

FINAL

**LEBANON CITY COUNCIL
MINUTES, REGULAR SESSION
Council Chambers - City Hall – 20 West Park Street, Lebanon
Wednesday, February 19, 2020
7:00 p.m.**

MEMBERS PRESENT: Mayor Tim McNamara, Assistant Mayor Clifton Below, Bruce Bronner, Erling Heistad, Karen Liot Hill, Suzanne Prentiss, George Sykes, Jim Winny

MEMBERS ABSENT: Karen Zook

STAFF PRESENT: City Manager Shaun Mulholland, Deputy City Manager Paula Maville, City Clerk Sandra Allard, Finance Director Vicki Lee, Deputy Finance Director Tina Stearns, Lebanon Police Chief Richard Mello, City Consultant Shelley Hadfield, Cemetery Sexton Patrick McCarthy

Mayor McNamara called the meeting to order at 7:01 p.m.

1. PLEDGE OF ALLEGIANCE: Councilor Prentiss led the Council in the Pledge.

Councilor Bronner participated by conference call because of a work conflict.

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

3. OPEN TO PUBLIC:

Ms. Kathleen Beckett (Ward 3) came forth with questions for the Council regarding the proposed Welcoming Lebanon Ordinance that will go before the voters on March 10, 2020.

- Has the City signed on to the 8USC §1373 Certification of Compliance in order to gain extra points on the COPS Grant application. In her opinion, this meant that Lebanon officials agreed to have the local police cooperate with the enforcement of Federal Immigration Law. The people of Lebanon do not know what the agreement to enforce immigration law has meant, and continues to mean, for the City, which has led to questions and concerns.
- What has the 2017 agreement meant for Lebanon and who has the authority to find out and disclose this information to the Public.
- Is the City applying for a COPS Grant this year (due March 11, 2020). If so, does the City plan to agree to a §287(g) partnership (a.k.a., U.S. Immigration and Customs Enforcement (ICE) 287(g) Program) that would deputize our local police to act as Immigration Enforcement Agents. She stated she has documents on the City's Compliance Agreement along with information and a document regarding §287(g).

Mayor McNamara informed her that the City is not applying for a COPS Grant this year.

Mr. Mulholland informed her that for the existing COPS Grant the City has not agreed to, and has never agreed to, conduct immigration enforcement. We have not received any additional points. He acknowledged that Ms. Beckett has a document showing this agreement talks about sharing information and detention facilities, but the City does not have detention facilities. In fact, no Police Department in the State has a detention facility, only the Counties do, and they receive additional grant funding to allow

Federal Agencies to hold prisoners/detainees at those facilities. The City does not do any immigration enforcement at all. DOJ (Department of Justice) made a mistake when they sent us the original supplemental document, and noted there is a subsequent email from Mr. Crane (COPS office) that indicates the City has not received any extra points because we did not agree to immigration enforcement.

Ms. Beckett asked what the City has been doing around immigration enforcement. Mr. Mulholland said nothing - period. Ms. Beckett asked who the spokesperson was regarding what kind of immigration enforcement work has been done. Mr. Mulholland informed her that he is the City Manager for Lebanon and the Police Department answers to him, as well as all the other departments, noting, again, the City is not conducting any immigration enforcement at all. Ms. Beckett questioned if the Police Chief was not telling the truth when he stated he is enforcing immigration law. Mr. Mulholland said the Police Chief has never said he has enforced any immigration law; has said that publicly and to him several different times and would be very concerned if she has information that states the Police Chief has done any immigration enforcement.

Ms. Beckett questioned if holding people at the Police facility is enforcing immigration law. Mr. Mulholland said it would be, but they are not holding anyone at the City's facility, nor have we for that matter. Ms. Beckett informed the Council that she has a statement from the Police Chief saying he has done that, and Mr. Mulholland asked her to provide him with that statement.

Ms. Beckett said it sounds like more information needs to be provided to the Council. Mr. Mulholland informed her the Council would ask him to investigate what the story is, and he would then report back to them, noting there has been a lot of accusations made back and forth with very little evidence to indicate any of this.

Hearing no further comments from the public, Mayor McNamara closed the Open to the Public Session.

4. RECOGNITIONS: None.

5. ACCEPTANCE OF MINUTES: None

6. APPOINTMENTS: None

7. PUBLIC HEARING ITEMS:

A. MID-GRANT UPDATE ON COMMUNITY DEVELOPMENT BLOCK GRANT FOR TWIN PINES HOUSING TRUST (TRACY STREET)

Public Hearing for the purpose of receiving public input and advising citizens on the progress of the Tracy Street Project for Twin Pines Housing Trust as required under 24CFR 570.486 and NH RSA 162-L:14.

