, damages or other expenses arising from review or construction of the extension.
[Amended 9-14-2005 by Ord. No. 2005-5]
 - (d) If any portion of the proposed extension is not in a city highway, the developer shall convey and transfer to the city, as a condition of acceptance of the extension, adequate rights-of-way in compliance with the city's requirements and in conformity with the requirements of the city as to the form of the deed, a title opinion, monuments and recordable plan.
 - (e) After the extension has been substantially completed, the developer shall be responsible to repair and maintain the extension for a period of one year.
 - (f) After the expiration of the one-year period for maintenance, the City Manager shall determine whether or not to issue a certification that the extension has been constructed and installed in accordance with the plans, specifications and standards of the city. The City Manager may require a report of a professional engineer, hired by the city and paid for by the developer.
 - (g) It shall be a condition of the extension agreement and any city acceptance that the developer shall be responsible for any latent defects discovered within eight years from the date of substantial completion. In the event that the developer conveys and transfers the project for which the extension was granted, the subsequent owner shall be responsible for the obligations of the developer for the remainder of the eight-year period regardless of whether or not such obligation is expressly assumed.
- (2) No additional connections to the extension will be made for any other property owners requesting service for a period of 10 years from the date of acceptance of the extension by the city unless such property owners agree to pay to the developer a pro rata share of the cost relating to the extension as determined by the City Manager. The developer shall provide a copy of the contract documents for the construction of the extension to the city prior to undertaking any construction for review and approval by the city to ensure that the requirements of the extension agreement have been met. The developer shall include in any construction documents that the proposed extension is intended to be transferred to the city for ownership and maintenance. In addition, any security or bond obtained by the contractor constructing and installing the extension for the benefit of the developer shall remain in effect until the expiration of the eight-year period and shall be for the benefit of the city.
- B. Upon compliance with all the conditions set forth herein, the developer may request and the City Council shall accept the transfer of the extension, including the water or sewer main and rights-of-way to the city to become part of the city water system or sewer system and the responsibility of the city thereafter.
- C. Notwithstanding any other provisions of this chapter, the City Council, upon determination by the Planning Board that the proposed development requiring the extension is premature and scattered, shall deny the sewer and/or water extensions. If the Planning Board does not make such a determination, the City Council shall consider only issues related to the technical feasibility and fiscal consequences of any proposed extension in deciding whether to approve an extension under this Chapter.
[Amended 9-14-2005 by Ord. No. 2005-5]

§ 181-7. Private water and/or sewer mains.

- A. Private water and/or sewer mains are defined as those lines having a diameter of eight inches to twelve inches and installed on private property by the landowner or developer. Such private mains shall be constructed, installed and maintained at the sole expense of the landowner, and not the City, and shall require approval by the City Manager or City Council under § 181-5 or § 181-6.
[Amended 9-14-2005 by Ord. No. 2005-5]
- B. Any permit issued which includes the installation of a private main shall be subject to the following conditions regardless of whether or not contained in such permit:
- (1) Such private mains shall be inspected by the city as required by law, as required by the Code of the City of Lebanon, Chapter 136, Sewer Service, Chapter 182, Water Service, and Chapter 36, Building Construction, solely for the purpose of determining whether or not the private mains meet city requirements. Any expense to meet city requirements as to the installation of the private mains shall be at the sole expense of the landowner. The costs of inspection shall be as provided by the Code of the City of Lebanon, Chapter 68, Fees.
 - (2) If, at any time in the future, the city determines that the public interest requires the acquisition of such private mains to be incorporated into the city water and/or sewer systems, the landowner at that time shall convey and transfer such private mains to the city upon such terms and conditions as deemed to be in the best interest of the city.

§ 181-8. Temporary limitation on sewer extensions.

[Added 1-3-2018 by Ord. No. 2018-01]

- A. Purpose and findings.
- (1) A sewer line capacity study performed by Wright-Pierce Engineering in the course of the Planning Board's preliminary review of the proposed Carter Country Club - Houses on the Hill development, and the results of which are reflected in a report with a cover letter from Ryan T. Wingard, P.E., to City Engineer Christina Hall, P.E., dated July 17, 2017, and in a memorandum from Wright-Pierce to the City Engineer and Jay Cairelli, Assistant Director of Public Works dated July 24, 2017, has determined that portions of the sewer interceptor connecting Downtown Lebanon to the wastewater treatment facility (all areas east of the Terri Dudley Bridge, as shown on Exhibit A^[1]) - when flows from already approved but unconstructed development are factored in - are nearing their capacity (considered conservatively by the City as 80% of calculated full flow). Specifically, the Wright-Pierce study found that the existing residual capacity of the sewer interceptor, in the absence of any pipe replacements, was 110,000 gallons per day.
[1] *Editor's Note: Exhibit A is included as an attachment to this chapter.*
 - (2) The City finds that the conclusions of the Wright-Pierce study evidence a clear and present emergency which must be addressed on a temporary basis pending remedial actions to increase the overall capacity of the line, in order to prevent the approval of sewer extensions, or combinations thereof, which, if implemented, could bring about a failure or overflow of the sewer interceptor, and cause serious health and environmental damage as well as violations of clean water and pollution laws.
 - (3) When calculating residential sewage flows, the City has historically utilized a figure of 150 gallons per day per bedroom for a single-family dwelling (600 gallons per day for a four-bedroom house). To allot for wet weather conditions within the sewer system, this figure is peaked by a factor of six (or 3,600 gallons per day for a four-bedroom house).
 - (4) In presentations made to the Council, representatives of both Wright-Pierce and Weston & Sampson have recommended that - in addressing the question of interceptor capacity - it would be reasonable for the City to reduce its sewage flow estimates associated with residential units to a level which, while still conservative, is closer to the figures used by New Hampshire Department of Environmental Services.

- (a) The City accordingly finds that, based on the information presented, utilizing the Metcalf and Eddy/AECOM Wastewater Engineering Treatment and Resource Recovery, Fifth Edition, Table 3-2, (assuming one person per bedroom) is the method to be used as follows:

1 bedroom flowrate = 103 gpd/capita x 1 person = 103 gpd = 105 gpd rounded

2 bedroom flowrate = 77 gpd/capita x 2 people = 154 gpd = 160 gpd rounded

3 bedroom flowrate = 68 gpd/capita x 3 people = 204 gpd = 210 gpd rounded

4 bedroom flowrate = 63 gpd/capita x 4 people = 252 gpd = 280 gpd rounded

- (b) In applying this calculation method to those developments previously approved, but not yet constructed (specifically ICV Phase II and 4 South Park Street), the recalculated residual capacity of the interceptor is 153,559 gallons per day.

(5) Sewer extensions/connections granted.

- (a) The following sewer extensions/connections have been granted since the completion of Wright-Pierce's study of the interceptor capacity:

Thai Orchid Restaurant (Hanover Street) = 48 seats, 48 seats x 40 gal/seat X 6 = 11,520 gpd peaked

Lucky's coffee shop and bar = 980 gpd x 6 = 5880 gpd peaked (980 gpd based on 3 employees at 35 gpd and 54 seats at 20 gpd — 1 sewer unit for preexisting use.)

1 single-family home (2 bedroom) = 960 gpd peaked.

- (b) Applying the total allocation for those flows approved since the completion of Wright-Pierce's study (18,362 gallons per day) to the recalculated capacity when applying the Metcalf and Eddy method (153,559 gallons per day) yields a total new residual capacity of 135,997 gallons per day that may be allocated to future development.

- B. Restriction on new extensions. For as long as this section is in effect, neither the City Manager acting pursuant to § 181-5 of this chapter, nor the City Council acting pursuant to § 181-6 of this chapter, nor both, shall approve any sewer extension, or combination of extensions, which would increase sewer flowage to the sewer interceptor running from Downtown Lebanon to the wastewater treatment facility, to a level in excess of the residual capacity of that interceptor as of July 17, 2017, as recalculated pursuant to Subsection A above.
- C. Allocation. For as long as this section is in effect, no single owner of land shall be given approval for a sewer extension, pursuant to either § 181-5 of this chapter or § 181-6 of this chapter, which increases the estimated flows in the said sewer interceptor by an amount greater than 13,600 gallons per day.
- D. Sunset provision. The restriction imposed by this section shall expire one year from the date of its enactment, or upon repeal or amendment by the Council based on new or additional information, whichever occurs earlier.

FINAL

**LEBANON CITY COUNCIL
MINUTES, SPECIAL MEETING
Council Chambers - City Hall
Wednesday, October 23, 2019
7:00 p.m.**

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

MEMBERS ABSENT: Bruce Bronner, Jim Winny, Karen Zook

STAFF PRESENT: City Manager Shaun Mulholland, Deputy City Manager Paula Maville, City Clerk Sandra Allard, Planning & Zoning Director David Brooks, Public Works Director Jim Donison, Assistant Public Works Director Jay Cairelli, City Engineer Christina Hall, City Attorney Bernie Waugh

Mayor McNamara called the meeting to order at 5:32 p.m.

1. PLEDGE OF ALLEGIANCE: Councilor Sykes led the Council in the Pledge.

2. PUBLIC FORUM: Mayor McNamara made the Public Forum announcement and informed the Council and members of the public this was just an information meeting on the proposed changes to the Sewer Ordinances and the Council will be voting on scheduling the formal Public Hearing on December 4, 2019.

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

4. RECOGNITIONS: None

5. ACCEPTANCE OF MINUTES: None

6. APPOINTMENTS: None

7. PUBLIC HEARING ITEMS: None

8. OLD BUSINESS: None

9. NEW BUSINESS

A. Discussion and Set Public Hearing for December 4, 2019: Ordinance #2019-14 To Retitle And Amend City Code Chapter 136, Sewer Service, To Include Certain Provisions Of Former Chapter 181, and the Addition of New Language Relative to Sewer Capacity Limitations, Allocation, Permits, And Sewer Development Charges.

(Note: Complete details on Ordinance #2019-14 were included in the October 23, 2019 City Council agenda packet.)

Mayor McNamara informed the Council they would be reviewing a number of proposed changes and noted Staff spent a great deal of time creating a presentation that not only explains each and every one of the individual Ordinance changes, but how they inter-relate to each other.

City Manager Shaun Mulholland, Public Works Director Jim Donison, City Engineer Christina Hall, Planning & Zoning Director David Brooks, and City Attorney Bernie Waugh came before the Council representing the amendments to Ordinance # 2019-14.

Mr. Mulholland began the Water and Sewer Code presentation (pages 21–32 of the agenda packet) by giving a history of the Sewer Interceptor Limitations and reviewing what has changed; the current and proposed Regulatory Processes; the Allocation of Sewer Capacity; and the proposed Sewer Development Charge (SDC) as partially described below:

- Sewer Interceptor Limitations:

Emergency provisions were enacted in January 2018 regarding connections/extensions that only apply to the sewer interceptor East of the Terri Dudley Bridge and will remain in effect until the end of December 2019. This is important to remember because the proposal being made will encompass the entire City.

- What has changed:

A sewer model was developed by Weston & Sampson to assess capacity in segments of the collection system. Full pipe capacity is now viewed at 95% compared to 80%. CSO 11 was completed in August 2019 diverting storm water out of the sanitary sewer. Sewer Interceptor Project 1 is underway and will be completed by the end of December 2019. Total capacity available when completed will be 377K gpd by January 1, 2020. Sewer Interceptor Project 2, proposed for 2020, will add an additional capacity of 280K gpd and bring the new capacity total up to 657K gpd.

- Proposed Regulatory Changes (pages 22-23).

There will be a new process for Water & Sewer connections/extensions; new standards for estimating capacity for sewer connections by dwelling types; new standards for determining the peaking factor for sewer connections/extensions; a new proposed Sewer Development Charge (SDC) to pay for sewer system upgrades; the elimination of Chapter 181 and inclusion of Water & Sewer connections/extensions in Chapters 182 and 136 respectively; new criteria for allotting sewer capacity flexible enough to address additional capacity as it becomes available; capacity would be allocated to applicants prior to beginning the Planning Board process; the new process would apply to all geographical areas of the City; applicants would be allocated capacity of no more than 50% of the capacity of the “sewer system” the applicant is utilizing, but they can seek capacity amounts above 50% with approval of the Council under certain circumstances; The City Manager would issue Sewer Use Permits and the Notice of Allocation for connections and extensions of sewer mains less than 600 ft. and the Council would approve sewer main extensions of > 600 ft.; and, an implementation of the appeals process that does not exist in the present code.

Councilor Prentiss arrived at 5:44 p.m.

- Present Process (page 23):

Currently, the City does not issue an actual permit. Connections of 3 sewer lines or less are approved by the City Manager and the City Council approves anything over this, but the limit is still 13,600 gpd per development. All applications, other than major sub-divisions, move through the Planning Board process before receiving authorization to connect to the City’s sewer system. While there is a development charge for water, there is not one for sewer, but the Connection Fee is \$182 (additional units are \$148 each.) and an Inspection Fee of \$30 is charged.

- Proposed Processes (see charts on pages 24-25):

The Sewer Use Permit Application process and the Sewer Use Permit Change of Allocation Process were presented.

Councilor Hill noted that one of the biggest changes made was that individuals and businesses would be able to apply for an allocation before starting the Planning Board Process.

Mr. Mulholland said individuals/businesses would know if they have enough sewer capacity before they spend a lot of money putting together a full Planning Board Application just for sewer capacity. They would have to pay for the non-refundable application fee and sewer development charge (20%), which is refundable if they do not get Planning Board approval. Extensions greater than 600 ft were explained. Applications for single family homes should be issued right away, but larger developments may take longer (2-4 weeks) due to the modeling work that would/should not need to take place and would be dependent on the size of the project and the location in the City. The application fee for larger projects would be approximately \$2,500.

Councilor Hill questioned what would happen if someone wanted to tear down their existing structure and rebuild, but has no change in use. Mr. Mulholland said that if the use remains as a single family home the same capacity will remain as it was before. For multi-family homes, if they are not going to change their use, they will have the same capacity allocation.

- Allocation of Sewer Capacity (page 25):

Allocation of Sewer Capacity will be on a first come, first serve basis. Allocations based on an extension (> 600ft.), a system capacity above 50%, and any successful waivers or appeals will be eligible for capacity at the time it is granted by the Council. If there is insufficient capacity available for a project, the requested allocation will be kept on a list until there is capacity for that project. This does not prohibit smaller projects from receiving an allocation for lesser amounts that are available. Mr. Mulholland presented examples and answered the Council's questions.

Councilor Hill suggested that a map of the City showing sewer capacity allocations be provided to residents so they can calculate, on their own, what 50% would be of the tightest bottleneck to the sewage plant. Mr. Mulholland explained this changes every day and would be a problem to keep updated. Mayor McNamara suggested there be a process in place where residents can ask what capacity is on any given day. Mr. Mulholland said there are strict rules he needs to follow to issue any allocations. If the Council chooses to go with the 50%, this is a discretionary issue and the Council would have to issue the permit and explained his reasonings.

The Council further discussed the queuing list for sewer capacity allocations.

- Present Sewer Usage Standards and proposed Sewer Usage Standards (pages 26-27).

Ms. Hall presented the standards for Residential, Multi-family, Commercial and Industrial units, noting that Industrial Units would need to provide estimates for capacity usage.

Mayor McNamara asked if DPW saw a difference in flow between single family homes and multi-family housing giving examples. Mr. Donison said DPW looked at the flow rates and water usage for different developments and in the Buckingham Street development, for example, flow rates did reflect an average

of 220 gpd. A single family home's flow rate may go up because car washing and the use of dishwashers and washer/dryers that may not be available to those living in multi-family dwellings.

- Peaking Factors (page 27).

Mr. Donison explained the present standard is based on the fairly conservative Metcalf and Eddy Standard. In working with Wesson and Sampson, reviewing data collected over the last few years, and in looking at the City's flow meters, DPW reviewed the Peaking factors, which are more in line with what is called Recommended Standards for Water/Wastewater Facilities (2014 Edition/Ten State Standard). He noted that when an application is received, and if it was fairly simple, they would start with a peaking factor of 3.5

- Project Example for Multi-Family Residential Housing Projects (page 28).

Ms. Hall discussed how DPW calculated the gpd (gallons per day) flow rates for multi-family residential housing projects. The Council discussed what the peaking factor changes would be, the decision to change the peak rate factor to the Ten (10) State Model, and the City's flow rate meters.

Mayor McNamara was thrilled the City now has data-driven standards to support making an informed decision, noting that if the City accepts this peaking factor (3.5), we will not have sewage exploding out of manholes.

Mr. Dan Nash came before the Council and was concerned was about using a peaking factor of 3.5, noting that the NH DES EMV 700 rules call for a peaking factor of an interceptor to be 2.5 and was curious as to why the States stipulated standards were not used.

Mr. Donison said DPW looked at the existing flow rates (based on all flow meters) plus the Wesson and Sampson three (3) year flow data and said Mr. Nash is correct. The City could go with a lower peaking factor but felt a peaking factor of 3.5 was very well substantiated.

- Proposed Sewer Development Charge (SDC) (page 28):

Mr. Mulholland said this proposal is to have a new development pay a larger percentage of the cost of infrastructure improvements and would shift some of the cost from the present users. This is a common practice throughout the State and Nation. A one-time fee will be charged per sewer unit (marker is based on a 3-bedroom single-family home using 210 gpd) and the rate is based on the depreciated value of the current sewer system.

- How the SDC is determined; How the SDC is determined for the Hanover Catchment Area; and a Comparison of Proposed Sewer Fees with Other NH Communities (pages 29-30).

Mr. Donison presented the SDCs in great detail to the Council and Ms. Hall presented more examples of how DPW calculated these costs for 3-bedroom Single Family Homes, Multi-Family dwellings (based on 150 Units), and Commercial/Industrial Projects (based on a 40 seat restaurant with 8 employees).

Councilor Hill felt that the analogue of a 40 seat restaurant, with an SDC of \$12,625 would have been a huge barrier in opening her restaurant. She was curious if the SDC would encourage existing developments to stay where they are and questioned how this would work. Mr. Mulholland explained that a Sewer Use Application would be submitted for a change in use (i.e., if a business was using 10K gpd and the new use it would be 15K gpd the business owner would pay for the additional 5K gpd).

Councilor Below expressed his concern on how the Ordinance is worded. The Council needs to keep in mind that an existing building may go through multiple changes (i.e., restaurant to office and then back to a restaurant). He said it would not make sense to keep charging this business again and felt a building/property should be forgiven, or charged at whatever the highest allocation is and that (allocation) should stick with that property even if the usage goes down for a number of years.

Mr. Mulholland said those businesses, who already have an allocation, will use that same allocation even if it went from a restaurant to something else. This is something they bought into. For those that do not have any data (allocation), 3-year averages will be used moving forward.

Ms. Hall informed the Council that just because a property might be going back to its original use (i.e., restaurant), it would still need to have a flow analysis done to see if the City can even get their proposed capacity into the system. You need to make sure there is always flow into the system.

Chair Below brought this up because this would also cause a problem in the City's Impact Fee Ordinance. Each time you change use, the higher use is paid. If you keep changing back and forth, Impact Fees are being paid over and over again for the same space.

Councilor Hill said it was important that repeated Impact Fees do not happen. However, if this Ordinance is adopted your sewer capacity is now a valuable asset that stays with the property.

Proposed Code Revisions: Mr. Mulholland reviewed the Code Revisions with the Council as depicted on page 32 of the agenda packet.

Ms. Maville said the water investment fee is based on the actual size of meters. The 5/8" up to 3/4" is \$750; 1" is \$1,200; 1 1/2" is \$2,400 and goes up from that point. The one distinguishing factor is multi-family dwellings. When that service commences, they will be assessed based on the number of dwelling units rather than the meter size and the total fee is equal to the number of unit's X's 500.

Councilor Hill asked if Planning Staff is accepting applications right now, so if there are people who have projects they can be treated according to the existing rules, if that is what they want.

Mr. Brooks confirmed, with the exception of major subdivisions, noting that major subdivisions will go through a preliminary review process and then go through the City Council. One of the decisions the Planning Board has to make is the Finding of whether a major subdivision is premature and scattered. If an applicant cannot demonstrate capacity availability, then the Planning Board cannot make that Finding. For all other projects, the issue of sewer/water becomes a Condition of the Planning Boards approval process. At present, those applications can proceed but each applicant is being advised that they will get a Condition of Approval that may not be satisfiable until, and unless, the Council changes the regulations.

Councilor Hill clarified her question by stating it was her understanding, after the last meeting, that people who wanted to vest under the current water/sewer provisions could submit an application, even if the Council could not act on it. Mr. Brooks said they will be heard, and if the applicant gets a Conditional Approval one of those conditions would be to get a sewer/water allocation from the Council. Applicants understand they may not be able to meet that condition until, and unless, the Council changes the current regulations. Councilor Hill said she was struggling with the due process issue.

The Council further discussed the sewer/water approval process as it stands now and how it would be implemented with the proposed changes moving forward.

Ms. Maville informed the Council that the language in both the Site Plan and Subdivision Regulations will need to be updated, noting the process has to be changed by the Planning Board in order for this to work. The Planning Board language is being worked on.

Mayor McNamara felt that one of the positive things with this proposal is that a developers will know if they will be able to get sewer capacity without going through the Planning Board process.

Ms. Maville informed the Council that what is being looking at in Ordinance #2019-14 is to amend City Code Chapter 136 - Sewer Service. The biggest component is taking all the language that was in Chapter 181 and incorporating the sewer portion of Chapter 181 into Chapter 136. The Council will then be asked to repeal Chapter 181.

The amendments to Ordinance #2019-14 is broken into 5 redlined main sections as listed below:

- Section 1: Amend Sections 136-1, 136-2, 136-7, 136-8, 136-9, 136-53, 136-73, 136-75, 136-79, 136-80, and 136-97 of Chapter 136 Sewer Service in order to clarify, add and amend existing language (as highlighted in red).
- Section 2: Repeal and replacing language in its entirety to just look at what we are going to be looking at for local discharge restrictions.
- Section 3: Just deleting and repealing 136-60 and 136-91 in their entirety and reserving those sections in case they are needed for future use.
- Section 4: Amend definitions.
- Section 5: Amend to incorporate what was in Chapter 181 into Chapter 136.

Councilor Below noted that on page 19 of the agenda packet (Section 136-121, Sewer/Development, paragraph (C)) is where both future and existing customers are subject to the development charge, which the Council previously talked about. Councilor Below proposed the following language change:

“With respect to persons or organizations seeking to enlarge an existing sewer service, the sewer development charge imposed shall be the difference between the current sewer development charge *and any prior paid sewer development charge for the same connection, or if none*, the sewer development charge that would have been imposed if one had been assessed on the average actual usage for the previous five years. The Director of Public Works may take other factors into account when determining the valuation of the sewer system.”

Ms. Maville requested the Council give consensus on Councilor Below’s proposed language change. She did not need a motion, but needed the Council’s consent before this Ordinance goes to a Public Hearing. The Council all gave their approval.

ACTION:

Councilor Below MOVED, that the Lebanon City Council hereby schedules a Public Hearing for Wednesday, December 4, 2019, beginning at 7:00pm in Council Chambers, City Hall, for the purpose of receiving public input and taking action on Proposed Ordinance #2019-14, to amend City Code Chapter 136, Sewer Service, to include certain provisions of former Chapter 181, and the

addition of new language relative to sewer capacity limitations, allocation, permits, and sewer development charges with the one change as discussed at tonight's meeting.

Seconded by Councilor Sykes.

*** The Vote on the Motion was unanimously approved (6-0).**

B. Discussion and Set Public Hearing for December 4, 2019: Ordinance #2019-15 to retitle and amend City Code Chapter 182, Water Service, to include certain provisions of former Chapter 181.

The Council is being asked to consider an amendment to City Code Chapter 182, Water Service, to include certain provisions of former Chapter 181.

ACTION:

Councilor Prentiss MOVED, that the Lebanon City Council hereby schedules a Public Hearing for Wednesday, December 4, 2019, beginning at 7:00pm in Council Chambers, City Hall, for the purpose of receiving public input and taking action on Proposed Ordinance #2019-15, to amend City Code Chapter 182, Water Service, to include certain provisions of former Chapter 181.

Seconded by Councilor Hill.

***The Vote on the MOTION was unanimously approved (6-0)**

C. Discussion and Set Public Hearing for December 4, 2019: Ordinance #2019-16 to amend City Code Chapter 68, Fees, Article III, Miscellaneous Fees, §68-15, Enumeration of Fees to retitle "Sewerage Treatment Plant Connection" fee to "Sewer Use Permit" fee, update fee amounts, and implement a sewer development charge.

The Council is being asked to consider an amendment to City Code Chapter 68, Fees, Article III, Miscellaneous Fees, §68-15, Enumeration of Fees to retitle "Sewerage Treatment Plant Connection" fee to "Sewer Use Permit" fee, update fee amounts, and implement a sewer development charge.

Councilor Below questioned if the intent was to have an accessory dwelling constituted as a dwelling unit and pay a \$150 application fee for that accessory dwelling unit. Ms. Maville said yes.

It was noted that Effective Dates on all Ordinance changes be January 1, 2020, not 2019.

ACTION :

Councilor Hill MOVED, that the Lebanon City Council hereby schedules a Public Hearing for Wednesday, December 4, 2019, beginning at 7:00pm in Council Chambers, City Hall, for the purpose of receiving public input and taking action on Proposed Ordinance #2019-16, to amend City Code Chapter 68, Fees, Article III, Miscellaneous Fees, §68-15, Enumeration of Fees to retitle "Sewerage Treatment Plant Connection" fee to "Sewer Use Permit" fee, update fee amounts, and implement a sewer development charge.

Seconded by Councilor Prentiss.

*** The Vote on the Motion was unanimously approved (6-0).**

D. Discussion and Set Public Hearing for December 4, 2019: Ordinance #2019-17 to repeal City Code Chapter 181, Water & Sewer Main Extensions

The Council is being asked to repeal City Code Chapter 181, Water & Sewer Main Extensions.

ACTION:

Councilor Prentiss MOVED, that the Lebanon City Council hereby schedules a Public Hearing for Wednesday, December 4, 2019, beginning at 7:00pm in Council Chambers, City Hall, for the purpose of receiving public input and taking action on Proposed Ordinance #2019-17, to repeal City Code Chapter 181, Water & Sewer Main Extensions.

Seconded by Councilor Hill .

***The Vote on the MOTION was unanimously approved (6-0).**

E. Review Request by Advanced Geomatics & Design to amend the bounds of the service area contained in the Lebanon-Hanover Intermunicipal Agreement for Wastewater Treatment Service.

The Council is being asked to review a request by Advanced Geomatics & Design on behalf of Saxon Partners, to request the City work to modify the Intermunicipal Agreement (IMA) with Hanover. (See letter provided in the agenda packet for details.)

Mr. Dan Nash came before the Council and explained his reasons for an extension of water and sewer lines from Saxon Partners, Lot 24-1, Mount Support Road as provided in the agenda packet, noting this was made so they could go before the Planning Board and say they have sewer capacity. They can connect to Hanover if Lebanon's issue is not handled in a timely manner. He is no longer involved with this project and VHB will be taking over and presenting their concept on Monday to the Planning Board. It will now be up to AGD to pursue this request.

Mr. Brooks said that on Tuesday, October 15, 2019, VHB and Saxon Partners did present this before the Planning Board. There was no real discussion at that time about amending the IMA associated with this project.

ACTION: No Council action is required; item for informational purposes only.

Mr. Brooks informed the Council that the Planning Board will be working on a complimentary set of amendments to its regulations to make sure that the same process can be followed.

Mayor McNamara asked if this would delay implementation of this Ordinance beyond January 1, 2020.

Ms. Maville said she would have to get back to the Council with the actual effective date because the Planning Board does not have a planning session in December but would try to get this done so the Ordinance changes can become effective on January 1, 2020. If something changes before the notices are posted for the Public Hearing she will let the Council know.

10. REPORTS:

A. City Manager: None

B. Council Representatives to other bodies: None

11. FUTURE AGENDA ITEMS: None

12. NON-PUBLIC SESSION: None

13. ADJOURNMENT:

Councilor Heistad MOVED for adjournment.

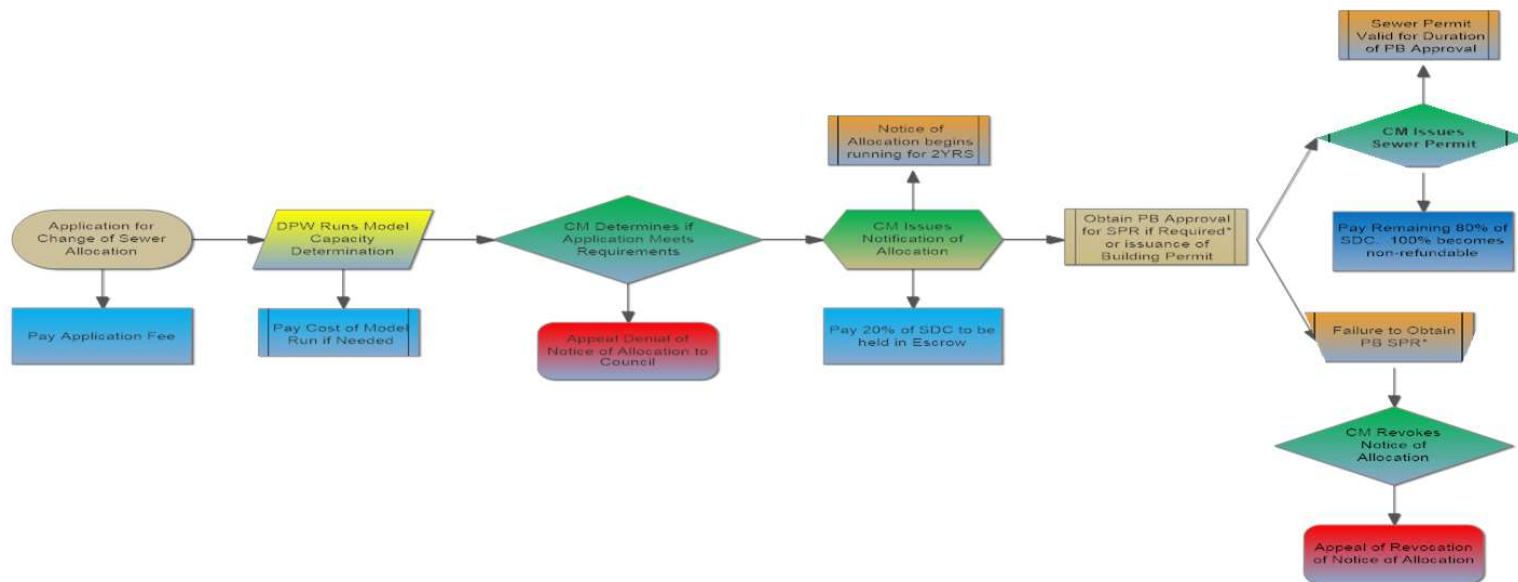
Seconded by Councilor Prentis .

****The MOTION passed (6-0).***

The meeting was adjourned at 7:10 p.m.

Respectfully submitted,
Dona E. Gibson
Recording Secretary

SEWER USE PERMIT CHANGE OF ALLOCATION PROCESS



*At a minimum, applicants must obtain conditional approval from the Planning Board within 2 years of being issued a Notice of Allocation



**LEBANON CITY COUNCIL
SPECIAL MEETING AGENDA
Council Chambers, City Hall
Wednesday, October 23, 2019
5:30pm**

5:30PM

CALL TO ORDER: The October 23, 2019 Lebanon City Council Meeting is hereby called to order.

1. PLEDGE OF ALLEGIANCE

2. 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.)**

3. OPEN TO THE PUBLIC

4. RECOGNITIONS: (NONE)

5. ACCEPTANCE OF MINUTES: (NONE)

6. APPOINTMENTS: (NONE)

7. PUBLIC HEARING ITEMS: (NONE)

8. OLD BUSINESS: (NONE)

9. NEW BUSINESS

- A. Discussion And Set Public Hearing For December 4, 2019: Ordinance #2019-14 To Retitle And Amend City Code Chapter 136, Sewer Service, To Include Certain Provisions Of Former Chapter 181, And The Addition Of New Language Relative To Sewer Capacity Limitations, Allocation, Permits, And Sewer Development Charges.**

Documents:

[2019-10-23_Item.0.9.A-ORD 2019-14 CH 136.Pdf](#)

- B. Discussion And Set Public Hearing For December 4, 2019: Ordinance #2019-15 To Retitle And Amend City Code Chapter 182, Water Service, To Include Certain Provisions Of Former Chapter 181.**

Documents:

[2019-10-23_Item.0.9.B-ORD 2019-15 CH 182.Pdf](#)

- C. Discussion And Set Public Hearing For December 4, 2019: Ordinance #2019-16 To Amend City Code Chapter 68, Fees, Article III,**

Miscellaneous Fees, §68-15, Enumeration Of Fees To Retitle “Sewerage Treatment Plant Connection” Fee To “Sewer Use Permit” Fee, Update Fee Amounts, And Implement A Sewer Development Charge.

Documents:

[2019-10-23_Item.0.9.C-ORD 2019-16 CH 68.Pdf](#)

D. Discussion And Set Public Hearing For December 4, 2019: Ordinance #2019-17 To Repeal City Code Chapter 181, Water & Sewer Main Extensions.

Documents:

[2019-10-23_Item.0.9.D-ORD 2019-17 CH 181.Pdf](#)

E. Review Request By Advanced Geomatics & Design To Amend The Bounds Of The Service Area Contained In The Lebanon-Hanover Intermunicipal Agreement For Wastewater Treatment Service.

Documents:

[2019-10-23_Item.0.9.E-GEOMATICS REQUEST \(SAXON PARTNERS\).Pdf](#)

10. REPORTS

A. City Manager

B. Council Representatives To Other Bodies

11. FUTURE AGENDA ITEMS

12. NON-PUBLIC SESSION

13. ADJOURN

Any person with a disability who wishes to attend this public meeting and needs additional accommodations, please contact the ADA coordinator at City Hall by calling 603-448-4220 at least 72 hours in advance so that the City can make any necessary arrangements.

The agenda, in its entirety, is available on the City's website at www.LebanonNH.gov. Copies can be obtained at the City Manager's Office and are available on the Monday prior to the scheduled council meeting.

**AGENDA
LEBANON CITY COUNCIL
OCTOBER 23, 2019**

9. NEW BUSINESS:

**9.A – DISCUSSION & SET PUBLIC HEARING FOR DECEMBER 4, 2019:
ORDINANCE #2019-14, AMEND CITY CODE CHAPTER 136, SEWER SERVICE**

BACKGROUND

The Council is being asked to consider an amendment to City Code Chapter 136, Sewer Service, to include certain provisions of former Chapter 181, and the addition of new language relative to sewer capacity limitations, allocation, permits, and sewer development charges.

ACTION

The following motion is offered for Council consideration:

MOVED, that the Lebanon City Council hereby schedules a public hearing for Wednesday, December 4, 2019, beginning at 7:00pm in Council Chambers, City Hall, for the purpose of receiving public input and taking action on Proposed Ordinance #2019-14, to amend City Code Chapter 136, Sewer Service, to include certain provisions of former Chapter 181, and the addition of new language relative to sewer capacity limitations, allocation, permits, and sewer development charges.

Included in this Section:

1. Proposed Ordinance #2019-14
2. Water and Sewer Revisions PowerPoint

Available but Not Included:

City Code Chapter 136, Sewer Service: <https://ecode360.com/8378918>

**CITY OF LEBANON
ORDINANCE #2019-14**

AN ORDINANCE TO AMEND the Code of the City of Lebanon, Chapter 136, Sewer Service, to amend existing definitions; clarify existing language; add a new section providing for extensions of existing sewer mains, connections to and expansions of the existing sewer collection system; and add a new section providing for the implementation of a Sewer Development Charge.

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

Section 1

Sections 136-1, 136-2, 136-7, 136-8, 136-9, 136-53, 136-73, 136-75, 136-79, 136-80, and 136-97 of Chapter 136 Sewer Service, are hereby amended to add and/or, clarify, ~~and/or delete~~ ~~obsolete~~ language as follows:

§136-1 AUTHORITY

This chapter is adopted pursuant to the authority contained in RSA 149-I, ~~6, 1 and~~ RSA 47:11, RSA 31:39, RSA 44:2, and the provisions of the Lebanon City Charter §§ C419:16, C419:23, C419:57, and C419:58.

§136-2 DECLARATION OF PURPOSE

The purpose of this chapter is to provide a uniform framework for sewer services. See also Code of the City of Lebanon, ~~Chapter 181, Water and Sewer Extensions, Code of the City of Lebanon,~~ Chapter 68, Fees, ~~;~~ and Chapter Code of the City of Lebanon, Chapter 147, Special Assessments.

