



Draft MINUTES
FAIR & IMPARTIAL POLICING TASK FORCE
TUESDAY, JUNE 23, 2020 – 7:00PM
REMOTE VIA MICROSOFT TEAMS
[LebanonNH.gov/LIVE](https://lebanonnh.gov/LIVE)

- 1. CALL TO ORDER:** The Fair & Impartial Policing Task Force met remotely on June 23, 2020 via Microsoft Teams. The following task force members were present: Karen Liot Hill (Co-Chair), Suzanne Prentiss (Co-Chair), Diane Root, Devin Wilkie, Kathie Beckett, Keysi Montas, Barry Schuster.
- 2. ACCEPTANCE OF MINUTES:** Motion to approve minutes of June 9, 2020 made by Prentiss, seconded by Beckett. Roll call vote was taken with unanimous approval.
- 3. DISCUSSION ITEMS:**
 - A. Memo from Attorney Bernie Waugh
 - i. Attorney Waugh, Attorney for the City of Lebanon for the FIP Task Force, reviewed the memo that he prepared, emphasizing that he is not making policy recommendations
 - a. Recommendation that Provision 6 be removed from the Ordinance due to unenforceability and ambiguity.
 - b. Recommendation to clarify enforcement of the Ordinance, providing multiple pathways for people to complain about violations of the Ordinance. Hanover's ordinance language includes an internal and external complaint procedure. Chicago ordinance did not create private right of action.
 - c. Recommendation to talk to Police Chief regarding Provision 1 prohibiting retaining/collecting information and to separate Provision 1 into two sections.
 - d. Recommendation that "Council" be changed to "legal counsel" in keeping with original intent of Ordinance.
 - e. Recommendation regarding Provisions 2 and 3 to incorporate same language for list of exceptions/exclusions as he is recommending regarding Provision 1.
 - f. Recommendation to make clear that City "agents" are only subject to this Ordinance when they are acting in their official capacity, not during personal time.
 - ii. The Task Force discussed the memo and agreed to devote one meeting to each of the issues raised by Attorney Waugh. Task Force members agreed that task force members would volunteer to take the lead on working on individual provisions.
 - iii. Motion to accept Attorney Waugh's suggestion regarding the mention of "City Council" be changed to "legal representative" made by Wilkie, seconded by Beckett. Roll call vote was taken with unanimous approval.

- iv. Prentiss volunteered to work on Provision 6 for the next meeting.
 - v. Root volunteered to work on Provision 1.
 - vi. Wilkie volunteered to work on the issue of Agency.
 - vii. Beckett volunteered to address the topic of Enforcement.
- B. Task Force Charge & Scope of Work
- a. The Task Force discussed its charge and scope of work and affirmed a common desire to work within the confines of the Ordinance, to keep its intent, and to address narrowly on issues that require clarification.

4. PUBLIC TESTIMONY:

Public Testimony – The task force heard testimony from Angela Zhang, staffmember for Listen Community Services, about the challenges of working with individuals who may be undocumented and that confidentiality is crucial for the work that Listen Community Services does to provide support services to people in need who may be undocumented. The task force also heard testimony from Attorney Kira Kelly, who has been volunteering with the Welcoming Lebanon Ordinance citizen committee, about her perspective on municipal liability, qualified immunity, and resources that are available to municipalities who are enacting similar ordinances. She offered to submit a legal brief regarding Provision 6 to the Task Force for its consideration.

5. ADJOURNMENT. The meeting was adjourned at 8:38pm.

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Draft MINUTES
FAIR & IMPARTIAL POLICING TASK FORCE
TUESDAY, JULY 7, 2020 – 7:00PM
REMOTE VIA MICROSOFT TEAMS
[LebanonNH.gov/LIVE](https://lebanonnh.gov/LIVE)

1. **CALL TO ORDER:** The Fair & Impartial Policing Task Force met remotely on July 7, 2020 via Microsoft Teams. The following task force members were present: Karen Liot Hill (Co-Chair), Suzanne Prentiss (Co-Chair), Diane Root, Devin Wilkie, Kathie Beckett, Keysi Montas, Barry Schuster.

Liot Hill introduced Breanna Glover '22, Intern with the City of Lebanon and School Diversity working on diversity and inclusiveness training.

2. **ACCEPTANCE OF MINUTES:** Motion to approve minutes of May 28, 2020 made by Prentiss, seconded by Wilkie. Roll call vote was taken with unanimous approval.

3. **DISCUSSION ITEMS:**

- A. Provision 6 – Prentiss shared a modified version of Provision 6 that she prepared through a safety lens with the objective of avoiding consequences for the City that could come from interfering with the federal government, including loss of federal funding, while meeting the moral obligation for the city of notifying people about activities taking place within the City, e.g. immigration-related checkpoints. The draft language was as follows:

In order to maintain public safety and the orderly processes for all citizens traveling in and through the city of Lebanon, the presence of checkpoints along our roads and highways that interfere with the flow of traffic should be reported to the public. If any Agent of the City becomes aware of a Federal immigration authority's presence at said checkpoint in the City for the purposes of questioning, detaining or gathering immigration status information from any person or persons, or other enforcement action, the City shall act to notify the public as soon as they become aware. This should be done by both the City of Lebanon and community organizations once they become aware. Notification can be made through the LebAlert system as well as partner organization communications protocols.