Ms. Shelley Hadfield of Hadfield Associates (Administrator of Project) and Mr. Andrew Winter (Executive Director of Twin Pines Housing Trust) came forth representing the progress of the above Block Grant.

Mr. Winter presented an update on the Tracy Street construction project, noting the City of Lebanon was awarded \$400,000 in Housing and Public Facility CDBG funds to support the development of Tracy

Street Affordable Housing. The project included the acquisition of property needed to support the development of 29 units of energy efficient affordable housing. The project is now complete and fully occupied. There is still some work to be done related to solar, but the project is complete for CDBG purposes and is in the process of being closed out.

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

In response to Assistant Mayor Below's question regarding solar panels, Mr. Winter informed the Council about the placement of some 380 solar panels and the guidelines for affordable housing, noting this would be affordable to households at or below 60% of the area median income (\$47K-\$49K or less). Twelve (12) of the 29 tenants are seniors and there is currently a wait list.

ACTION:

This public hearing is required by 24 CFR 570.486 and NH RSA 162-L:14 in order to receive public input and advise Lebanon citizens on the progress of the project. No action is required by the Council.

B. MID-GRANT UPDATE ON COMMUNITY DEVELOPMENT BLOCK GRANT FOR TWIN PINES HOUSING TRUST (VILLAGE AT CRAFTS HILL)

Public Hearing for the purpose of receiving public input and advising citizens on the progress of the Village at Crafts Hill Project for Twin Pines Housing Trust as required under 24CFR 570.486 and NH RSA 162-L:14.

Ms. Shelley Hadfield of Hadfield Associates (Administrator of Project) and Mr. Andrew Winter (Executive Director of Twin Pines Housing Trust) came forth representing the progress of the above Block Grant.

Mr. Winter presented the background of this project. The City of Lebanon was awarded \$500,000 in Housing and Public Facility CDBG funds to support the rehabilitation of the Village at Crafts Hill Affordable Housing project (supplemented by a \$6M Grant from the Federal Government). The funds, less administrative costs, were sub-granted to Twin Pines Housing Trust (TPHT) to support the renovation of the 100-unit VILLAGE AT CRAFTS HILL subsidized housing development in West Lebanon. The units were constructed in 1977 and were in need of substantial renovation. The CDBG funds are being used primarily for temporary relocation of the 100 households during the renovation process. The project has experienced significant delays due to the availability of the matching funds provided by USDA-Rural Development, but the funds were made available in November of 2019, so the project is moving ahead. At this time TPHT anticipates being able to complete the project on schedule. However, should the need arise, the TPHT plans to ask for an extension on the CDBG funding and the NH CDFA has been notified of the possibility. He also informed the Council about the energy efficient upgrades that are being done at TPHT.

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

ACTION:

This public hearing is required by 24 CFR 570.486 and NH RSA 162-L:14 in order to receive public input and advise Lebanon citizens on the progress of the project. No action is required by the Council.

C. MID-GRANT UPDATE ON COMMUNITY DEVELOPMENT BLOCK GRANT FOR HEADREST (FEASIBILITY STUDY)

Public Hearing for the purpose of receiving public input and advising citizens on the progress of the Feasibility Study for Headrest as required under 24CFR 570.486 and NH RSA 162-L:14.

Shelley Hadfield of Hadfield Associates and Ms. Laurie Harding (Chair, Headrest Board) came before the Council representing the above grant for Headrest (Feasibility Study).

Ms. Harding informed the Council she heard from Councilor Cryans (District 1) who informed her the State of NH Executive Council has approved funding for this project.

Ms. Harding presented a brief background and described the construction details of this project. The City of Lebanon was awarded a \$12,000 CDBG Feasibility Study grant to evaluate the low-intensity treatment facility at 14 Church Street. This feasibility grant allowed Headrest to employ an architect and energy design specialist to evaluate the 14 Church Street building for programmatic needs and long-term sustainability and energy efficiency as well as determining the cost to bring the facility into line with the needs of the clientele and ensure the facility is up to standards for the health and well-being of Headrest's clients. The study was completed in August of 2019. However, early reporting provided for both cost estimates and the preliminary design allowed Headrest to successfully apply for implementation funds in 2019. In November, the NH Community Development Finance Authority awarded the project \$500,000. The project is moving ahead with an environmental review and renovations are anticipated to be completed in early 2021 in time for Headrest's 50th anniversary.

