

FINAL

**LEBANON CITY COUNCIL
MINUTES, REGULAR SESSION
SAU #88 Auditorium
20 Seminary Hill, West Lebanon
Wednesday, January 22, 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, Karen Zook

MEMBERS ABSENT: None

STAFF PRESENT: City Manager Shaun Mulholland, Deputy City Manager Paula Maville, City Clerk Sandra Allard, Planning & Zoning Director David Brooks, Senior Planner Tim Corwin, Police Chief Richard Mello, Deputy Police Chief Phil Roberts, Fire Chief/Interim Airport Manager/Emergency Management Director Chris Christopoulos, Energy & Facilities Manager Tad Montgomery, Attorney Bernie Waugh Jr.

Mayor McNamara called the meeting to order at 7:00 p.m.

Councilor Prentiss participated remotely because she was out of town on business.

1. **PLEDGE OF ALLEGIANCE:** Councilor Bronner led the Council in the Pledge of Allegiance.
2. **PUBLIC FORUM:** Mayor McNamara made the Public Forum announcement.
3. **OPEN TO PUBLIC:** No one from the public came forth.
4. **RECOGNITIONS: NONE**
5. **ACCEPTANCE OF MINUTES:**
 - January 8, 2020 (Regular Sessions)

Amendments:

Page 4, line 5: Change January 10 to January 22; Page 10, line 35: Add after disadvantaged “compared with the most advantaged”; Page 11, line 5: sentence should read “derived from a problem with pathological”

Councilor Hill MOVED to approve the January 8, 2020 as amended in the January 22, 2020 agenda packet.

Seconded by Councilor Sykes.

Roll Call Vote:

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

None voting Nay.

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

6. APPOINTMENTS: NONE

7. PUBLIC HEARING ITEMS:

A. PROPOSED AMENDMENTS TO THE ZONING ORDINANCE FOR 2020 MUNICIPAL BALLOT

Mr. David Brooks and Mr. Tim Corwin came before the Council representing the Proposed Amendments to the Zoning Ordinance for the 2020 Municipal Ballot.

Detailed information on the following was included in the January 22, 2020 agenda packet:

- January 15, 2020 Memo to the Lebanon City Council from Planning Department Staff re: Public Hearing on Zoning Ordinance Amendments for March Ballot which includes the Draft Zoning Amendments for the March 10, 2020 Ballot (19 Pages);
- The proposed Zoning Ordinance and Zoning Map amendments for detailed information. The new or revised text is blue and underlined. The ~~text to be deleted is shown as red with a strike-out~~. Please note that the red-line includes only those pages of the Zoning Ordinance affected by the amendments, which automatically trigger a ballot referendum.

Mr. Brooks reviewed the background on the proposed amendments, noting that at the October 2, 2019 meeting, the City Council was presented with a number of proposed amendments to the Zoning Ordinance and Zoning Map. The Council took action to accept the amendments as presented and forwarded them for review and comment by the Planning Board, Conservation Commission, and Zoning Board of Adjustment. A legal review was obtained, and all boards completed their review.

Final proposed amendments along with Board/Commission comments were presented to the Council on January 8, 2020. Based on discussions at the meeting, further changes were made to a couple of the proposed amendments resulting in the final list below. The proposed amendments are split into two groups: 1) Amendment proposed for the March 2020 Ballot, and 2) Amendments for the Council's Adoption.

For the benefit of the public Mr. Tim Corwin reviewed the following proposed amendments to be placed on the March 2020 Ballot, noting the purpose and description of these amendments have not changed since the January 8, 2020 Council review.