§136-7 ABBREVIATIONS

The following abbreviations shall have the designated meanings:

BOD -- Biochemical oxygen demand
CFR -- Code of Federal Regulations
COD -- Chemical oxygen demand
CF -- Cubic Feet
EPA -- Environmental Protection Agency
Gpd -- Gallons per day
IDP -- Industrial discharge permit
l -- Liter
mg -- Milligrams
mg/l -- Milligrams per liter
NAICS -- North American Industry Classification System
NHDES -- New Hampshire Department of Environmental Services
NPDES -- National Pollutant Discharge Elimination System
POTW-- Publicly owned treatment works
SWDA -- Solid Waste Disposal Act, 42 U.S.C. 6901 et seq.
TDS -- Total dissolved solids
TSS -- Total suspended solids

§136-8 USE OF PUBLIC SEWERS

- I. The owner(s) of all houses, buildings or properties used for human occupancy, employment, recreation, or other purposes, situated within the eCity and abutting on any street, alley or right-of-way in which there is now located or may in the future be located a public sanitary sewer of the eCity is hereby required at the owner(s)' expense to install suitable toilet facilities therein, and to connect such facilities directly with the proper public sewer in accordance with the provisions of this chapter, within 90 days subsequent to the date of official notice to do so, provided that said gravity public sewer is within 100 feet of the building. This requirement for connection may be waived when permitted by the Director of Public Works after consultation with the City Manager if the household is already connected to a properly functioning, state-approved septic system approved after 1985 in accordance with the provisions of RSA 147:8. See Subsection K below.

§136-9 BUILDING SEWERS AND CONNECTIONS TO CITY SEWER

- B. There shall be two classes of building sewer use permits: for residential and commercial service producing only domestic wastewater, and for service to establishments producing industrial wastes. For residential and commercial services, the owner(s) or his agent shall make application on a special form furnished by the eCity at least 30 days prior to said service connection and in accordance with the provisions of Article XIV of this Chapter. For an establishment discharging industrial wastes, the application shall be made at least 60 days prior to said service connection. The permit application shall be supplemented by any plans, specifications or other information (including pollution prevention studies) considered pertinent in the judgment of the Director of Public Works. A permit and inspection fee in accordance with the provisions of Code of the City of Lebanon, Chapter 68, as well as any sewer development charges as enumerated by this Chapter shall be paid to the eCity at the time the application is filed.
- F. During construction of a new sanitary sewer, the eCity may construct the service connections for existing buildings to the curb or the property line or the edge of a right-of-way. Construction of the building sewer, including connection to the structures served, shall be the responsibility of the owner of the improved property to be connected; and such owner shall indemnify and save harmless the eCity, its officers and agents from all loss or damage that may result, directly or indirectly, due to the construction of a building sewer on his premises or its connection to the service connection. The owner shall obtain an excavation permit and comply with conditions prior to any excavation of the eCity highway. The owner shall thereafter be obligated to pay all costs and expenses of operation, repair and maintenance, and of reconstruction, if needed, of the building sewer and service connection. When it is deemed in the eCity's best interest, the City ~~Council-Manager~~ may authorize the construction of service connections to the foundations of existing buildings at eCity expense. The owner shall thereafter be obligated to pay all costs and expenses of operation, repair and maintenance, and of reconstruction, if needed, of the building sewer and service connection.
- M. No building sewer shall be covered until it has been inspected and approved by the Director Department of Public Works. If any part of building sewer is covered before being inspected and approved, it shall be uncovered for inspection at the cost and expense of the owner of the improved property to be connected to the public sewer.

§136-53 SEPTAGE DISPOSAL PERMITS

- C. The following conditions shall constitute conditions precedent to the issuance of each permit by the eCity:

~~(3)-3.~~ Such log as described in Subsection C(32) above, shall be ~~located in the office of the Director of Public Works or such office as designated by the Director of Public Works maintained by the Department of Public Works.~~

§136-73 SEWERAGE TREATMENT PLANT CONNECTION FEESEWER USE PERMIT APPLICATION FEE

- A. There is, as established by Code of the City of Lebanon, Chapter 68, a ~~connection sewer use permit application~~ fee for all users of the City of Lebanon sewer system This ~~connection application~~ fee herein shall apply to all persons whose building ~~drains sewers~~ enter the public sewers of the City of Lebanon. Each connection shall be separately assessed to the owner(s) of land being benefited thereby regardless if that land has more than one connection to the eCity's public sewer. ~~This assessment is made on account of the city's construction of sewerage treatment facility and sewer interceptor system now in effect and now benefiting owners of land using the city's sewer system. The assessment application fee set forth herein is a one-time charge to offset the administrative costs of the application process. , but nothing contained herein shall prevent the city from abating superfluous funds.~~
- B. The owners of land being benefited by having building ~~drain sewer~~ connections to the City of Lebanon sewer system shall be ~~assessed a connection fee~~ charged an application fee. Said ~~connection application~~ fee shall be assessed by determining the number of ~~dwelling units or~~ sewer units associated with the proposed connection as set forth in Code of the City of Lebanon, Chapter 68. A minimum connection fee of one ~~dwelling or~~ sewer unit shall apply for any ~~dwelling residential~~, commercial, or industrial facility.
- C. ~~Connection Application~~ fees shall be paid ~~prior to the issuance of a building permit upon the submission of application for a sewer use permit. This fee is non-refundable regardless of whether a sewer use permit is issued or not.~~

§136-75 USER CHARGES

Every user shall pay user charges (~~sewer rental~~) for the use of the eCity's wastewater facilities as established by the Code of the City of Lebanon, Chapter 68. User charges shall be sufficient to pay for operation, maintenance and capitalization of the wastewater facilities. Residential users utilizing a private water supply source shall pay an average residential user charge. Other users utilizing a private water supply source shall pay user charges based on the quantity of wastewater discharged. Users discharging a substantially smaller percentage of their metered water consumption than residential users shall pay user charges based on the quantity of wastewater discharged.

§136-79 LIEN

All sewer fees and assessments made pursuant to this chapter shall create a lien upon the lands on account of which they are made, which shall continue for 18 months from the last unpaid bill; provided, however, that when services were rendered to a person or entity other than the owner of the real estate, the lien shall be effective against the owner only for charges of which the owner was notified by the eCity within 120 days of the date the charges became delinquent. This notice requirement may be satisfied by mailing to the owner copies of the bills for service at the same time the bills are furnished to the person or entity which received the service. All fees and assessments shall be subject to interest and other charges in the same fashion as interest and other charges are made applicable to delinquent taxes. The provisions of RSA 38:22 and RSA 76:13 detail the requirements for assessment of liens and interest.

§136-80 ABATEMENT

For good cause shown, the City Manager may abate any such fees and assessments made herein. Any person aggrieved by the neglect or refusal of the City Manager to grant an abatement may petition the City Council for relief at any time within 30 days after notice of decision or after 30 days of no notice of decision (from the date of application for abatement) by the City Manager.

§136-97 ~~DISORDERLY CONDUCT ARREST~~ MALICIOUS INJURY; PENALTY

Any person(s) who shall wantonly or maliciously (purposely or knowingly) injure any part of any sewer system, conveyance, and discharge system, or sewage disposal plant shall be liable to pay treble damages to the owner thereof and shall be guilty of a misdemeanor if a natural person, or a felony if any other person. violating the provisions of § 136-69, Harm to city property, of this chapter, shall be subject to immediate arrest under charge of disorderly conduct.

Section 2

The Code of the City of Lebanon is hereby amended by deleting §136-12 in its entirety and replacing it with the following:

§136-12 LOCAL DISCHARGE RESTRICTIONS

If the Director of Public Works allows the pretreatment or equalization of waste flows, the design and installation of the systems and equipment shall be subject to the review and approval of the Director of Public Works and the State (See Article III, Pretreatment of Wastewater).

A. Maximum allowable industrial loadings limitations.

1. For all users connected to sewer lines that are tributary to the City of Lebanon POTW, the Director of Public Works will not issue permits that in combination with other industrial loads exceed the values in the following table:

<u>Pollutant</u>	<u>Maximum Allowable Industrial Loading (lb/day)</u>
<u>Arsenic</u>	<u>0.405</u>
<u>Cadmium</u>	<u>0.476</u>
<u>Chromium (total)</u>	<u>2.705</u>

<u>Copper</u>	<u>1.568</u>
<u>Cyanide (total)</u>	<u>1.259</u>
<u>Lead</u>	<u>2.056</u>
<u>Mercury</u>	<u>0.101</u>
<u>Nickel</u>	<u>3.670</u>
<u>Selenium</u>	<u>1.534</u>
<u>Silver</u>	<u>2.006</u>
<u>Zinc</u>	<u>1.994</u>

B. All limitations for metals represent total metals, regardless of the valence state, or the physical or chemical form of the metal. To administer these allowable loadings through IDPs, the Director of Public Works may impose concentration-based limitations, or mass limitations. For industrial users, the values written into IDPs for the above pollutants shall apply at the end of the industrial waste stream and prior to dilution with non-industrial wastewaters.

C. Daily concentrations are the concentration of a pollutant discharged, determined from the analysis of a flow-composited sample (or other sampling procedure approved by the Director of Public Works) representative of the discharge over the duration of a twenty-four-hour day or industrial operating schedule of less than 24 hours.

D. All concentration limits for metals represent total metal unless indicated otherwise

E. Unless specifically identified in an industrial discharge permit, an industrial user shall not discharge the locally limited pollutants at concentrations significantly greater than domestic/background concentrations

2. Screening levels.

A. The following pollutants (list below is not all-inclusive) shall not be discharged to the Lebanon Treatment Works exceeding concentrations listed below without approval of the Director of Public Works:

<u>Pollutant</u>	<u>Screening Level (mg/L)</u>	<u>Pollutant</u>	<u>Screening Level (mg/L)</u>
<u>Acetone</u>	<u>372</u>	<u>Nitrogen (TKN)</u>	<u>35</u>
<u>Benzene</u>	<u>0.001</u>	<u>Oil and grease (animal and vegetable origin)</u>	<u>250</u>
<u>Biochemical oxygen demand</u>	<u>300</u>	<u>Oil and grease (petroleum origin)</u>	<u>100</u>
<u>Carbon disulfide</u>	<u>0.007</u>	<u>Phenols (total)</u>	<u>1.0</u>
<u>Chloride</u>	<u>1,500</u>	<u>Phenol</u>	<u>50</u>
<u>Chlorine (total residual)</u>	<u>6.0</u>	<u>Sulfate</u>	<u>150</u>
<u>Chloroform</u>	<u>0.065</u>	<u>Sulfide</u>	<u>1.0</u>
<u>p - Cresol</u>	<u>0.33</u>	<u>Sulfite</u>	<u>280</u>
<u>1, 2 - Dichloropropane</u>	<u>3.0</u>	<u>Surfactants</u>	<u>100</u>

<u>Ethylbenzene</u>	<u>1.35</u>	<u>Total Suspended Solids</u>	<u>350</u>
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B. Screening levels are numerical values above which actions are initiated to evaluate, prevent or reduce adverse impacts due to flammability, chemical reactivity, organic/solids loadings, interference, toxicity, pass-through, or worker health and safety.

C. If any of the screening levels are exceeded, repeat sampling and analyses may be required to verify compliance or noncompliance with that screening level. If noncompliance is indicated, then the industrial user may be required, at the discretion of the Director of Public Works, to conduct an appropriate engineering evaluation to determine the potential impact of the discharge of this pollutant to the City's Lebanon Treatment Works or, alternatively, to develop a pollution prevention plan specifically addressing the pollutant that exceeds the screening level. This study or plan must be conducted under the supervision and approval of the City. Should the evaluation indicate the impact to be unsatisfactory, the industrial user shall reduce the pollutant concentration to a satisfactory level. If the evaluation supports development of an alternate site-specific limitation, then the screening level shall be adjusted and administered as a limit for the specific discharge.

D. If an industrial user proposes to discharge at concentrations greater than the concentration- based screening level maintained by the Director of Public Works, then the industrial user may be required to conduct the evaluations described in the previous paragraph. Should the evaluations support an alternate site-specific limitation, then the screening level may, at the discretion of the Director of Public Works, be adjusted as a special agreement for the industrial user and administered as a permit limitation for the specific discharge.

3. Special agreements. No statement contained in this section, except for § 136-10, Prohibited discharge standards, Subsections A and B, and § 136-11, Federal categorical pretreatment standards, shall be construed as preventing any special agreement or arrangement between the City and any industrial user whereby an industrial waste of unusual strength or character may be accepted by the City for treatment, provided that said agreements do not contravene any requirements of existing federal or state laws, and/or regulations promulgated thereunder, are compatible with any user charge system in effect, and do not waive applicable federal categorical pretreatment standards. Special agreement requests shall require submittal of a pollution prevention plan that specifically addresses the discharge for which a special agreement is requested.

Section 3

The Code of the City of Lebanon is hereby amended by deleting and repealing §136-60 and §136-91 of Chapter 136, Sewer Service.

§136-60 ~~RESERVED PUBLICATION OF POLLUTION PREVENTION ACHIEVEMENTS~~

~~A. The Director of Public Works may publish annually, in the largest daily newspaper in the city, a list of industrial users who during the previous 12 months demonstrated a commitment to reducing the volume and toxicity of waste discharges. All pollution prevention efforts, not just those which affect wastewater discharges, are subject to recognition. The following criteria will be used to identify published industrial users:~~

~~(1) Innovative ideas the facility has used to implement process changes that eliminate or reduce the volume or toxicity of waste generated.~~

~~(2) The percentage of the facility's process water reused within the system or process.~~
~~(3) The percentage of the facility's potential waste reused within the system or process.~~
~~(4) Implementation of employee pollution prevention training and communication programs.~~
~~(5) Voluntary performance of pollution prevention audits.~~
~~(6) Spill control procedures/devices (e.g., secondary containment) the facility initiates to prevent accidental chemical spills from entering the sewer system.~~
~~(7) The environmental and/or economic benefits or successes derived from implementing pollution prevention methods.~~
B. ~~The intent of the publication is to notify local consumers of the environmental responsiveness of local businesses, and to encourage industrial users to identify and implement opportunities for preventing pollution. As part of this publication, the city shall provide an evaluation of the impact of these changes to the Lebanon Treatment Works and summarize the current status of pollutant loadings to the Lebanon Treatment Works and goals established by the Lebanon Treatment Works for pollution prevention efforts.~~

§136-91 RESERVED SHOW CAUSE HEARING

~~A. The City Manager may order any user who causes or allows an unauthorized discharge to enter the Lebanon Treatment Works to show cause before the City Council why the proposed enforcement action should not be taken. A notice shall be served on the user specifying the time and place of a hearing to be held by the City Council regarding the violation. The notice of the hearing shall be served personally or by registered or certified mail (return receipt requested) at least 10 days before the hearing. Service may be made on any agent or officer of a corporation.~~
~~B. The City Council may itself conduct the hearing and take the evidence, or may designate any of its members or any officer or employee of the city, to:~~
~~(1) Issue in the name of the City Council notices of hearings requesting the attendance and testimony of witnesses and the production of evidence relevant to any matter involved in such hearings.~~
~~(2) Take the evidence.~~
~~(3) Transmit a report of the evidence and hearing, including transcripts and other evidence, together with recommendations to the City Council for action thereon.~~
~~C. At any hearing held pursuant to this chapter, testimony taken must be under oath and recorded stenographically. The transcript, so recorded, will be made available to any member of the public or any party to the hearing upon payment of the usual charges thereof.~~
~~D. After the City Council has reviewed the evidence, it may issue an order to the user responsible for the discharge directing that, following a specified time period, the sewer service be discontinued unless adequate treatment facilities, devices or other related appurtenances shall have been installed on existing treatment facilities, devices or other related appurtenances are properly operated. Further orders and directives as are necessary and appropriate may be issued.~~

Section 4

Section 136-6 of Chapter 136 Sewer Service, is hereby amended to delete the definitions of "City" and "State" and add the definitions of "Development," "Notice of Allocation," "Sewer Collection System," "Sewer Connection," "Sewer Interceptor," "Sewer Main Extension," "Sewer Unit," and "Sewer Use Permit."

§136-6 DEFINITIONS.

~~**CITY** – The City of Lebanon or the City Council of Lebanon, New Hampshire~~

~~**STATE** – The State of New Hampshire~~

DEVELOPMENT – For purposes of Articles XIV and XV, includes any land use development or change of use which requires Planning Board review, and any action, whether or not requiring a building permit, which implicates an expansion of uses of the City's sewer system.

NOTICE OF ALLOCATION – A notice issued by the City Manager, prior to the issuance of a Sewer Use Permit, reserving for the future use of an applicant for that Sewer Use Permit, the privilege of utilizing a stated amount of sewer capacity, expressed as a specific estimated number of gallons per day, for a time period set forth by this code.

SEWER COLLECTION SYSTEM – The pipes or conduits, pumping stations, force mains, interceptors, and all other devices, appurtenances and facilities used for the collecting, processing or conducting wastewater to the Treatment Plant, Treatment Works, or Treatment Facility.

SEWER CONNECTION – A pipe connecting a public sewer with a building sewer or series of private sewers for the purpose of conveying sewage of any kind from said building or buildings to the public sewer. See definition of Building Sewer and House Sewer.

SEWER INTERCEPTOR – A component of a sewer collection system that flows from the trunk sewer lines and directs the flow of sewage to the wastewater treatment facility. These sewer mains are the larger pipes collecting sewage from the smaller collection sewer mains serving neighborhoods and commercial areas.

SEWER MAIN EXTENSION – Construction, transfer or acquisition of sewer mains along a public or private street, or public or private property to service more properties/areas of the City. This definition applies to extensions of sewer mains that will be owned and operated by the City.

SEWER UNIT – Equivalent to 210 gpd (10,000 cubic feet per year) of sewer as established by these regulations

SEWER USE PERMIT – Permit issued by the City Manager for connection to the public sewer system for the purposes of disposing of sanitary sewerage to the Lebanon Treatment Works through use of the City's sewer collection system.

Section 5

Chapter 136 of The Code of the City of Lebanon is hereby amended to add new Article XIV, "Sewer Connections, Extensions and Expanded Use Allocations," to read as follows:

ARTICLE XIV - SEWER CONNECTIONS, EXTENSIONS AND EXPANDED SEWER USE ALLOCATIONS

§ 136-100 DECLARATION OF PURPOSE.

The purpose of this Article is to provide for the procedure, terms and conditions for extensions of City sewer mains, connections to the existing City sewer system, and requests for expanded sewer use allocations to protect the public welfare and safety of residents of the City of

Lebanon.

§ 136-101 LIMITATIONS ON AVAILABILITY OF SEWER CAPACITY.

Every element of the City's sewer collection and treatment infrastructure has capacity limitations and will continue to have some limitations even as the City takes actions to increase capacity. The City has assessed the system's capacity and intends to continue to regularly monitor and update that assessment as new data becomes available. The public interest requires that limitations on the approval of sewer usage must be established, to be adjusted on an ongoing basis. It is the further purpose of this Article to institute a process for evaluating the elements of the City's sewer collection and treatment system to be impacted by any new development or change in land use which may result in an expansion of sewer system use, so as to assure that each impacted system element has adequate unused, unallocated capacity for the proposed expansion, to thereby prevent any future failure or overflow, with the attendant health and environmental damage and/or violations of clean water and pollution laws; and further, to create a system of allocation so as to prevent expansions of sewer use from consuming such high portions of the remaining capacity of any system element as would be unfair and inequitable to owners of other lands served by the system.

§ 136-102 SEWER COLLECTION SYSTEM CAPACITY.

In order to maintain a margin of safety, any sewer main or pipe, either part of a sewer interceptor, or other element of the Sewer Collection System, which contains flows at 95% of the available capacity for that size pipe shall be considered at full capacity. No development of land, change of land use, or other action implicating an expansion of use of the Sewer Collection System shall be permitted if such change, when flows and development impacts are calculated in accord with this Article, causes any element or portion of the Sewer Collection System to exceed that 95% level, as determined by the Director of Public Works.

§ 136-103 ALLOCATION.

No single development of land shall take place within the City, be given approval for a sewer extension, sewer connection, or be permitted to expand the property's existing use of the sewer system if such request increases the estimated flows in the Sewer Collection System (collector pipe, sewer main, or sewer interceptor) by an amount greater than 50% of the unallocated remaining capacity (as calculated under §136-102 above and §136-105 below) within the system at the time a Sewer Use Permit is requested. This 50% limitation shall be applied to all elements of the System between the point which the flows from the development would enter the System, and the Lebanon Wastewater Treatment Plant. The Council can consider requests to exceed the 50% capacity on a case by case basis, in accord with the provisions of §136-111 below.

§ 136-104 SEWAGE FLOW ESTIMATES.

The City accordingly finds that, based on the information as determined by City water use records and as presented in the Ten State Standards and Metcalf and Eddy/AECOM Wastewater Engineering Treatment and Resource Recovery, Fifth Edition, Table 3-2, (assuming one person per bedroom for a single-family), sewage flow estimates by use shall be calculated as follows:

RESIDENTIAL (1 or 2 Family)

Studio/1-bedroom single-family flowrate (103 gpd/capita x 1 person) = 103 gpd = 105 gpd rounded

2-bedroom single-family flowrate (77 gpd/capita x 2 people = 154 gpd) = 160 gpd rounded
3-bedroom single-family flowrate (68 gpd/capita x 3 people = 204 gpd) = 210 gpd rounded
4-bedroom single-family flowrate (63 gpd/capita x 4 people = 252 gpd) = 260 gpd rounded

MULTI-FAMILY (3+ units)

Studio/1-bedroom multi-family unit flowrate (60 gpd/capita x 1 person) = 60 gpd

2-bedroom multi-family unit flowrate (60 gpd/capita x 1.5 persons) = 90 gpd

3-bedroom multi-family unit flowrate (60 gpd/capita x 2 persons) = 120 gpd

COMMERCIAL (Non-Residential)

Use NHDES Env-1008, Table 1008-1 Wastewater Unit Flowrates x 50% factor

INDUSTRIAL

Applicant shall provide estimated sewage flowrates to the City for review and approval

When assessing capacity for the existing City sewer system, the City shall use the Sewer Flow Model and shall require sewer flow calculations to include a peaking factor of 3.5 based upon information from "Recommended Standards for Wastewater Facilities – 2014 Edition" (aka Ten State Standards), Figure 1. For sewer extensions and onsite sewer system sizing, the NHDES Standards of Design and Construction for Sewerage and Wastewater Treatment facility peaking factors shall be used.

§ 136-105 SEWER USE PERMIT AND NOTICE OF ALLOCATION.

- A. The procedural mechanism for assuring compliance with §136-102 and §136-103 above shall be an application for, and issuance of, a Sewer Use Permit, which shall be separate from, and in addition to, any other land use approval required by law or ordinance for the underlying development. No person shall develop or change the use of land within the City, or take any other action, which results in increased use of the City's sewer system, without a Sewer Use Permit.
- B. Application & Fee. The fee for a Sewer Use Permit Application shall be in an amount set forth in Code of the City of Lebanon, Chapter 68, Fees, and shall be payable at the time the application is filed. Applications shall be made through the Department of Public Works on a form as approved by the City Manager or his or her designee and shall include information about the development proposal which is detailed enough to enable an accurate capacity analysis, as set forth below. Failure to provide required information shall be considered sufficient cause to refuse to grant a permit. Only after all information necessary to issue a notice of allocation has been submitted and the application is deemed complete for that purpose by the Department of Public Works shall a capacity analysis be completed.
- C. Capacity Analysis. In determining whether there is adequate capacity within the City's sewer system to accept flows from a proposed development as set forth in an application, the City or City's consultant shall utilize the sewer system model developed and provided by Weston & Sampson Engineers as a result of the City's Capacity, Management, Operations, and Maintenance (CMOM) initiative along with any revisions thereto. The determination of the remaining unallocated capacity for any element of the Sewer Collection System shall be based upon the estimated capacity as it exists at the time of the Sewer Use Permit application, reduced by any outstanding unutilized allocations, as described in Paragraph E below. The applicant shall provide the necessary funds, as determined by the Department of Public Works, to pay for the cost of the capacity analysis. The funds provided shall be kept by the City in escrow and drawn upon by the City to pay for the

analysis. Any funds remaining after all of the costs of the analysis are completed shall be returned to the applicant.

- D. Notice of Permitted Allocation. Once a capacity analysis has been completed and a determination has been made that adequate sewer capacity is available to serve a proposed development in accordance with the standards of this Article, the City Manager shall issue a Notice of Allocation to the applicant. The effect of the Notice of Allocation shall be to allow the applicant to reserve the permitted capacity for the applicant's use while other land use permits required for the particular development are applied for and reviewed. At the time of receipt of the Notice of Allocation, the applicant is required to pay 20 percent of the current Sewer Development Charge as described in Article XV below, in an amount set forth in the Code of the City of Lebanon, Chapter 68, Fees. The applicant must make payment of the Sewer Development Charge within 30 days or the Notice of Allocation will expire automatically.
- E. Effect of Notice of Allocation on Later Applications. Once a Notice of Permitted Allocation has been issued, the amount of sewer capacity reserved under that Notice shall be subtracted from the total remaining unallocated capacity of each element of the sewer system impacted by that application, for purposes of applying the 95% limitation in §136-102 and the 50% limitation in §136-103 to subsequent applications. If the Notice of Allocation or the corresponding Sewer Use Permit expires under the terms of this Article, the capacities affected will be added again to the unallocated remaining capacity calculation; provided, however, that no such readjustment shall be made after the underlying development permit (subdivision, site plan, or other type of approval) becomes final and vested; from that point forward, the sewer impacts of that Permit will instead be accounted for through the City's ongoing monitoring of its Sewer Collection System.
- F. In the case of conflicting requests for unallocated remaining capacity, allocation shall be on a first-come, first-serve basis, based on the date of the City's receipt of a complete Sewer Use Permit application with all required information. The City Manager is authorized to maintain, upon some fair basis, a waiting list of persons whose applications are denied due to lack of capacity, to enable such applicants, at their option, to retain higher priority for allocation of additional capacity, should it become available at a later time.
- G. In order to retain the permitted sewer allocation, the applicant must obtain a final subdivision, site plan, or other approval within 2 years of the date of the Notice of Allocation. If Planning Board approval – or, if none is required for the development, then a building permit or other required approval – is not obtained within 2 years, or if any such approval is denied, and such denial becomes final, then the Notice of Allocation shall expire, and the associated sewer capacity will be returned to the system for use by others. If Planning Board or other approval is obtained within 2 years of the date of Notice of Allocation, and if the applicant has received approval from the Director of Public Works for any sewer construction plans required for the project, the City Manager shall issue a Sewer Use Permit. Upon receipt of the permit, applicant shall pay the remaining 80 percent of the assessed Sewer Development Charge within 90 days or the permit will expire. The Sewer Use Permit shall run concurrently and congruently with its associated Planning Board or other approval. Should the Planning Board or other approval lapse or be revoked for any reason, the Sewer Use Permit will become null and void.
- H. The initial 20 percent of the Sewer Development Charge shall be placed in escrow and is refundable to the applicant if the Planning Board or other required approval is denied. When a Sewer Use Permit is issued the funds held in escrow and any interest earned shall become non-refundable and shall be transferred to the Sewer Fund.

- I. The issuance of a Notice of Allocation or Sewer Use Permit shall not be deemed to create any kind of vested or property right in the City-owned sewer system. The privileges conferred by such permits may not be assigned, traded, exchanged among properties, or applied to a materially different development without the approval of the City Manager acting on a revised application submitted under this section.

§ 136-106 CONNECTIONS.

All new connections to the existing City sewer system shall require the approval of the City Manager or his or her designee, by way of the issuance of a Sewer Use Permit in accordance with §136-105.

§ 136-107 EXPANDED SEWER USE.

Any development of land, change of use, or other action implicating an expansion of sewer system use, shall require the approval of the City Manager or his or her designee in accord with §136-105, even if it does not involve any new sewer connection or sewer main extension.

§ 136-108 EXTENSIONS OF SEWER MAINS.

Extensions of water and sewer mains within the City of Lebanon shall require the approval of the City Council under this section as described below; provided, however, that sewer main extensions which extend a distance of no more than 600 linear feet may be approved by the City Manager, applying the same criteria and requirements as set forth in this Section. All extensions of sewer mains shall, in addition, require the issuance of a Sewer Use Permit in accordance with §136-105.

- A. Upon a request made by the City itself, through of the City Manager, for the extension of sewer mains, the City Council shall make a determination upon the request and shall base its decision upon:
 - Available/Adequate Capacity.
 - Need.
 - Topographic limitations of the City to supply.
 - Proximity of a supply point or source to the street or streets to be served.
 - Whether such extension will occur within an Urban Services District, if such District is created by the City Council.
 - Priority considerations. Estimated costs and schedule of financing.
1. Cost estimates., prior to a determination by the City Council to extend sewer main or mains in any street, the City Manager shall prepare and submit to the Council the estimated cost of the proposed extension and a schedule of financing based on the procedure outlined in the following section.
2. Procedure for financing:
 - (a) If sewer main extension request is deemed to serve as a necessary public benefit, the City Council shall appropriate the necessary funds.
 - (b) The total cost of an extension may be assessed to each benefited property owner in

accordance with the procedure, to the extent applicable, set forth in the Code of the City of Lebanon, Chapter **147**, Special Assessment.

- B. Upon a request by a property owner or a developer(s) for the extension of sewer mains the City Council shall make a determination upon the request and shall base its decision upon:
- Technical feasibility to include available/adequate capacity.
 - Fiscal consequences.
 - Whether such extension will occur within an Urban Services District, if such District is created by the City Council.
 - Estimated costs and schedule of financing.
 - Whether or not the petitioners or developer shall pay for all costs relating to the extension.

1. Extension agreements.

All requests for extensions of sewer mains as proposed by a developer shall require an extension agreement between the City and the developer containing the following:

- (a) The developer shall pay the full cost of design and construction of the extension in accordance with City standards and requirements. All plans for the design of the extension shall be submitted to the City Engineer or such other person as designated by the Public Works Director, for written approval. Any cost incurred by the City in reviewing the design shall be paid for by the developer.
- (b) The developer shall pay to the City, prior to any construction, an amount estimated by the City to pay for independent engineering inspection services hired by the City. The applicant shall keep a minimum \$2,500 balance in escrow. If the City spends less than the amount paid by the developer, the balance shall be refunded to the developer. If the City spends more than the payment made by the developer, the developer shall reimburse the City. The City's review of the construction documents and inspection during the period of construction and inspection prior to acceptance shall not bar or preclude, in any way, the rights of the City to assert claims against the developer for defects in construction under Subsection **B(1)(g)** below.
- (c) The developer shall provide indemnification to the City for any costs, damages or other expenses arising from review or construction of the extension.
- (d) If any portion of the proposed extension is not within a City highway, the developer shall acquire and convey to the City, as a condition of acceptance of the extension, adequate rights-of-way in compliance with the City's requirements and in conformity with the requirements of the City as to the form of the deed, a title opinion, monuments and a recordable plan.
- (e) After the extension has been substantially completed, as certified by the City Engineer or other such person as designated by the Public Works Director, the developer shall be responsible to repair and maintain the extension for a period of one year or until such time as the City's acceptance of the extension improvements is complete.
- (f) After the expiration of the one-year period for maintenance, the City Manager shall determine whether or not to issue a certification that the extension has been constructed and installed in accordance with the plans, specifications and standards of the City. The City Manager may require a report of a professional engineer, hired

by the City and paid for by the developer.

- (g) It shall be a condition of the extension agreement and any City acceptance that the developer shall be responsible for any latent defects discovered within eight (8) years from the date of substantial completion, as set forth in RSA 508:4-b, including all defects in design, materials or workmanship, and shall be liable to the City, upon written notice by the City, for the cost of repairs or replacements of all defective improvements. In the event that the developer conveys and transfers the project for which the extension was granted, the subsequent owner shall be responsible for the obligations of the developer for the remainder of the eight-year period regardless of whether or not such obligation is expressly assumed.
- 2. No additional connections to the extension will be allowed for any other property owners requesting service for a period of 10 years from the date of acceptance of the extension by the City unless such property owner(s) agree to pay to the developer a pro rata share of the cost relating to the extension as determined by the City Manager. The developer shall provide a copy of the contract documents for the construction of the extension to the City prior to undertaking any construction for review and approval by the City to ensure that the requirements of the extension agreement have been met. The developer shall include in any construction documents that the proposed extension is intended to be transferred to the City for ownership and maintenance. The City Manager shall determine the pro rata share of cost to new applicants seeking connection to the extension based on the following criteria:
 - (a) The depreciated value of the extension infrastructure paid for by the developer at the time the new applicant utilizes the extension.
 - (b) The percentage of the extension at the point at which the new connector accesses the connection. In essence, how much of the new extension is the connecting applicant utilizing.
- 3. In addition, any security or bond obtained by the contractor constructing and installing the extension for the benefit of the developer shall remain in effect until the expiration of a two-year period from the date the project is accepted by the City and shall be for the benefit of the City.
- 4. Upon compliance with all the conditions set forth herein, the developer may request, and the City Council shall accept the transfer of the extension, including the sewer main and rights-of-way to the City to become part of the City sewer system and the responsibility of the City thereafter.

§ 136-109 PRIVATE SEWER MAINS.

- A. Private sewer mains are defined as those lines having a diameter of eight inches to twelve inches and installed on private property by the landowner or developer. Such private mains shall be constructed, installed and maintained in accordance with City standards at the sole expense of the landowner, and shall require approval by the City Manager under §136-108 above, in addition to a Sewer Use Permit under §136-105.
- B. Any permit issued which includes the installation of a private main shall be subject to the following conditions regardless of whether or not contained in such permit:
 - 1. Such private mains shall be inspected by the City as required by law, as required by the Code of the City of Lebanon and Chapter 36, Building Construction, solely for the

purpose of determining whether or not the private mains meet City requirements. Any expense to meet City requirements as to the installation of the private mains shall be at the sole expense of the landowner. The costs of inspection shall be as provided by the Code of the City of Lebanon, Chapter 68, Fees.

2. If, at any time in the future, the City Council determines that the public interest requires the acquisition of such private mains to be incorporated into the City sewer systems, the landowner at that time shall convey and transfer such private mains to the City upon such terms and conditions as deemed to be in the best interest of the City.

§ 136-110 SEWER LINES WITHIN HIGHWAYS AND SIDEWALKS.

Except in cases of emergency, applicants for Sewer Use Permits or sewer main extensions shall, prior to commencing any construction within any City sidewalk or highway right-of-way, obtain and comply with Excavation Permit requirements as outlined in the Code of the City of Lebanon, Chapter 152, Streets & Sidewalks

§ 136-111 APPEALS, AND REQUESTS FOR MODIFICATIONS.

- A. Any determination, denial, partial denial or revocation of a sewer allocation, Sewer Use Permit or extension by the City Manager or his or her designee may be appealed to the City Council within 30 days of notice of denial by the City Manager. For those appeals where no modification, exception or extension is being requested, the question upon such appeal shall be whether the standards of this Article have been properly applied.
- B. The Council may, upon such appeal, or upon direct application to it, and for good cause shown, grant an exception, modification, or time extension with respect to the standards contained in this Article, upon such terms and conditions as the Council determines to be fair and equitable, provided that such grant, considered together with such terms and conditions, provides equivalent protection of health, safety and environment, is not inconsistent with the goals and purposes of this Article, and is capable of being applied in an impartial manner. In acting upon any such appeal, exception, modification or extension, the Council shall consider only those aspects of the underlying development involving sewage disposal and/or the use and integrity of the City's sewage system and shall not consider other aspects of the development which are subject to review by the Planning Board or other municipal body.
- C. In cases where the modification requested is for an allocation which exceeds the 50% limitation set forth in §136-104, the Council shall consider the following, in addition to the standards of Paragraph B above:
 1. Whether the proposed development is either at or near an end point in the Sewer Collection System, and if so, whether there is a likelihood, in light of zoning, environment, and other factors, of further development beyond that end point which is likely to require additional sewer connections or extensions.
 2. Whether improvements to the Sewer Collection System are planned – either City funded or privately funded – which will generate additional capacity for the involved elements of the System within the next 2 years. However, no Sewer Use Permit which is based upon such a planned increase in capacity shall become final for purposes of connection and use unless and until such System improvements have been completed and are functional, and this restriction shall be inserted into the agreement executed pursuant to Paragraph D below.