Task force members discussed the draft language and considered some modifications. Attorney Waugh referenced an opinion that he prepared regarding Provision 6, including his response to a memo prepared by Attorney Kira Kelly. Waugh offered to look into other instances where the City and/or State is required to provide advance notification to the public, e.g. construction, accidents, DUI checkpoints, etc.

4. **PUBLIC TESTIMONY:** The Task Force heard public testimony from:

- Judith Bush – if ICE or Border Patrol notifies Police Department of an upcoming action, that should be communicated to public not just if an activity is already taking place.
- Phil Bush – raised attention to the memo from Attorney Kira Kelly.
- Mary Maxfield - on behalf of former student of Mexican descent regarding anxiety-inducing experience with border patrol checkpoint that took place in Lebanon last year
- Sarah Raight - expressed concern that narrowing the focus of Provision 6 to checkpoints exclusively takes from original broader intent of ordinance.
- Attorney Kira Kelly suggested that there are ways for the city to mitigate legal bills through pro bono law work. Addressed vagueness issues suggesting that language be included to say that if officials are in uniform, they are there on official business. Suggested task force members put yourselves in the shoes of a staff-member to ask if the ordinance is clear. Clarifying policies and procedures can be passed in the future.
- Diane Root shared testimony from someone who works in Lebanon and wishes to remain anonymous for security reasons. Concerned about the need to carry expensive documentation to prove their ability to be in the country and the difficulty of applying for new paperwork if it is lost.

5. OTHER BUSINESS: The Task Force resumed discussion following Public Testimony. Prentiss discussed avoiding pinning notification requirements to a specific person or title. Said she was hoping that tying Provision 6 to checkpoints was attempt at middle ground, since legal counsel had been advising against including it at all. She wanted to tie Provision 6 to public safety as an effort to avoid Provision 6 being taken out and rather keeping it in.

Waugh will continue to work on Provision 6, and the group will discuss Provision 1 at the next Task Force meeting.

6. ADJOURNMENT. Motion made by Prentiss, Seconded by Wilkie. Passed Unanimously by Roll Call vote.

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Draft AGENDA
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TUESDAY, JULY 21, 2020 – 7:00PM
REMOTE VIA MICROSOFT TEAMS
[LebanonNH.gov/LIVE](https://lebanonnh.gov/LIVE)

1. **CALL TO ORDER:** The July 21, 2020 Fair & Impartial Policing Task Force Meeting is hereby called to order at approximately 7pm. Present: Dianne Root, Barry Schuster, Kathy Beckett, Keysei Montas, Devin Wilkie. Not present: Sue Prentiss

Also present: City Manager Shaun Mulholland and Bernie Waugh, Attorney for the City of Lebanon

2. **ACCEPTANCE OF MINUTES:** Minutes for the June 23, 2020 and July 7, 2020 will be approved at a subsequent meeting.

3. **DISCUSSION ITEMS:**

- Provision 6 – The Task Force took up Provision 6, beginning with a review by Attorney Waugh of the memo he prepared. Waugh says it is a gray area of the law, and since he tends to take a conservative view when advising his municipal clients, he does not advise recommendation of this provision regarding notification. Schuster reminded the task force that Waugh’s recommendation is a caution but not an absolute prohibition. The goal of revised language of Provision 6 is to maintaining the spirit of the ordinance passed by the voters and to achieve public safety while not interfering with federal government. Waugh said there is no case law in this specific area (cities/towns adopting notifications re: checkpoints). After discussion between Task Force members and testimony from Attorney Kira Kelly, there was consensus that the group wanted to keep working on Provision 6 with the goal of keeping the notification provision in the final recommendation to the City Council, along the lines of the language that Prentiss had previously provided to the Task Force.
- Provision 1 – Root introduced the work that she did on Provision 1, which had been shared with the Task Force. She said her goal was three-fold: 1) Clarify that no agent can discriminate on a list of different things, 2) Consistency of language between 1-3 about protected groups, and 3) Address exclusions, e.g. regarding data collection efforts. The Task Force discussed these topics, including collecting or retaining information (current practices in the City), language about protected groups (“perceived race”), and the impact of the phrase “on the basis of.”

4. **PUBLIC TESTIMONY:** Amelia Sreen offered favorable testimony about using the term “perceived race.”

5. **OTHER BUSINESS:** Waugh indicated that the proposed new structure of Provision 1 addressed a number of his legal concerns. The Task Force continued discussing the topic of collecting or retaining data and agreed to invite the Police Chief to an upcoming meeting. There was clear consensus that while there is still work to do on Provision 1, the group shared the goal of Provision 1 prohibiting discrimination in the City. Waugh will work on another draft of Provision 1, incorporating the Task Force discussions. The next Task Force meeting will continue working on Provision 1 and include a discussion with the Police Chief if he is available. Provision 6 will be revisited at a subsequent meeting.

6. **ADJOURNMENT.** Schuster moved to adjourn the meeting, Diane seconded. Passed unanimously by Roll Call vote at approximately 8:30pm.

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