Amendment #1 – To eliminate the enhanced setback required along state highways in the R-1, R-2, R-3, R-O, R-O-1, and PB Districts, and eliminate the Special Exception to reduce enhanced setbacks along state highways. **(Zoning Ordinance Sections 201, 308, 309, 310, 311, 311A, and 311B)**

Amendment #2 – To modify the multi-family dwelling use categories in the R-1 and R-2 Districts. **(Zoning Ordinance Sections 308 and 309)**

Amendment #3 – To allow “Accessory Dwelling Unit per Section 610” as a Permitted Use instead of by Special Exception in the R-3, RL-1 and RL-2 Districts. **(Zoning Ordinance Sections 310, 312 and 313)**

Amendment #4 – For Planned Unit Residential Developments (PURDs), to clarify that any use permitted in the underlying zoning district may be allowed as part of the PURD. **(Zoning Ordinance Section 501)**

Amendment #5 – To add new section establishing operating standards and requirements for a home-based agricultural business, and to allow a home-based agriculture business in the R-1, R-2, and R-3 Districts either as a Permitted Use or by Special Exception depending on the size of the property and the nature of the business. (**Zoning Ordinance Sections 308, 309, and 310; and ADD Zoning Ordinance Section 600B**). Mr. Corwin thanked Ms. Jennifer Mercer for all the work and research she did on this amendment.

Amendment #6 – To change the use category “church” to “house of worship” throughout. (**Zoning Ordinance Sections 305, 306, 308, 309, 310, 311, 311A, 311B, 312, 313, 607, 608, and Appendix A**)

Mayor McNamara opened the Public Hearing, noting the above six (6) amendments must go before the voters on March 10, 2020 and cannot be approved by the Council.

Mr. Allen Reetz (Director of Public & Government Affairs, Hanover Co-op Food Stores) came forth and presented a copy of his January 22, 2020 letter to the Council, which expressed his strong support for the proposals to rezone Tax Map 10, Lots 9 and 10 from IND-L to GC, and the downtown district. He also spoke about the housing crisis in Lebanon, noting that this was not being solved in the marketplace. He believed these proposals would benefit the community, neighbors, builders and the future.

Mr. Tom Gowan (DHMC) came forth and presented his reasons supporting the proposed zoning amendments and spoke about employee housing, noting these amendments would help to get some cars off Route 120 and provide workforce housing opportunities.

Mayor McNamara closed the Public Hearing.

ACTION:

Councilor Bronner MOVED, that the Lebanon City Council hereby requests that the City Clerk place Amendments #1-6, as listed above on the March 10, 2020 Municipal Election Ballot for consideration by Lebanon Voters.

Seconded by Councilor Heistad.

Roll Call Vote:

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

None voting Nay.

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

B. PROPOSED AMENDMENTS TO THE ZONING ORDINANCE FOR COUNCIL ADOPTION

Please refer to the following items included in the January 22, 2020 City Council agenda packet for more detailed information.

1. January 15, 2020 Memo to the Lebanon City Council from Planning Department Staff re: Public Hearing on Zoning Ordinance Amendments for Consideration and Adoption by the City Council which includes the following:

- 2019-2020 Proposed Zoning Ordinance Amendments
- Proposed Zoning Map Amendment – Creation of GC1
- Proposed Zoning Map Amendment – Lebanon Downtown District

Mayor McNamara informed the Council they have the ability to send these amendments out to the voters if they choose to do so.

Mr. Brooks reviewed the background on the proposed amendments, noting that at the October 2, 2019 meeting, the City Council was presented with a number of proposed amendments to the Zoning Ordinance and Zoning Map. The Council took action to accept the amendments as presented and forwarded them for review and comment by the Planning Board, Conservation Commission, and Zoning Board of Adjustment. A legal review was obtained, and all boards completed their review. Proposed amendments along with Board/Commission comments were presented to the Council on January 8, 2020. Based on discussions at the meeting, further changes were made to a couple of the proposed amendments resulting in the final list below. Changes made subsequent to the Council’s discussion on January 8th are highlighted in blue underline. Please note that miscellaneous minor amendments that appear throughout the attached redline – such as correcting punctuation, and correcting references in the Zoning Ordinance necessitated by other amendments were not specifically reviewed for these amendments.

Mr. Corwin presented an overview of the following 17 amendments for the Council’s adoption:

Amendment #1 – To clarify and expand the scope of non-commercial land cultivation activities that are not subject to regulation under the Zoning Ordinance. (**Zoning Ordinance Section 200**).