- D. In the event that an exception or modification is granted, the applicant and the City shall enter into an agreement similar to a sewer extension agreement under §136-108(B)(1) above, including any such details of that section as the Council determines to be applicable. Such an agreement shall constitute a Notice of Allocation for purposes of this Article. In the event that the exception or modification is conditioned upon improvements which an applicant has offered to construct or fund, and such improvements are expected to create greater capacity in some element of the sewer system than is required to meet that applicant's needs, and the Council accordingly determines that the applicant should be reimbursed for some pro rata portion of that applicant's costs, the agreement shall detail the amount and mechanism for reimbursement.
- E. An appeal or request for modification under this Section shall be taken by filing, with the City Manager, a written document setting forth in detail the aspect of the underlying decision being appealed, and the reasons why that decision is believed to be erroneous, and/or any exception, modification or extension being requested, and the reasons and justification therefor. Such an appeal must be filed within 30 days of the applicant's receipt of the decision or notification being appealed. The determination by the Council, acting as proprietor of the City's sewer system, shall be deemed final. Any decision or determination made under this Article and not appealed within the 30 days shall be deemed final.

Section 6

Chapter 136 of The Code of the City of Lebanon is hereby amended to add new Article XV, "Sewer Development Charge," to read as follows:

ARTICLE XV - SEWER DEVELOPMENT CHARGE

§ 136-120 LEGISLATIVE PURPOSE.

- A. It is regarded as inequitable to finance future capital improvements to the municipal sewer system solely through sewer use (rental) rates. Major capital improvements to a municipal sewer collection and treatment system are most frequently required in order to service future customers, and it appears unfair to require present users to finance this future development, except on some equitable basis. Persons and organizations responsible for development within the City (e.g. developers) are in the best position to allocate costs applicable to the development to the persons and organizations requiring the future services.
- B. Studies done to date by the City of Lebanon identify projects needed to upgrade and reinforce the existing sewer system in order to best meet existing service requirements and to accommodate system expansion. These same studies identify projects required to expand and extend the existing system to serve future customers. It is the purpose of this article to establish a sewer development fee [hereinafter a Sewer Development Charge (SDC)] to recover the costs of maintaining and expanding the system to serve existing and new customers directly from those customers.
- C. By imposing the charges set forth in this article, the costs of maintenance and expansion will be distributed more equitably than if they were to be recovered through the sewer use (rental) rates. This is because the charges set forth in this article allow the investment made by existing customers in core facilities on behalf of future customers, and the higher capital costs of serving new customers to be recognized.

§ 136-121 IMPOSITION OF SEWER DEVELOPMENT CHARGES

- A. An SDC is hereby imposed on all future customers of the City sewer system and on all existing customers who seek to enlarge existing sewer services. This requirement shall apply to customers both within the City and outside the boundaries of the City. (Notwithstanding the foregoing, this article shall not apply to the City, itself, in its role as a developer.) No person or organization shall be legally entitled to connect to the City sewer system or to enlarge an existing sewer service until the sewer development charge imposed by this section is paid. This section is not in derogation of, but is in addition to, all other fees which may be required by the City of Lebanon under any other applicable codes or ordinances.
- B. All SDC's imposed by this article shall be determined by the estimated gallons per day of sewer use of a sewer user. The SDC is based on one sewer unit. See the Code of the City of Lebanon, Chapter 68, Fees, regarding the calculation of amounts.
- C. With respect to persons or organizations seeking to enlarge an existing sewer service, the sewer development charge imposed shall be the difference between the current sewer development charge and the sewer development charge that would have been imposed if a sewer development charge had been assessed on the average actual usage for the previous five years. The Director of Public Works may take other factors into account when determining the valuation of the sewer system.

§ 136-122 SUBSEQUENT CHANGES IN SEWER DEVELOPMENT CHARGES

- A. The Sewer Development Charge imposed by this article shall be reviewed and updated on an as needed basis. Subsequent updates of the Sewer Development Charge shall be determined generally in accordance with the procedure originally developed by Underwood Engineers, Inc. in their User Rate Assistance Report dated August 26, 2014 and updated by the Department of Public Works in 2019.
- B. It shall be the responsibility of the City Council to establish the sewer development charge, and the Council shall do so following a recommendation of the City Manager, and following a public hearing held by the Council to receive input on the City Manager's recommendation. The City Manager's recommendation shall include a five-year projection of capital expenditures for projects to be funded by moneys generated under the sewer development charge and shall further include a proposed sewer development charge rate schedule.
- C. Following the recommendation of the City Manager, the City Council shall review the recommendation and shall act to accept or modify the City Manager's proposed schedule of fees.
- D. The Sewer Development Charge shall be paid in accordance with the provisions of this Chapter and Chapter 68.

§ 136-123 UNPAID SEWER DEVELOPMENT CHARGES CONSTITUTE A LIEN

If any person shall unlawfully connect to the City sewer system without payment of the sewer development charge set forth in this article, all unpaid sewer development charges shall constitute a lien upon the property which is connected to the system. The lien pursuant to this article shall be placed on the property in accordance with the provisions of RSA 38:22. Interest on these liens shall be calculated in accordance with the provisions of RSA 76:13.

§ 136-124 ABATEMENT OF SEWER DEVELOPMENT CHARGES

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.

Section 7. 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 the remaining sections, subsections, sentences, clauses or part of this ordinance.

Section 8

Effective date: this Ordinance shall become effective January 1, 2019.

Water and Sewer Code Revisions



1

Sewer Interceptor Limitations

- Emergency provisions enacted in January of 2018 regarding connections/extensions.
- Metcalf and Eddy flow rates established.
- Residual sewer interceptor capacity of 135,997 available as of January 2018.
- Present restriction limits new connections/extensions to no more than 13,600 gpd for any single owner of land.
- The sewer interceptor is considered at capacity when flow rate is 80% of the pipe capacity.
- Limitation remains in effect through the end of December 2019.
- Present limitations only apply to the sewer interceptor East of the Terri Dudley Bridge

2

What has changed?

- Sewer model developed by Weston & Sampson to assess capacity in segments of the collection system.
- Pipe capacity is now viewed at 95% being full pipe capacity compared to 80%.
- CSO 11 separation was completed in August of 2019 diverting storm water out of the sanitary sewer.
- Sewer Interceptor Project 1 (and related projects) is presently underway and will be completed by the end of December 2019. Total capacity available, 377,000 gpd Jan 1, 2020.
- Sewer Interceptor Project 2 proposed for 2020 will add an additional 280,000 gpd in capacity by the end of 2020 (new total of 657,000 gpd).

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Proposed Regulatory Changes

- New process for Water & Sewer connections/extensions.
- New standards for estimating capacity for sewer connections by dwelling types.
- New standard for determining the peaking factors for sewer connections/extensions.
- New proposed Sewer Development Charge to pay for sewer system upgrades.
- Elimination of Chapter 181 and inclusion of Water & Sewer connections/extensions in Chapters 182 and 136 respectively.
- New criteria for allotting sewer capacity that is flexible enough to address additional capacity as it becomes available.

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Proposed Regulatory Changes (cont.)

- Capacity would be allocated to applicants prior to beginning the Planning Board process.
- The new process would apply to all geographical areas of the City not just the sewer interceptor East of the Terri Dudley Bridge.
- Applicants would be allocated capacity of no more than 50% of the capacity of the “sewer system” the applicant is utilizing. Applicants can seek capacity amounts above 50% with approval of the Council under certain circumstances.
- The City Manager would issue Sewer Use Permits and the Notice of Allocation for connections and extensions of sewer mains less than 600 ft.
- The Council would approve sewer main extensions more than 600 ft.
- Implementation of appeals process that does not exist in the present code.

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Present Process

- Request for sewer connection. We do not issue an actual permit.
- Connections of 3 sewer units or less are approved by the City Manager. The Council approves anything more than that however the limit is still 13,600 gpd per development.
- All applications other than major sub-divisions move through the Planning Board process before they receive authorization to connect to the City’s sewer system.
- We have a development charge for water however we do not have one for sewer.
- Connection Fee- \$182 (additional sewer units \$148), Inspection Fee-\$30

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Proposed Processes

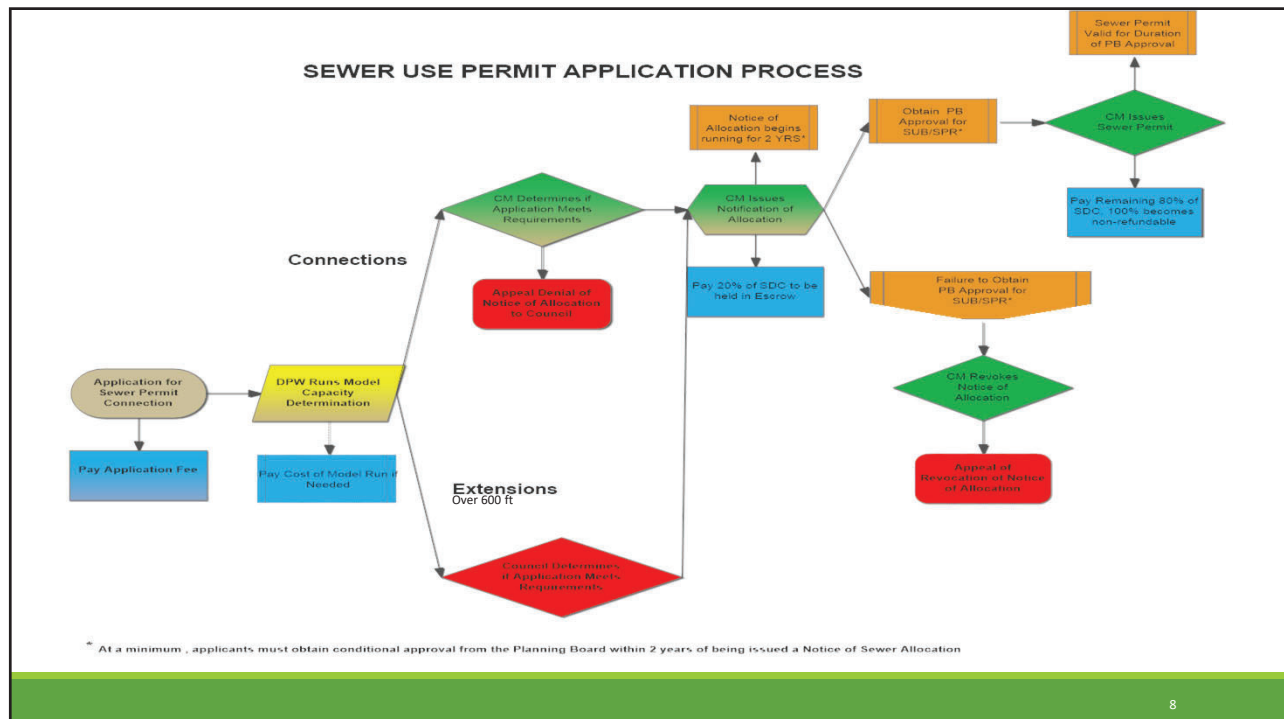
❖ Sewer Use Permit Process

- ❖ New Connections
- ❖ New Extensions

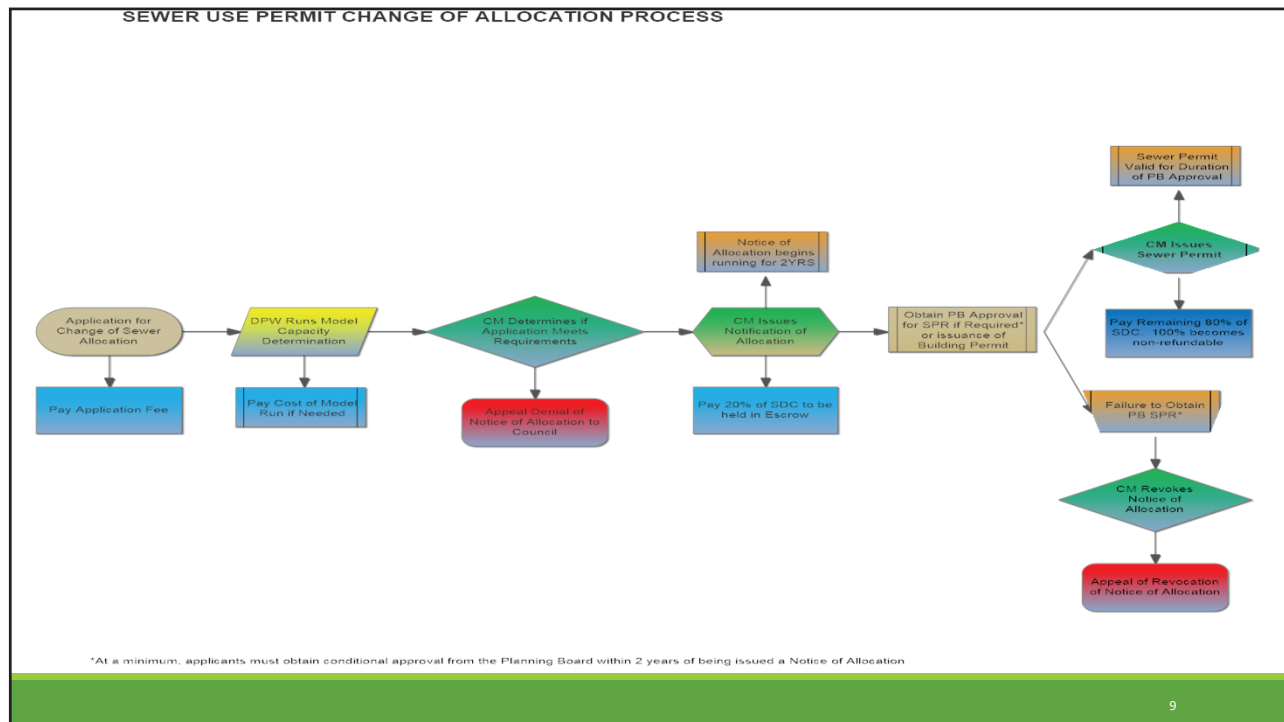
❖ Sewer Use Permit Process

- ❖ Change of Use (requests for additional use at present sites)

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Allocation of Sewer Capacity

- Sewer capacity is allocated on a first come, first serve basis. This requires a complete application, analysis of capacity and payment of fees, escrows where applicable, Sewer Development Charges and Council approval where applicable.
- Applicants requesting allocation based upon extensions (greater than 600 ft), system capacity above 50% and any successful waivers or appeals will be eligible for capacity allocation at the time granted by the Council.
- If there is insufficient capacity available for a project the application with requested allocation will be kept on a list until there is capacity for that project. This does not prohibit smaller projects seeking remaining capacity from receiving an allocation for lesser amounts that are available.

Present Sewer Usage Standards

1 bedroom flowrate = 103 gpd/capita x 1 person = 103 gpd = 105 gpd rounded

2 bedroom flowrate = 77 gpd/capita x 2 people = 154 gpd = 160 gpd rounded

3 bedroom flowrate = 68 gpd/capita x 3 people = 204 gpd = 210 gpd rounded

4 bedroom flowrate = 63 gpd/capita x 4 people = 252 gpd = 280 gpd rounded

* NOTE: These standards are without the peaking factor

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Proposed Sewer Usage Standards

RESIDENTIAL (1 or 2 Family)

Studio/1-bedroom single-family flowrate = 103 gpd/capita x 1 person = 103 gpd = 105 gpd rounded

2-bedroom single-family flowrate = 77 gpd/capita x 2 people = 154 gpd = 160 gpd rounded

3-bedroom single-family flowrate = 68 gpd/capita x 3 people = 204 gpd = 210 gpd rounded

4-bedroom single-family flowrate = 63 gpd/capita x 4 people = 252 gpd = 260 gpd rounded

MULTI-FAMILY (3+ units)

Studio/1-bedroom multi-family unit flowrate (60 gpd/capita x 1 person) = 60 gpd

2-bedroom multi-family unit flowrate (60 gpd/capita x 1.5 persons) = 90 gpd

3-bedroom multi-family unit flowrate (60 gpd/capita x 2 persons) = 120 gpd

*NOTE: These standards are without the peaking factor

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Proposed Sewer Usage Standards

COMMERCIAL (Non-Residential)

Use NHDES Env-1008, Table 1008-1 Wastewater Unit Flowrates x 50% factor

INDUSTRIAL

Applicant shall provide estimated sewage flowrates to the City for review and approval

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Peaking Factors

PRESENT STANDARD

Metcalf and Eddy Standard

- ☐ Flows for new systems multiplied by a factor of 6 times the normal flow.

PROPOSED STANDARD

- ☐ Ten State Standard of 3.5 times the normal flow.

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Project Example-Multi-Family Residential

- 150 Units
 - 50 Studio Apartments
60 gpd x 50 units = 3,000 gpd
 - 50 1 Bedroom Apartments
60 gpd x 50 units = 3,000 gpd
 - 50 2 Bedroom Apartments
90 gpd x 50 units = 4,500 gpd
 - Peaked Calculation
10,500 gpd x 3.5 peak factor = 36,750 gpd
- Calculated Gallons Per Day- 10,500 gpd
- Multiplied by the peaking factor- 36,750 gpd

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Sewer Development Charge

- Purpose-New development pays a larger percentage of the cost of infrastructure improvements, shifts some of the cost from the present users.
- Common practice throughout the State and Nation.
- One time fee charged per sewer unit.
 - One sewer unit is a 3-bedroom single-family home (210 gpd)
- Rate based on the depreciated value of the current sewer system.

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How is the SDC Determined?

Proposed Sewer Development Fee - City of Lebanon, NH *(1) 10/10/2019

2019 Balance Capital Assets - Wastewater Infrastructure Per GASB Report (Government Accounting Standards Board) 12/31/2018	
Buildings *(2)	\$27,527,379
Work in Progress *(3)	\$10,824,637
Improvements (non building) - *(4)	\$3,563,286
Infrastructure *(5)	\$37,510,768
Land *(6)	\$67,900
Machinery and Equipment *(7)	\$832,680
Existing Wastewater System Value	\$80,326,651
Less offsets (effective 10/10/2019)	
Debt service (outstanding principal on SRF loans and General Obligation Loans 2019-2039) *(8)	\$34,805,610
Grants (SAG) - Currently Obligated from State	\$0
System valuation for buy in fee (Wastewater System Value less Offsets)	\$45,521,041
Total Wastewater treatment Facility capacity in Gallons per Day	3,180,000
Total Capacity in Equivalent Single Family Units (3,180,000 gpd/210 gpd per Single Family Unit - typ 3-bedroom)	15,143
System Development Charge (cost per Single Family Unit)	\$3,006.11
System Development Charge (cost per 100 gpd equivalent unit)	\$1,431.48

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How is the SDC Determined-Hanover Catchment Area?

Proposed Sewer Development Fee - Assessed to Hanover Connections by City of Lebanon, NH *(1) 10/10/2019

2019 Balance Capital Asset - Wastewater Infrastructure Per GASB Report (Government Accounting Standards Board) 12/31/2018	
Buildings *(2)	\$0
Work in Progress *(3)	\$10,824,637
Improvements (non building) *(4)	\$0
Infrastructure *(5)	\$37,510,768
Land *(6)	\$67,900
Machinery and Equipment *(7)	\$832,680
Existing Wastewater System Value	\$49,235,985
Less offsets (effective 10/10/2019)	
Debt service (outstanding principal on SRF loans and General Obligation Loans 2019-2039) *(8)	\$34,805,610
Grants (SAG) - Currently Obligated from State	\$0
System valuation for buy in fee (Wastewater System Value less Offsets)	\$14,430,375
Total Wastewater treatment Facility capacity in Gallons per Day	3,180,000
Total Capacity in Equivalent Single Family Units (3,180,000 gpd/210 gpd per Single Family Unit - typ 3-bedroom)	15,143
System Development Charge (cost per Single Family Unit)	\$952.95
System Development Charge (cost per 100 gpd equivalent unit)	\$453.79

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Comparison Of Proposed Sewer Fees with Other NH Communities						
City/Town	Sewer Development Fee - EXAMPLES					
	1	2	3	4	5	
	Application Fee	Single Family 3-bedroom Unit (210 gpd equivalent)	Typical 3 bedroom - 3 unit Multi-Family Unit (gpd)	Typical 1 bedroom Unit for Apt or Condo (gpd)	Per 100 GPD Comm & Ind	Per gallon/day
Lebanon Proposed	\$ 250.00	\$ 3,006.00	\$ 5,153.14	\$ 858.86	\$ 1,431.43	\$ 14.31
	flow gpd	210	360	60	100	
	application fee : \$100 for each additional residential dwelling unit					
	application fee: \$100 for each sewer unit equivalent for Commercial/Industrial					
Hanover Connections	\$ 250.00	\$ 953.40	\$ 1,634.40	\$ 272.40	\$ 454.00	\$ 4.54
	flow	210 gpd	360 gpd	60 gpd		
Hanover *	\$100	\$ 2,286.00	\$ 6,858.00	\$ 1,143.00	\$ 508.00	\$ 5.08
	flow	450 gpd	1,350 gpd	225 gpd	**	
Hampton	\$ 300.00	\$ 2,844.00	\$ 8,532.00	\$ 948.00	\$ 632.00	\$ 6.32
	flow	450 gpd	1,350 gpd	150 gpd	100 gpd	
Derry	\$50 residential / \$100 Comm / \$250 Ind	\$ 1,701.00	\$ 5,103.00	\$ 567.00	\$ 340.00	\$ 3.40
Laconia	\$330 (Brand new is \$1130)	\$ 800.00	\$ 2,400.00	\$ 800.00		
Nashua "Proposed"	To Be determined	\$ 1,450.00	\$ 4,350.00	\$ 1,450.00		
Hudson	\$50 residential / \$100 Comm / \$250 Ind	\$ 2,325.00	\$ 4,650.00	\$ 1,160.00		
Londonderry	\$200 New/ \$50 Existing	\$ 3,467.00	\$ 10,401.00	\$ 3,467.00	1651	\$ 16.51
Salem		\$ 7,500.00	\$ 13,500.00	\$ 3,750.00		

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Project Example-3 Bedroom Single Family House

Calculated Gallons Per Day- 210 gpd

- Multiplied by the peaking factor- 735 gpd

Fees

- Sewer Use Permit Application Fee- **\$250**
- Model Analysis Cost - \$0
- Sewer Development Charge - **\$3,006**

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Project Example-Multi-Family Project

- 150 Units
 - 50 Studio Apartments
 - 50 1 Bedroom Apartments
 - 50 2 Bedroom Apartments
- Calculated Gallons Per Day- 10,500 gpd
 - Multiplied by the peaking factor- 36,750 gpd
- Fees
 - Sewer Use Permit Application Fee- **\$15,150**
 - Model Analysis Cost - \$2,500 (if necessary)
 - Sewer Development Charge - **\$150,300**

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Project Example- Commercial

- ▶ 40 Seat Restaurant with 8 Employees
 - ▶ NHDES Env-Wq1008 Standard is 40 gpd/ per seat= 40 gpd X 50%= 20gpd per seat & Employees x 20 gpd x 50% = 10 gpd
 - ▶ (40 Seats x 20 gpd= 800 gpd)+(8 Employ x 10 gpd=80 gpd) = **880 GPD Average Daily Flow**
 - ▶ 880 gpd/ 210 gpd/sewer unit = 4.2 sewer units
- ▶ Peaking factor of 3.5 for Ten state Standards
- ▶ 880 gpd X 3.5= **3080 gpd peaked flow**
 - ▶ Application fee= **\$650**
 - ▶ Sewer Development Charge = **\$12,625**

22

Proposed Code Revisions

- Chapter 181 Water and Sewer Extensions – Repeal and consolidate provisions into Chapter 136 Sewer and Chapter 182 Water
- Chapter 136 Sewer Service
 - Clean up of old language
 - Addition of provisions of Chapter 181 with new language for the proposed new process
 - Addition of provisions for the Sewer Development Charge
- Chapter 182 Water Service
 - Addition of provisions of Chapter 181 with new language to further define the process
- Chapter 68 Fees – Revise to enumerate new Sewer Development Charge and Sewer Use Permit application fees

23

Questions ?

24

**AGENDA
LEBANON CITY COUNCIL
OCTOBER 23, 2019**

9. NEW BUSINESS:

9.B – DISCUSSION & SET PUBLIC HEARING FOR DECEMBER 4, 2019:
ORDINANCE #2019-15, RETITLE AND AMEND CITY CODE
CHAPTER 182, WATER SERVICE

BACKGROUND

The Council is being asked to consider an amendment to City Code Chapter 182, Water Service, to include certain provisions of former Chapter 181.

ACTION

The following motion is offered for Council consideration:

MOVED, that the Lebanon City Council hereby schedules a public hearing for Wednesday, December 4, 2019, beginning at 7:00pm in Council Chambers, City Hall, for the purpose of receiving public input and taking action on Proposed Ordinance #2019-15, to amend City Code Chapter 182, Water Service, to include certain provisions of former Chapter 181.

Included in this Section:

1. Proposed Ordinance #2019-15

Available but Not Included:

City Code Chapter 182, Water Service: <https://ecode360.com/8379866>

**CITY OF LEBANON
ORDINANCE #2019-15**

AN ORDINANCE TO AMEND the Code of the City of Lebanon, Chapter 182, Water Service, to amend existing definitions; and add a new section providing for extensions of existing water mains, connections to the existing water distribution system, and the expanded use of the water distribution system.

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

Section 1

Section 182-7 of Chapter 182 Water Service, is hereby amended to delete the definitions of “City” and “State” and add the definitions of “Water Distribution System,” “Water Main Extension,” and “Water Use Permit.”

§182-7 DEFINITIONS.

~~CITY~~ ~~The City of Lebanon or the City Council of Lebanon, New Hampshire~~

~~STATE~~ ~~The State of New Hampshire~~

WATER DISTRIBUTION SYSTEM – The water mains and all other devices, appurtenances and facilities used for the distribution of water to the properties and buildings in the City. This definition includes service lateral lines but not service lines.

WATER MAIN EXTENSION – Construction, transfer or acquisition of water mains along a public or private street, or public or private property to service more properties/areas of the City. This definition applies to extensions of water mains that will be owned and operated by the City.

WATER USE PERMIT – Permit issued by the City Manager for connection to the public water distribution system for the purposes of supplying water to a property or building.

Section 2

Chapter 182 of The Code of the City of Lebanon is hereby amended to add new Article VI, “Water Connections, Extensions and Expanded Use Allocations,” to read as follows:

ARTICLE VI – WATER CONNECTIONS, EXTENSIONS AND EXPANDED USE ALLOCATIONS

§ 182-35 DECLARATION OF PURPOSE.

The purpose of this chapter is to provide the procedure, terms and conditions for connections, extensions, and expanded use allocations of city water service to protect the public welfare and safety of residents of the City of Lebanon.

§ 182-36 ALLOCATION.

No single development of land shall be given approval for a water extension, water connection, or be permitted to expand the property's existing use of the water distribution system if such request increases the estimated demand in the distribution system or water works facilities by an amount greater than the calculated remaining capacity within the system at the time a Water Use Permit is requested.

§ 182-37 WATER USE PERMIT.

- A. The procedural mechanism for assuring compliance with §182-36 above shall be an application for, and issuance of, a Water Use Permit, which shall be separate from, and in addition to, any other land use approval required by law or ordinance for the underlying development. No person shall develop or change the use of land within the City, or take any other action, which results in increased use of the City's water system, without a Water Use Permit.
- B. Application & Fee. The fee for a Water Use Permit Application shall be in an amount set forth in the Code of the City of Lebanon, Chapter 68, Fees, and shall be payable at the time the application is filed. Applications shall be made through the Department of Public Works on a form as approved by the City Manager or his or her designee, and shall include information about the development proposal which is detailed enough to enable an accurate capacity analysis, as set forth below. Failure to provide required information shall be considered sufficient cause to refuse to grant a permit. Only after all information has been submitted and the application is deemed complete by the Department of Public Works shall a capacity analysis be completed.
- C. Capacity Analysis. In determining whether there is adequate capacity within the City's water system to provide an adequate supply of water for a particular water use permit application, the City or City's consultant shall when the Director of the Department of Public Works deems it necessary, conduct an analysis of the capacity of the system which is applicable to the application under consideration. The applicant shall provide the necessary funds as determined by the Department of Public Works necessary to pay for the cost of the capacity analysis. The funds provided shall be kept by the City in escrow and drawn upon by the City to pay for the analysis. Any funds remaining after all of the costs of the analysis are completed shall be returned to the applicant.

§ 182-38 CONNECTIONS

- A. New connections to the existing City water distribution system shall require the approval of the City Manager or his or her designee. Water connections shall require the issuance of a Water Use Permit in accordance with § 182-45.

§ 182-39 EXPANDED WATER USE

- A. Any development, change of use, or other action implicating an expansion of water system use shall require the approval of the City Manager or his or her designee in accordance with §182-45, even if it does not involve any new water connection or water main extension.

§ 182-40 EXTENSIONS.

Extensions of water mains within the City of Lebanon shall require the approval of the City

Council under this section as described below; provided, however that water main extensions which extend a distance of no more than 600 linear feet may be approved by the City Manager, applying the same criteria and requirements as set forth in this Section. All extensions of water mains shall, in addition, require the issuance of a Water Use Permit in accordance with §182-37.

A. Upon the request of the City Manager for the extension of water mains the City Council shall make a determination upon the request and shall base its decision upon:

- Available/Adequate Capacity.
 - Need.
 - Topographic limitations of the City to supply.
 - Proximity of a supply point or source to the street or streets to be served.
 - Whether such extension will occur within an Urban Services District, if such District is created by the City Council.
 - Priority considerations. Estimated costs and schedule of financing.
1. Cost estimates., prior to a determination by the City Council to extend water main or mains in any street, the City Manager shall prepare and submit to the Council the estimated cost of the proposed extension and a schedule of financing based on the procedure outlined in the following section.
 2. Procedure for financing:
 - (a) If a water main extension request is deemed to serve as a necessary public benefit, the City Council may appropriate the necessary funds.
 - (b) The total cost of an extension may be assessed to each benefited property owner in accordance with the procedure, to the extent applicable, set forth in the Code of the City of Lebanon, Chapter 147, Special Assessment.

B. Upon the request by a property owner or a developer(s) to extend a water main or mains, the City Council shall make a determination upon the request and shall base its decision upon:

- Technical feasibility to include available/adequate capacity.
 - Fiscal consequences.
 - Whether such extension will occur within an Urban Services District, if such District is created by the City Council.
 - Estimated costs and schedule of financing.
 - Whether or not the petitioners or developer shall pay for all costs relating to the extension.
1. Extension agreements.

All requests for extensions of water mains as proposed by a developer shall require an extension agreement between the City and the developer containing the following:

- (a) The developer shall pay the full cost of design and construction of the extension in accordance with City standards and requirements. All plans for the design of the extension shall be submitted to the City Engineer or such other person as

designated by the Public Works Director, for written approval. Any cost incurred by the City in reviewing the design shall be paid for by the developer.

- (b) The developer shall pay to the City, prior to any construction, an amount estimated by the City to pay for independent engineering inspection services hired by the City. The applicant shall keep a minimum \$2,500 balance in escrow. If the City spends less than the amount paid by the developer, the balance shall be refunded to the developer. If the City spends more than the payment made by the developer, the developer shall reimburse the City. The City's review of the construction documents and inspection during the period of construction and inspection prior to acceptance shall not bar or preclude, in any way, the rights of the City to assert claims against the developer for defects in construction under Subsection B(1)(g) below.
 - (c) The developer shall provide indemnification to the City for any costs, damages or other expenses arising from review or construction of the extension.
 - (d) If any portion of the proposed extension is not within a City highway or right-of-way, the developer shall acquire and convey to the City, as a condition of acceptance of the extension, adequate rights-of-way in compliance with the City's requirements and in conformity with the requirements of the City as to the form of the deed, a title opinion, monuments and a recordable plan.
 - (e) After the extension has been substantially completed, as certified by the City Engineer or other such person as designated by the Public Works Director, the developer shall be responsible to repair and maintain the extension for a period of one year or until such time as the City's acceptance of the extension improvements are complete.
 - (f) After the expiration of the one-year period for maintenance, the City Manager shall determine whether or not to issue a certification that the extension has been constructed and installed in accordance with the plans, specifications and standards of the City. The City Manager may require a report of a professional engineer, hired by the City and paid for by the developer.
 - (g) It shall be a condition of the extension agreement and any City acceptance that the developer shall be responsible for any latent defects discovered within eight (8) years from the date of substantial completion, as set forth in RSA 508:4-b, including all defects in design, materials or workmanship, and shall be liable to the City, upon written notice by the City, for the cost of repairs or replacements of all defective improvements. In the event that the developer conveys and transfers the project for which the extension was granted, the subsequent owner shall be responsible for the obligations of the developer for the remainder of the eight-year period regardless of whether or not such obligation is expressly assumed.
2. No additional connections to the extension will be allowed for any other property owners requesting service for a period of 10 years from the date of acceptance of the extension by the City unless such property owner(s) agree to pay to the developer a pro rata share of the cost relating to the extension as determined by the City Manager. The developer shall provide a copy of the contract documents for the construction of the extension to the City prior to undertaking any construction for review and approval by the City to ensure that the requirements of the extension agreement have been met. The developer shall include in any construction documents that the proposed extension is intended to be transferred to the City for ownership and maintenance. The City

Manager shall determine the pro rata share of cost to new applicants seeking connection to the extension based on the following criteria:

- (a) The depreciated value of the extension infrastructure paid for by the developer at the time the new applicant utilizes the extension.
 - (b) The percentage of the extension at the point at which the new connector accesses the connection. In essence, how much of the new extension is the connecting applicant utilizing.
3. In addition, any security or bond obtained by the contractor constructing and installing the extension for the benefit of the developer shall remain in effect until the expiration of a two-year period from the date the project is accepted by the City, and shall be for the benefit of the City.
4. Upon compliance with all the conditions set forth herein, the developer may request, and the City Council shall accept the transfer of the extension, including the water main and rights-of-way to the City to become part of the City water system and the responsibility of the City thereafter.

§ 182-41 PRIVATE WATER MAINS.

- A. Private water mains are defined as those lines having a diameter of two inches to twelve inches and installed on private property by the landowner or developer. Such private mains shall be constructed, installed and maintained in accordance with City standards at the sole expense of the landowner, and shall require approval in accordance with the provisions of § 182-40.
- B. Any permit issued which includes the installation of a private main shall be subject to the following conditions regardless of whether or not contained in such permit:
 1. Such private mains shall be inspected by the City as required by law, as required by this Chapter and Chapter 36, Building Construction, solely for the purpose of determining whether or not the private mains meet City requirements. Any expense to meet City requirements as to the installation of the private mains shall be at the sole expense of the landowner. The costs of inspection shall be as provided by the Code of the City of Lebanon, Chapter 68, Fees.
 2. If, at any time in the future, the City determines that the public interest requires the acquisition of such private mains to be incorporated into the City water systems, the landowner at that time shall convey and transfer such private mains to the City upon such terms and conditions as deemed to be in the best interest of the City.

§ 182-42 WATER LINES WITHIN HIGHWAYS AND SIDEWALKS.

Except in cases of emergency, applicants shall obtain and comply with Excavation Permit requirements as outlined in the Code of the City of Lebanon, Chapter 152, Streets & Sidewalks

§ 182-43 APPEALS.

- A. Any determination, denial, partial denial or revocation of a Water Use Permit or water main extension by the City Manager or his or her designee may be appealed to the City Council within 30 days of notice of denial by the City Manager. For those appeals where no modification, exception or extension is being requested, the question upon such appeal shall be whether the standards of this Article have been properly applied.
- B. The Council may, upon such appeal, or upon direct application to it, and for good cause shown, grant an exception, or modification, with respect to the standards contained in this Article, upon such terms and conditions as the Council determines to be fair and equitable, provided that such grant, considered together with such terms and conditions, provides equivalent protection of health, safety and environment, is not inconsistent with the goals and purposes of this Article, and is capable of being applied in an impartial manner. In acting upon any such appeal, exception, modification or extension, the Council shall consider only those aspects of the underlying development involving the use and integrity of the City's water distribution system and shall not consider other aspects of the development which are subject to review by the Planning Board or other municipal body.
- C. In the event that an exception or modification is granted, the applicant and the City shall enter into an agreement similar to a water extension agreement under §182-40(B)(1) above, including any such details of that section as the Council determines to be applicable. In the event that the exception or modification is conditioned upon improvements which an applicant has offered to construct or fund, and such improvements are expected to create greater capacity in some element of the water system than is required to meet that applicant's needs, and the Council accordingly determines that the applicant should be reimbursed for some pro rata portion of that applicant's costs, the agreement shall detail the amount and mechanism for reimbursement.
- D. An appeal or request for modification under this Section shall be taken by filing, with the City Manager, a written document setting forth in detail the aspect of the underlying decision being appealed, and the reasons why that decision is believed to be erroneous, and/or any exception, modification or extension being requested, and the reasons and justification therefor. The determination by the Council, acting as proprietor of the City's water system, shall be deemed final. Any decision or determination made under this Article and not appealed within the 30 days shall be deemed final.

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 the remaining sections, subsections, sentences, clauses or part of this ordinance.

Section 4

Effective date: this Ordinance shall become effective January 1, 2019.