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

In response to Councilor Sykes question, Ms. Harding stated this would not increase the population at 14 Church Street - they are maxed out. We do need more residential treatment facilities, and more than anything we need more sober housing in the City.

ACTION:

This public hearing is required by 24 CFR 570.486 and NH RSA 162-L:14 in order to receive public input and advise Lebanon citizens on the progress of the project. No action is required by the Council.

D. MID-GRANT UPDATE ON COMMUNITY DEVELOPMENT BLOCK GRANT FOR RIVER VALLEY COMMUNITY COLLEGE (FEASIBILITY STUDY)

Public Hearing for the purpose of receiving public input and advising citizens on the progress of the Feasibility Study for River Valley Community College as required under 24CFR 570.486 and NH RSA 162-L:14.

Shelley Hadfield of Hadfield Associates and Mr. Josh Lamoureux (Associate Vice President at River Valley Community College and serves on the Board of Directors for Grafton Regional Development Corp.) came before the Council representing the RVCC Feasibility Study.

Mr. Lamoureux presented the background on this project. The City of Lebanon was awarded a \$12,000 CDBG Feasibility Study grant to be sub-granted to River Valley Community College (RVCC) and

Dartmouth Regional Technology Center (DRTC) to hire a consultant to work with a team to conduct a study to determine the best use of the RVCC space located on the Lebanon Mall. Collaborative Strategic Solutions (CSS) was hired with the objective of developing a coherent and effective set of resources designed to support entrepreneurs of Lebanon and the Upper Valley. CSS also reviewed the long-term viability and sustainability of RVCC in Lebanon through collaborations with the City, local area business and not for profit entities. The study, completed this January (2020), concludes that the founding of an Entrepreneur Center within and part of RVCC would create a strong asset for the City of Lebanon, stimulating economic growth for the City, the County, and the surrounding Claremont - Lebanon Micropolitan Area. RVCC is moving forward with fundraising to complete necessary alterations to the building to support its future use. The CDBG grant will be closed in February.

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

The Council and Lamoureux discussed what would be constructed at RVCC and the projects phasing; concerns about creating additional space that would be competing with already vacant commercial spaces in downtown Lebanon; new business startup data in the area; marketing strategies; projected enrollment; new course offerings (i.e., LPN State funded course; LPN Lab, Massage Therapy; Computer Science; and LNA program); and potentially partnering with the Grafton County Nursing Home to help place nursing students.

At the request of Councilor Hill, Mr. Lamoureux will share his supporting documents with the Council.

ACTION:

This public hearing is required by 24 CFR 570.486 and NH RSA 162-L:14 in order to receive public input and advise Lebanon citizens on the progress of the project. No action is required by the Council.

8. OLD BUSINESS: None

9. NEW BUSINESS:

A. Presentation of the 2018 Audit

Included in the agenda packet were the February 13, 2020 Memo from Vicki Lee, Finance Director re: 2018 Annual Financial Statement Audit and the January 14, 2020 Letter of Governance from Plodzick and Sanderson.

Ms. Vicki Lee (Finance Director), and representatives from Plodzick and Sanderson, Mr. Michael Campo (Director) and Mr. Kyle Gingras (Manager), came before the Council and reviewed the independent assessment for the 2018 Annual Financial Statement Audit and the January 14, 2020 Letter of Governance sent to the City. They found everything met expectations and were able to render a clean opinion. For complete details, please reference the materials included in the February 19, 2020 City Council agenda packet, including the link (bottom of page 17) for the 2018 City of Lebanon's (full) Financial Audit, which was not included in the agenda packet.

The Council and auditors also reviewed the audits Management Discussion Analysis, pensions, and the ongoing work to develop cyber security policies. Mr. Campo thanked all those who worked on the cyber

security policies, noting there was a lot of work and obstacles to overcome this year and they did a phenomenal job.

ACTION:

No action is required by the Council; it is for informational/discussion purposes only.

B. Discussion & Set Public Hearing for March 18, 2020: Ordinance #2020-03 to amend City Code Chapter 46, Cemeteries to update a number of fees, to remove the requirements for a Perpetual Care Trust Fund, and to include provisions for establishment of a Cemetery Maintenance & Preservation Fund

Included in the agenda packet were the Proposed Ordinance #2020-03 2 and the February 11, 2020 Legal Opinion by Attorney H. Bernard Waugh re: Cemeteries Ordinance – City Code Chapter 46.