Amendment #2 – To modify the procedures and standards for obtaining a Conditional Use Permit. (**Zoning Ordinance Section 302**)

Amendment #3 – To add “car wash” to the IND-L District by Conditional Use Permit and to the GC District as a Permitted Use; add definition of “health club” and change to a Permitted Use in the IND-L and IND-RA Districts, add to the GC, CB, and MC Districts as a Permitted Use, and add to the R-O and R-O-1 Districts by Special Exception; and add definition of and add to the IND-L and GC Districts by Conditional Use Permit and to the MC District as a Permitted Use. (**Zoning Ordinance Sections 303; 303A, 305, 311, 311A, 315, and Appendix A**). The “retail product pickup” is a stand-alone facility that is not manned but would allow for consumer pick-up of products that they have purchase online or over the phone. This would be a location for consumer pick-ups without having to travel to a retail store.

Amendment #4 – To modify (consolidate/simplify) the multi-family dwelling use categories in the R-O and R-O-1 Districts. (**Zoning Ordinance Section 311 and 311A**).

Mr. Corwin reviewed Amendments #5 and #16 later in his presentation since they were both related. (Note: The amendments below are listed in the order they were presented.)

Mr. Corwin reviewed Amendments #6 and #17 together, noting these two were related to the Lebanon Downtown (LD) District. The Central Business District will continue to be a viable district. There are a set of related design standards that the Planning Board is considering to adopt as part of their Site Plan Review Regulations that would be specific to the new construction development in the Lebanon Downtown District.

Amendment #6 – To establish a new Lebanon Downtown (LD) District including permitted uses, uses by Conditional Use Permit, dimensional regulations, and other requirements; and to make related modifications throughout the Zoning Ordinance. **(Zoning Ordinance Sections 300, 500, 607, 608, and Appendix A; and ADD Section 307)**

Amendment #17 – Zoning Map change from CB District to the proposed Lebanon Downtown District for all properties within downtown Lebanon currently zoned Central Business District. This amendment does not apply to West Lebanon village. **(Zoning Map Change)**

Amendment #7 – To update the Flood Insurance Study and Flood Insurance Rate Map references. **(Zoning Ordinance Section 402)**

Amendment #8 – To append the Lebanon Historic District Map to the Zoning Ordinance. **(Zoning Ordinance Section 408.3 and ADD Appendix C)**

Amendment #9 – To clarify that the Section 601 standards may apply to both new construction and uses allowed by conversion in the R-2, R-O, and R-O-1 Districts. **(Zoning Ordinance Section 601)**

Amendment #10 – To clarify maximum permitted sign area and freestanding sign requirements; and eliminate the prohibition of non-static signs in windows in the non-residential districts. **(Zoning Ordinance Section 608)**

Amendment #11 – To allow the keeping of roosters on properties in the R-3 District of more than 5 acres in size. **(Zoning Ordinance Section 611)**

Amendment #12 – To clarify that Section 700 applies to legal non-conforming uses, and to clarify the standards and requirements applicable to the moving and expansion of nonconforming uses. **(Zoning Ordinance Sections 700 and 702)**

Amendment #13 – To eliminate requirement that the Zoning Board’s written decision shall be finalized prior to the final vote of the Board, and to clarify which uses require a zoning permit. **(Zoning Ordinance Sections 802 and 901)**

Amendment #14 – To amend various definitions and new definitions for principal frontage, health club, lot width, retail product pick up, story, and street level story. **(Zoning Ordinance, Appendix A)**

Amendment #15 – To adopt miscellaneous minor amendments including corrections to typographical errors. **(Zoning Ordinance Articles II, III, IV, V, VI, VII, VIII, and IX, and Appendix A)**

Mr. Corwin returned to the following two amendments (#5 & 16).