**AGENDA
LEBANON CITY COUNCIL
OCTOBER 23, 2019**

9. NEW BUSINESS:

**9.C – DISCUSSION & SET PUBLIC HEARING FOR DECEMBER 4, 2019:
ORDINANCE #2019-16, AMEND CITY CODE CHAPTER 68, FEES**

BACKGROUND

The Council is being asked to consider an amendment to City Code Chapter 68, Fees, Article III, Miscellaneous Fees, §68-15, Enumeration of Fees to retitle “Sewerage Treatment Plant Connection” fee to “Sewer Use Permit” fee, update fee amounts, and implement a sewer development charge.

ACTION

The following motion is offered for Council consideration:

MOVED, that the Lebanon City Council hereby schedules a public hearing for Wednesday, December 4, 2019, beginning at 7:00pm in Council Chambers, City Hall, for the purpose of receiving public input and taking action on Proposed Ordinance #2019-16, to amend City Code Chapter 68, Fees, Article III, Miscellaneous Fees, §68-15, Enumeration of Fees to retitle “Sewerage Treatment Plant Connection” fee to “Sewer Use Permit” fee, update fee amounts, and implement a sewer development charge.

Included in this Section:

1. Proposed Ordinance #2019-16

Available but Not Included:

City Code Chapter 68, Article III, Fees: <https://ecode360.com/8378011>

**CITY OF LEBANON
ORDINANCE #2019-16**

AN ORDINANCE TO AMEND the Code of the City of Lebanon, Chapter 68 FEES, Article III Miscellaneous Fees, Section 68-15 Enumeration of Fees.

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

Section 1

Section 68-15 of Chapter 68, Fees, of the Code of the City of Lebanon is hereby amended to retitle "Sewerage treatment plant connection fee" to "Sewer Use Permit fee," and to update associated fees.

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

- (8) ~~Sewerage treatment plant connection fee~~ Sewer Use Permit Fee for new or modified services:
- (a) ~~Residential (to include Multi-family): One sewer unit: \$182~~250 for one dwelling unit, plus \$100 for each additional dwelling unit. (\$250 is the minimum fee for a Sewer Use Permit)
- ~~(b) Each additional sewer unit: \$148.~~
- ~~(c) Single family: \$182.~~
- ~~(d)~~ (b) Commercial/industrial/~~multifamily~~: ~~\$182~~250 for one sewer unit, plus ~~\$148~~100 for each additional sewer unit rounded to the next whole sewer unit.

Section 2

Chapter 68 of the Code of the City of Lebanon is hereby amended to add a new subsection (e) "Sewer Development Charge" to subparagraph (9) "Miscellaneous sewer fees," to read as follows:

(9) Miscellaneous sewer fees:

- (e) Sewer Development Charge (SDC) – Sewer Development Charges imposed by this article shall be determined by the estimated gallons per day of sewer use by a sewer user. The SDC is based on one sewer unit at an estimated usage of 210 gallons per day (gpd).

[1] For connections in Lebanon and Enfield where the flow is directed to the Lebanon Wastewater Treatment Plan, the rate for every 210 gpd of estimated usage is \$3006.

[2] For connections in Lebanon where flow is directed to the Hanover Wastewater Treatment Plant, the rate for every 210 gpd of estimated flow is \$953

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 the remaining sections, subsections, sentences, clauses or part of this ordinance.

Section 4

Effective date: this Ordinance shall become effective January 1, 2019.

**AGENDA
LEBANON CITY COUNCIL
OCTOBER 23, 2019**

9. NEW BUSINESS:

**9.D – DISCUSSION & SET PUBLIC HEARING FOR DECEMBER 4, 2019:
ORDINANCE #2019-17, REPEAL CITY CODE CHAPTER 181,
WATER & SEWER MAIN EXTENSIONS**

BACKGROUND

The Council is being asked to repeal City Code Chapter 181, Water & Sewer Main Extensions.

ACTION

The following motion is offered for Council consideration:

MOVED, that the Lebanon City Council hereby schedules a public hearing for Wednesday, December 4, 2019, beginning at 7:00pm in Council Chambers, City Hall, for the purpose of receiving public input and taking action on Proposed Ordinance #2019-176, to repeal City Code Chapter 181, Water & Sewer Main Extensions.

Included in this Section:

1. Proposed Ordinance #2019-17

Available but Not Included:

City Code Chapter 181, Water and Sewer Main Extensions: <https://ecode360.com/8379827>

**CITY OF LEBANON
ORDINANCE #2019-17**

AN ORDINANCE TO AMEND the Code of the City of Lebanon by deleting and repealing Chapter 181, Water and Sewer Main Extensions

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 181, Water and Sewer Main Extensions.

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 the remaining sections, subsections, sentences, clauses or part of this ordinance.

Section 3

Effective date: this Ordinance shall become effective January 1, 2019.

**AGENDA
LEBANON CITY COUNCIL
OCTOBER 23, 2019**

9. NEW BUSINESS:

**9.E – ADVANCED GEOMATICS & DESIGN REQUEST
TO AMEND SEWER SERVICE AREA BOUNDS (SAXON PARTNERS)**

BACKGROUND

The Council is being asked to review a request by Advanced Geomatics & Design on behalf of Saxon Partners, to request the city work to modify the Intermunicipal Agreement (IMA) with Hanover to allow the project flow to Hanover. See attached letter for further details.

ACTION

No Council action is required; item for informational purposes only.

Included in this Section:

1. January 14, 2019 Letter from Advanced Geomatics & Design, re: Extension of Water and Sewer Lines, Saxon Partners, Lot 24-1, Mount Support Road



14 January 2019

Honorable Mayor and City Council
City of Lebanon
51 North Park Street
Lebanon, NH 03766

Re: Extension of Water and Sewer Lines, Saxon Partners
Lot 24-1, Mount Support Road

Dear Mayor Prentiss and Councilors:

On behalf of Saxon Partners, this letter is being written to request water and sewer service for their parcel on Mount Support Road. The parcel is Lot 24-1, across from Timberwood Commons. The parcel was formerly the site of Oscar's Trailer Park.

The project is anticipated to be 250 units of multi-family. The project is expected to be completed in 2 years.

While the request includes water and sewer, we understand only sewer capacity is a concern at this time. The lot in question has been zoned R-1 since before the 1980's. This zone is intended for multi-family housing. The lot is approximately 75 Acres in size. Existing gravity sewer service is available across the street, on/near the Timberwoods Commons project. Alternative gravity sewer to Hanover would be possible by installing a pump station and force main, if the IMA is amended to include the subject parcel.

The sewer request has two options: one for Lebanon and one for Hanover. It is our belief that there is capacity in the Lebanon system to support this project. Our need for the 250 units is 15,432GPD. Our understanding is that the CMOM model indicates that around 200,000GPD are available in 2019, with more possible as CSO projects are completed.

We hereby request 15,432GPD of capacity in the Lebanon system for our project.

If the city cannot accept our requested flow in the Lebanon system, we request the city work to modify the IMA with Hanover to allow our project flow to go to Hanover. Connecting with Hanover will require a modification of the IMA service area map to include the project parcel.

Saxon Partners
Request for Extension of Water and Sewer
14Jan2019

Sincerely,

Daniel A. Nash, PE
Principal

Attachments:

- Existing lot, Lot 24-1
- Spreadsheet, Design Flow for Lebanon connection.
- Spreadsheet, Design Flow for Hanover connection.
- Service area map, Lebanon
- Sketch, sewer to Hanover

CC: Don Smith, Saxon Partners

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X-1

EXISTING
CONDITIONS

LOT

DAN
12/3/18

13/07/18	DAN
----------	-----

KH	DWV

GIS	
GIS	

ADVANCED GEOMATICS & DESIGN
105 BANK STREET - PO BOX 512
LEBANON, NEW HAMPSHIRE 03766
PHONE: (603) 448 6295
E-MAIL: advancedgeomathcs@comcast.net

EXISTING CONDITIONS PLAN
FOR
LOT 24-1
IN
LEBANON, NEW HAMPSHIRE

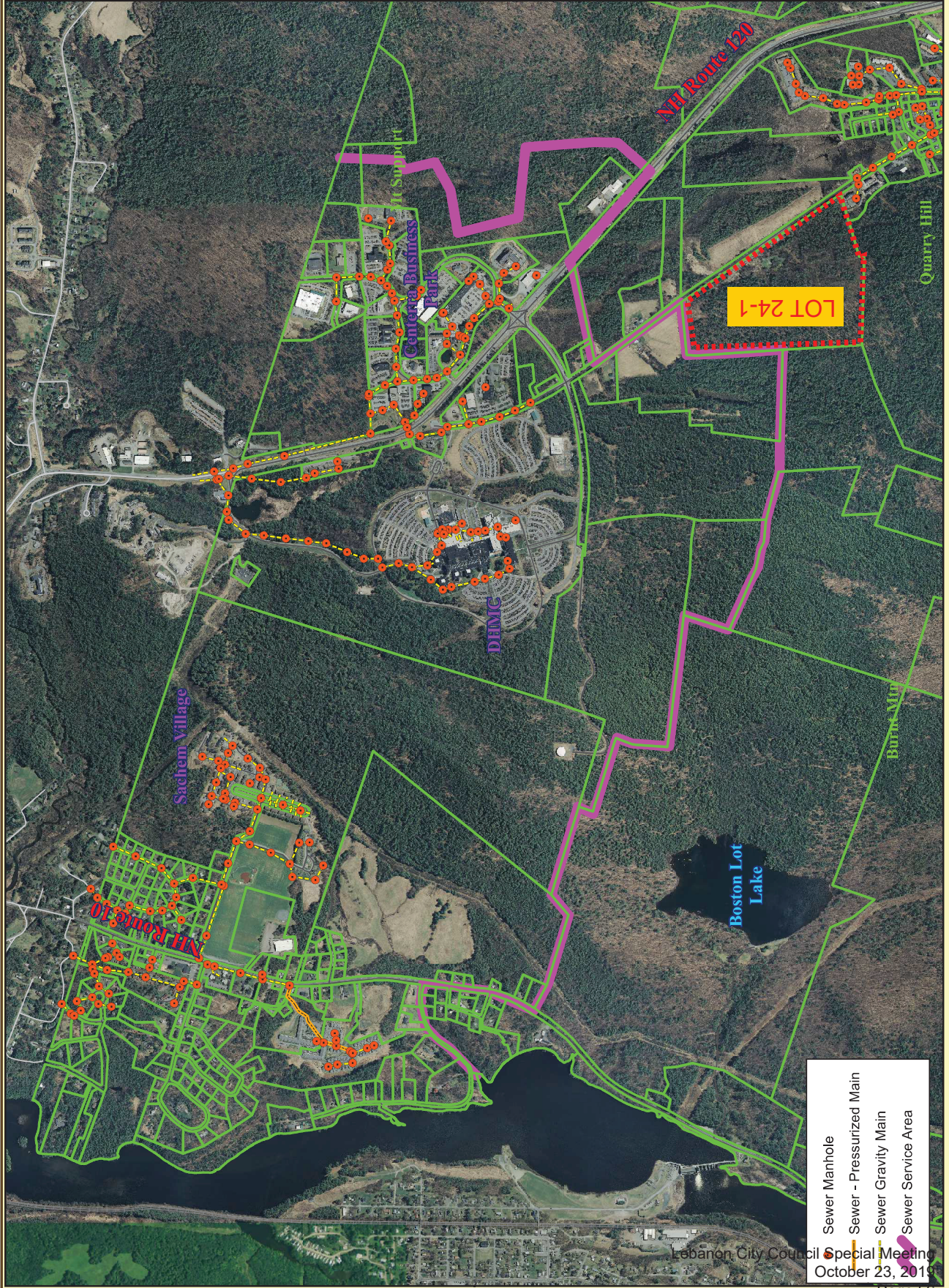
[illegible]

SAXON PARTNERS						
PROPOSED SEWER FLOWS						
LEBANON, NEW HAMPSHIRE						
PROJECT # 18-016						
NHDES FLOW ESTIMATE						
Use	Unit Flow	Rate	UNITS	Flow (GPD)		
STUDIO	38	GPD/Unit	125	4,750		
1BR	76	GPD/Unit	125	9,500		
TOTALS			250	14,250		
			SUB-TOTAL=	14,250	GPD	
			INFILTRATION=	1182	GPD	
			DESIGN FLOW (ADF)=	15,432	GPD	
			DESIGN FLOW (PEAKED@2.5 for interceptor)=	35,625		
NH DES FEE CALCULATION						
(Based upon Average Daily Design Flow)						
\$.10/gal/day (up to 10,000 gal/day) = (\$0.10 x 10,000)				\$1,000.00		
\$.05 /gal/day (in excess of 10,000 gal/day) = (\$0.05 x 5,432)				\$271.60		
plus \$50.00 min.review fee				\$50.00		
NH DES FEE				\$1,321.60		
NOTE: Design flows taken from Table 3-3, Metcalf&Eddy, "Wastewater Treatment, Disposal, Reuse", 5th Edition, per NHDES Env-Wq 700.						
Studio assumed to be single occupancy (38gpd)						
One bedroom unit assumed to be double occupancy (76gpd)						
			Peaking/Safety Factor	#DIV/0!		#DIV/0!

Requested flow for Lebanon connection

Impact of project on interceptor

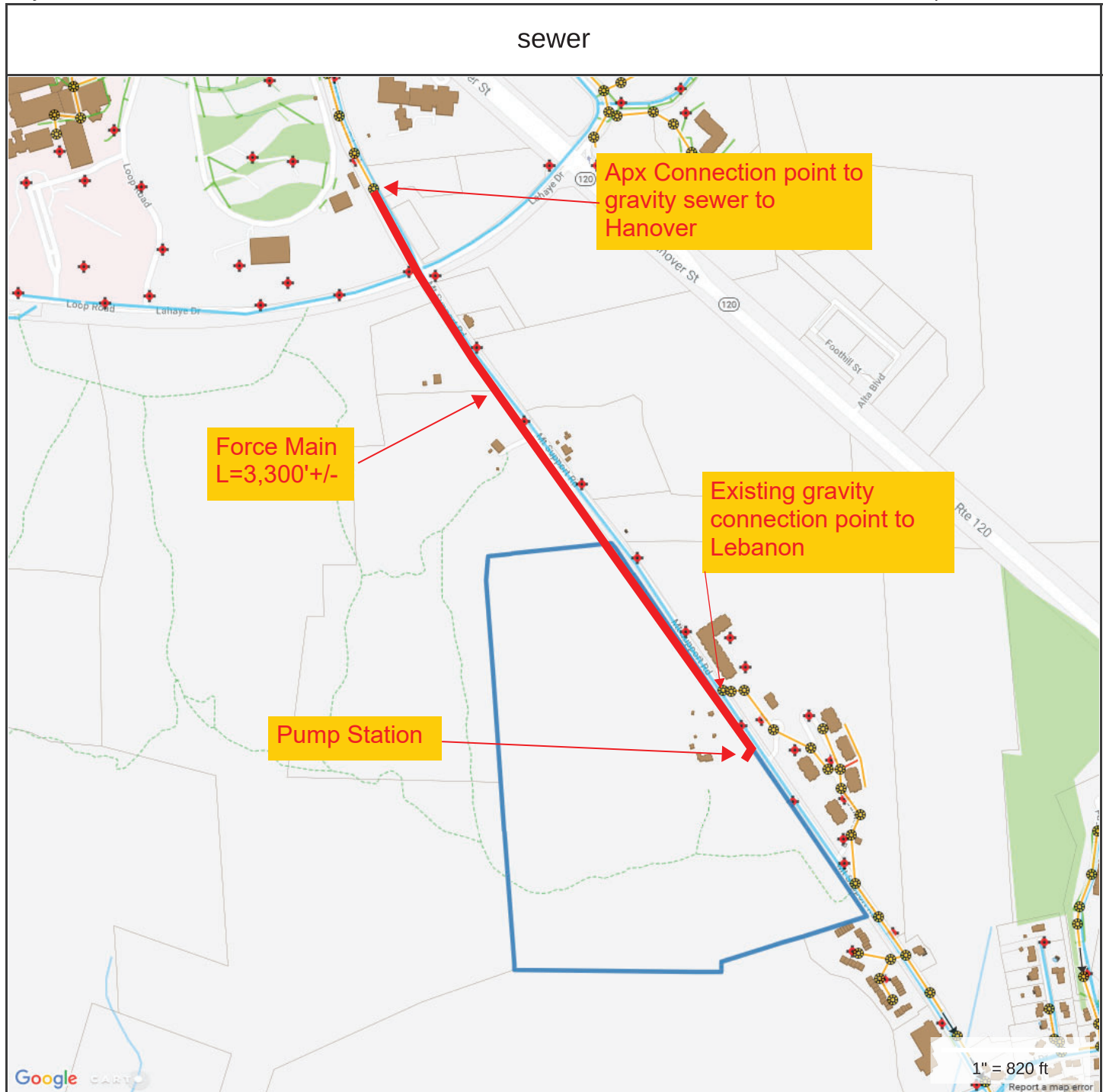
SAXON PARTNERS					
PROPOSED SEWER FLOWS					
LEBANON, NEW HAMPSHIRE					
PROJECT # 18-016					
Use	Unit Flow	Rate	UNITS	Flow (GPD)	
STUDIO	225	GPD/Unit	125	28,125	1)
1BR	225	GPD/Unit	125	28,125	2)
TOTALS			250	56,250	
			SUB-TOTAL=	56,250	GPD
FOR FLOW TO HANOVER SYSTEM					
Notes:					
1. Design flow for STUDIO units is 225gpd.					
2. Design flow for 1BR units is 225gpd.					
3. Design flows taken from Env-wq1000, Table 1008-1.					



Lebanon City Council Special Meeting
October 23, 2013

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Property Information

Property ID 24-1
 Location 343 MOUNT SUPPORT RD
 Owner WEST JR, ALFRED P & LORALEE S



MAP FOR REFERENCE ONLY NOT A LEGAL DOCUMENT

City of Lebanon, NH makes no claims and no warranties, expressed or implied, concerning the validity or accuracy of the GIS data presented on this map.

Parcels updated 7/1/2017
 Properties updated 09/19/2018

**Sewer Concept
 Connection to Hanover
 AGD/DAN
 21Sep2018**

Map Theme Legends

Utilities - Sewer System

-  Sewer Manhole
-  Cleanout
-  Sewer Gravity Main
-  Sewer Force Main

Utilities - Water and Drainage

-  Hydrant
-  Water Main
-  Drainage Main



APPLICATION FOR SEWER CONNECTION PERMIT

Water Division/Wastewater

Engineering Bureau Design Review Section



RSA/Rule: RSA 485-A:37 / Env-Wq 703.07

TYPE OR PRINT CLEARLY

Use this application for Sewer Connection Permit to request NHDES review/approval for any proposed sewerage design. Under RSAs 485 and 485-A, design plans for new sewerage facilities – whether publicly or privately owned, and regardless of design flow – must be submitted to NHDES for review/approval action at least 30 days prior to construction. Pursuant to Env-Wq 703, design submittals must include 1 set of engineering plans/specifications, pertinent design calculations, the required fee, and a Municipal Certification (signed by an authorized municipal official, see page 2).

1. Engineer of Record - Contact Information

Engineer / Contact: Daniel A. Nash, PE	Company: Advanced Geomatics and Design
Mailing Address: PO Box 512	
Town/City: Lebanon	State: NH ZIP: 03766
Phone Number: 603-448-6295	Email: advancedgeomatics@comcast.net

2. Description of Proposed Work (check all that apply)

☒	An extension of a collector or interceptor;
☐	A sewage pumping station greater than 50 gpm or serving more than one building;
☒	A proposed sewer that serves more than one building or that requires a manhole at the connection.

Project Name or Description: Rock Ridge, Phase 3		
Project Location - Street Address: Old Pine Tree Cemetery Road		
Project Location - Town / City: Lebanon		
Name Of Receiving WWTF: City of Lebanon WWTF, West Lebanon		
Average Design Flow (ADF, gal/day): 18,472gpd		
Proposed Sewer Length (Linear ft)	Pipe Diameter (inches)	Pipe Material
2,688	8	PVC, SDR-35

3. Required Fee

☐	Sewer connection design submittals must be accompanied by a review fee payment based on the project's average design flow - \$0.10 per gal/day ("a dime a gallon") for design flows up to 10,000 gal/day, plus \$0.05 per gal/day for any flows in excess thereof.
☐	A fee of \$200 per plan sheet shall be paid for review of modifications to privately owned pump stations, force mains, interceptors, and wastewater treatment facilities which are not associated with an increase in wastewater flow.
☐	Fees are not required of municipalities for municipal projects.

Fee Enclosed: Extension request-exempt Please make checks payable to "Treasurer State of NH".

4. Municipal Certification

Italics indicate items are optional.

www.des.nh.gov

29 Hazen Drive • PO Box 95 • Concord, NH 03302-0095
(603) 271-3503 • TDD Access: Relay NH 1-800-735-2964

On behalf of Click to enter project description, the Town or City of Click to enter Town or City hereby provides the following municipal certification.	
The municipal sewage collection system and wastewater treatment facilities have been demonstrated, pursuant to Env-Wq 703.07(d), to have adequate processing capability for the proposed added hydraulic flow and organic flow at the time of connection. The proposed sewer connection and/or sewerage design meet with the approval of the local jurisdictional authority.	
Name Of Municipal Official (Project Location): <i>Christina Hall</i>	Title: <i>City Engineer</i>
Signature: <i>Christina Hall</i>	Date: <i>11/25/19</i>
Email Address: <i>Christina.Hall@lebanonnh.gov</i>	
When the Receiving WWTF is in a different Municipality from that of the Project Location, the following additional certification is required.	
Name Of WWTF Official (Host Community):	Title:
Signature:	Date:
Email Address:	

Submit completed application package to:

NHDES Wastewater Engineering Bureau
Design Review Section
29 Hazen Drive
P.O. Box 95
Concord, NH 03302-0095

NOTE: A Separate INDUSTRIAL WASTEWATER INDIRECT DISCHARGE REQUEST (IDR) May be Required For Industrial Waste Contributions, Depending On Quantity And Quality. For Further Information, Contact The Industrial Pretreatment Supervisor Of The Wastewater Engineering Bureau At (603)-271-2052.

Italics indicate items are optional.

www.des.nh.gov

29 Hazen Drive • PO Box 95 • Concord, NH 03302-0095
(603) 271-3503 • TDD Access: Relay NH 1-800-735-2964

FINAL

**LEBANON CITY COUNCIL
MINUTES, REGULAR SESSION
Council Chambers - City Hall
Wednesday, December 4, 2019
7:00 p.m.**

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

MEMBERS ABSENT: Suzanne Prentiss

STAFF PRESENT: City Manager Shaun Mulholland, Deputy City Manager Paula Maville, City Clerk Sandra Allard, Planning & Zoning Director David Brooks, Public Works Director Jim Donison, Assistant Director of Public Works Jay Cairelli, Energy & Facilities Manager Tad Montgomery, Solid Waste Manager Marc Morgan, Attorney Bernard Waugh, Jr.

Mayor McNamara called the meeting to order at 7:00 p.m.

- 1. PLEDGE OF ALLEGIANCE:** Councilor Winny led the Council in the Pledge.
- 2. PUBLIC FORUM:** Mayor McNamara made the Public Forum announcement.
- 3. OPEN TO PUBLIC:**

Ms. Margie Saadah (Ward 2) came forth requesting the Council consider opting into accepting refugees. Governor Sununu is opting into accepting resettlement of refugees for the State of New Hampshire in accordance to a new Executive Order from the President of the United States. It is up to each cities Mayor as to whether or not they want to accept refugees by writing a letter of support to the Governor by December 20, 2019. Lebanon, NH is currently not listed as a resettlement city.

Mr. Mulholland said he has reviewed the Executive Order and noted there is a lot of confusion information as to what municipalities are supposed to do. Certain cities in NH take refugees right now, as listed by the State Department. What municipalities have been told is that those cities are the only entities that actually have to write a letter at this particular time. The State Department was supposed to issue written guidance to municipalities and States in the proper procedures to do this, but this has not been done. There is a third party nonprofit entity that is, for some reason, managing this. HMA already has legal staff working on this, but what they have been told is that it only applies to those cities that already take refugees because they would be able to receive funding from the Federal Government, which is not what the Executive Order actually says. He said in order to cover the City, the City Council can simply make a motion on December 18th, 2019 that the City of Lebanon, NH directs the City Manager to take whatever action is necessary to allow the City to accept refugees. Right now, until we get further notification, we do not know what it is we are supposed to do, what the risks are, and what may be involved.

Mayor McNamara thanked Ms. Saadah for bringing this issue before the Council. He was not aware of this issue before tonight and said the Council would look into this.

Ms. Amelia Sreen (Ward 2) came forth stating she was told it is totally moot for Lebanon because these resettlements are done through third parties located down state and would not be relevant to Lebanon. If the City wants to write a letter, she found a sample letter from someplace in Michigan and would be glad to share this with the Council.

Ms. Saadah said that this is not totally moot for our area and was uncertain if this Executive Order was actually legal. However, she would still like the City of Lebanon to make its position known before the December 20, 2019 deadline.

Hearing no further comments from the public, Mayor McNamara moved to the agenda.

4. RECOGNITIONS: None.

5. ACCEPTANCE OF MINUTES:

- November 12, 2019 (Budget Work Session)
- November 18, 2019 (Budget Work Session)
- November 20, 2019 (Regular Session)
- November 21, 2019 (Budget Work Session)

Councilor Winny MOVED to approve the November 12, 2019 (Budget Work Session), the November 18, 2019 (Budget Work Session), the November 20, 2019 (Regular Session) and the November 21, 2019 (Budget Work Session) Minutes as written.

Seconded by Councilor Heistad.

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

6. APPOINTMENTS:

- Economic Development Commission: Dan Nash (Regular Member)

Councilor Hill nominated Dan Nash as a Regular Member of the Economic Development Commission. Two-year term (12/19 – 12/20).

Seconded by Councilor Bronner.

****The Vote on the nomination was unanimous (8-0).***

- Conservation Commission: Christopher Johnson (Regular Member)

Councilor Winny nominated Christopher Johnson as a Regular Member of the Conservation Commission. Three-year term (12/20-12/23).

Seconded by Councilor Heistad.

****The Vote on the nomination was unanimous (8-0).***

- Lebanon Housing Authority: Shelley Moses (Reappointment as a Regular Member)

Assistant Mayor Below nominated Shelley Moses for reappointment as a regular member of the Lebanon Housing Authority. Five-year term (12/20 – 12/25).

Seconded by Councilor Sykes.

****The Vote on the nomination was unanimous (8-0).***

- Upper Valley Transportation Management Association (UVTMA): Sarah Welsch (Appointment as the Planning Board representative to the UVTMA.) Currently Rebecca Owens (Associate Planner & Lebanon resident) is serving as Lebanon's TMA representative. Ms. Welsch has been attending all the UVTMA meetings and wishes to be appointed as an

additional member of the TMA. The PB is supporting this appointment and the TMA welcomes more than one member from Lebanon. No term length.

Councilor Zook nominated Sarah Welsch, as a Planning Board Representative and as an additional member to the UVTMA. No Term Length.

Seconded by Assistant Mayor Below.

****The Vote on the nomination was unanimous (8-0).***

7. PUBLIC HEARING ITEMS:

A. ORDINANCE #2019-14 TO AMEND CITY CODE CHAPTER 136

A public hearing for the purpose of receiving public input and taking action on proposed Ordinance #2019-14 to retitle and amend City Code Chapter 136, Sewer Service, to include certain provisions of former Chapter 181, and the addition of new language relative to sewer capacity limitations, allocation, permits, and sewer development charges.

Mr. Mulholland, City Manager, came forth representing the above Ordinance #2019-14 to Amend City Code Chapter 136.

The Council is being asked to consider an amendment to City Code Chapter 136, Sewer Service, to include certain provisions of former Chapter 181, and to add new language relative to sewer capacity limitations, allocation, permits, and sewer development charges. A special meeting was held with the Council on October 23, 2019 to review in detail the changes being proposed by administration. Legal review of the proposed changes was completed and an opinion was submitted by Attorney Waugh.

Included in the agenda packet for the Council's review was:

- The proposed Ordinance #2019-14, with redlines depicting changes to be made,
- The November 21, 2019 Legal Opinion by Attorney Bernie Waugh re: Sewer & Water Ordinance Amendments (Code Chapters 68, 136 and 182),
- The November 22, 2019 letter from Enfield Town Manager Ryan Aylesworth, re: Sewer Development Charge.

Mayor McNamara opened the Public Hearing.

Mr. Ryan Aylesworth came forth representing the Town of Enfield and stated that the letter included in the agenda packet speaks for itself. In summary, Enfield's position is that we value our partnership with the City of Lebanon. The Intermunicipal Agreement (IMA) was put into place in the 1980s and gave Enfield a total capacity of 300K GPD. Enfield is using but a fraction of that amount. The capacity issues that Lebanon is trying to find is not being exacerbated by the Town of Enfield. Enfield understands the regulatory changes requiring the City to upgrade infrastructure, that State and Federal standards change, and that Enfield has their own role to play, but Enfield felt they should contribute to these charges equitably. Therefore, it is Enfield's position that this surcharge should not apply to them.

Mayor McNamara stated his concern that these fees would all fall on Lebanon's citizens and would not be imposed on the Town of Enfield citizens.

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

Assistant Mayor Below said that the Town of Enfield, like the City of Lebanon, bought a significant increase in capacity back in the 80s. Like Enfield, Lebanon has not used all its capacity, but over time the City of Lebanon has had to reinvest in the whole system (i.e., the main interceptor line because the lines degrade). What Enfield and Lebanon invested in has somewhat fully depreciated, but the City has continued to invest in it. Lebanon has a wastewater treatment plant that still only operates on the order of 50% of its ultimate capacity, which is why we are able to take in more septage. His point was that what the City of Lebanon is trying to do is apply a means to share the costs with both current rate payors and new development which would benefit future rate payors. This investment fee is a way of appropriately sharing costs with those who will benefit from the system. He felt it made sense to continue to proceed with the proposed Ordinance, noting that a lot of work has gone into this, both by City Staff and at the Council level for a number of years. He understood where Enfield was coming from, but the system needs to be maintained to make it available for the future of both communities.

Councilor Hill appreciated the perspective from the Town of Enfield. We are all subject to these rates and finding the most equitable way to pay for the needed infrastructure improvements and the intergenerational equity is tough. What the Council is trying to do in these changes to the Ordinance is to find the right balance. It would be difficult for the Council to impose these charges only on Lebanon residents but not on other users of the system. If we were to adopt a bifurcated rate system, the City could potentially create incentives for people to make decisions to locate in Enfield because there could be a more favorable rate structure to connect into the system.. She felt this would not be fair or equitable to the rate payors in Lebanon. She concurred with Assistant Mayor Below's comments and felt it is prudent to move forward with this proposal at this point.

Mayor McNamara said this proposal looks forward to new connections and does not take a position on current users.

Councilor Bronner agreed with Assistant Mayor Below and Councilor Hill. He did not see how Lebanon and Enfield could be separated. If we are going to charge to developers in Lebanon, we have to do the same to all the users that use this system, noting that if the system is not maintained then nobody can use it.

Assistant Mayor Below clarified his viewpoint on the intergenerational tax equity issue and gave examples.

Councilor Heistad said one of things we all benefit from is the quality of life, which we have been able to achieve by capturing sewage and taking care of it in a way that is very different from what it was before we put the plant in. At that point, on the side of Shaker Bridge, it was class D water, which is no longer class D water because we have a septic plant that is dealing with it. There are lots of benefits that we accrue as a neighborhood and we all need to share in the costs of those benefits.

Councilor Sykes said that while nobody likes to see added costs for whatever they may be trying to do, he felt this proposal strikes a fair balance between the existing rate payors and anyone else who might want to take advantage of the investments that Lebanon and Enfield, has made.

ACTION:

Councilor Bronner MOVED, that the Lebanon City Council hereby adopts Ordinance #2019-14, to amend City Code Chapter 136, Sewer Service, to include certain provisions of former Chapter 181,

and the addition of new language relative to sewer capacity limitations, allocation, permits, and sewer development charges.

Seconded by Councilor Hill.

****The Vote on Motion passed unanimously (8-0).***

B. ORDINANCE #2019-15 TO AMEND CITY CODE CHAPTER 182

A public hearing for the purpose of receiving public input and taking action on proposed Ordinance #2019-15 to retitle and amend City Code Chapter 182, Water Service, to include certain provisions of former Chapter 181.

Mr. Mulholland, City Manager, came forth representing the above Ordinance #2019-15 to amend City Code Chapter 182, and reviewed previous discussions regarding the changes to be made.

The Council is being asked to consider an amendment to City Code Chapter 182, Water Service, to include certain provisions of former Chapter 181. A special meeting was held with the Council on October 23, 2019 to review in detail the changes being proposed by administration. Legal review of the proposed changes has been completed and an opinion was submitted by Attorney Waugh (all of which were included in the agenda packet).

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

ACTION:

Councilor Hill MOVED, that the Lebanon City Council hereby adopts Ordinance #2019-15, to amend City Code Chapter 182, Water Service, to include certain provisions of former Chapter 181.

Deputy City Manager Maville informed the Council that on page 84 of the agenda packet, under §182-38, Connections, at the end of the paragraph, §182-45 should be replaced to read §182-37.

Councilor Hill revised her Motion to include the correction from Ms. Maville.

Councilor Hill MOVED, that the Lebanon City Council hereby adopts Ordinance #2019-15, to amend City Code Chapter 182, Water Service, to include certain provisions of former Chapter 181, with the addition of a correction on page 84 in §182-38. The reference to §182-45 will be stricken and will refer to §182-37.

Seconded by Councilor Bronner.

****The Vote on the MOTION passed unanimously (8-0).***

C. ORDINANCE #2019-16 TO AMEND CITY CODE CHAPTER 68, FEES

A public hearing for the purpose of receiving public input and taking action on proposed Ordinance #2019-16 to amend City Code Chapter 68, Fees, Article III, Miscellaneous Fees, §68-15, Enumeration of Fees to retitle “Sewerage Treatment Plant Connection” fee to “Sewer Use Permit” fee, update fee amounts, and implement a sewer development charge.

Mr. Mulholland, City Manager, came forth representing the above Ordinance #2019-16 to amend City Code Chapter 68-Fees. This is the mechanism to implement the provisions that are in Chapter 136.

The Council is being asked to consider an amendment to City Code Chapter 68, Fees, Article III, Miscellaneous Fees, §68-15, Enumeration of Fees to retitle “Sewerage Treatment Plant Connection” fee to “Sewer Use Permit” fee, update fee amounts, and implement a sewer development charge. A special meeting was held with the Council on October 23, 2019 to review in detail the changes being proposed by administration. Legal review of the proposed changes has been completed and an opinion was submitted by Attorney Waugh (all of which were included in the agenda packet).

Mayor McNamara opened the Public Hearing.

Mr. Ryan Aylesworth came forth representing the Town of Enfield and stated the Town of Enfield feels that because there is an Intermunicipal Agreement (IMA) that would allow the City of Lebanon to terminate that agreement with five (5) years notice, the imposition of fees that would be collected by the City of Lebanon creates a problem. There is no guarantee, although it is unlikely that the City of Lebanon would sever its connection with Enfield, Enfield is concerned the fees collected by the City of Lebanon would not be returned. He encouraged the Council to think about the fact that the Town of Enfield is responsible for 100% of the costs of their system. Lebanon is asking Enfield to share in the costs of your (Lebanon) system, but there is no reciprocity when it comes to the portion of the system that the Town of Enfield maintains, noting Enfield bears 100% of those costs.

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

Councilor Hill questioned why fees would be returned to the Town of Enfield if the City of Lebanon were to terminate their agreement. Mayor McNamara said fees would not be returned and explained his reasoning, noting that he could never foresee a termination in the IMA.

ACTION:

Councilor Bronner MOVED, that the Lebanon City Council hereby adopts Ordinance #2019-16, to amend City Code Chapter 68, Fees, Article III, Miscellaneous Fees, §68-15, Enumeration of Fees to retitle “Sewerage Treatment Plant Connection” fee to “Sewer Use Permit” fee, update fee amounts, and implement a sewer development charge.

Seconded by Councilor Hill.

Assistant Mayor Below commented that he thought, to the extent of the Town Managers concerns, it would be more appropriate to negotiate Enfield’s concerns into a future IMA and felt this should be addressed in the IMA and not in the City’s Fee Structure Ordinance.

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

D. ORDINANCE #2019-17 TO REPEAL CITY CODE CHAPTER 181

A public hearing for the purpose of receiving public input and taking action on proposed Ordinance #2019-17 to repeal City Code Chapter 181, Water & Sewer Main Extensions.

Mr. Mulholland, City Manager, came forth representing the above Ordinance #2019-17 to repeal City Code Chapter 181, Water & Sewer Main Extension, so that everything can be located in the same place.