Ms. Sue Painter (Chair, Board of Cemetery Trustees) and Mr. Patrick McCarthy (Cemetery Sexton) came before the Council representing Ordinance #2020-03 to amend City Code Chapter 46.

Proper maintenance of our public cemeteries has been a topic of discussion for the past couple of years. Discussion began with the formation of a Cemetery Governance Task Force in 2017 and resulted in the establishment of a formal Board of Cemetery Trustees in 2018, and the hiring of a Cemetery Sexton in 2019.

One major topic of the maintenance discussion has been the limited ability to access money through the current Perpetual Care Trust Fund. The current fund was established as a “nonexpendable trust.” Due to the nature of a non-expendable trust, the only expendable portion of the fund is the total interest gained on an annual basis (typically averaging somewhere around \$20,000).

The Cemetery Trustees and staff have been working with attorney Bernie Waugh on proposed amendments to Chapter 46 that incorporates language to revert from the current process of requiring fees for Perpetual Care, and in its place, establish a “Cemetery Maintenance & Preservation Fund.” The Cemetery Maintenance & Preservation Fund would be a trust fund, overseen by the City’s Trustees of Trust Funds, but all of the money in the fund would be accessible to the City for maintenance and preservation of the cemeteries.

Ms. Painter handed out a summarized copy of the Board of Cemetery Trustees proposed changes to Chapter 46 which included: cemetery activity over the past five (5) years, fee updates, clarification of “Holiday Burials,” and timelines for permissible entombments.

Mr. McCarthy reviewed the redlined proposed changes to Ordinance 2020-03, as presented on pages 27-32 in the February 19, 2020 City Council agenda packet.

Discussions took place regarding Green Burials, which are still being worked on, and Columbariums (an above ground vault in a wall or structure specifically designed to hold cremation urns).

ACTION :

Councilor Hill MOVED, that the Lebanon City Council hereby schedules a public hearing for Wednesday, March 18, 2020, beginning at 7:00pm in Council Chambers, 3rd Floor, 20 West Park Street, for the purpose of receiving public input and taking action on proposed Ordinance #2020-

03, to amend the Code of the City of Lebanon, Chapter 46, Cemeteries, Sections 46-6(C), 46-6(F), 46-8(B), and 46-9.

Secoded by Councilor Prentiss.

Roll Call Vote:

Mayor Tim McNamara, Assistant Mayor Clifton Below and Councilors Bronner, Heistad, Hill, Prentiss, Sykes, Winny all voting YEA.

None voted NAY.

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

C. Discussion & Set Public Hearing for March 4, 2020: Ordinance #2020-04 to amend City Code Chapter 168, Vehicles & Traffic, to enable a City-wide 25mph speed limit

Included in the agenda packet were: 1. Proposed Ordinance #2020-04; 2. January 23, 2020 memo from Police Chief Richard Mello re: Addition to City Code setting prima facie speed limit; 3. January 13, 2020 Lebanon Speed Study by RSG; 4. Lebanon Police Department Accident Data and Casual Factors 5. NH RSA's 265:60 and 265:63

Lebanon Police Chief Richard Mello came before the Council representing Ordinance #2020-04 to amend City Code Chapter 168

The Police Department fields numerous calls regarding speeding cars in residential neighborhoods/streets, which is a quality of life issue in the eyes of many residents. Many traffic studies are conducted annually to determine the validity of these calls. The results of these studies show a vast majority of traffic is traveling above the posted speed limit. When roads are not posted for a specific speed, the default, by statute, is 30mph (or greater).

To assist in determining if the City should consider a change to the non-posted speed limit, the Police Department commissioned RSG of White River Junction to conduct a study. Their recommendation was to reduce the speed limit on residential/non-posted streets to 25mph. This will set new standards for those neighborhoods that are not posted, will increase safety, and will give the Police Department the tools needed to enforce speed limits. (Details of the study can be found in the attached memorandum from Police Chief Richard Mello.)

Councilor Heistad noted that the Ped/Bike Committee has discussed and raised their concern over speed limits for as long as he has been on the Council. He supported moving this forward.

ACTION:

Councilor Heistad MOVED, that the Lebanon City Council hereby schedules a public hearing for Wednesday, March 4, 2020, beginning at 7:00pm in Council Chambers, 3rd Floor, 20 West Park Street, for the purpose of receiving public input and taking action on proposed Ordinance #2020-04, to amend City Code Chapter 168, Vehicles and Traffic, by adding new Section 168-10, Speed Limit.

Secoded by Councilor Hill.