Amendment #5 – To establish a new General Commercial One (GC-1) District including permitted uses, uses by Special Exception, uses by Conditional Use Permit, and dimensional regulations; and to make related modifications throughout the Zoning Ordinance. **(Zoning Ordinance Sections 211, 300, 500, 501, 607, 608, 612, and Appendix A; and ADD Section 305A)**

Amendment #16 – Zoning Map change to the proposed GC-1 District for the +/-16.28 acre portion of 1 Medical Center Drive currently zoned GC; 367 NH Route 120 (M/L 10-9) currently zoned GC; 0 NH Route 120 (M/L 10-9) currently zoned IND-L; and a +/-39.85 acre portion of 0 NH Route 120 (M/L 10-10), currently zoned IND-L. (**Zoning Map Change**)

These amendments originated out of interest shown by the property owners on the east side of Route 120 for multi-family housing. (Site maps were presented to the Council.) Property owners spoke to Staff about a possible Zoning Amendment change and at the same time DHMC spoke with Staff about allowing multi-family housing on their property to accommodate the tremendous need they have to house their workers. The proposed GC-1 District would allow multi-family housing and allow the existing usage within their property on the west side of Route 120, which is the Hanover Professional Center. This would accommodate a variety of commercial uses, which would be accounted for in the GC-1 District. Staff worked with property owners to develop these regulations, including the owners of Hanover Professional Center. They are confident the proposed Amendments (#5 and #16) are consistent with the City’s Master Plan and meets the growing needs of businesses in this area to house workers close to mass transit, pedestrian trails, and major employers and services. After the January 8, 2020 meeting Staff took a closer look at what other uses they might be able to include in the GC-1 District and in doing so they identified L-IND, as well as a research laboratory, and have included those as proposed uses by a Conditional Use Permit. This is the main change to the GC-1 District as of January 8, 2020.

Mr. Brooks pointed out that this change derives from the 2012 Master Plan where there are specific references to try and create housing along the Route 120 corridor, to enable large employers to create housing on their own, and try to put housing close to the major job centers. (Chapter 7 of the City’s Master Plan.) He further spoke about the need for housing.

Mayor McNamara opened the Public Hearing on these 17 Amendments and noted the complexities of these Amendments.

Mr. Bill Cioffredi came forth in support of the amendments to improve housing.

Mr. Clay Adams (President of Mascoma Bank) came forth and stated one of the most consistent things they hear from businesses is their inability to find employees. A major contributor to this problem is the inability of potential employees to find affordable housing , or housing in general. He was in support of the GC-1 District and the Lebanon Downtown District amendments, but felt affordable workforce housing should also be a regional endeavor.

Mr. Tom Gowan (DHMC) came forth and stated they envision providing shuttles to and from the hospital, in addition to adding pedestrian and bicycle communication between these partials and the hospital. This should help decompress the congestion on Route 120 and exits off I-89.

Mr. Evan Smith (CEO, Hypertherm) came forth and stated they are very proud to be a Lebanon workplace. He reiterated what was already said and noted that the quality of life for their associates means being able to live in the communities where they work and spending less time stressing over transportation costs and reliability. Also important to them is the ability to attract and maintain a vibrant workforce. He supported these amendments.

Mr. Alan Reetz came forth and provided his written testimony in support of the amendments to the Council and a mobility checklist provided by the Upper Valley Transportation Management Association and Vital Communities.

Mr. Michael Kiess (Vital Communities) came forth in support of the amendments and spoke about how communities in the regional are interdependent. He informed the Council about the ways Vital Communities is working with other towns in the region (Vermont & New Hampshire) regarding changes in their zoning regulations to allow for more affordable housing. This is a regional challenge.

Mayor McNamara closed the Public Hearing.

Councilor Hill noted the concerns she expressed at the January 8, 2020 meeting on Amendment #5 and appreciated the work Staff did to respond to those concerns. She felt comfortable moving forward with Amendment #5, particularly in light of the testimony the Council has heard.

In response to Councilor Sykes questioned, Mr. Corwin explained the process of how a decision would be written for Amendment #13.