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

Councilor Hill *MOVED*, that the Lebanon City Council hereby adopts Ordinance #2019-17, to repeal City Code Chapter 181, Water & Sewer Main Extensions.

Seconded by Councilor Winny.

Councilor Hill said these four motions are the conclusion of a lot of work and wanted to thank City Staff for their working on. What has been done has included: how the City looked at the way flows have been calculated; the work done on improvements; how the calculations were made; the work done on developers requests to provide some easing in the sewer system; the implementation of investments made to our sewer system, which resulted in increasing sewer capacity; and, how the process has been improved. It is her hope that this will be a significant improvement in how developers interact with the City and offers transparency for people coming to do work in the City so they will know what the costs are going to be upfront and will be able to plan for their projects.

Mayor McNamara said this proposal illustrates the importance of a data-driven process. Until recently, the City did not have the capability to take a scientific look at sewer volumes and associated charges. This was well worth the significant investment of gathering data over a period of time to really understand how our sewer system functions.

****The Vote on the MOTION passed unanimously (8-0).***

8. OLD BUSINESS

A. Presentation of Second Reading to amend Ordinance #18, Salary Plan, Article II, Non-Affiliated Employees

Mr. Mulholland, City Manager, came before the Council representing the Amendments to Ordinance #18, Salary Plan, Article II, Non-Affiliated Employees.

The City Council is asked to take action on three separate components to amend Ordinance 18:

1. Remove appendices and combine wage schedules with descriptive language in each article;
2. Implement a 1.6% General Wage Increase for non-affiliated (non-union) employees; and
3. Include a Wage Schedule for Temporary/Seasonal Positions.

REMOVING APPENDICES AND RESTRUCTURING ORDER OF LANGUAGE

Currently, wage schedules are attached as “appendices” to the body of Ordinance 18. Restructuring the order of language will simplify the ordinance by reducing duplicative language and providing one place to find information applicable to each employment category.

IMPLEMENTING GENERAL WAGE INCREASE

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

To be useful, it is imperative that compensation and classification systems be kept current. This is achieved primarily by revising compensation ranges through regular general wage adjustments and by

systematically reviewing all positions on a regular basis both relative to a meaningful sampling of the labor market and internally relative to other positions.

Funding is proposed in the 2020 City Budget which is scheduled for adoption on December 18, 2019.

INCLUDING WAGE SCHEDULE FOR TEMPORARY/ SEASONAL POSITIONS

Historically, temporary and seasonal positions have not been classified, categorized, or officially included within the body of the City's salary structure. Positions of this nature have been hired on an as needed basis with wages that are deemed sufficient by the hiring departments and properly budgeted for the applicable employment period. City Manager Mulholland has requested that all temporary/seasonal positions be included within the City's Salary Plan so they can be properly categorized and monitored for payment of wages, etc.

Process for Implementation

Amending Ordinance 18 requires three separate presentations (no action) followed by a public hearing and the vote of at least two-thirds of all members of the City Council (i.e. six members) to adopt. This is the first of three presentations.

ACTION:

(1) PRESENTATION:

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

1. Remove appendices and combine wage schedules with descriptive language in each article;
2. Replace current language in Article II, Non-Affiliated Employees, with "Employees shall be paid in accordance with the accompanying pay plan to be effective the first pay period of 2020, and with the personnel rules and regulations implemented under Section 419:51 of the Charter of the City of Lebanon."
3. Include wage schedule for Temporary/Seasonal Positions.

REGULAR FULL-TIME/REGULAR PART-TIME NON-AFFILIATED EMPLOYEES – 2020 SALARY GRADES 1.6% GWI					
Grade	Position Title	Hourly		Weekly	
		Minimum	Maximum	Minimum	Maximum
1	-	\$16.52	\$22.31	-	-
2	Custodian	\$17.52	\$23.64	-	-
	Department Secretary	-	-	-	-
3	Airport Maintenance Worker	\$18.56	\$25.06	-	-
	Custodian I	-	-	-	-
4	Library Assistant	\$19.68	\$26.57	-	-
5		\$20.86	28.15	-	-
6	-	\$22.11	\$29.84	-	-
7	Administrative Secretary	\$23.43	\$31.64	-	-
	Assessing Clerk	-	-	-	-
	Assistant City Clerk	-	-	-	-
	Assistant Human Services Director	-	-	-	-
	Communications Specialist	-	-	-	-
	Library Administrative/Technical Assistant	-	-	-	-
8	Administrative Assistant	\$24.84	\$33.54	-	-
	Benefits Coordinator/Payroll Specialist	-	-	-	-
	Deputy City Clerk	-	-	-	-
	Deputy Tax Collector	-	-	-	-
	Young Adult Librarian	-	-	\$993.65	\$1,341.53
	Outreach Librarian	-	-	-	-
9	Executive Assistant	\$27.32	\$36.88	-	-
	Digital Media Officer	-	-	-	-

	Information Technology Technical Specialist	-	-	-	-
	Systems Librarian	-	-	\$1,092.81	\$1,475.23
	Information Technology Librarian	-	-	-	-
	Children's Librarian	-	-	-	-
10	Financial Analyst	30.05	\$40.57	-	-
	Tax Collector	-	-	-	-
	Human Services Director	-	-	\$1,202.11	\$1,622.84
11	Deputy Library Director	-	-	\$1,323.45	\$1,786.70
12	City Clerk	-	-	\$1,402.68	\$1,893.45
	Deputy Finance Director	-	-	-	-
	Prosecuting Attorney	-	-	-	-
13	Airport Manager	-	-	\$1,486.91	\$2,007.28
	Assistant Fire Chief	-	-	-	-
	Deputy Police Chief	-	-	-	-
	Human Resources Director	-	-	-	-
	Recreation Director	-	-	-	-
	Systems and Information Technology Administrator	-	-	-	-
14	Assistant Director/Public Works	-	-	\$1,576.13	\$2,127.78
	Chief Assessor	-	-	-	-
	Library Director	-	-	-	-
15	Information Technology Director	-	-	\$1,670.78	\$2,255.37
16	Chief of Police	-	-	\$1,770.86	\$2,390.47
	Director of Planning and Zoning	-	-	-	-
	Director of Public Works	-	-	-	-
	Finance Director	-	-	-	-
	Fire Chief	-	-	-	-
	Deputy City Manager	-	-	-	-

SEASONAL/TEMPORARY & STIPEND EMPLOYEES

POSITION TITLE	HOURLY	
ELECTION POSITIONS (HOURLY)		
Ballot Clerk		\$10.00
Election Assistant		\$10.00
Supervisors of the Checklist		\$10.00
Moderator		\$12.50
Ward Clerk		\$12.50
PARK AND RECREATION POSITIONS		
Camp Counselors	\$10.00	\$12.00
Front Desk Attendants – Pool	\$10.00	\$12.00
Head Front Desk Attendants	\$11.00	\$13.50
Site Assistant	\$10.00	\$13.00
Lifeguards	\$10.00	\$12.00
Head/Lead Counselors	\$13.00	\$16.00
Site Assistant	\$10.00	\$13.00
Head & WSI Lifeguards	\$12.00	\$15.00
Head Front Desk Attendant - Pool	\$12.00	\$15.00
Outdoor Adventurer - Educator	\$12.50	\$16.00
Softball Coordinator	\$12.50	\$16.00

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Camp Director	\$13.00	\$16.00
Day Camp Counselors	\$10.00	\$14.00
Arts & Craft Director	\$13.00	\$16.00
Farmers Market Coordinator	\$14.00	\$18.00
Market Assistant	\$12.00	\$15.00
Tennis Instructor	\$15.00	\$19.00
Stomp & Romp	\$15.00	\$19.00
Asst. Pool Director	\$15.00	\$19.00
Pool Director	\$16.00	\$20.00
LIBRARY POSITIONS		
Circulation Substitutes		\$13.00
Reference Librarian Substitutes		\$21.97
PUBLIC WORK POSITIONS		
Engineering Clerk	\$11.00	\$14.00
GIS Clerk - (or Intern)	\$15.00	\$17.00
Seasonal Laborers – Summer & Fall DPW, Parks & Rec. & Airport	\$16.00	\$19.00
CDL Seasonal Drivers	\$22.81	\$27.30
PLANNING POSITIONS		
Park Ranger	\$15.00	\$17.00
POLICE DEPARTMENT POSITIONS		
Crossing Guard		\$16.03
Police Administrative Aide	\$20.00	\$23.00
Parking Control Officer	\$20.00	\$23.00
Police Officers	\$26.04	\$31.41
CITY CLERK POSITIONS		
Assistant City Clerks (Part-Time/Temp. <20)	\$23.06	\$31.14
Recording Secretary	\$21.50	\$23.50
Recording Secretary Coordinator	\$22.00	\$24.00
STIPEND POSITIONS		
Sport Coaches – Seasonally (Lacrosse, Track, Youth – Basketball, Field Hockey, Football, Cheerleader Coach etc. – may vary due to Programs)	\$200	\$700
(Chair) Supervisors of the Check List	\$150	\$250
Supervisor of the Voter Checklist	\$150	\$250

Seconded by Councilor Hill.

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

The City of Lebanon Ordains as follows:

Ordinance No. 18 – Salary Plan

Ordinance No. 18 is hereby repealed and replaced with the following:

ARTICLE I - In accordance with Sections 419:24, 25, 51 and 52 of the Charter of the City of Lebanon, as amended, City employees not covered by a recognized bargaining unit shall be paid according to Article II below and employees covered by a recognized employee bargaining unit shall be paid in accordance with Article III below.

This ordinance shall take effect upon passage.

This ordinance was last amended by the City Council on September 4, 2019 and is hereby authenticated by the undersigned as required by the Charter.

s/Timothy J. McNamara
MAYOR

s/Sandra L. Allard
CITY CLERK

Effective Date: 01/01/1995
Last Amended: 09/04/2019

ARTICLE II – NON-AFFILIATED EMPLOYEES.

Employees shall be paid in accordance with the accompanying pay plan to be effective the first pay period in 2020, and with the personnel rules and regulations implemented under Section 419:51 of the Charter of the City of Lebanon. (Last Amended 9/4/19)

A. REGULAR FULL-TIME AND PART-TIME BENEFIT ELIGIBLE POSITIONS

Salary Grades for regular full-time and part-time benefit eligible positions are inclusive of all non-affiliated positions contained in the table below. Full-time positions receive a comprehensive benefits package that include flexible spending options. Part-time benefit eligible positions receive pro-rated vacation and sick benefits based upon their full-time equivalent (FTE). Part-time benefit eligible positions are year-round positions working 20 - 30 hours weekly.

The following pay plan shall be in effect the first pay period of 2020.

REGULAR FULL-TIME/REGULAR PART-TIME NON-AFFILIATED EMPLOYEES – 2020 SALARY GRADES 1.6% GWI					
Grade	Position Title	Hourly		Weekly	
		Minimum	Maximum	Minimum	Maximum
1	-	\$16.52	\$22.31	-	-
2	Custodian	\$17.52	\$23.64	-	-
	Department Secretary	-	-	-	-
3	Airport Maintenance Worker	\$18.56	\$25.06	-	-
	Custodian I	-	-	-	-
4	Library Assistant	\$19.68	\$26.57	-	-
5		\$20.86	28.15	-	-
6	-	\$22.11	\$29.84	-	-
7	Administrative Secretary	\$23.43	\$31.64	-	-
	Assessing Clerk	-	-	-	-
	Assistant City Clerk	-	-	-	-
	Assistant Human Services Director	-	-	-	-
	Communications Specialist	-	-	-	-
	Library Administrative/Technical Assistant	-	-	-	-
8	Administrative Assistant	\$24.84	\$33.54	-	-
	Benefits Coordinator/Payroll Specialist	-	-	-	-
	Deputy City Clerk	-	-	-	-
	Deputy Tax Collector	-	-	-	-
	Young Adult Librarian	-	-	\$993.65	\$1,341.53
	Outreach Librarian	-	-	-	-
9	Executive Assistant	\$27.32	\$36.88	-	-
	Digital Media Officer	-	-	-	-
	Information Technology Technical Specialist	-	-	-	-
	Systems Librarian	-	-	\$1,092.81	\$1,475.23
	Information Technology Librarian	-	-	-	-
	Children's Librarian	-	-	-	-
10	Financial Analyst	30.05	\$40.57	-	-
	Tax Collector	-	-	-	-
	Human Services Director	-	-	\$1,202.11	\$1,622.84
11	Deputy Library Director	-	-	\$1,323.45	\$1,786.70
12	City Clerk	-	-	\$1,402.68	\$1,893.45
	Deputy Finance Director	-	-	-	-
	Prosecuting Attorney	-	-	-	-
13	Airport Manager	-	-	\$1,486.91	\$2,007.28
	Assistant Fire Chief	-	-	-	-
	Deputy Police Chief	-	-	-	-
	Human Resources Director	-	-	-	-
	Recreation Director	-	-	-	-
	Systems and Information Technology Administrator	-	-	-	-
14	Assistant Director/Public Works	-	-	\$1,576.13	\$2,127.78
	Chief Assessor	-	-	-	-
	Library Director	-	-	-	-
15	Information Technology Director	-	-	\$1,670.78	\$2,255.37
16	Chief of Police	-	-	\$1,770.86	\$2,390.47
	Director of Planning and Zoning	-	-	-	-
	Director of Public Works	-	-	-	-
	Finance Director	-	-	-	-
	Fire Chief	-	-	-	-
	Deputy City Manager	-	-	-	-

B. SEASONAL/TEMPORARY& STIPEND EMPLOYEES

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

The following pay plan shall be in effect for the first pay period of 2020.

POSITION TITLE	HOURLY	
ELECTION POSITIONS (HOURLY)		
Ballot Clerk		\$10.00
Election Assistant		\$10.00
Supervisors of the Checklist		\$10.00
Moderator		\$12.50
Ward Clerk		\$12.50
PARK AND RECREATION POSITIONS		
Camp Counselors	\$10.00	\$12.00
Front Desk Attendants – Pool	\$10.00	\$12.00
Head Front Desk Attendants	\$11.00	\$13.50
Site Assistant	\$10.00	\$13.00
Lifeguards	\$10.00	\$12.00
Head/Lead Counselors	\$13.00	\$16.00
Site Assistant	\$10.00	\$13.00
Head & WSI Lifeguards	\$12.00	\$15.00
Head Front Desk Attendant - Pool	\$12.00	\$15.00
Outdoor Adventurer - Educator	\$12.50	\$16.00
Softball Coordinator	\$12.50	\$16.00
Camp Director	\$13.00	\$16.00
Day Camp Counselors	\$10.00	\$14.00
Arts & Craft Director	\$13.00	\$16.00
Farmers Market Coordinator	\$14.00	\$18.00
Market Assistant	\$12.00	\$15.00
Tennis Instructor	\$15.00	\$19.00
Stomp & Romp	\$15.00	\$19.00
Asst. Pool Director	\$15.00	\$19.00
Pool Director	\$16.00	\$20.00
Lebanon City Council		
LIBRARY POSITIONS		
Circulation Substitutes		\$13.00
Reference Librarian Substitutes		\$21.97
PUBLIC WORK POSITIONS		
Engineering Clerk	\$11.00	\$14.00
GIS Clerk - (or Intern)	\$15.00	\$17.00
Seasonal Laborers – Summer & Fall DPW, Parks & Rec. & Airport	\$16.00	\$19.00
CDL Seasonal Drivers	\$22.81	\$27.30
PLANNING POSITIONS		
Park Ranger	\$15.00	\$17.00
POLICE DEPARTMENT POSITIONS		
Crossing Guard		\$16.03
Police Administrative Aide	\$20.00	\$23.00
Parking Control Officer	\$20.00	\$23.00
Police Officers	\$26.04	\$31.41
CITY CLERK POSITIONS		
Assistant City Clerks (Part-Time/Temp. <20)	\$23.06	\$31.14
Recording Secretary	\$21.50	\$23.50
Recording Secretary Coordinator	\$22.00	\$24.00
STIPEND POSITIONS		
Sport Coaches – Seasonally (Lacrosse, Track, Youth – Basketball, Field Hockey, Football, Cheerleader Coach etc. – may vary due to Programs)	\$200	\$700
(Chair) Supervisors of the Check List	\$150	\$250
Supervisor of the Voter Checklist	\$150	\$250

ARTICLE III – BARGAINING UNIT EMPLOYEES.

A. AFSCME LOCAL #1348/COUNCIL 93 AFL-CIO - Employees covered by the terms and conditions of the collective bargaining agreement between the City of Lebanon and AFSCME (American Federation of State, County and Municipal Employees) Local #1348/Council 93 AFL-CIO, (effective January 1, 2019 to December 31, 2021) shall be paid in accordance with the accompanying pay plan covering the time period of the first pay period of 2020 through the last pay period of 2020, as provided in that agreement, and as placed on file in the office of the City Clerk. (Last Amended 12/19/18).

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

AFSCME LOCAL 1348 - 2020 SALARY GRADES							1.6% GWI
Minimum							Maximum
Grade	Step 1	Step 2	Step 3	Step 4	Step 5	Step 6	Step 7
1	17.05	17.58	18.12	18.63	19.17	19.71	20.22
2	18.38	18.96	19.55	20.12	20.70	21.26	21.82
3	19.82	20.46	21.10	21.73	22.37	22.99	23.64
4	21.42	22.12	22.80	23.50	24.18	24.88	25.60
5	23.17	23.95	24.70	25.45	26.20	26.96	27.74
6	25.13	25.93	26.75	27.55	28.38	29.19	30.04
7	27.20	28.09	28.98	29.88	30.77	31.66	32.56
8	29.45	30.43	31.40	32.38	33.33	34.33	35.34
9	30.97	32.00	33.04	34.08	35.13	36.16	37.23

The January 1, 2020 GWI shall be based on the NE Urban CIP for June 2018 – June 2019, but in no case shall be less than one and one-half percent (1.5%) nor greater than three percent (3%). The January 1, 2021 GWI shall be based on the NE Urban CIP for June 2019 – June 2020, but in no case shall be less than one and one-half percent (1.5%) nor greater than three percent (3%).

B. LEBANON PERMANENT FIREFIGHTERS' ASSOCIATION LOCAL 3197/INTERNATIONAL ASSOCIATION OF FIRE FIGHTERS (IAFF) - Employees covered by the terms and conditions of the collective bargaining agreement between the City of Lebanon and the Lebanon Permanent Firefighters' Association Local 3197/ International Association of Fire Fighters (IAFF), (effective January 1, 2019 to December 31, 2021) shall be paid in accordance with the accompanying pay plan covering the time period of the first pay period of 2020 through the last pay period of 2020, as provided in that agreement, and as placed on file in the office of the City Clerk (Last amended 12/19/18).

LEBANON PERMANENT FIREFIGHTERS/IAFF - 2020 SALARY GRADES							1.6% GWI
Minimum							Maximum
Position Title	Step 1	Step 2	Step 3	Step 4	Step 5	Step 6	Step 7
Firefighter - EMT	\$23.10	\$23.84	\$24.58	\$25.35	\$26.08	\$26.82	\$27.64
Firefighter - Paramedic	\$24.97	\$25.71	\$26.50	\$27.23	\$27.97	\$28.74	\$29.54
Fire Alarm Technician	\$26.18	\$26.72	\$27.26	\$27.78	\$28.33	\$28.85	\$29.39
Lieutenant	\$28.11	\$28.49	\$28.90	\$29.30	\$29.68	\$30.08	\$30.49
Fire Inspector	\$29.76	\$30.25	\$30.75	\$31.24	\$31.74	\$32.24	\$32.76
Lieutenant - Paramedic	\$30.01	\$30.41	\$30.81	\$31.19	\$31.61	\$31.99	\$32.38
Captain	\$31.03	\$31.35	\$31.71	\$32.05	\$32.38	\$32.74	\$33.09
Inspector - Paramedic	\$31.68	\$32.17	\$32.65	\$33.15	\$33.64	\$34.12	\$34.66
Captain - Paramedic	\$32.92	\$33.26	\$33.60	\$33.94	\$34.29	\$34.62	\$34.99

The January 1, 2020 GWI shall be based on the NE Urban CIP for June 2018 – June 2019, but in no case shall be less than one and one-half percent (1.5%) nor greater than three percent (3%). The January 1, 2021 GWI shall be based on the NE Urban CIP for June 2019 – June 2020, but in no case shall be less than one and one-half percent (1.5%) nor greater than three percent (3%).

C. LEBANON POLICE BENEVOLENT ASSOCIATION (LPBA)/NEW ENGLAND POLICE BENEVOLENT ASSOCIATION (NEPBA) - Employees covered by the terms and conditions of the collective bargaining agreement between the City of Lebanon and the Lebanon Police Benevolent Association/New England Police Benevolent Association (effective January 1, 2019 to December 31, 2021) shall be paid in accordance with the accompanying pay plan covering the time period of the first pay period of 2020 through the last pay period of 2020, as provided in that agreement, and as placed on file in the office of the City Clerk. (Last Amended 12/19/18).

LEBANON POLICE BENEVOLENT ASSOCIATION - 2020 SALARY GRADES							1.6% GWI
<u>Minimum</u>							<u>Maximum</u>
<u>Position Title</u>	<u>Step 1</u>	<u>Step 2</u>	<u>Step 3</u>	<u>Step 4</u>	<u>Step 5</u>	<u>Step 6</u>	<u>Step 7</u>
Patrol Officer	\$26.46	\$27.36	\$28.30	\$29.23	\$30.14	\$31.09	\$31.91
Corporal	\$32.61	\$33.06	\$33.54	\$34.00	\$34.46	\$34.94	\$35.37
Sergeant	\$36.06	\$36.52	\$36.98	\$37.44	\$37.92	\$38.37	\$38.79

The January 1, 2020 GWI shall be based on the NE Urban CIP for June 2018 – June 2019, but in no case shall be less than one and one-half percent (1.5%) nor greater than three percent (3%). The January 1, 2021 GWI shall be based on the NE Urban CIP for June 2019 – June 2020, but in no case shall be less than one and one-half percent (1.5%) nor greater than three percent (3%).

D. LEBANON PROFESSIONAL AND SALARIED EMPLOYEES (LPASE) - Employees covered by the terms and conditions of the collective bargaining agreement between the City of Lebanon and the Lebanon Professional and Salaried Employees (effective January 1, 2019 to December 31, 2021) shall be paid in accordance with the accompanying pay plan covering the time period of the first pay period of 2020 through the last pay period of 2020, as provided in that agreement and as placed on file in the office of the City Clerk. (Last Amended 7/10/19 removed some Library positions.)

LEBANON PROFESSIONAL AND SALARIED EMPLOYEES – 2020 SALARY GRADES – 1.6% GWI								
<u>Grade</u>	<u>Position Title</u>	<u>Minimum</u>	<u>Step 1</u>	<u>Step 2</u>	<u>Step 3</u>	<u>Step 4</u>	<u>Step 5</u>	<u>Maximum</u>
6			\$24.59	\$25.61	\$26.64	\$27.67	\$28.70	\$29.69
7	Field Inspector		\$25.58	\$26.64	\$27.70	\$28.76	\$29.81	\$30.87
8	Code/Health Inspector		\$26.09	\$27.18	\$28.24	\$29.33	\$30.42	\$31.50
	Real Estate Appraiser 2		\$26.09	\$27.18	\$28.24	\$29.33	\$30.42	\$31.50
	Associate Planner	\$1,043.81	\$1,087.20	\$1,130.13	\$1,173.28	\$1,216.80	\$1,260.00	\$1,304.95
9	Communication Supervisor		\$28.17	\$29.82	\$31.46	\$33.11	\$34.76	\$36.39
	Cemetery Sexton		\$28.17	\$29.82	\$31.46	\$33.11	\$34.76	\$36.39
	Fleet Maintenance Superintendent		\$28.17	\$29.82	\$31.46	\$33.11	\$34.76	\$36.39
	Maintenance Superintendent		\$28.17	\$29.82	\$31.46	\$33.11	\$34.76	\$36.39
	Recreation Program Coordinator	\$1,127.07	\$1,192.90	\$1,258.40	\$1,324.46	\$1,390.40	\$1,455.72	\$1,522.00
10	Utilities Maintenance Superintendent		\$31.01	\$32.81	\$34.60	\$36.42	\$38.21	\$40.02
	Wastewater Treatment Superintendent		\$31.01	\$32.81	\$34.60	\$36.42	\$38.21	\$40.02
	Water Treatment Superintendent		\$31.01	\$32.81	\$34.60	\$36.42	\$38.21	\$40.02
	Administrative Services Manager	\$1,240.40	\$1,312.40	\$1,384.20	\$1,456.80	\$1,528.42	\$1,600.00	\$1,671.31

	Airport Operations Supervisor	\$1,240.40	\$1,312.40	\$1,384.20	\$1,456.80	\$1,528.42	\$1,600.80	\$1,673.31
	Assistant Recreation Director	\$1,240.40	\$1,312.40	\$1,384.20	\$1,456.80	\$1,528.42	\$1,600.80	\$1,673.31
	Code Enforcement Director	\$1,240.40	\$1,312.40	\$1,384.20	\$1,456.80	\$1,528.42	\$1,600.80	\$1,673.31
	Fire Marshal	\$1,240.40	\$1,312.40	\$1,384.20	\$1,456.80	\$1,528.42	\$1,600.80	\$1,673.31
	GIS Coordinator	\$1,240.40	\$1,312.40	\$1,384.20	\$1,456.80	\$1,528.42	\$1,600.80	\$1,673.31
	Senior Planner	\$1,240.40	\$1,312.40	\$1,384.20	\$1,456.80	\$1,528.42	\$1,600.80	\$1,673.31
11	City Engineer	\$1,363.88	\$1,443.40	\$1,522.91	\$1,602.44	\$1,681.95	\$1,761.49	\$1,841.01
	City Planner	\$1,363.88	\$1,443.40	\$1,522.91	\$1,602.44	\$1,681.95	\$1,761.49	\$1,841.01
12	City Assessor	\$1,390.61	\$1,471.81	\$1,552.99	\$1,634.16	\$1,715.34	\$1,796.53	\$1,877.76
	Deputy Fire Chief	\$1,390.61	\$1,471.81	\$1,552.99	\$1,634.16	\$1,715.34	\$1,796.53	\$1,877.76
	Energy & Facilities Manager	\$1,390.61	\$1,471.81	\$1,552.99	\$1,634.16	\$1,715.34	\$1,796.53	\$1,877.76
	Information Systems Manager	\$1,390.61	\$1,471.81	\$1,552.99	\$1,634.16	\$1,715.34	\$1,796.53	\$1,877.76
	Police Lieutenant	\$1,390.61	\$1,471.81	\$1,552.99	\$1,634.16	\$1,715.34	\$1,796.53	\$1,877.76
	Solid Waste Manager	\$1,390.61	\$1,471.81	\$1,552.99	\$1,634.16	\$1,715.34	\$1,796.53	\$1,877.76
13	Maintenance Manager	\$1,418.67	\$1,501.43	\$1,584.18	\$1,666.94	\$1,749.67	\$1,832.43	\$1,915.18
14	Police Captain	\$1,447.41	\$1,531.84	\$1,616.24	\$1,700.65	\$1,785.07	\$1,869.50	\$1,953.94

The January 1, 2020 GWI shall be based on the NE Urban CIP for June 2018 – June 2019, but in no case shall be less than one and one-half percent (1.5%) nor greater than three percent (3%).

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

9. NEW BUSINESS

A. Presentation by Dubois & King: Status and funding for the Landfill Gas to Energy Project.

Mr. Jim Donison, Mr. Marc Morgan, and Dubois & King representatives Mr. Mike Hildebrand and Chris Rivet came before the Council to give a presentation and inform the Council about the funding status for the Lebanon Gas-to-Energy Project. Included in the agenda packet were a detailed memo from Public Works, a presentation from DuBois & King, Inc. and Raftelis, and a detailed financial analysis report to implement the gas treatment and energy turbine systems.

The City has appropriated funds for the development of an electric power station at the solid waste facility site. Electricity will be generated from the methane gas generated by the Landfill. The power station will generate approximately 1 Megawatt of electricity from renewable energy.

Mr. Marc Morgan presented the projects background, noting that the City of Lebanon has been working on a Landfill Gas-to-Energy Project (LFG2E) for more than a decade. Converting the gas generated from the Lebanon Landfill would be an environmental benefit as well as financial benefit to the City. This project also addressed a number of key points outlined in the Energy Chapter 13 of the Lebanon Master Plan.

Mr. Hildebrand gave a PowerPoint presentation from Dubois & King, Inc. on the Lebanon Landfill Gas-to-Energy Project that outlined the project overview, the RFP process, the project progress to pursue electrical generation through micro turbines, and next steps.

The Council, Mr. Morgan, Mr. Donison and Mr. Hildebrand discussed the details of potentially expanding the system modules in the future; how the gas system operates; how the system would work with an anaerobic digester; the flows and longevity of this project based on current activity at the Landfill; risks that may be involved with this project (i.e., study needed with Liberty Utilities regarding what the cost might be to tie into the electrical system); ordering the electrical equipment; and, hiring a construction company to install the equipment.

Mr. Mulholland informed the Council that once this project is completed (expected in December of 2020), the City's buildings and facilities would be 100% on renewable energy and producing renewable energy back to the grid. This project was not discussed during the CIP process because data was not available at that time but it is now known that it will require an additional bond of \$1.5M, which the Council will be dealing with on December 18, 2019. Funding will be moved from 2018 Landfill Fund to the CIP Fund to allow for this project to be done.

Mr. Chris Rivet reviewed the financial analysis (pages 141-146 in agenda packet) with the Council, noting that their understanding was the likely City offset price for the renewable energy created by the micro turbines would be around \$0.08. As conversations developed, they decided to show a couple of different scenarios less than this amount (down to \$0.05), but felt that the range is somewhere around the \$0.08 range.

Mr. Below gave a detailed explanation on net metering, the costs associated with net metering, and potentially selling energy directly to retail. He felt the City was on firm ground and would have a net-positive cash flow.

The Council discussed the life span of the amortized equipment and Mr. Rivet believed that with proper maintenance the equipment could last 30 years.

Councilor Hill stated it was her expectation when the funds were appropriated for the Landfill, those funds would be repaid back to the Landfill. She is open to appropriating additional funds but requested a formalized understanding be done with the Landfill Fund (i.e., revenues generated by this Landfill project be specifically returned to the Landfill Fund.) She did not want to get into a position where 10-years from now there was no record that these funds should remain in the Landfill Fund.

Further discussions took place regarding the Landfill Fund and how the City needs to be very cautious on how these funds are spent (i.e., bonding of funds or writing a statement of intent).

Assistant Mayor Below stated these Landfill Funds would be owned by the Landfill Enterprise Fund but felt the Council should think through formalizing a plan for the future and explained his reasonings.

ACTION: No action was required by the Council at this time; item was for informational purposes only. Action will be requested as part of the budget adoption process to take place on December 18, 2019.

B. Electric Vehicle Charging Stations Potential Locations

Mr. Tad Montgomery and Mr. Greg Ames came before the Council to present possible locations for an EV Charging Station, as directed at their last meeting on November 20, 2019.

Mr. Montgomery reminded the Council that the original intent was to meet a deadline that Electrify America (EA) had set, which was to have a commitment from the City by the end of this year. This deadline has since been expanded and Electrify America (EA) is now requesting to have a contract from the City by February 1, 2020. (The lease would be binding on the City for a period of ten years with an option to renew for an additional five years.)

The Electric Vehicle (EV) Subcommittee of the Lebanon Energy Advisory Committee (LEAC) has been investigating the possibility of locating an EV charging station on public land(s) within the City and the potential opportunity to have a unit installed at no cost to the City.

Mr. Montgomery presented the specifications/design layouts of the four (4) potential EV Charging Station sites, and the Council held discussions regarding the pros/cons of each sites location, as listed below (complete details were included in the agenda packet):

1. The Hanover Street municipal parking lot located behind the 20 W. Park Street bank building. Councilor Hill's concern was that parking is tight at the Hanover St. parking areas, noting parking has already been severely constrained by the tunnel and it would be even more constrained by the improvements the City has been talking about once the tunnel is completed. She was open to this location if there was a way of making it either a net, or a loss of one parking space, otherwise the Hanover Street site was a deal breaker for her.

Mayor McNamara concurred with Councilor Hill.

Mr. Montgomery informed the Council that he has had conversations with businesses. Some felt that since the two-hour parking limit was enacted there is no problem with parking, while others told him to please not take any parking away.

2. The Hanover Street municipal parking lot in close proximity to the Taylor Street entrance. In response to Mayor McNamara's concern about the extra cost of the project increasing by threading electrical cables between remote equipment sites and the actual chargers, Mr. Montgomery said that EA would absorb the extra costs and there would be no charge to the City.

The Council again discussed the potential loss of parking spaces at the completion of the Tunnel Project vs. the advantage of enhancing the gateway into Lebanon.

3. Three different possible locations along Taylor Street near the CCBA and Senior Center. Mr. Montgomery said he has had conversations with both the CCBA Board President (Peter Land) and the Director of the Senior Center, noting the CCBA is in between Directors now and he has not heard back from them yet. This particular land is all City property with a Railroad Right of Way. It would be easier to place an EV Charger, but is also much further from downtown.

Councilor Hill felt this location would be more feasible than the other options in terms of visibility and demands for parking and gave her reasonings.

The Council discussed placing an EV Charging Station at the Walmart location on Route 12A; concerns over the tight time-frame that involves property owners, regulatory issues, and floodplain impacts; the

long range purpose is for the City to encourage EVs to stop here in order to benefit the City, area businesses, and Lebanon residents; the importance of proximity to Interstate exits; the value of an unobstructed parking space in Downtown Lebanon vs. a value of 1.2 or 1.3 spaces taken up for an EV Charging Station; if the City would not be better off in having those initial spaces located somewhere other than here; and, making sure the City was not inadvertently impacting the parking situation in Downtown Lebanon by moving forward with a proposed location at this time.

Mr. Ames addressed the question of multiple funding rounds. In the VW Settlement Appendix, \$4.6 M that has been allocated by the State for EV Charging. This has not been discussed in terms of Electrify America's plans. The State of New Hampshire and EA are two distinct piles of money, projects, and time-lines. His understanding is that EA will be doing one station along the I-89 & I-91 interchange system and that will be it.

Mayor McNamara felt there would be more opportunities as EVs become more popular and there would be more demand for charging stations in the future.

Councilor Heistad spoke about the large sum of money that EA (up to \$1M for installation) will be footing the bill for. This is a chance for the City to have something paid for. His understanding is that EA will also maintain the EV Charging Station, and if they do not, they would be fined.

Councilor Bronner's concern was who would be responsible for snow removal and having the Police Department patrolling the Hanover Street site, noting that after 5 PM on a Friday night you can not find a parking space.

Councilor Zook said that in terms of someone who owns a business in downtown, she would like to see the EV Charging Stations in downtown. Since there is such a short time-line, looking at the other side of the pedestrian mall, where it is a little less tight, would not be a bad idea and explained her point of view.

Councilor Sykes, who also sits on the States Transportation Committee, clarified the point that there are two different separate sources of funding. 1) One is a private source of money - EA who is willing to foot all the costs associated with not only installation of the equipment but also maintaining these, and 2) State funds, which Lebanon cannot apply for. Lebanon would have to let NH DES know we would like to be considered. The State is only going to accept one proposal and the company selected will make the decision where to put EV Charging Stations. Lebanon will have little to no control over this source of public funds.

The Council held further discussions regarding the three (3) Taylor Street site locations (page 153 of agenda packet). It was the Council's consensus for Mr. Mulholland, Tad Montgomery and the LEAC EV Subcommittee to move forward with the Taylor Street site by gathering detailed information regarding land-use permits; the Rail Roads Right-of-Way; leasing of real property by the City Manager in accordance with CC-102, Section 4; Electrify America's response to the selection of the Taylor St. location; and other pertinent information. This information will be brought back to the Council for further review.

4. The public parking area behind 1 Court Street – Discussed briefly.

ACTION: No Council action is required; discussion purposes only.

10. REPORTS

A. City Manager: Mr. Mulholland informed the Council that new State legislation will be coming out and will keep them informed.

B. Council Representatives to other bodies: No reports.

11. NON-PUBLIC SESSION: None.

13. ADJOURNMENT:

Councilor Bronner MOVED for adjournment.

Seconded by Councilor Winny.

**The MOTION passed (8-0).*

The meeting was adjourned at 9:35 PM.

Respectfully submitted,

Dona E. Gibson

Recording Secretary

AGENDA

LEBANON CITY COUNCIL

DECEMBER 4, 2019

7. PUBLIC HEARING ITEMS:

7.A – ORDINANCE #2019-14 TO AMEND **CITY CODE CHAPTER 136, SEWER SERVICE**

A public hearing for the purpose of receiving public input and taking action on Ordinance #2019-14 to retitle and amend City Code Chapter 136, Sewer Service, to include certain provisions of former Chapter 181, and to add new language relative to sewer capacity limitations, allocation, permits, and sewer development charges.