Councilor Hill thanked the Chief for bringing this forwarded. She also felt this was a quality of life issue for Lebanon residents.

Mayor McNamara noted that as the City becomes more-dense with redevelopment, there will be more people and cars on the streets. He felt getting the speed limit down in those areas where there will more density was justified.

Councilor Prentiss wanted to go on the recorded saying a speed limit reduction to 25mph was not enough, even though the City is not allowed to go lower than this. Lebanon's neighborhoods and streets were not even built for a 25mph speed limit - 20mph is even too fast in some areas.

Councilor Sykes said there are new data-based studies out showing that every time a speed limit is lowered, it has an incremental effect of actually lowering people's driving speed. He was in favor of moving this forward.

Roll Call Vote:

Mayor Tim McNamara, Assistant Mayor Clifton Below and Councilors Bronner, Heistad, Hill, Prentiss, Sykes, Winny all voting YEA.

None voted NAY.

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

10. REPORTS

A. City Manager:

Mr. Mulholland presented updates to the Council on the following:

- Legislative Issues: Two bills in front of the State Legislature: 1) Expansion and creation of new landfills, and 2) Trash Tax, which will add \$1.50 per ton on every type of trash. Part of these funds would be used to fund positions in the State's Department of Environmental Services and some funds would be earmarked to go back to the towns and cities, which is a problem because every time towns and cities are promised to get funds back it never happens. After the Council discussed the State's proposed Trash Tax bill, they agreed that Mr. Mulholland should represent the City on this issue.
- PFAS Funding: The State proposes to borrow \$15M to be used to provide low interest loans to municipalities to deal with PFAS issues and litigation as filed against four different companies.
- Security Assessment Bill.
- HB 1160 – Hotel Fees: No Action.
- Westboro Yard: Historical Assessment due in May 2020.
- NH DOT is meeting on March 17, 2020 to discuss the Dry Bridge Project.

B. Council Representatives to other bodies:

Ms. Allard (City Clerk) informed the Council that the City's first election at AVA Gallery was a success. They are happy to host future elections there indefinitely.

Councilor Prentiss spoke about the COPS Grant, mentioning the conversation that took place at the beginning of the meeting. There are accusations being made and the Council needs to know exactly what is happening. Also, if the City is not going to apply for a COPS Grant, - why; and if not, would there be financial implications for the City that residents should know about. She wants to be transparent about any income-related issues that may provide tax relief for current residents. There are some unanswered questions that she would like to get more clarity and transparency on.

Mr. Mulholland once again informed the Council that there have been all kinds of allegations and inferences that the City's Police Department is doing things that are improper, but no evidence has been presented to him regarding these allegations.

The Council further discussed the questions asked earlier in the meeting; how allegations should be addressed in a public forum; the need for the Police Chief to answer unaddressed questions regarding racial profiling data (both the pros/cons); and, having the Police Chief and City Manager go on the record to address these issues publicly at the March 4, 2020 City Council meeting.

Councilor Prentiss felt that whether the vote on the proposed Ordinance passes or not, this is still a discussion that needs to happen. While she did not feel anyone was doing something wrong, little things just keep building up and we should hit this issue head-on for the sake of transparency.

Councilor Hill suggested the Council prepare questions ahead of the March 4, 2020 City Council meeting and send them to the Police Chief ahead of time so he can prepare a response. She also requested the Police Chief prepare a memo ahead of voting to get data out to the public. We owe it to the people to get more information out before they vote. She concurred with Councilor Prentiss that this is not just about the vote, it's about clearing the air on some very serious issues.

Ms. Mayville said the March 4, 2020 agenda goes out on February 24, 2020 and requested the Mayor set a deadline for Monday, February 24, 2020 to submit Council's questions to the City Manager's office. She also requested that the Police Chief be given a deadline of February 26, 2020 to respond to Council's questions and anything else he thinks would be useful to get out to the public.

Mayor McNamara noted he suspects there is a lot of confusion, intentional or otherwise, and felt it would be good to clear the air.

11. FUTURE AGENDA ITEMS: None.

12. NON-PUBLIC SESSION: None.

13. ADJOURNMENT:

*Councilor Heistad MOVED for adjournment.
Seconded by Councilor Prentiss.*

Roll Call Vote:

**Mayor Tim McNamara, Assistant Mayor Clifton Below and Councilors Bronner, Heistad, Hill, Prentiss, Sykes, Winny all voting YEA.
None voted NAY.**

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

The meeting was adjourned at 8:36 p.m.

Respectfully submitted,
Dona E. Gibson
Recording Secretary