The City Council scheduled this public hearing at their October 23, 2019 regular meeting. The public hearing was properly noticed in the *Valley News* on November 23, 2019 in accordance with City Code and State Law.

BACKGROUND

The Council is being asked to consider an amendment to City Code Chapter 136, Sewer Service, to include certain provisions of former Chapter 181, and to add new language relative to sewer capacity limitations, allocation, permits, and sewer development charges.

A special meeting was held with the Council on October 23, 2019 to review in detail the changes being proposed by administration. Legal review of the proposed changes has been completed and an opinion has been submitted by Attorney Waugh (attached).

ACTION

The following motion is offered for Council consideration:

MOVED, that the Lebanon City Council hereby adopts Ordinance #2019-14, to amend City Code Chapter 136, Sewer Service, to include certain provisions of former Chapter 181, and the addition of new language relative to sewer capacity limitations, allocation, permits, and sewer development charges.

Included in this Section:

1. Proposed Ordinance #2019-14
2. November 21, 2019 Legal Opinion by Attorney Bernie Waugh re: Sewer & Water Ordinance Amendments (Code Chapters 68, 136 & 182)
3. November 22, 2019 Letter from Enfield Town Manager Ryan Aylesworth, re: Sewer Development Charge
4. Notice of Public Hearing as published in the November 23, 2019 edition of the *Valley News*

Available but Not Included:

1. [October 23, 2019 City Council Agenda Packet](#), New Business Item 9.A re: Ordinance 2019-14 to amend City Code Chapter 136:
2. [City Code Chapter 136](#), Sewer Service
3. [City Code Chapter 181](#), Water & Sewer Main Extensions

**CITY OF LEBANON
ORDINANCE #2019-14**

AN ORDINANCE TO AMEND the Code of the City of Lebanon, Chapter 136, Sewer Service, to amend existing definitions; clarify existing language; add a new section providing for extensions of existing sewer mains, connections to and expansions of the existing sewer collection system; and add a new section providing for the implementation of a Sewer Development Charge.

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

Section 1

Sections 136-1, 136-2, 136-7, 136-8, 136-9, 136-53, 136-73, 136-75, 136-79, 136-80, and 136-97 of Chapter 136 Sewer Service, are hereby amended to add and/or, clarify, ~~and/or delete~~ ~~obsolete~~ language as follows:

§136-1 AUTHORITY

This chapter is adopted pursuant to the authority contained in RSA 149-I, ~~6, 1 and~~ RSA 47:11, RSA 31:39, RSA 44:2, and the provisions of the Lebanon City Charter §§ C419:16, C419:23, C419:57, and C419:58.

§136-2 DECLARATION OF PURPOSE

The purpose of this chapter is to provide a uniform framework for sewer services. See also Code of the City of Lebanon, ~~Chapter 181, Water and Sewer Extensions, Code of the City of Lebanon,~~ Chapter 68, Fees, ~~and Chapter Code of the City of Lebanon, Chapter 147, Special Assessments.~~

§136-7 ABBREVIATIONS

The following abbreviations shall have the designated meanings:

BOD -- Biochemical oxygen demand
CFR -- Code of Federal Regulations
COD -- Chemical oxygen demand
CF -- Cubic Feet
EPA -- Environmental Protection Agency
Gpd -- Gallons per day
IDP -- Industrial discharge permit
l -- Liter
mg -- Milligrams
mg/l -- Milligrams per liter
NAICS -- North American Industry Classification System
NHDES -- New Hampshire Department of Environmental Services
NPDES -- National Pollutant Discharge Elimination System
POTW-- Publicly owned treatment works
SWDA -- Solid Waste Disposal Act, 42 U.S.C. 6901 et seq.
TDS -- Total dissolved solids
TSS -- Total suspended solids

§136-8 USE OF PUBLIC SEWERS

- I. The owner(s) of all houses, buildings or properties used for human occupancy, employment, recreation, or other purposes, situated within the eCity and abutting on any street, alley or right-of-way in which there is now located or may in the future be located a public sanitary sewer of the eCity is hereby required at the owner(s)' expense to install suitable toilet facilities therein, and to connect such facilities directly with the proper public sewer in accordance with the provisions of this chapter, within 90 days subsequent to the date of official notice to do so, provided that said gravity public sewer is within 100 feet of the building. This requirement for connection may be waived when permitted by the Director of Public Works after consultation with the City Manager if the household is already connected to a properly functioning, state-approved septic system approved after 1985 in accordance with the provisions of RSA 147:8. See Subsection K below.

§136-9 BUILDING SEWERS AND CONNECTIONS TO CITY SEWER

- B. There shall be two classes of building sewer use permits: for residential and commercial service producing only domestic wastewater, and for service to establishments producing industrial wastes. For residential and commercial services, the owner(s) or his agent shall make application on a special form furnished by the eCity at least 30 days prior to said service connection and in accordance with the provisions of Article XIV of this Chapter. For an establishment discharging industrial wastes, the application shall be made at least 60 days prior to said service connection. The permit application shall be supplemented by any plans, specifications or other information (including pollution prevention studies) considered pertinent in the judgment of the Director of Public Works. A permit and inspection fee in accordance with the provisions of Code of the City of Lebanon, Chapter 68, as well as any sewer development charges as enumerated by this Chapter shall be paid to the eCity at the time the application is filed.
- F. During construction of a new sanitary sewer, the eCity may construct the service connections for existing buildings to the curb or the property line or the edge of a right-of-way. Construction of the building sewer, including connection to the structures served, shall be the responsibility of the owner of the improved property to be connected; and such owner shall indemnify and save harmless the eCity, its officers and agents from all loss or damage that may result, directly or indirectly, due to the construction of a building sewer on his premises or its connection to the service connection. The owner shall obtain an excavation permit and comply with conditions prior to any excavation of the eCity highway. The owner shall thereafter be obligated to pay all costs and expenses of operation, repair and maintenance, and of reconstruction, if needed, of the building sewer and service connection. When it is deemed in the eCity's best interest, the City ~~Council-Manager~~ may authorize the construction of service connections to the foundations of existing buildings at eCity expense. The owner shall thereafter be obligated to pay all costs and expenses of operation, repair and maintenance, and of reconstruction, if needed, of the building sewer and service connection.
- M. No building sewer shall be covered until it has been inspected and approved by the Director Department of Public Works. If any part of building sewer is covered before being inspected and approved, it shall be uncovered for inspection at the cost and expense of the owner of the improved property to be connected to the public sewer.

§136-53 SEPTAGE DISPOSAL PERMITS

- C. The following conditions shall constitute conditions precedent to the issuance of each permit by the eCity:

~~(3)-3.~~ Such log as described in Subsection C(32) above, shall be ~~located in the office of the Director of Public Works or such office as designated by the Director of Public Works maintained by the Department of Public Works.~~

§136-73 SEWERAGE TREATMENT PLANT CONNECTION FEESEWER USE PERMIT APPLICATION FEE

- A. There is, as established by Code of the City of Lebanon, Chapter 68, a connection-sewer use permit application fee for all users of the City of Lebanon sewer system This connection application fee herein shall apply to all persons whose building drains-sewers enter the public sewers of the City of Lebanon. Each connection shall be separately assessed to the owner(s) of land being benefited thereby regardless if that land has more than one connection to the eCity's public sewer. ~~This assessment is made on account of the city's construction of sewerage treatment facility and sewer interceptor system now in effect and now benefiting owners of land using the city's sewer system. The assessment application fee set forth herein is a one-time charge to offset the administrative costs of the application process., but nothing contained herein shall prevent the city from abating superfluous funds.~~
- B. The owners of land being benefited by having building drain-sewer connections to the City of Lebanon sewer system shall be ~~assessed a connection fee~~charged an application fee. Said connection-application fee shall be assessed by determining the number of dwelling units or sewer units associated with the proposed connection as set forth in Code of the City of Lebanon, Chapter 68. A minimum connection fee of one dwelling or sewer unit shall apply for any dwellingresidential, commercial, or industrial facility.
- C. Connection-Application fees shall be paid ~~prior to the issuance of a building permit upon the submission of application for a sewer use permit. This fee is non-refundable regardless of whether a sewer use permit is issued or not.~~

§136-75 USER CHARGES

Every user shall pay user charges (sewer rental) for the use of the eCity's wastewater facilities as established by the Code of the City of Lebanon, Chapter 68. User charges shall be sufficient to pay for operation, maintenance and capitalization of the wastewater facilities. Residential users utilizing a private water supply source shall pay an average residential user charge. Other users utilizing a private water supply source shall pay user charges based on the quantity of wastewater discharged. Users discharging a substantially smaller percentage of their metered water consumption than residential users shall pay user charges based on the quantity of wastewater discharged.

§136-79 LIEN

All sewer fees and assessments made pursuant to this chapter shall create a lien upon the lands on account of which they are made, which shall continue for 18 months from the last unpaid bill; provided, however, that when services were rendered to a person or entity other than the owner of the real estate, the lien shall be effective against the owner only for charges of which the owner was notified by the eCity within 120 days of the date the charges became delinquent. This notice requirement may be satisfied by mailing to the owner copies of the bills for service at the same time the bills are furnished to the person or entity which received the service. All fees and assessments shall be subject to interest and other charges in the same fashion as interest and other charges are made applicable to delinquent taxes. The provisions of RSA 38:22 and RSA 76:13 detail the requirements for assessment of liens and interest.

§136-80 ABATEMENT

For good cause shown, the City Manager may abate any such fees and assessments made herein. Any person aggrieved by the neglect or refusal of the City Manager to grant an abatement may petition the City Council for relief at any time within 30 days after notice of decision or after 30 days of no notice of decision (from the date of application for abatement) by the City Manager.

§136-97 ~~DISORDERLY CONDUCT ARREST~~ MALICIOUS INJURY; PENALTY

Any person(s) who shall wantonly or maliciously (purposely or knowingly) injure any part of any sewer system, conveyance, and discharge system, or sewage disposal plant shall be liable to pay treble damages to the owner thereof and shall be guilty of a misdemeanor if a natural person, or a felony if any other person. violating the provisions of § 136-69, Harm to city property, of this chapter, shall be subject to immediate arrest under charge of disorderly conduct.

Section 2

The Code of the City of Lebanon is hereby amended by deleting §136-12 in its entirety and replacing it with the following:

§136-12 LOCAL DISCHARGE RESTRICTIONS

If the Director of Public Works allows the pretreatment or equalization of waste flows, the design and installation of the systems and equipment shall be subject to the review and approval of the Director of Public Works and the State (See Article III, Pretreatment of Wastewater).

A. Maximum allowable industrial loadings limitations.

1. For all users connected to sewer lines that are tributary to the City of Lebanon POTW, the Director of Public Works will not issue permits that in combination with other industrial loads exceed the values in the following table:

<u>Pollutant</u>	<u>Maximum Allowable Industrial Loading (lb/day)</u>
<u>Arsenic</u>	<u>0.405</u>
<u>Cadmium</u>	<u>0.476</u>
<u>Chromium (total)</u>	<u>2.705</u>

<u>Copper</u>	<u>1.568</u>
<u>Cyanide (total)</u>	<u>1.259</u>
<u>Lead</u>	<u>2.056</u>
<u>Mercury</u>	<u>0.101</u>
<u>Nickel</u>	<u>3.670</u>
<u>Selenium</u>	<u>1.534</u>
<u>Silver</u>	<u>2.006</u>
<u>Zinc</u>	<u>1.994</u>

B. All limitations for metals represent total metals, regardless of the valence state, or the physical or chemical form of the metal. To administer these allowable loadings through IDPs, the Director of Public Works may impose concentration-based limitations, or mass limitations. For industrial users, the values written into IDPs for the above pollutants shall apply at the end of the industrial waste stream and prior to dilution with non-industrial wastewaters.

C. Daily concentrations are the concentration of a pollutant discharged, determined from the analysis of a flow-composited sample (or other sampling procedure approved by the Director of Public Works) representative of the discharge over the duration of a twenty-four-hour day or industrial operating schedule of less than 24 hours.

D. All concentration limits for metals represent total metal unless indicated otherwise

E. Unless specifically identified in an industrial discharge permit, an industrial user shall not discharge the locally limited pollutants at concentrations significantly greater than domestic/background concentrations

2. Screening levels.

A. The following pollutants (list below is not all-inclusive) shall not be discharged to the Lebanon Treatment Works exceeding concentrations listed below without approval of the Director of Public Works:

<u>Pollutant</u>	<u>Screening Level (mg/L)</u>	<u>Pollutant</u>	<u>Screening Level (mg/L)</u>
<u>Acetone</u>	<u>372</u>	<u>Nitrogen (TKN)</u>	<u>35</u>
<u>Benzene</u>	<u>0.001</u>	<u>Oil and grease (animal and vegetable origin)</u>	<u>250</u>
<u>Biochemical oxygen demand</u>	<u>300</u>	<u>Oil and grease (petroleum origin)</u>	<u>100</u>
<u>Carbon disulfide</u>	<u>0.007</u>	<u>Phenols (total)</u>	<u>1.0</u>
<u>Chloride</u>	<u>1,500</u>	<u>Phenol</u>	<u>50</u>
<u>Chlorine (total residual)</u>	<u>6.0</u>	<u>Sulfate</u>	<u>150</u>
<u>Chloroform</u>	<u>0.065</u>	<u>Sulfide</u>	<u>1.0</u>
<u>p - Cresol</u>	<u>0.33</u>	<u>Sulfite</u>	<u>280</u>
<u>1, 2 - Dichloropropane</u>	<u>3.0</u>	<u>Surfactants</u>	<u>100</u>

<u>Ethylbenzene</u>	<u>1.35</u>	<u>Total Suspended Solids</u>	<u>350</u>
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B. Screening levels are numerical values above which actions are initiated to evaluate, prevent or reduce adverse impacts due to flammability, chemical reactivity, organic/solids loadings, interference, toxicity, pass-through, or worker health and safety.

C. If any of the screening levels are exceeded, repeat sampling and analyses may be required to verify compliance or noncompliance with that screening level. If noncompliance is indicated, then the industrial user may be required, at the discretion of the Director of Public Works, to conduct an appropriate engineering evaluation to determine the potential impact of the discharge of this pollutant to the City's Lebanon Treatment Works or, alternatively, to develop a pollution prevention plan specifically addressing the pollutant that exceeds the screening level. This study or plan must be conducted under the supervision and approval of the City. Should the evaluation indicate the impact to be unsatisfactory, the industrial user shall reduce the pollutant concentration to a satisfactory level. If the evaluation supports development of an alternate site-specific limitation, then the screening level shall be adjusted and administered as a limit for the specific discharge.

D. If an industrial user proposes to discharge at concentrations greater than the concentration- based screening level maintained by the Director of Public Works, then the industrial user may be required to conduct the evaluations described in the previous paragraph. Should the evaluations support an alternate site-specific limitation, then the screening level may, at the discretion of the Director of Public Works, be adjusted as a special agreement for the industrial user and administered as a permit limitation for the specific discharge.

3. Special agreements. No statement contained in this section, except for § 136-10, Prohibited discharge standards, Subsections A and B, and § 136-11, Federal categorical pretreatment standards, shall be construed as preventing any special agreement or arrangement between the City and any industrial user whereby an industrial waste of unusual strength or character may be accepted by the City for treatment, provided that said agreements do not contravene any requirements of existing federal or state laws, and/or regulations promulgated thereunder, are compatible with any user charge system in effect, and do not waive applicable federal categorical pretreatment standards. Special agreement requests shall require submittal of a pollution prevention plan that specifically addresses the discharge for which a special agreement is requested.

Section 3

The Code of the City of Lebanon is hereby amended by deleting and repealing §136-60 and §136-91 of Chapter 136, Sewer Service.

§136-60 RESERVED PUBLICATION OF POLLUTION PREVENTION ACHIEVEMENTS

~~A. The Director of Public Works may publish annually, in the largest daily newspaper in the city, a list of industrial users who during the previous 12 months demonstrated a commitment to reducing the volume and toxicity of waste discharges. All pollution prevention efforts, not just those which affect wastewater discharges, are subject to recognition. The following criteria will be used to identify published industrial users:~~

~~(1) Innovative ideas the facility has used to implement process changes that eliminate or reduce the volume or toxicity of waste generated.~~

~~(2) The percentage of the facility's process water reused within the system or process.~~
~~(3) The percentage of the facility's potential waste reused within the system or process.~~
~~(4) Implementation of employee pollution prevention training and communication programs.~~
~~(5) Voluntary performance of pollution prevention audits.~~
~~(6) Spill control procedures/devices (e.g., secondary containment) the facility initiates to prevent accidental chemical spills from entering the sewer system.~~
~~(7) The environmental and/or economic benefits or successes derived from implementing pollution prevention methods.~~
~~B. The intent of the publication is to notify local consumers of the environmental responsiveness of local businesses, and to encourage industrial users to identify and implement opportunities for preventing pollution. As part of this publication, the city shall provide an evaluation of the impact of these changes to the Lebanon Treatment Works and summarize the current status of pollutant loadings to the Lebanon Treatment Works and goals established by the Lebanon Treatment Works for pollution prevention efforts.~~

§136-91 RESERVED SHOW CAUSE HEARING

~~A. The City Manager may order any user who causes or allows an unauthorized discharge to enter the Lebanon Treatment Works to show cause before the City Council why the proposed enforcement action should not be taken. A notice shall be served on the user specifying the time and place of a hearing to be held by the City Council regarding the violation. The notice of the hearing shall be served personally or by registered or certified mail (return receipt requested) at least 10 days before the hearing. Service may be made on any agent or officer of a corporation.~~
~~B. The City Council may itself conduct the hearing and take the evidence, or may designate any of its members or any officer or employee of the city, to:~~
~~(1) Issue in the name of the City Council notices of hearings requesting the attendance and testimony of witnesses and the production of evidence relevant to any matter involved in such hearings.~~
~~(2) Take the evidence.~~
~~(3) Transmit a report of the evidence and hearing, including transcripts and other evidence, together with recommendations to the City Council for action thereon.~~
~~C. At any hearing held pursuant to this chapter, testimony taken must be under oath and recorded stenographically. The transcript, so recorded, will be made available to any member of the public or any party to the hearing upon payment of the usual charges thereof.~~
~~D. After the City Council has reviewed the evidence, it may issue an order to the user responsible for the discharge directing that, following a specified time period, the sewer service be discontinued unless adequate treatment facilities, devices or other related appurtenances shall have been installed on existing treatment facilities, devices or other related appurtenances are properly operated. Further orders and directives as are necessary and appropriate may be issued.~~

Section 4

Section 136-6 of Chapter 136 Sewer Service, is hereby amended to delete the definitions of "City" and "State" and add the definitions of "Development," "Notice of Allocation," "Sewer Collection System," "Sewer Connection," "Sewer Interceptor," "Sewer Main Extension," "Sewer Unit," and "Sewer Use Permit."

§136-6 DEFINITIONS.

~~**CITY** – The City of Lebanon or the City Council of Lebanon, New Hampshire~~

~~**STATE** – The State of New Hampshire~~

DEVELOPMENT – For purposes of Articles XIV and XV, includes any land use development or change of use which requires Planning Board review, and any action, whether or not requiring a building permit, which implicates an expansion of uses of the City's sewer system.

NOTICE OF ALLOCATION – A notice issued by the City Manager, prior to the issuance of a Sewer Use Permit, reserving for the future use of an applicant for that Sewer Use Permit, the privilege of utilizing a stated amount of sewer capacity, expressed as a specific estimated number of gallons per day, for a time period set forth by this code.

SEWER COLLECTION SYSTEM – The pipes or conduits, pumping stations, force mains, interceptors, and all other devices, appurtenances and facilities used for the collecting, processing or conducting wastewater to the Treatment Plant, Treatment Works, or Treatment Facility.

SEWER CONNECTION – A pipe connecting a public sewer with a building sewer or series of private sewers for the purpose of conveying sewage of any kind from said building or buildings to the public sewer. See definition of Building Sewer and House Sewer.

SEWER INTERCEPTOR – A component of a sewer collection system that flows from the trunk sewer lines and directs the flow of sewage to the wastewater treatment facility. These sewer mains are the larger pipes collecting sewage from the smaller collection sewer mains serving neighborhoods and commercial areas.

SEWER MAIN EXTENSION – Construction, transfer or acquisition of sewer mains along a public or private street, or public or private property to service more properties/areas of the City. This definition applies to extensions of sewer mains that will be owned and operated by the City.

SEWER UNIT – Equivalent to 210 gpd (10,000 cubic feet per year) of sewer as established by these regulations

SEWER USE PERMIT – Permit issued by the City Manager for connection to the public sewer system for the purposes of disposing of sanitary sewerage to the Lebanon Treatment Works through use of the City's sewer collection system.

Section 5

Chapter 136 of The Code of the City of Lebanon is hereby amended to add new Article XIV, "Sewer Connections, Extensions and Expanded Use Allocations," to read as follows:

ARTICLE XIV - SEWER CONNECTIONS, EXTENSIONS AND EXPANDED SEWER USE ALLOCATIONS

§ 136-100 DECLARATION OF PURPOSE.

The purpose of this Article is to provide for the procedure, terms and conditions for extensions of City sewer mains, connections to the existing City sewer system, and requests for expanded sewer use allocations to protect the public welfare and safety of residents of the City of

Lebanon.

§ 136-101 LIMITATIONS ON AVAILABILITY OF SEWER CAPACITY.

Every element of the City's sewer collection and treatment infrastructure has capacity limitations and will continue to have some limitations even as the City takes actions to increase capacity. The City has assessed the system's capacity and intends to continue to regularly monitor and update that assessment as new data becomes available. The public interest requires that limitations on the approval of sewer usage must be established, to be adjusted on an ongoing basis. It is the further purpose of this Article to institute a process for evaluating the elements of the City's sewer collection and treatment system to be impacted by any new development or change in land use which may result in an expansion of sewer system use, so as to assure that each impacted system element has adequate unused, unallocated capacity for the proposed expansion, to thereby prevent any future failure or overflow, with the attendant health and environmental damage and/or violations of clean water and pollution laws; and further, to create a system of allocation so as to prevent expansions of sewer use from consuming such high portions of the remaining capacity of any system element as would be unfair and inequitable to owners of other lands served by the system.

§ 136-102 SEWER COLLECTION SYSTEM CAPACITY.

In order to maintain a margin of safety, any sewer main or pipe, either part of a sewer interceptor, or other element of the Sewer Collection System, which contains flows at 95% of the available capacity for that size pipe shall be considered at full capacity. No development of land, change of land use, or other action implicating an expansion of use of the Sewer Collection System shall be permitted if such change, when flows and development impacts are calculated in accord with this Article, causes any element or portion of the Sewer Collection System to exceed that 95% level, as determined by the Director of Public Works.

§ 136-103 ALLOCATION.

No single development of land shall take place within the City, be given approval for a sewer extension, sewer connection, or be permitted to expand the property's existing use of the sewer system if such request increases the estimated flows in the Sewer Collection System (collector pipe, sewer main, or sewer interceptor) by an amount greater than 50% of the unallocated remaining capacity (as calculated under §136-102 above and §136-105 below) within the system at the time a Sewer Use Permit is requested. This 50% limitation shall be applied to all elements of the System between the point which the flows from the development would enter the System, and the Lebanon Wastewater Treatment Plant. The Council can consider requests to exceed the 50% capacity on a case by case basis, in accord with the provisions of §136-111 below.

§ 136-104 SEWAGE FLOW ESTIMATES.

The City accordingly finds that, based on the information as determined by City water use records and as presented in the Ten State Standards and Metcalf and Eddy/AECOM Wastewater Engineering Treatment and Resource Recovery, Fifth Edition, Table 3-2, (assuming one person per bedroom for a single-family), sewage flow estimates by use shall be calculated as follows:

RESIDENTIAL (1 or 2 Family)

Studio/1-bedroom single-family flowrate (103 gpd/capita x 1 person) = 103 gpd = 105 gpd rounded

2-bedroom single-family flowrate (77 gpd/capita x 2 people = 154 gpd) = 160 gpd rounded
3-bedroom single-family flowrate (68 gpd/capita x 3 people = 204 gpd) = 210 gpd rounded
4-bedroom single-family flowrate (63 gpd/capita x 4 people = 252 gpd) = 260 gpd rounded

MULTI-FAMILY (3+ units)

Studio/1-bedroom multi-family unit flowrate (60 gpd/capita x 1 person) = 60 gpd
2-bedroom multi-family unit flowrate (60 gpd/capita x 1.5 persons) = 90 gpd
3-bedroom multi-family unit flowrate (60 gpd/capita x 2 persons) = 120 gpd

COMMERCIAL (Non-Residential)

Use NHDES Env-1008, Table 1008-1 Wastewater Unit Flowrates x 50% factor

INDUSTRIAL

Applicant shall provide estimated sewage flowrates to the City for review and approval

When assessing capacity for the existing City sewer system, the City shall use the Sewer Flow Model and shall require sewer flow calculations to include a peaking factor of 3.5 based upon information from "Recommended Standards for Wastewater Facilities – 2014 Edition" (aka Ten State Standards), Figure 1. For sewer extensions and onsite sewer system sizing, the NHDES Standards of Design and Construction for Sewerage and Wastewater Treatment facility peaking factors shall be used.

§ 136-105 SEWER USE PERMIT AND NOTICE OF ALLOCATION.

- A. The procedural mechanism for assuring compliance with §136-102 and §136-103 above shall be an application for, and issuance of, a Sewer Use Permit, which shall be separate from, and in addition to, any other land use approval required by law or ordinance for the underlying development. No person shall develop or change the use of land within the City, or take any other action, which results in increased use of the City's sewer system, without a Sewer Use Permit.
- B. Application & Fee. The fee for a Sewer Use Permit Application shall be in an amount set forth in Code of the City of Lebanon, Chapter 68, Fees, and shall be payable at the time the application is filed. Applications shall be made through the Department of Public Works on a form as approved by the City Manager or his or her designee and shall include information about the development proposal which is detailed enough to enable an accurate capacity analysis, as set forth below. Failure to provide required information shall be considered sufficient cause to refuse to grant a permit. Only after all information necessary to issue a notice of allocation has been submitted and the application is deemed complete for that purpose by the Department of Public Works shall a capacity analysis be completed.
- C. Capacity Analysis. In determining whether there is adequate capacity within the City's sewer system to accept flows from a proposed development as set forth in an application, the City or City's consultant shall utilize the sewer system model developed and provided by Weston & Sampson Engineers as a result of the City's Capacity, Management, Operations, and Maintenance (CMOM) initiative along with any revisions thereto. The determination of the remaining unallocated capacity for any element of the Sewer Collection System shall be based upon the estimated capacity as it exists at the time of the Sewer Use Permit application, reduced by any outstanding unutilized allocations, as described in Paragraph E below. The applicant shall provide the necessary funds, as determined by the Department of Public Works, to pay for the cost of the capacity analysis. The funds provided shall be kept by the City in escrow and drawn upon by the City to pay for the

analysis. Any funds remaining after all of the costs of the analysis are completed shall be returned to the applicant.

- D. Notice of Permitted Allocation. Once a capacity analysis has been completed and a determination has been made that adequate sewer capacity is available to serve a proposed development in accordance with the standards of this Article, the City Manager shall issue a Notice of Allocation to the applicant. The effect of the Notice of Allocation shall be to allow the applicant to reserve the permitted capacity for the applicant's use while other land use permits required for the particular development are applied for and reviewed. At the time of receipt of the Notice of Allocation, the applicant is required to pay 20 percent of the current Sewer Development Charge as described in Article XV below, in an amount set forth in the Code of the City of Lebanon, Chapter 68, Fees. The applicant must make payment of the Sewer Development Charge within 30 days or the Notice of Allocation will expire automatically.
- E. Effect of Notice of Allocation on Later Applications. Once a Notice of Permitted Allocation has been issued, the amount of sewer capacity reserved under that Notice shall be subtracted from the total remaining unallocated capacity of each element of the sewer system impacted by that application, for purposes of applying the 95% limitation in §136-102 and the 50% limitation in §136-103 to subsequent applications. If the Notice of Allocation or the corresponding Sewer Use Permit expires under the terms of this Article, the capacities affected will be added again to the unallocated remaining capacity calculation; provided, however, that no such readjustment shall be made after the underlying development permit (subdivision, site plan, or other type of approval) becomes final and vested; from that point forward, the sewer impacts of that Permit will instead be accounted for through the City's ongoing monitoring of its Sewer Collection System.
- F. In the case of conflicting requests for unallocated remaining capacity, allocation shall be on a first-come, first-serve basis, based on the date of the City's receipt of a complete Sewer Use Permit application with all required information. The City Manager is authorized to maintain, upon some fair basis, a waiting list of persons whose applications are denied due to lack of capacity, to enable such applicants, at their option, to retain higher priority for allocation of additional capacity, should it become available at a later time.
- G. In order to retain the permitted sewer allocation, the applicant must obtain a final subdivision, site plan, or other approval within 2 years of the date of the Notice of Allocation. If Planning Board approval – or, if none is required for the development, then a building permit or other required approval – is not obtained within 2 years, or if any such approval is denied, and such denial becomes final, then the Notice of Allocation shall expire, and the associated sewer capacity will be returned to the system for use by others. If Planning Board or other approval is obtained within 2 years of the date of Notice of Allocation, and if the applicant has received approval from the Director of Public Works for any sewer construction plans required for the project, the City Manager shall issue a Sewer Use Permit. Upon receipt of the permit, applicant shall pay the remaining 80 percent of the assessed Sewer Development Charge within 90 days or the permit will expire. The Sewer Use Permit shall run concurrently and congruently with its associated Planning Board or other approval. Should the Planning Board or other approval lapse or be revoked for any reason, the Sewer Use Permit will become null and void.
- H. The initial 20 percent of the Sewer Development Charge shall be placed in escrow and is refundable to the applicant if the Planning Board or other required approval is denied. When a Sewer Use Permit is issued the funds held in escrow and any interest earned shall become non-refundable and shall be transferred to the Sewer Fund.

- I. The issuance of a Notice of Allocation or Sewer Use Permit shall not be deemed to create any kind of vested or property right in the City-owned sewer system. The privileges conferred by such permits may not be assigned, traded, exchanged among properties, or applied to a materially different development without the approval of the City Manager acting on a revised application submitted under this section.

§ 136-106 CONNECTIONS.

All new connections to the existing City sewer system shall require the approval of the City Manager or his or her designee, by way of the issuance of a Sewer Use Permit in accordance with §136-105.

§ 136-107 EXPANDED SEWER USE.

Any development of land, change of use, or other action implicating an expansion of sewer system use, shall require the approval of the City Manager or his or her designee in accord with §136-105, even if it does not involve any new sewer connection or sewer main extension.

§ 136-108 EXTENSIONS OF SEWER MAINS.

Extensions of water and sewer mains within the City of Lebanon shall require the approval of the City Council under this section as described below; provided, however, that sewer main extensions which extend a distance of no more than 600 linear feet may be approved by the City Manager, applying the same criteria and requirements as set forth in this Section. All extensions of sewer mains shall, in addition, require the issuance of a Sewer Use Permit in accordance with §136-105.

- A. Upon a request made by the City itself, through of the City Manager, for the extension of sewer mains, the City Council shall make a determination upon the request and shall base its decision upon:
 - Available/Adequate Capacity.
 - Need.
 - Topographic limitations of the City to supply.
 - Proximity of a supply point or source to the street or streets to be served.
 - Whether such extension will occur within an Urban Services District, if such District is created by the City Council.
 - Priority considerations. Estimated costs and schedule of financing.
1. Cost estimates., prior to a determination by the City Council to extend sewer main or mains in any street, the City Manager shall prepare and submit to the Council the estimated cost of the proposed extension and a schedule of financing based on the procedure outlined in the following section.
2. Procedure for financing:
 - (a) If sewer main extension request is deemed to serve as a necessary public benefit, the City Council shall appropriate the necessary funds.
 - (b) The total cost of an extension may be assessed to each benefited property owner in

accordance with the procedure, to the extent applicable, set forth in the Code of the City of Lebanon, Chapter **147**, Special Assessment.

- B. Upon a request by a property owner or a developer(s) for the extension of sewer mains the City Council shall make a determination upon the request and shall base its decision upon:
- Technical feasibility to include available/adequate capacity.
 - Fiscal consequences.
 - Whether such extension will occur within an Urban Services District, if such District is created by the City Council.
 - Estimated costs and schedule of financing.
 - Whether or not the petitioners or developer shall pay for all costs relating to the extension.

1. Extension agreements.

All requests for extensions of sewer mains as proposed by a developer shall require an extension agreement between the City and the developer containing the following:

- (a) The developer shall pay the full cost of design and construction of the extension in accordance with City standards and requirements. All plans for the design of the extension shall be submitted to the City Engineer or such other person as designated by the Public Works Director, for written approval. Any cost incurred by the City in reviewing the design shall be paid for by the developer.
- (b) The developer shall pay to the City, prior to any construction, an amount estimated by the City to pay for independent engineering inspection services hired by the City. The applicant shall keep a minimum \$2,500 balance in escrow. If the City spends less than the amount paid by the developer, the balance shall be refunded to the developer. If the City spends more than the payment made by the developer, the developer shall reimburse the City. The City's review of the construction documents and inspection during the period of construction and inspection prior to acceptance shall not bar or preclude, in any way, the rights of the City to assert claims against the developer for defects in construction under Subsection **B(1)(g)** below.
- (c) The developer shall provide indemnification to the City for any costs, damages or other expenses arising from review or construction of the extension.
- (d) If any portion of the proposed extension is not within a City highway, the developer shall acquire and convey to the City, as a condition of acceptance of the extension, adequate rights-of-way in compliance with the City's requirements and in conformity with the requirements of the City as to the form of the deed, a title opinion, monuments and a recordable plan.
- (e) After the extension has been substantially completed, as certified by the City Engineer or other such person as designated by the Public Works Director, the developer shall be responsible to repair and maintain the extension for a period of one year or until such time as the City's acceptance of the extension improvements is complete.
- (f) After the expiration of the one-year period for maintenance, the City Manager shall determine whether or not to issue a certification that the extension has been constructed and installed in accordance with the plans, specifications and standards of the City. The City Manager may require a report of a professional engineer, hired

by the City and paid for by the developer.

- (g) It shall be a condition of the extension agreement and any City acceptance that the developer shall be responsible for any latent defects discovered within eight (8) years from the date of substantial completion, as set forth in RSA 508:4-b, including all defects in design, materials or workmanship, and shall be liable to the City, upon written notice by the City, for the cost of repairs or replacements of all defective improvements. In the event that the developer conveys and transfers the project for which the extension was granted, the subsequent owner shall be responsible for the obligations of the developer for the remainder of the eight-year period regardless of whether or not such obligation is expressly assumed.
- 2. No additional connections to the extension will be allowed for any other property owners requesting service for a period of 10 years from the date of acceptance of the extension by the City unless such property owner(s) agree to pay to the developer a pro rata share of the cost relating to the extension as determined by the City Manager. The developer shall provide a copy of the contract documents for the construction of the extension to the City prior to undertaking any construction for review and approval by the City to ensure that the requirements of the extension agreement have been met. The developer shall include in any construction documents that the proposed extension is intended to be transferred to the City for ownership and maintenance. The City Manager shall determine the pro rata share of cost to new applicants seeking connection to the extension based on the following criteria:
 - (a) The depreciated value of the extension infrastructure paid for by the developer at the time the new applicant utilizes the extension.
 - (b) The percentage of the extension at the point at which the new connector accesses the connection. In essence, how much of the new extension is the connecting applicant utilizing.
- 3. In addition, any security or bond obtained by the contractor constructing and installing the extension for the benefit of the developer shall remain in effect until the expiration of a two-year period from the date the project is accepted by the City and shall be for the benefit of the City.
- 4. Upon compliance with all the conditions set forth herein, the developer may request, and the City Council shall accept the transfer of the extension, including the sewer main and rights-of-way to the City to become part of the City sewer system and the responsibility of the City thereafter.

§ 136-109 PRIVATE SEWER MAINS.

- A. Private sewer mains are defined as those lines having a diameter of eight inches to twelve inches and installed on private property by the landowner or developer. Such private mains shall be constructed, installed and maintained in accordance with City standards at the sole expense of the landowner, and shall require approval by the City Manager under §136-108 above, in addition to a Sewer Use Permit under §136-105.
- B. Any permit issued which includes the installation of a private main shall be subject to the following conditions regardless of whether or not contained in such permit:
 - 1. Such private mains shall be inspected by the City as required by law, as required by the Code of the City of Lebanon and Chapter 36, Building Construction, solely for the

purpose of determining whether or not the private mains meet City requirements. Any expense to meet City requirements as to the installation of the private mains shall be at the sole expense of the landowner. The costs of inspection shall be as provided by the Code of the City of Lebanon, Chapter 68, Fees.

2. If, at any time in the future, the City Council determines that the public interest requires the acquisition of such private mains to be incorporated into the City sewer systems, the landowner at that time shall convey and transfer such private mains to the City upon such terms and conditions as deemed to be in the best interest of the City.

§ 136-110 SEWER LINES WITHIN HIGHWAYS AND SIDEWALKS.

Except in cases of emergency, applicants for Sewer Use Permits or sewer main extensions shall, prior to commencing any construction within any City sidewalk or highway right-of-way, obtain and comply with Excavation Permit requirements as outlined in the Code of the City of Lebanon, Chapter 152, Streets & Sidewalks

§ 136-111 APPEALS, AND REQUESTS FOR MODIFICATIONS.

- A. Any determination, denial, partial denial or revocation of a sewer allocation, Sewer Use Permit or extension by the City Manager or his or her designee may be appealed to the City Council within 30 days of notice of denial by the City Manager. For those appeals where no modification, exception or extension is being requested, the question upon such appeal shall be whether the standards of this Article have been properly applied.
- B. The Council may, upon such appeal, or upon direct application to it, and for good cause shown, grant an exception, modification, or time extension with respect to the standards contained in this Article, upon such terms and conditions as the Council determines to be fair and equitable, provided that such grant, considered together with such terms and conditions, provides equivalent protection of health, safety and environment, is not inconsistent with the goals and purposes of this Article, and is capable of being applied in an impartial manner. In acting upon any such appeal, exception, modification or extension, the Council shall consider only those aspects of the underlying development involving sewage disposal and/or the use and integrity of the City's sewage system and shall not consider other aspects of the development which are subject to review by the Planning Board or other municipal body.
- C. In cases where the modification requested is for an allocation which exceeds the 50% limitation set forth in §136-104, the Council shall consider the following, in addition to the standards of Paragraph B above:
 1. Whether the proposed development is either at or near an end point in the Sewer Collection System, and if so, whether there is a likelihood, in light of zoning, environment, and other factors, of further development beyond that end point which is likely to require additional sewer connections or extensions.
 2. Whether improvements to the Sewer Collection System are planned – either City funded or privately funded – which will generate additional capacity for the involved elements of the System within the next 2 years. However, no Sewer Use Permit which is based upon such a planned increase in capacity shall become final for purposes of connection and use unless and until such System improvements have been completed and are functional, and this restriction shall be inserted into the agreement executed pursuant to Paragraph D below.

- D. In the event that an exception or modification is granted, the applicant and the City shall enter into an agreement similar to a sewer extension agreement under §136-108(B)(1) above, including any such details of that section as the Council determines to be applicable. Such an agreement shall constitute a Notice of Allocation for purposes of this Article. In the event that the exception or modification is conditioned upon improvements which an applicant has offered to construct or fund, and such improvements are expected to create greater capacity in some element of the sewer system than is required to meet that applicant's needs, and the Council accordingly determines that the applicant should be reimbursed for some pro rata portion of that applicant's costs, the agreement shall detail the amount and mechanism for reimbursement.
- E. An appeal or request for modification under this Section shall be taken by filing, with the City Manager, a written document setting forth in detail the aspect of the underlying decision being appealed, and the reasons why that decision is believed to be erroneous, and/or any exception, modification or extension being requested, and the reasons and justification therefor. Such an appeal must be filed within 30 days of the applicant's receipt of the decision or notification being appealed. The determination by the Council, acting as proprietor of the City's sewer system, shall be deemed final. Any decision or determination made under this Article and not appealed within the 30 days shall be deemed final.

Section 6

Chapter 136 of The Code of the City of Lebanon is hereby amended to add new Article XV, "Sewer Development Charge," to read as follows:

ARTICLE XV - SEWER DEVELOPMENT CHARGE

§ 136-120 LEGISLATIVE PURPOSE.

- A. It is regarded as inequitable to finance future capital improvements to the municipal sewer system solely through sewer use (rental) rates. Major capital improvements to a municipal sewer collection and treatment system are most frequently required in order to service future customers, and it appears unfair to require present users to finance this future development, except on some equitable basis. Persons and organizations responsible for development within the City (e.g. developers) are in the best position to allocate costs applicable to the development to the persons and organizations requiring the future services.
- B. Studies done to date by the City of Lebanon identify projects needed to upgrade and reinforce the existing sewer system in order to best meet existing service requirements and to accommodate system expansion. These same studies identify projects required to expand and extend the existing system to serve future customers. It is the purpose of this article to establish a sewer development fee [hereinafter a Sewer Development Charge (SDC)] to recover the costs of maintaining and expanding the system to serve existing and new customers directly from those customers.
- C. By imposing the charges set forth in this article, the costs of maintenance and expansion will be distributed more equitably than if they were to be recovered through the sewer use (rental) rates. This is because the charges set forth in this article allow the investment made by existing customers in core facilities on behalf of future customers, and the higher capital costs of serving new customers to be recognized.

§ 136-121 IMPOSITION OF SEWER DEVELOPMENT CHARGES

- A. An SDC is hereby imposed on all future customers of the City sewer system and on all existing customers who seek to enlarge existing sewer services. This requirement shall apply to customers both within the City and outside the boundaries of the City. (Notwithstanding the foregoing, this article shall not apply to the City, itself, in its role as a developer.) No person or organization shall be legally entitled to connect to the City sewer system or to enlarge an existing sewer service until the sewer development charge imposed by this section is paid. This section is not in derogation of, but is in addition to, all other fees which may be required by the City of Lebanon under any other applicable codes or ordinances.
- B. All SDC's imposed by this article shall be determined by the estimated gallons per day of sewer use of a sewer user. The SDC is based on one sewer unit. See the Code of the City of Lebanon, Chapter 68, Fees, regarding the calculation of amounts.
- C. With respect to persons or organizations seeking to enlarge an existing sewer service, the sewer development charge imposed shall be the difference between the current sewer development charge and any prior paid sewer development charge for the same connection, or if none, the sewer development charge that would have been imposed if a sewer development charge had been assessed on the average actual usage for the previous five years. The Director of Public Works may take other factors into account when determining the valuation of the sewer system.

§ 136-122 SUBSEQUENT CHANGES IN SEWER DEVELOPMENT CHARGES

- A. The Sewer Development Charge imposed by this article shall be reviewed and updated on an as needed basis. Subsequent updates of the Sewer Development Charge shall be determined generally in accordance with the procedure originally developed by Underwood Engineers, Inc. in their User Rate Assistance Report dated August 26, 2014 and updated by the Department of Public Works in 2019.
- B. It shall be the responsibility of the City Council to establish the sewer development charge, and the Council shall do so following a recommendation of the City Manager, and following a public hearing held by the Council to receive input on the City Manager's recommendation. The City Manager's recommendation shall include a five-year projection of capital expenditures for projects to be funded by moneys generated under the sewer development charge and shall further include a proposed sewer development charge rate schedule.
- C. Following the recommendation of the City Manager, the City Council shall review the recommendation and shall act to accept or modify the City Manager's proposed schedule of fees.
- D. The Sewer Development Charge shall be paid in accordance with the provisions of this Chapter and Chapter 68.

§ 136-123 UNPAID SEWER DEVELOPMENT CHARGES CONSTITUTE A LIEN

If any person shall unlawfully connect to the City sewer system without payment of the sewer development charge set forth in this article, all unpaid sewer development charges shall constitute a lien upon the property which is connected to the system. The lien pursuant to this

article shall be placed on the property in accordance with the provisions of RSA 38:22. Interest on these liens shall be calculated in accordance with the provisions of RSA 76:13.

§ 136-124 ABATEMENT OF SEWER DEVELOPMENT CHARGES

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.

Section 7. 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 the remaining sections, subsections, sentences, clauses or part of this ordinance.

Section 8

Effective date: this Ordinance shall become effective January 1, 2019.



H. Bernard Waugh, Jr.
Admitted in NH

207.771.9255
bwaugh@dwmlaw.com

78 Bank Street
Lebanon, NH 03766-1727
603.448.2221 Main
603.448.5949 Fax

RELEASED TO THE PUBLIC
Lebanon City Manager's Office

Date: 11/25/2019

DS
Sm

CONFIDENTIAL AND PRIVILEGED LEGAL COMMUNICATION

November 21, 2019

Shaun Mulholland, City Manager
City of Lebanon
51 North Park Street
Lebanon, NH 03766

Re: Sewer & Water Ordinance Amendments (Code Chapters 68, 136 & 182)
Our City of Lebanon File No. 20158-38.003

Dear Manager Mulholland and other City Officials:

You have requested my legal opinion concerning a package of three City of Lebanon Code Amendments currently under consideration by the Council involving the City's water and sewer systems. The proposals repeal the temporary sewer use provision enacted in early 2018, and institute new permit systems for all developments which will increase a property's water or sewer use, including a Sewer Use Permit, Notice of Allocation process, Water Use Permit, an appeal and exception process for those permits, and a new charge for new or increased impacts on sewer use, entitled Sewer Development Charge. The proposals make other organizational changes including moving all sewer provisions formerly contained in Ch. 181 of the Code into Ch. 136. Several existing fees are also altered and updated.

The version of the amendments addressed by this opinion is the package which was distributed to the Council for its meeting dated October 23, 2019, as altered solely by an amendment to § 136-121(C), which was approved, as part of the draft, by the Council on that date, based on a suggestion by Councilor Below.

§ 115-3 of the City Code requires a legal opinion "as to the authority and validity" of any ordinance or substantive amendment thereto.

Privileged and Confidential Communication

Shaun Mulholland, City Manager

November 21, 2019

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SUMMARY OF OPINION:

It is my opinion that the package of amendments would, if enacted, be valid and within the legal authority of the City, subject to the following *caveats*:

(1) That if there were a challenge, the City would have engineering and cost accounting experts to testify as the reasonableness of the technical assumptions incorporated into the proposals concerning system capacity and allocation, and of the various fees and charges being proposed. (In other words, I have not independently evaluated the engineering and cost aspects of the proposals); and

(2) That the City will implement the proposals in a manner consistent with the standards contained therein, and in particular that the Council, in administering the appeals and exception provisions, will act fairly and impartially, in a manner untainted by favoritism, bias, or disagreement with development decisions made by other City boards (the risk of any such future bias being the primary legal risk I discern in these proposals).

BASIS FOR OPINION:

With respect to State statutory enabling authority, the City Council has authority under RSA 149-I:6, I, to establish ordinances or bylaws “as are required for proper maintenance and operation” of the City’s sewer system. The gamut of possible charges for sewer connections and use are covered by RSA 149-I:7 and :8, so long as the amounts are “roughly proportional” to the costs incurred over time by the City in providing the service, *see, e.g. McGrath v. Town of Canaan*, 147 N.H. 623 (2002); *Concord Steam Corp. v. City of Concord*, 128 N.H. 724 (1986). In the realm of the City’s water system, the statutory authority for charges and regulations is found in RSA 38:26 through 38:28.

With respect to the possibility of claims of vested rights, it is true that certain state statutes grant “vested rights” to development projects which have been subject to a hearing process before the planning board, to exempt them from subsequent amendments to zoning ordinances or land use regulations. However RSA 674:39, I specifically *excepts* from such vesting “*those regulations and ordinances which expressly protect public health standards, such as water quality and sewage treatment requirements...*” In any event, nothing in the proposals before the Council would run counter to RSA 674:39 in the first place, because the process being instituted would – as drafted – not result in a final planning board approval without water and sewer issues already having been resolved.

Privileged and Confidential Communication

Shaun Mulholland, City Manager

November 21, 2019

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In addition, N.H. case law has indicated that there is no vested right to be exempt from regulations whose aim is protection of public health and safety. *"There is no such thing as an inherent or vested right to imperil the health, or impair the safety of the community..." Fischer v. N.H. State Building Code Review Board*, 154 N.H. 585 (2006). The case of *Adams v. Bradshaw*, 135 N.H. 7 (1991) involved a town which voted to discontinue its sewer system, and some of the affected owners challenged the action as an unconstitutional "taking" of their property. The N.H. Supreme Court held that the sewer system was the Town's property, not the landowners' property, and hence no constitutionally-vested right could arise.

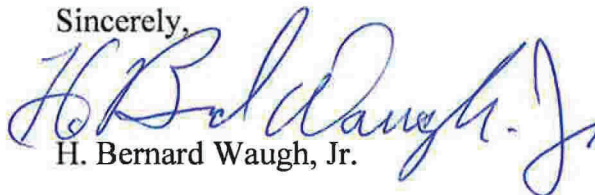
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In summary, while it is true that the sewer Notice of Allocation process contained in these proposals is not based on any well-established model of regulation already adopted by numerous municipalities, and thus must necessarily be deemed to have a "pioneering" aspect to it, in my view it is solidly within the class of legally allowable regulatory tools with which a municipality is permitted to safeguard the operation of its utility systems and the public health. I have been involved in every aspect of the development of this package of proposals, and have no remaining concerns over the language used.

* * *

Please let me know if there are questions or comments, or if I can be of further help.

Sincerely,

A handwritten signature in blue ink, reading "H. Bernard Waugh, Jr.", written over the printed name.

H. Bernard Waugh, Jr.

cc: Paula Maville, Deputy City Manager



Town of Enfield

Office of the Town Manager
23 Main Street, P.O. Box 373
Enfield, New Hampshire 03748
VOICE/TDD 603-632-5026 * FAX 603-632-5182
EMAIL: raylesworth@enfield.nh.us

November 22, 2019

Honorable City Council
City of Lebanon
51 North Park Street
Lebanon, NH 03766

Re: Sewer Development Charge

Dear Councilors:

The Town of Enfield has recently become aware of the City's intention to amend its sewer service ordinance by introducing a new "sewer development charge." As you know, this sewer development charge was not contemplated at the time our present Intermunicipal Agreement (IMA) was finalized and executed earlier this year.

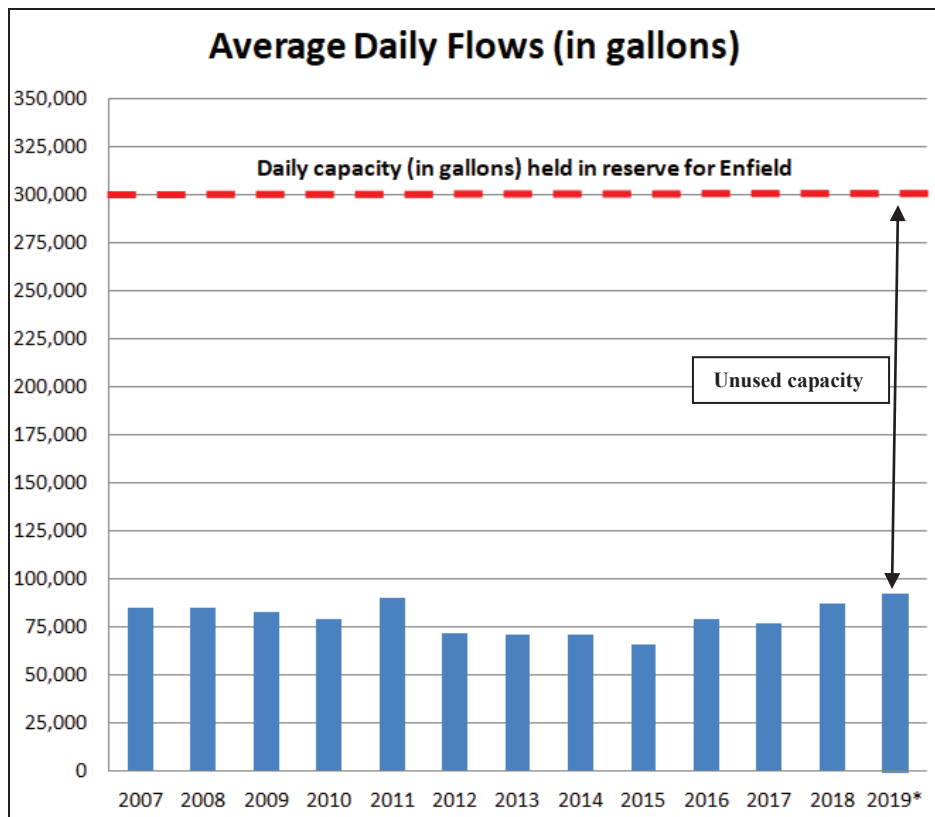
Although the focus of the sewer development charge is development within the City and expansion of capacity to address the City's growing needs, the ordinance also suggests it applies to the Town of Enfield. Our analysis indicates there is no basis for applying the new sewer development charge to the Town of Enfield and its customers.

The proposed ordinance refers to "customers." The IMA does not refer to the Town as a "customer," nor is the word a defined term. Rather, the "Town" is a single entity with whom the City has contracted to provide waste water treatment facilities. In short, "[t]he City agrees to provide waste water service to the Town." Section 3.1. The Town has exclusive control over the connections of properties to its sewer system, and the owners of those properties are its customers. The City exercises no direct control over Enfield's customers, but rather it is the Town that is responsible to Lebanon for the conduct of the Town's customers. See, e.g., Section 3.6. Section 3.3 contains detailed provisions controlling how the two communities are to manage a request by the Town for additional capacity. That request is initiated by the Town. See also, Section 4.1. Those provisions do not include a sewer development charge.

The City of Lebanon acknowledges "capacity limitations" and the need of the City to increase capacity to serve future development within the City. Section 136-101. The charge is intended to "accommodate system expansion...required to expand and extend the existing system to serve future customers." Section 136-120B. As a consequence, Section 136-100 presents a comprehensive system for allocating remaining capacity within the City, ultimately leading to a "notice of permitted allocation." It is worth noting that the allocation is on a "first come, first served basis." That being the case, the Town of Enfield reserved 300,000 gallons per day capacity in the 1980s.

In 1984 the Town of Enfield and the City of Lebanon entered into an "Intermunicipal Agreement for Joint Use of Sewerage Facilities." The Town acquired 180,000 gpd of treatment capacity, later expanding that to 300,000 gpd. This capacity is bought and paid for, and recognized in the IMA as such. Section 4.1. Between 2007 and 2019, the Town's average daily flow has fluctuated between 65,000 gpd and 92,000 gpd (see Figure 1 below). Even with the recent addition of new users

following the completion of a sewer extension project that connected Lakeview Condominiums (131 units) to Enfield's municipal wastewater system, it is immediately apparent that the Town of Enfield will not need to supplement its existing reserved capacity for many decades to come.



Thus we seek to clarify the intention of the City. The agreements between the Town and City have demanded of each good faith and fair dealings. There can be no doubt that attempting to impose a sewer development charge on the Town of Enfield in order to secure benefits only for the City of Lebanon, is inequitable. Of course, this all could be a misunderstanding. The Town has been and always will be a reliable partner. Historically, the Town has participated in funding capital improvements to the sewer plant which addressed treatment deficiencies without any surcharge or reserve fund being created in the City of Lebanon.

The Town values its relationship with the City of Lebanon, which extends to a variety of other municipal functions and services. We will make funds available to serve the common interests of the two communities when needed work is identified. We look forward to hearing from you at your earliest possible convenience.

Respectfully,

Ryan Aylesworth
Town Manager

cc: Barton L. Mayer, Esquire

November 25, 2019



**LEBANON CITY COUNCIL
NOTICE OF PUBLIC HEARING
Council Chambers, City Hall
Wednesday, December 4, 2019
7:00pm**

The Lebanon City Council will hold a public hearing on December 4, 2019, beginning at 7:00pm in Council Chambers for the following:

- A. ORDINANCE #2019-14 TO AMEND CITY CODE CHAPTER 136** - A public hearing for the purpose of receiving public input and taking action on proposed Ordinance #2019-14 to retitle and amend City Code Chapter 136, Sewer Service, to include certain provisions of former Chapter 181, and the addition of new language relative to sewer capacity limitations, allocation, permits, and sewer development charges.
- B. ORDINANCE #2019-15 TO AMEND CITY CODE CHAPTER 182** - A public hearing for the purpose of receiving public input and taking action on proposed Ordinance #2019-15 to retitle and amend City Code Chapter 182, Water Service, to include certain provisions of former Chapter 181.
- C. ORDINANCE #2019-16 TO AMEND CITY CODE CHAPTER 68** - A public hearing for the purpose of receiving public input and taking action on proposed Ordinance #2019-16 to amend City Code Chapter 68, Fees, Article III, Miscellaneous Fees, §68-15, Enumeration of Fees to retitle "Sewerage Treatment Plant Connection" fee to "Sewer Use Permit" fee, update fee amounts, and implement a sewer development charge.
- D. ORDINANCE #2019-17 TO REPEAL CITY CODE CHAPTER 181** - A public hearing for the purpose of receiving public input and taking action on proposed Ordinance #2019-17 to repeal City Code Chapter 181, Water & Sewer Main Extensions.

The December 4, 2019 City Council agenda package will be available in City Hall and on the City's website (www.lebanonnh.gov) beginning November 27, 2019. Documents may be reviewed in the office of the City Clerk Monday through Friday from 8:00am to 4:30pm.

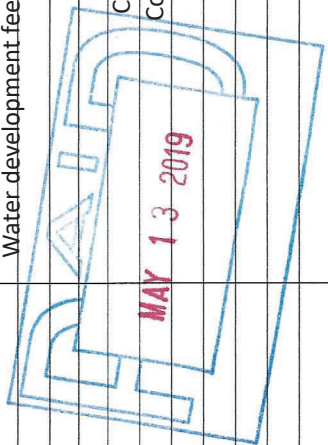
Any person with a disability who wishes to attend this public meeting and needs additional accommodations, please contact the ADA coordinator at City Hall by calling 448-4220 at least 72 hours in advance so that the City can make any necessary arrangements.

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, November 23, 2019.

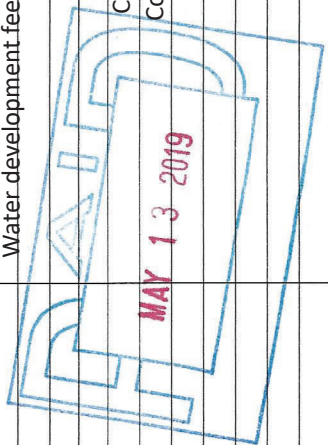
Sandra L. Allard

Sandra L. Allard, City Clerk

		For 15 White Birch, West Lebanon NH		5/8/2019
	Rock Ridge Development LLC-permit # 2019-00113			
	10 Northwood Drive		For 36 Dogwood Circle, West Lebanon, NH	
	Bloomfield, CT 06002			
	RE: Water and Sewer Connection Fees Permit # 2019-00113			
PART I	Sewer Connection Fees for the City of Lebanon:			
	Sewer connection inspection fee	Sewer Use Permit Fee	\$250.00	\$34.00
	Sewerage treatment plant connection fee for 1 single family homes	Sewer Development Charge	\$3,907.80	\$182.00
		Sewer Connection Inspection Fee	\$488.00	
		Total Sewer	\$4,645.80	\$216.00
PART II	Water Investment Fee Payable to the City of Lebanon:			
	Based on 5/8 inch meter	Water standard service connection fee	\$1,338.00	\$1,338.00
		Water Investment Fee	\$70.00	
		Water development fee	\$680.00	
PART III	Water Service Connection Fee:			
	Water connection inspection fee	Connection Inspection Fee	\$30.00	\$30.00
	Cost of meters:	Cost of Meter	\$323.00	\$323.00
	Permit Fee	Permit Fee	\$20.00	\$20.00
		Total Water	\$2461.00	\$1,711.00
			\$1123.00	
		TOTAL FEES	\$7,106.80	\$1,927.00
		Percentage Increase from 2019 to 2020	269 %	



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		Percentage Increase from 2019 to 2020	269 %	



Barry Schuster

From: Todd Westhaver <TWesthaver@rrleb.com>
Sent: Thursday, October 1, 2020 8:27 AM
To: Barry Schuster
Subject: FW: Rock Ridge: Water and Sewer Connection Fees for New Permits
Attachments: apforsig_rockridge_sewer.pdf; Lebanon, Rock Ridge Permit, D2015-1103 gsa.pdf; rock ridge phase II ext insp agreement.pdf; Rock Ridge Third Party Inspection RFP.pdf

Barry,

As discussed the other day. Here is one of the email trails regarding the sewer allocations for Phase 2.

Todd

From: Todd Westhaver
Sent: Thursday, September 3, 2020 2:52 PM
To: Vincent, Brian <bvincent@lebanonnh.gov>
Cc: Cairelli, Jay <Cairelli@lebanonnh.gov>; Dan Nash <advancedgeomatrics@comcast.net>
Subject: RE: Rock Ridge: Water and Sewer Connection Fees for New Permits

Afternoon Brian,

Thanks for the information. I have a question regarding the sewer allocation application and sewer inspection fee. I am applying for these building permits on lots in Phase2. In 2015 Rock Ridge received an approved Water and Sewer Extension Agreement from the City and State with allocations calculated for the entirety of Phase 2 (51 homes). Rock Ridge also paid for a Third Party Inspection of all the utility installation in Phase 2. I've attached these documents for your review. My question is, if Rock Ridge already paid for/has approved allocation, and our sewer lines were inspected by a Third Party, why does Rock Ridge have to pay for allocation and inspection a second time? Please advise. Thank you.

V/r,
Todd

Todd Westhaver
Rock Ridge Lebanon
603-790-8449 (Farmhouse)
Twesthaver@RRLEB.com

From: Vincent, Brian <bvincent@lebanonnh.gov>
Sent: Friday, August 28, 2020 4:31 PM
To: Todd Westhaver <TWesthaver@rrleb.com>
Cc: Cairelli, Jay <Cairelli@lebanonnh.gov>
Subject: RE: Rock Ridge: Water and Sewer Connection Fees for New Permits

Hi Todd,

See linked form: <https://lebanonnh.gov/DocumentCenter/View/11142/Application-for-Sewer-Use-Allocation-PDF> for sewer allocation/use. Note that there is a sewer inspection fee also that is not included in this form. Those costs are here: <https://ecode360.com/8378079>

See linked checklist and form for water connection: <https://lebanonnh.gov/1408/Water-and-Sprinkler-Service-Permit>

Let me know if you have any other questions.

Thanks,

Brian A. Vincent, PE

City Engineer

City of Lebanon

Department of Public Works

193 Dartmouth College Highway

Lebanon, NH 03766

603-448-3112 x 1515

bvincent@lebanonnh.gov

From: Cairelli, Jay <Cairelli@lebanonnh.gov>

Sent: Friday, August 28, 2020 2:57 PM

To: Vincent, Brian <bvincent@lebanonnh.gov>

Subject: FW: Rock Ridge: Water and Sewer Connection Fees for New Permits

Please see below. These are for single family houses. I'm sure you have the number handy

From: Todd Westhaver <TWesthaver@rrleb.com>

Sent: Friday, August 28, 2020 9:05 AM

To: Cairelli, Jay <Cairelli@lebanonnh.gov>

Cc: Hall, Christina <hall@lebanonnh.gov>; Steve Becker <SBecker@rrleb.com>

Subject: Rock Ridge: Water and Sewer Connection Fees for New Permits

Morning Jay,

Rock Ridge is about to apply for seven new building permits. I wanted to check with you about the cost of the water and sewer connection fees we will have to pay. Last year the combined connection fees were \$1927.00 per home. I'm trying to budget these fees out for the builds and was hoping you could tell me how much they are this year. Can you help me out? Thank you.

V/r,
Todd

Todd Westhaver

Rock Ridge Lebanon

603-790-8449 (Farmhouse)

Twesthaver@RRLEB.com

This email has been scanned for spam and viruses by Proofpoint Essentials. Click [here](#) to report this email as spam.

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



**CITY OF LEBANON
DEPARTMENT OF PUBLIC WORKS**

193 Dartmouth College Highway
Lebanon, NH 03766

October 29, 2020

Rock Ridge
Attn: Todd Westhaver
130 Old Pine Tree Cemetery Rd, West Lebanon, NH

Re: Lebanon Sewer Permitting – Residential, Single Family Home, 36 Dogwood Circle,
West Lebanon, NH 03784

Enclosed please find your Notice of Allocation for sewer capacity, and an invoice for the Sewer Development Charge along with Your Water Use Permit. Your Invoice for your SDC has been calculated to be \$3,907.80. Please submit a check for the costs within ninety days of the date of the invoice. Once your invoice has been paid in full, we will issue you the Sewer Use Permit.

If you should have any questions, please do not hesitate to contact me.

Thank you,

DocuSigned by:
Brian Vincent
757915FAA2DE483...
Brian Vincent, P.E.
City Engineer
(603)448-3112
UtilityPermits@LebanonNH.gov



INVOICE

CITY OF LEBANON
51 NORTH PARK STREET
LEBANON, NH 03766-1381

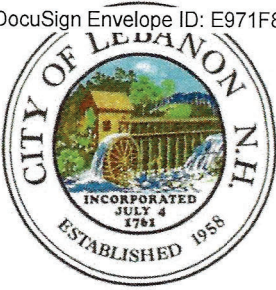
Customer No: D2555
Invoice No: 13042
Reference No: 2020-19
Invoice Date: 10/29/2020
Due Date: 11/28/2020
Terms: NET 30

SOLD TO: 36 DOGWOOD CIRCLE ROCK RIDGE LEBANON, LLC
130 OLD PINE TREE CEMETERY ROAD
WEST LEBANON, NH 03784

Contact:
Desc: Sewer Development Charges

ITEM	DESCRIPTION	QTY	PRICE	TOTAL
SDC 20%		1	781.56	781.56
SDC 80%		1	3,126.24	3,126.24
Note:				
Invoice Total:				3,907.80

IF YOU HAVE ANY QUESTIONS REGARDING THIS BILL, PLEASE CONTACT DPW 603-448-3112



NOTICE OF ALLOCATION

This Notice of Allocation reserves sewer capacity for the applicants use while other land use permits are attained in accordance with the provisions of Chapter 136 of the City Code. This Notice of Allocation is only valid for a period of two years. To retain this Allocation the applicant must still apply for a Sewer Use Permit from the City of Lebanon.

Property location: 36 Dogwood Circle, West Lebanon, NH

Tax Map: 74-3 Lot: 163

Applicant: Todd Westhaver, Rock Ridge Lebanon, LLC

Type of Sewer use (i.e. Commercial, residential, etc.): Single Family Home

Average Daily Flow Reserved: 280 gpd*

Sewer Units: 2

Issued By: DocuSigned by:
Shaun Mulholland
AE8G225904D9436...

Shaun Mulholland, City Manager

Date Issued: 10/29/2020

Date Expires: 10/29/2022

*In order to reserve this allocation you must remit 20% of the anticipated Sewer Development Charge within 30 days of this notice. Failure to do so will result in revocation of this allocation.

The issuance of a Notice of Allocation or Sewer Use Permit shall not be deemed to create any kind of vested or property right in the City-owned sewer system. The privileges conferred by such permits may not be assigned, traded, exchanged among properties, or applied to a materially different development without the approval of the City Manager acting on a revised application submitted under this section.



WATER SERVICE PERMIT

This Water Service Permit is issued for this location for the estimated flows enumerated below. The permit allows use of municipal water originating from the City's water system in accordance with the provisions of Chapter 182 of the City Code as well as applicable federal and state laws, rules and regulations. This permit is valid unless otherwise revoked for the property and buildings as approved by the Lebanon Planning Board. Any planned modifications to this property which result in additional water demand above the allocated amounts detailed below require the property owner to seek a permit modification from the Department of Public Works. Water use shall be assessed as part of the Building Permit Process or Site Plan review. This permit shall remain valid regardless of a change in ownership of the property unless otherwise revoked by the City in accordance with the provisions of Chapter 182 of the Code of the City of Lebanon and applicable federal and state laws, rules or regulations.

Water Service Permit Number: 2020-19

Property location: 36 Dogwood Circle, West Lebanon, NH

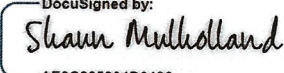
Tax Map: 74-3 Lot: 163

Permittee: Todd Westhaver, Rock Ridge Lebanon, LLC

Type of Water use (i.e. Commercial, Residential, etc.): Single Family Home

Average Daily Permitted Flow: 280 gpd

Equivalent Sewer Units: 2

DocuSigned by:

 Issued By: _____
 AE8C225904D9436...

10/29/20
 Date: _____

Shaun Mulholland, City Manager

Barry Schuster

From: Todd Westhaver <TWesthaver@rrleb.com>
Sent: Wednesday, October 21, 2020 7:03 AM
To: Brian Vincent
Cc: Cushman, Leann; Steve Becker
Subject: RE: sewer and water questions: Rock Ridge

Morning Brian,

Thanks for taking the time to sort through this with me.

As we discussed, I dropped off to the DPW drop box yesterday afternoon three Water and Sewer permit applications, along with checks for the Sewer Application fees (\$250.00) and the entire Water Application fee (\$1,123.00). The three applications correspond to the three building permit applications that were filed with the Building Dept last month (36, 38, and 39 Dogwood Cir). I would appreciate any assistance you could provide in expediting the approval.

Just to make sure I have the process correctly in my head, I will receive an invoice from the DPW for the remaining balance of the Sewer Application fees which must be paid before we receive a CO. Please do NOT mail them to CT, but rather to 130 Old Pine Tree Cemetery Rd, W. Lebanon, NH 03784. I'm trying to consolidate snail mail to just the farmhouse...thanks. I'll be watching for the invoices.

Please let me know if I am confused about anything in the process. Thanks again for your help the other day!

Have a good day!

V/r,
Todd

Todd Westhaver
Rock Ridge Lebanon
603-790-8449 (Farmhouse)
Twesthaver@RRLEB.com

From: Brian Vincent <brian.vincent@lebanonnh.gov>
Sent: Monday, October 19, 2020 3:52 PM
To: Todd Westhaver <TWesthaver@rrleb.com>
Subject: sewer and water questions: Rock Ridge

Hi Todd,

Good talking with you this afternoon. Given that your project has already installed the sewer main tap, and that construction was inspected by the Third Party Engineer and the City inspector, you do not need to pay the "New service main tap/inspection", which in your case would have been \$488.

Also, I have attached a side-by-side comparison of how the Water Investment Fee (WIF) was calculated prior to this year, and how it is currently calculated (split between a WIF and Water Development Fee (WDF)). Hopefully this addresses your question.

Let me know if you have any further questions.

Thanks,

Brian A. Vincent, PE

City Engineer

City of Lebanon

Department of Public Works

193 Dartmouth College Highway

Lebanon, NH 03766

603-448-3112 x 1515

bvincent@lebanonnh.gov

FINAL

**LEBANON PLANNING BOARD
Regular Meeting
Monday, December 14, 2020, 6:30 PM
Remote Via Microsoft Teams
LebanonNH.gov/Live**

ROLL CALL OF

MEMBERS PRESENT: Bruce Garland (Chair), Matthew Hall (Vice-Chair), Jim Winny (Council Representative), Gregorio Amaro, Kim Chewning, Joan Monroe, Kathie Romano, Jeremy Rutter, and Laurel Stavis

MEMBERS ABSENT: None

STAFF PRESENT: David Brooks (Planning Director), Tim Corwin (Senior Planner), Brian Vincent (City Engineer)

1. Call to Order Chair Garland called the meeting to order at 6:30 PM.

A. Review of meeting procedures and NH RSA 91-A “Right-to-Know” requirements.

Mr. Corwin shared the State directive and participation details for the online meeting in Microsoft Teams. All members identified themselves.

Chair Garland conducted a roll call of members present as reported above.

2. Notice of Regional Impact

R.S. Audley, Inc. (applicant), Twin State Sand and Gravel Co. (property owner), 107 South Main Street (Tax Map 101, Lot 33), zoned GC: Applicant requests Site Plan Review and a Conditional Use Permit pursuant to Article III, Section 305.2 of the Zoning Ordinance for a proposed temporary contractor’s yard use in connection with the NHDOT I-89 Connecticut River bridge construction project. **PB2021-01-SPRCUP**

Mr. Corwin stated that the Planning Staff recommended there is no potential for regional impact.

A MOTION by Matthew Hall that the above application does not have the potential for regional impact.

Seconded by Joan Monroe.

Roll Call Vote:

Voting in Favor – Ms. Romano, Ms. Chewning, Ms. Stavis, Mr. Garland, Mr. Amaro, Mr. Rutter, Ms. Monroe, Mr. Winny, Mr. Hall

Voting Against - None

****The MOTION was approved (9-0).***

3. Public Hearing Items –

Note: Agenda Items were taken out of order by the Chair. These minutes reflect the order of agenda items as actually discussed by the Board.

- A. **Mary Hitchcock Memorial Hospital, One Medical Center Drive (Tax Map 10, Lot 8), zoned MC:** Request for Site Plan Review to expand the existing emergency department at Dartmouth Hitchcock Medical Center with the construction of +/-4,631 sq. ft. of additional building area, together with the reconfiguration of the ambulance staging area, construction of a new overflow ambulance parking area, as well as the installation of associated site improvements. **PB2020-34-SPR** - Completeness review only on 12/14/2020, public hearing to commence on 1/11/2021

Mr. Hall recused himself for this application.

Mr. Corwin stated that Staff recommends that the above application is complete enough for the Board to accept jurisdiction and commence review. The application would follow a two-month review schedule, with completeness to be determined at this meeting and the hearing continued until January 11, 2021.

A MOTION by Joan Monroe that the application of Mary Hitchcock Memorial Hospital, One Medical Center Drive (Tax Map 10, Lot 8), zoned MC is complete enough for the Planning Board to accept jurisdiction and commence review.

Seconded by Jeremy Rutter.

Roll Call Vote:

Voting in Favor – Mr. Rutter, Mr. Winny, Ms. Monroe, Ms. Romano, Ms. Chewning, Ms. Stavis, Mr. Garland, Mr. Amaro

Voting Against - None

Recused – Mr. Hall

****The MOTION was approved (8-0-1).***

A MOTION by Joan Monroe to continue the hearing on the application of Mary Hitchcock Memorial Hospital, One Medical Center Drive (Tax Map 10, Lot 8), zoned MC, to January 11, 2021 at 6:30PM.

Seconded by Laurel Stavis.

Roll Call Vote:

Voting in Favor – Ms. Stavis, Mr. Garland, Mr. Amaro, Mr. Winny, Mr. Rutter, Ms. Monroe, Ms. Romano, Ms. Chewning

Voting Against - None

Recused – Mr. Hall

****The MOTION was approved (8-0-1).***

Mr. Hall returned to the meeting.

- D. **Basic Holdings, LLC, 5 & 11 Oak Ridge Road, (Tax Map 4, Lots 5 & 6), zoned R-3:** Request for Final Major Subdivision Review, Site Plan Review, and a Conditional Use

Permit for a proposed Planned Unit Residential Development (PURD) pursuant to Section 501.2 of the Zoning Ordinance, containing 22 residential units together with related site improvements and amenities. **PB2020-31-FMAJ** - Completeness Review and Opening Public Hearing. Continued from November 9, 2020

Mr. Corwin referred to the Staff memo, stating that the applicant is in the process of obtaining the required sewer and water extension approvals and addressing technical concerns regarding the site design. Staff recommends deferring completeness until the January 11, 2021 meeting, at which time it should be possible to determine completeness. The applicant has given consent to the deferral.

A MOTION by Jeremy Rutter to defer the decision on completeness on the application of Basic Holdings, LLC, 5 & 11 Oak Ridge Road, (Tax Map 4, Lots 5 & 6), zoned R-3, until the January 11, 2021 meeting.

Seconded by Laurel Stavis.

Roll Call Vote:

Voting in Favor – Ms. Monroe, Ms. Romano, Ms. Chewning, Ms. Stavis, Mr. Hall, Mr. Garland, Mr. Amaro, Mr. Rutter, Mr. Winny

Voting Against - None

****The MOTION was approved (9-0).***

- E. **Rock Ridge Lebanon, LLC, Old Pine Tree Cemetery Road (Tax Map 74, Lot 3, Plots 101-146), zoned RL-2 and RL-3:** Pursuant to Section 7.12.D of the Subdivision Regulations, applicant requests an extension of time for the completion of the required infrastructure improvements for Phase 3 of the Rock Ridge planned unit residential development, originally approved by the Planning Board on July 7, 2005. **PB2020-33-EXT**

Mr. Corwin noted that Staff reviewed the application and recommends that it is complete enough for the Board to accept jurisdiction and commence review.

A MOTION by Matthew Hall that the Lebanon Planning Board finds the application of Rock Ridge Lebanon, LLC, Old Pine Tree Cemetery Road (Tax Map 74, Lot 3, Plots 101-146), zoned RL-2 and RL-3, is complete enough to accept jurisdiction and commence review.

Seconded by Jeremy Rutter.

Roll Call Vote:

Voting in Favor – Ms. Chewning, Ms. Stavis, Mr. Hall, Mr. Garland, Mr. Amaro, Mr. Rutter, Mr. Winny, Ms. Monroe, Ms. Romano

Voting Against - None

****The MOTION was approved (9-0).***

Mr. Corwin first stated that the topic of extensions would be an appropriate subject for a future discussion by the Planning Board. The background regarding extensions and vesting for this project was explained. In 2009, the Board approved a three-phase development for Rock Ridge. At the same time, the Board agreed to a partial suspension of the recorded plat, which allowed the developer to remove the security for Phases Two and Three. The applicant received an extension until 2016 to complete Phases Two and Three. The applicant will give an update on Phase Two. Phase Three is the subject of this discussion, and several extensions have been given to complete infrastructure work. The applicant is

requesting an extension until December 2021 to complete the site work. The extension of a plan approval under Section 7.12.D of the Subdivision Requirements states that a second extension request can only be granted if the Board finds that there would be a violation of vested rights. That limitation doesn't apply in this case as legal counsel determined that the 2009 notice of partial suspension supersedes that limitation.

Todd Westhaver, Project Manager of Rock Ridge, and Atty. Barry Schuster participated online in support of the application.

Mr. Schuster stated that the Site Plan Regulations mention unusual circumstances beyond the control of the applicant, which applies based upon COVID-19 concerns this year, which impacted the work on Phase Three. Phase Two is almost complete, except for the approval by National Grid to allow completion of the underground installation of power through existing conduit. Some work has begun on Phase Three, and the project has been diligently moving forward.

Mr. Westhaver described some significant gains despite COVID-19. They have sold an additional 10 houses, and the last units on White Birch Lane will be completed in April next year. Rock Ridge has come to an agreement with National Grid, and they will be working on the east side of the power line easement. Three permits have been approved, and the applicant is completing the first seven houses in that area. A Connecticut company scheduled to work on Phase Three had to lay off employees due to the pandemic, but they are hoping to move forward if the extension is approved. Phase 3 excavation materials were used to backfill sites in Phase Two and begin sitework for Phase 3. Progress has been made despite layoffs due to COVID-19.

Ms. Romano inquired if the developer was required to blast anywhere on the site. She also expressed her dismay that the project was approved more than a decade ago without the approval to cross the National Grid right-of-way. Atty. Schuster stated that they have worked with National Grid throughout and most work proceeded. The lack of an assent agreement did not slow down the development given that enough was happening on the west side. The agreement is now being signed. Mr. Westhaver added that National Grid wanted to change the original easement. To answer the other question, the applicant has been required to blast on the site and will need to do so on Phase Three.

Mr. Hall inquired if the applicant would rather have a two-year extension. Atty. Schuster noted that a two-year extension was suggested in the meeting with Staff and would be appropriate. Mr. Westhaver added that two years would coordinate with the wetlands permit timing and two other approvals. It would allow the work to be completed.

There was no public comment. Staff had no objection to changing the extension from one year to two. In the absence of further discussion, the Public Hearing was closed.

A MOTION by Matthew Hall that the Lebanon Planning Board APPROVE the application of ROCK RIDGE LEBANON LLC, PB2020-33-EXT, for an extension of time for the completion of the required infrastructure improvements for Phase 3 of the Rock Ridge development (formerly Sleeper Village), a 140-unit Planned Unit Residential Development at Old Pine Tree Cemetery Road, Tax Map 74, Lot 3, in the RL-3 zone, as requested in an application submitted by Barry Schuster, Esq., on behalf of Rock Ridge Lebanon, LLC, received November 9, 2020, including any and all submissions and testimony provided for and during the public hearing, with the following conditions:

1. *The applicant shall be required to complete Phase 3 site improvements by December 1, 2022 pursuant to all applicable conditions of all of the Planning Board's Notices of Action for the Rock Ridge (f/k/a Sleeper Village) development, including but not limited to, the original*

Subdivision and Conditional Use approval dated July 7, 2005 and the Notice of Partial Suspension of Final Subdivision Approval dated January 26, 2009.

- 2. The performance security for all required Phase 3 infrastructure improvements shall be in place prior to commencement of any site work in that phase. The applicant shall execute a new Performance Bond/Security Agreement to accompany the performance security.*
- 3. A "Removal of Hold" document for Phase 3, approved by the City's attorney, shall be executed by the Planning Board Chair and recorded in the Registry of Deeds prior to the commencement of any site work and prior to the sale or transfer of any lots or units within Phase 3.*
- 4. Prior to the start of construction activities for Phase 3, the applicant shall address all questions and comments from the NHDES in a letter to the City of Lebanon dated September 12, 2017 and a memorandum from Assistant City Engineer to Peter Bull dated September 22, 2017 to the satisfaction of the Department of Public Works.*
- 5. The applicant shall execute a new Water and Sewer Extension and Inspection Agreement in accordance with Chapter 136 and 182 of the City Code and Section 14 of the Subdivision Regulations for Phase 3 of the development.*
- 6. Prior to the start of any construction activities in Phase 3 for which construction inspection is required pursuant to this decision, or any applicable ordinance or code, the City shall retain the services of an independent third-party inspector, for which the applicant shall be responsible for all inspection fees related to construction and installation of roadways, sidewalks, water and sewer utilities, storm drainage systems, and erosion control, in accordance with Chapter 136 and 182 of the City Code and Section 14 of the Subdivision Regulations. The applicant shall provide funding for inspection services in a form acceptable to the City. As-built drawings provided by the applicant (using the NH State Plane Coordinate system), including tie sheets and Northing and Easting coordinates and elevations of underground utilities, and third-party engineer inspection reports shall be reviewed and approved by the City Engineer, prior to acceptance of any utility improvements by the City, and all such Inspection reports shall be made available to the applicant, upon request.*

Seconded by Jeremy Rutter.

Ms. Romano inquired if the City would receive a copy of the assent agreement from National Grid or if there would be a condition that there is an agreement by a certain time. Mr. Brooks stated that the Board could ask for a copy, but the City is not a party to the agreement. The Board cannot base its approval on the existence of that agreement. Mr. Corwin noted that it is between the applicant and the easement holder.

Mr. Brooks stated that the request the Board is considering is only with respect to Phase Three. The easement and assent agreement affect portions of Phase One and Phase Two. It does not affect Phase Three.

Roll Call Vote:

Voting in Favor – Mr. Amaro, Mr. Rutter, Mr. Winny, Ms. Monroe, Ms. Romano, Ms. Chewning, Ms. Stavis, Mr. Hall, Mr. Garland

Voting Against - None

****The MOTION was approved (9-0).***

- B. **Jolin Salazar-Kish, 8-10 & 14 Bank Street (Tax Map 92, Lots 125 & 124), zoned LD:**
Request for Site Plan Review of a proposed 47-unit multi-family residential development to consist of one existing building and two new buildings on two lots to be merged, together with associated site improvements. **#PB2019-39-SPR** - continued from July 13, 2020 (40 mins) - Continued from October 13, 2020

Ms. Chewning recused herself for this application.

Jolin Salazar-Kish, Sue Reed, and Dan Nash were present online to speak on behalf of the application.

Mr. Corwin noted that several changes were made to the plan, and the traffic study was included in the meeting packet.

Ms. Salazar-Kish described changes made to the façade based on Board comments and provided three views of the revised design for the 14 Bank Street building. Additional changes described included a reduction in the impact to traffic due to the reduction in units from 40 to 26. The one-way driveways would create fewer left hand turns toward the green. Additional shade trees were included in the landscaping plan, and the lighting analysis showed no spillage except where waived.

Mr. Corwin stated that the new proposal requires a few waivers. The waiver for lighting per Section 6.7.2.B was already approved. The proposed waivers are as follows:

- Partial Waiver of Section 6.2.B.1 – “On all parcels subject to these Regulations, a minimum landscaped area along the front, side, and rear property lines shall be provided, except within the Central Business District where proposed development of the site does not allow. This area shall be a minimum of 15 feet in width for the length of each property line, and shall total at least 20% of the entire lot area.” (emphasis added)

A perimeter landscape area of 15 ft. in width is not provided in some locations around the perimeter of the property (e.g. the area between the parking spaces along the entry drive and the Lebanon Library, and the area at the eastern end of the rear parking lot).

- Partial Waiver of Section 6.2.B.4 – requiring that trees to be planted no closer than 8 ft. to any lot line
- Waiver of Section 6.2.B.6 – requiring a 20 ft. wide opaque buffer between the proposed multifamily use and the abutting office use at 18 Bank Street (“Where necessary to mitigate the impact of a land use on neighboring properties or the neighborhood, the Planning Board will require that all or some of the perimeter landscaping required herein be planted as an opaque or semi-opaque buffer, and increased in width pursuant to the chart that appears on page 29 of the Site Plan Review Regulations.”)
- Partial Waiver of Section 6.2.D – “Landscaping around buildings shall be provided to a minimum width of 10 feet and planted with trees, shrubs, and ground cover appropriate to the architecture in order to buffer parking areas, define entrances, provide foundation planting, and soften large expanses of walls or long roof lines.”

- Section 6.5.B.5 – “Minimum access requirements shall include a 50-foot turning radius and 22-foot fire lanes at the rear of the buildings.” Note: It appears that the revised site plans satisfy this requirement and, therefore, a waiver is not required.

Staff has identified additional requirements of the Site Plan Review Regulations from which the revised proposal requires a waiver, and has asked the applicant to provide a written request for each:

- Partial Waiver of Section 6.2.E.1 – requiring parking areas to be visually screened with landscaping (the proposed trees along the perimeter are required to be “supplemented with shrubs, perennials, or understory trees to visually screen the parking area.”)
- Partial Waiver of Section 6.7.6.a – requiring “...areas within parks or along walkways and bikeways to be illuminated shall not exceed an average level of 1.0 foot-candle at grade level.”

Mr. Corwin stated that the Fire Department provided comments on the most recent plans and are satisfied with the revisions as proposed. The official approval will be confirmed at the January meeting. Most of the technical comments have been satisfied. The City Engineer has comments that should be addressed prior to the January meeting. On Page 6 of the Staff Memo, Engineering comment #1 noted parking space 56 could impact traffic entering the site, and Engineering may recommend that space be removed. The revised plan includes 56 parking spaces, which provides an average of 2.2 spaces per unit.

Mr. Vincent had no further comments.

Mr. Rutter expressed curiosity regarding the purpose of the driveway on the east side of 14 Bank Street. He suggested the driveway serves no purpose for #14 Bank Street, and removing it would allow for the required opaque, landscaping buffer. Ms. Salazar-Kish explained that it is a shared driveway with #18 Bank Street and is required to remain. Atty. Carolyn Cole, who owns #18 Bank Street, stated that her property does not require an opaque divider from the new building. It is a very narrow driveway, and she has no objection to the waiver.

Mr. Rutter referred to tabulation of the trees on Page 7 of the plan, noting that the math did not appear to add up. Ms. Salazar-Kish stated that a newer version of the plan corrects those numbers, which are given as the totals for trees versus plants and bushes.

Ms. Romano noted that the traffic study was done during a year when children were not in school and many parents were working from home. She suggested that future studies should reference typical traffic. Chair Garland suggested those circumstances may have been factored into the data, but Ms. Romano preferred leaving it for a future discussion. She noted that a number of proposed parking spaces, specifically #55, 56, 47, 48, 26, 27, and 39, are all in places that make turning difficult. Their removal would provide additional snow storage space and improve traffic flow within the site. She characterized the changes to the exterior of #14, such as the porch and modifications to the sides of the building, as very pleasing.

Mr. Amaro expressed his agreement with Ms. Romano regarding the same parking spaces and also noted their potential, negative impact on the pedestrian walkway.

Mr. Corwin commented on the roof pitch as being out of character with the neighborhood and making the building look larger than it actually is. Ms. Salazar-Kish stated that the pitch is 5/12 and anything less would make it almost flat. The neighbors disapproved of a flat roof on the previously-proposed building. Ms. Salazar-Kish added that the degree of pitch is needed for the roof to shed water properly.

Chair Garland asked for public comment, noting that Kathy Elfstrom's written comments expressed appreciation for the recent changes.

Doreen Schweizer, an abutter at 14 Green Street, has a fence behind her barn that is on Ms. Salazar-Kish's property. The fence was moved to that location about twenty years ago to prevent snow coming off the barn roof from knocking the fence down. Ms. Salazar-Kish suggested replacing the wooden fence with a vinyl fence along the property line, but Ms. Schweizer believes a fence on the property line would be knocked down by the snow from the roof.

Mr. Corwin stated that the Board could not approve an abutter's fence, as it is not part of the project. Ms. Salazar-Kish stated that creating a jog in the fence would be agreeable and suggested the Board could waive that portion of the landscape requirements. Any landscaping would be shrubs, which would limit parking lot shading. Ms. Monroe expressed the need to have the minimum required shading to keep the pavement cool. She added that moving two of the trees could be acceptable, and adding a low fence, like those along a road, could take the weight of snow and delineate the property line. The Board can make suggestions, but it is an awkward situation. Ms. Stavis stated her lack of support for the Board entertaining a private agreement with an abutter or granting a partial waiver to allow such an agreement.

Laura Harris-Hirsch suggested adding a roof over the rear parking area to help shield the pavement from the sun.

Ms. Schweizer noted that the solid mass coming off the barn roof has a tremendous impact, and any fence right on the property line would be in jeopardy. A separate agreement between Ms. Schweitzer and Ms. Salazar-Kish that incorporates the decision of the Planning Board would be acceptable.

Ms. Monroe stated that the Board is always concerned when an applicant's plan would negatively affect an abutter. Usually abutters want a sturdy barrier, but in this case the abutter doesn't want a fence on the property line. If Ms. Salazar-Kish can move the trees and still satisfy the shade requirement, it would likely be acceptable to the Board. Moving the fence would be the applicant's decision.

Mr. Winny suggested installing a snow rail or similar device to stop the snow from sliding off the barn roof.

Ms. Harris-Hirsch reiterated her suggestion for a roof to shade the parking area pavement.

Mary Ann Mastro of 15 Green Street inquired if the new plan needed to fall under the new Lebanon Downtown regulations. Mr. Corwin stated that Staff had raised the issue of whether the new plan was substantially different enough to require a new application. Although there are some significant changes, the applicant reduced the overall impact of the project, and the balance of the project was similar enough to the original plan. The changes were made in response to comments from the Board and the public. The Board is not required to make an official determination that the new plan is, in fact, similar enough.

Ms. Salazar-Kish explained that there is often a trade-off between maintaining aspects of a project and keeping it financially viable. The project is following the spirit of the regulations as closely as possible while balancing the other constraints of the project site. At present, the entire space has no landscaping. As much landscaping as possible is being added given the constraints that exist. The ten-foot landscape requirement is not possible throughout with the redesign that was based upon requested changes. The project has to be financially viable.

Fran Hanchett inquired about snow storage and the Library's trash. Ms. Salazar-Kish stated that they left a walkway for the Library's trash to be removed through her property as it is removed currently.

Ms. Romano observed that the proposed back fence appears to be touching the corner of the house to the east of 14 Green Street, and there is no space to walk around the house. Ms. Salazar-Kish stated that walking around the house at present would mean trespassing on someone else's property. The plan would be to allow the current four-foot fence to remain, and the new fence would attach to it and go to the west side of the property with a slight jog to accommodate the garden at 14 Green Street.

Ms. Monroe commented on the improvement to the proposed front of #14 and the front porch. She noted that parking spaces next to snow banks are difficult to maintain. If those spaces were removed, there could be more lawn area. Waivers are necessary because all projects are unique. The goal is to maximize the space available, and the scale of the new design is a great improvement. The lack of a landscape buffer on the west side by the Library is not a concern. It is not a residence but a public building.

Chair Garland suggested voting on the waivers.

***A MOTION by Joan Monroe to approve the partial waiver of Section 6.2.B.1.
Seconded by Laurel Stavis.***

Roll Call Vote:

Voting in Favor – Mr. Winny, Ms. Monroe, Ms. Romano, Ms. Stavis, Mr. Hall, Mr. Garland, Mr. Amaro, Mr. Rutter

Voting Against - None

Recused – Ms. Chewning

****The MOTION was approved (8-0-1).***

Ms. Chewning returned to the meeting.

***A MOTION by Matthew Hall to continue the hearing of Jolin Salazar-Kish, 8-10 & 14 Bank Street (Tax Map 92, Lots 125 & 124), zoned LD to January 11, 2021, at 6:30PM.
Seconded by Kathie Romano.***

Roll Call Vote:

Voting in Favor – Ms. Romano, Ms. Chewning, Ms. Stavis, Mr. Hall, Mr. Garland, Mr. Amaro, Mr. Rutter, Mr. Winny, Ms. Monroe

Voting Against - None

****The MOTION was approved (9-0).***

- C. **89 Donuts, LLC (applicant), Miracle Mile Realty, LLC (property owner), 388 Miracle Mile (Tax Map 103, Lot 6), zoned GC:** Request for Site Plan Review to construct a +/-1,332 sq. ft. drive-in restaurant (a Dunkin' Donuts with a drive-through window and walk-in service) within the existing parking lot, together with associated site improvements. **PB2020-32-SPR** - Completeness Review and Opening of Public Hearing. Continued from November 9, 2020

Mr. Corwin stated that the Planning Department recommends accepting the application as complete enough to accept jurisdiction and commence review. Additional information has been requested regarding parking, and an agreement on meeting Section 607 was reached by phone. The clarification will be included with the next meeting packet.

***A MOTION by Laurel Stavis that the application of 89 Donuts, LLC (applicant), Miracle Mile Realty, LLC (property owner), 388 Miracle Mile (Tax Map 103, Lot 6), zoned GC is complete enough for the Planning Board to accept jurisdiction and commence review.
Seconded by Jeremy Rutter.***

Roll Call Vote:

Voting in Favor – Mr. Amaro, Mr. Rutter, Mr. Winny, Ms. Monroe, Ms. Romano, Ms. Chewning, Ms. Stavis, Mr. Hall, Mr. Garland

Voting Against - None

****The MOTION was approved (9-0).***

Rod Finley of Pathways Consulting attended online to speak in support of the application. Also in attendance were Greg Sagris of 89 Donuts, Andrew Burek of the Richmond Group, and Erica Wygonik of Resource Systems Group, who are doing the traffic study.

Mr. Finley described the project, which is a Dunkin' Donuts drive-through/walk-in facility to be located in the Miracle Mile Plaza in front of the movie theater. There would be no seating provided. There would be a mobile lane for drive-through service, and it would be adjacent to the new bus stop and the crosswalk between the shopping plaza and the Listen Center. There would be a small building with no kitchen or baking on site. The location details, parking, and proposed traffic flow were explained, and the plan meets the current ordinance for parking. Municipal sewer and water connections would be made underground using a directional drilling process, and stormwater management is improved with a reduction of impervious surface. Stormwater flow and catchment were determined and described. Shading calculations are in progress and will include details for proposed trees and landscaping.

Mr. Corwin described the updated waiver requests, which were sent to the Board. The project involves redevelopment of a portion of an existing property. The requirements under Section 6 would normally apply to the entire plaza, so a waiver request to limit compliance to just the project site was recommended. The City Engineer's comments need to be addressed, and all other comments are expected to be addressed by the January meeting. Staff is requesting that a decision be deferred on the waiver request from 5.1.E.5 until the January meeting. All other waiver requests were explained. The traffic impact analysis is in progress now, and a reduction in parking spaces is proposed with space reserved on site if more parking is needed later. The rail trail access needs to remain open.

Mr. Hall expressed significant concern about traffic at both entrances to the plaza. The space is extremely limited, and there is no current plan for traffic movement within the plaza. Both access and safety are issues.

Ms. Romano noted the site cleanup from the previous gas station. It is important to preserve access to a lot on the opposite side of the rail trail for a future recreation site. Exploring that with the Recreation Department was suggested. Exiting from Price Chopper is extremely difficult, and many drivers use the other plaza exits. The row of parking spaces closest to the site could be eliminated to provide better traffic flow.

Mr. Amaro expressed concern over access for pedestrians. The access appears to be geared toward cars, which would limit pedestrian and bicyclist use. The options for safely crossing traffic to and within the site are very limited.

Ms. Monroe shared the same concerns about the stacking of vehicles at the exits. In addition, the current practice of drivers crossing empty parking lanes is also an issue. The lanes in front of the theater may make parking and traffic complicated. Many children wait in theater lines, which could be a safety issue.

The property divisions are not clear. Mr. Brooks pointed out the property lines for the three sections of the plaza.

Mr. Corwin clarified that the parking areas to the rear of the theater would provide the minimum spaces required under the Zoning ordinance. Overflow would be in the western end of the Price Chopper parking lot. Mr. Finley explained that the spaces behind the theater are required to meet the current regulations. Ms. Monroe suggested that the excess parking spaces could provide needed driving space.

Chair Garland invited public comment. There was none.

Mr. Rutter inquired about the purpose of the space to the west of proposed building, which is empty. Mr. Finley stated that it is a landscaped, grassy area.

A MOTION by Matthew Hall to extend the meeting to 9:45 PM.

Seconded by Kathie Romano.

Roll Call Vote:

Voting in Favor – Mr. Garland, Mr. Amaro, Mr. Rutter, Mr. Winny, Ms. Monroe, Ms. Romano, Ms. Chewning, Ms. Stavis, Mr. Hall

Voting Against - None

****The MOTION was approved (9-0).***

Ms. Stavis inquired about the hours of operation. Mr. Sagris stated it would likely be 5 AM to 9 PM, adding that over 70% of Dunkin' Donuts' business occurs before Noon, and the movies start at Noon. Ms. Stavis also inquired about the safety of pedestrian access and those walking through the plaza. She commented that it is nice to see the plaza coming back to life.

Ms. Chewning inquired about the process for bike customers to access the property and store their bikes while in the store. Mr. Rutter suggested outdoor seating given all of the proposed, grassy area. It would be possible for pedestrians or bicyclists to take a break there.

Chair Garland inquired about the number of cars parking at any time, given that the site is for drive-through and walk-in service. Mr. Sagris stated that the interior layout is only 8' by 11½' (92 sq. ft.) and not geared toward inside dining. A small indoor counter was added to accommodate pedestrians from the bus stop for placing and picking up their orders in winter months. There are no public rest rooms. He added that he would send along the interior design for inclusion in the next meeting packet.

A MOTION by Kathie Romano to continue the hearing of 89 Donuts, LLC (applicant), Miracle Mile Realty, LLC (property owner), 388 Miracle Mile (Tax Map 103, Lot 6), zoned GC to January 11, 2021, at 6:30PM.

Seconded by Laurel Stavis.

Roll Call Vote:

Voting in Favor – Ms. Chewning, Ms. Stavis, Mr. Hall, Mr. Garland, Mr. Amaro, Mr. Rutter, Mr. Winny, Ms. Monroe, Ms. Romano

Voting Against - None

****The MOTION was approved (9-0).***

4. Other Business

Chair Garland cited an article in the Valley News regarding a lawsuit filed by Timberwoods and asked for an update. Mr. Brooks explained that a lawsuit has been filed, but the City has not been served. The City will see what the case is once service is completed and will respond accordingly. The appellant has until January 9, 2021, to have it served and the City must respond within 30 days.

Mr. Brooks took a moment to thank the Board members for their patience and diligence with the new process. There was a great deal of hard work put in by the Board this year on some large, difficult projects. He sincerely appreciates their willingness to serve.

5. Approval of Minutes

A. November 9, 2020

Page 5, line 50, to read, “A Board member asked for more specifics regarding Section 602 on the topic of swimming pools and fencing.”

B. November 23, 2020

Page 2, line 6, to read, “The exit to Mechanic Street from Foundry Street will eventually be right turn only.”

Page 2, line 8, to read, “It was suggested to switch the positions of the magnolia tree and the serviceberry shad tree.”

Page 2, line 20, to read, “...APPROVE the following waivers...”

Page 7, line 21, to add, “Chair Garland requested that Mr. Braverman provide the Board with a fiscal study for the next meeting.”

Page 10, line 24, to read, “Chip Brown, who is a realtor in Lebanon, stated...”

Additional grammatical corrections as submitted via email.

A MOTION by Laurel Stavis to approve the minutes of the November 9, 2020 and November 23, 2020 meetings as presented in the December 14, 2020 Planning Board meeting packet as amended.

Seconded by Jeremy Rutter.

Roll Call Vote:

Voting in Favor – Mr. Garland, Ms. Monroe, Ms. Romano, Ms. Stavis, Mr. Rutter, Ms. Chewning, Mr. Amaro, Mr. Winny, Mr. Hall

Voting Against - None

****The MOTION was approved (9-0).***

6. Adjournment

A MOTION by Matthew Hall to adjourn the meeting.

Seconded by Laurel Stavis.

Roll Call Vote:

Voting in Favor – Mr. Garland, Mr. Winny, Ms. Monroe, Ms. Romano, Ms. Stavis, Mr. Rutter, Ms. Chewning, Mr. Amaro

Voting against - Mr. Hall

****The MOTION was approved (8-1).***

The meeting was adjourned at 9:43 PM.

Respectfully submitted,
Holly Howes
Recording Secretary



Rock Ridge Lebanon, LLC
130 Old Pine Tree Cemetery Road
West Lebanon, NH 03784
603-790-8449

May 17, 2021

Mr. Shaun Mulholland
City Manager
City of Lebanon
North Park Street
Lebanon, NH 03766

Re: Sewer Development Charge

Dear Mr. Mulholland:

Please accept this letter as the objection by Rock Ridge Lebanon, LLC, to the determination that Rock Ridge is subject to the sewer development charge asserted by the City on the future sewer connections at the Rock Ridge development. Although Article XV in City Code Section 136-100 does not provide a procedure for contesting the application of a sewer development charge, Rock Ridge presents this objection to your office under Section 136-111. If your office declines to rule on this request, then Rock Ridge requests that you present this request to the City Council under Section 136-124 of the City Code for determination by the Council.

Articles XIV and XV, Chapter 136, were adopted on December 4, 2019. As the title explains, those sections regulate "Sewer Connections, Extensions and Expanded Sewer Use Allocations." The Articles set forth the procedure by which sewer connections are allocated and the calculations for determining the capacity of the City's sewer system. The regulations in Article XIV require that an application for a sewer use permit and fee be filed prior to any land development. At that point, the City undertakes a sewer capacity analysis. Once that analysis is completed and the manager determines that there is adequate capacity, only then can the manager issue a notice of allocation to the developer. Then, the developer can proceed with all other land use approvals. If Planning Board approval is not received or development does not thereafter proceed, the sewer permits lapse.

In the case of Rock Ridge, it did not file a sewer permit application to the manager under Article XIV, the manager did not undertake a sewer capacity analysis - one had already been completed demonstrating adequate capacity for the Rock Ridge development when the Council considered the adoption of Articles XIV and XV - and Rock Ridge had already proceeded to and had its plans approved by the Planning Board. None of the procedures applicable to the imposition of the sewer development charge applied to Rock Ridge or were followed by the City. Further, Rock Ridge was not enlarging its previously approved sewer allocation but was simply building out that which had already been approved.

The record and minutes of the City demonstrate that when the City Council considered the adoption of Articles XIV and XV, all of the presentations and deliberations concerned new developments for which no sewer allocation had previously been made. The Council minutes for November 7, 2018, include a memorandum and table from Weston & Sampson that present the “Current and Previously Permitted Flows” as of that time. The Table accompanying that memorandum shows that Rock Ridge has a “permitted sewer flow” of 56,474 gallons per day. That recognition of Rock Ridge’s allocation is consistent with the approvals granted to Rock Ridge by the City extending back to at least September 2016, when the City Council approved the extension of sewer connections to Phase 3 of the Rock Ridge development.

The apparent purpose of the Weston report was to provide a starting point for examining sewer capacity while the City examined the decreasing capacity of the sewer system to absorb other as-yet-unidentified developments and new users to the system. In December 2018, the Council again discussed amending the City Code, Chapter 181, in order to restrict new connections. Once again, a report provided to the Council for its discussion of the ordinance amendment shows that the City has already allocated to Rock Ridge 56,474 gpd of permitted sewer flow.

On October 23, 2019, the City Council resumed its consideration of the possible adoption of a revised sewer ordinance. The minutes from that meeting specify that the ordinance would apply only to new developments.

Councilor Hill noted that one of the biggest changes made was that individuals and businesses would be able to apply for an allocation before starting the Planning Board Process.

Mr. Mulholland said individuals/businesses would know if they have enough sewer capacity before they spend a lot of money putting together a full Planning Board Application just for sewer capacity. They would have to pay for the non-refundable application fee and sewer development charge (20%), which is refundable if they do not get Planning Board approval....

The approach that new developments, prior to applying for planning board approval, would be subject to the new ordinance, and not to those which had been previously identified like Rock Ridge, is further illustrated by the chart that was included in the Council’s informational package for that October 23, 2019, meeting. On page 25 of that package, a color chart explains how the imposition of the sewer development fee would be assessed. The chart begins with a developer filing an application for a sewer allocation. DPW would analyze the application to determine capacity, the City Manager would then either approve or deny the sewer allocation and, only then, would the developer proceed to the Planning Board for approval of the proposed development. This process is now stated in §136 of the Code. None of the steps in that process apply to Rock Ridge which received its sewer allocation from the City Council and Planning Board approvals years ago. That same informational package provided to the Council on October 23, 2019, also included on page 23 an exhibit showing “Proposed Regulatory



Rock Ridge Lebanon, LLC
130 Old Pine Tree Cemetery Road
West Lebanon, NH 03784
603-790-8449

Changes” which stated that “Capacity would be allocated to applicants prior to beginning the Planning Board process.”

In his letter of April 7, 2021, Attorney Decker writes that “Rock Ridge cannot have a vested or irrevocable property right to sewer capacity based on an allocation....” However, the issue is not one of allocation. The issue is whether the intent and adoption of the sewer development charge can be applied, retroactively, to a development where the City did not follow and could not have followed the procedures of the ordinance and where Rock Ridge, itself, also could not have followed those procedures since it was an existing, previously approved development. Further, since Article XV was not adopted under the requirements applicable to impact fees, the reference in Attorney Decker’s letter to RSA 674:39, II, is not applicable. Since the charge is not an “impact fee” as that is defined by state law, Rock Ridge is exempt from the sewer development charge.

The provisions of Chapter 130-120 do not apply to the Rock Ridge development. Rock Ridge, LLC requests that the sewer development charge be removed.

Sincerely,

Rock Ridge Lebanon LLC

Todd Westhaver,
Its duly authorized Manager



CITY MANAGER'S OFFICE

City of Lebanon, NH
51 North Park Street
Lebanon, NH 03766
(603) 448-4220
www.LebanonNH.gov

May 25, 2021

Todd Westhaver
Manager
Rock Ridge Lebanon, LLC
130 Old Pine Tree Cemetery Rd.
West Lebanon, NH 03784

RE: Request to Abate Sewer Development Charge

I received your request for abatement of the Sewer Development Charge on May 24, 2021. For the reasons detailed in the letter from the City's legal counsel, Attorney Matthew Decker dated April 7, 2021, the City's Sewer Development Charge is applicable to any new construction with requires sewer service, and is due upon the issuance of a building permit/sewer use permit which require sewer service. The City Manager has the authority to abate fees and assessments relative to sewer use under the provisions of City Code Section 136-80 for good cause shown. However, City Code Article XV, Section 136-124 reserves specific authority for the City Council to abate a Sewer Development Charge as indicated below,

§ 136-124 **Abatement of sewer development charges.**

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.

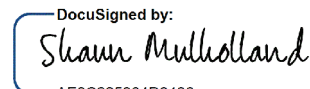
Although your letter does not indicate my presumption is that you are requesting the abatement of the following Sewer Development Charges for the properties indicated below,

38 Dogwood Circle	\$	2,404.80
36 Dogwood Circle	\$	3,907.80
39 Dogwood Circle	\$	3,907.80
43 Dogwood Circle	\$	2,404.80
42 Dogwood Circle	\$	3,006.60
44 Dogwood Circle	\$	3,907.80
45 Dogwood Circle	\$	2,404.80
TOTAL:	\$	21,944.40

Further, that the Rock Ridge Lebanon, LLC not be subject to the Sewer Development Charge for any new structures that may be constructed which have been approved by the Planning Board prior to the enactment of Article XV

As the City Manager I decline to act on your request. In accordance § 136-124, this request for abatement is scheduled for a hearing before the City Council on June 16, 2021 at 7 PM. You may appear before the Council on this date and time to make your request for abatement and present any relevant information you would like the Council to consider. This meeting is being conducted virtually. I will provide you with a link to access the meeting via. email.

If I can be of any further assistance or if you have further questions regarding this letter, please do not hesitate to contact me.

DocuSigned by:

AE8C225904D9436...
Shaun Mulholland
City Manager

Cc: Matthew Decker, Attorney, DW
James Donison, DPW Director