Councilor Prentiss appreciated the comments made by the public and noted the elevated discussions regarding affordable market/workforce housing in the Upper Valley. Her concerned was also about housing but wanted to bring up the fact that this is not just a Lebanon discussion, it is a regional discussion. Many times, when there are regional discussions, and because Lebanon is a hub, she was unclear if other communities will step up and accompany Lebanon in this effort. She wanted everyone to be mindful, as a Council and a region, that everybody has a stake in this, not just the City of Lebanon. She supported moving forward with the amendments

Mayor McNamara supported expanding housing opportunities but had some real questions with regard to the new zoning district on Route 120. He spoke about the large number of units either under approved construction or in the pipeline. Mr. Brooks informed the Council about of the number of approved and pending housing units in Lebanon. Mayor McNamara stated his concern about the potential of 1500 units being constructed in a very short period of time, noting this is more growth than this City has seen in all the time he has lived here. It would behoove the Council to wait on the rezoning of Route 120 until they get some idea of the potential impact on the City that this number of units would have. While he is in favor of more housing, he was uncertain if this was the mechanism to do at this site. He was also concerned about adding another area of high density housing in the City.

In response to Councilor Hill's question regarding the build out of this area, Mr. Brooks said it would involve approximately 43 acres and explained what would happen under current zoning vs. the proposed new zoning. Mr. Gowan (DHMC) informed the Council that under DHMCs density analysis their parcel would hold approximately 250 units under the proposed zones.

Councilor Heistad concurred with Councilor Prentiss regarding how to make this a regional issue and getting other communities to buy into the fact that people need to live/work here, but does all housing need to be in Lebanon.

Councilor Sykes was concerned about housing sprawl. Mayor McNamara addressed his concern, noting given the existing Zoning Map, limited opportunities for sprawl exist because the zones that would allow this do not exist.

ACTION:

Councilor Hill MOVED, that the Lebanon City Council hereby approves amendments #1-#17 as presented in the January 22, 2020 City Council Agenda Packet.

Seconded by Councilor Bronner.

Councilor Hill understood and shared the concerns that Councilor Prentiss brought up and echoed by Councilor Heistad. This is a regional issue - it is not only Lebanon's issue to solve but it does not mean we should not contribute our fair share. We are the hub and that comes with challenges, but it also comes with opportunities and responsibilities because we have the major employers in the region, and we are all aware of the market pressures. It is past time for Lebanon to do a build-out analysis so the City can understand what the actual capacity would be if Lebanon was completely built out under our laws today vs. how it would compare to the changes that might come down the road. She supported all the amendments.

Mayor McNamara stated that if Amendments #5 & #16 could not be removed, he would not support a motion. His concern was the total number of new units being built in the City in a very short period of time (between 15%-20%) and the impact this increase would have on the City. He is not opposed to housing developments on Route 120 but felt this (amendment) was not the best way to go about it.

Assistant Mayor Below felt a fair amount of work has gone into the development of these amendments with input from the Planning Board and the Conservation Commission. Part of these (amendments) reflect the objectives of the Master Plan as well as the Downtown Visioning Plan, which is to create opportunities for more walkable, bikeable neighborhoods, including some higher density housing rather than more rural lands being subdivided into large lot developments. Overall this is a step in the right direction. Our focus should be focused on supporting the existing employers in the area and helping to facilitate the prosperity and vitality of those that are here, including the small businesses that start up within our community. We could always revisit Amendments #5 and Map Amendment #16 at any time. He supported moving forward with the amendments.

Councilor Sykes felt that as a community we should be thinking about how to attract younger people to the City. Everything he has heard in discussing this issue at the State level tells him that younger people are not looking for the traditional single family home. In fact, they are looking for apartment buildings that are close to a quality of life that they like (i.e., housing that will put them close to mass transit). He supported the Motion as it was stated.

Roll Call Vote:

Assistant Mayor Below, Councilor Bronner and Councilor Hill, Councilor Sykes, Councilor Winny and Councilor Zook all voting Yea.

Mayor McNamara, Councilor Heistad and Councilor Prentiss voted Nay.

****The Vote on the MOTION passed (6-3).***

C. CITIZENS' BINDING INITIATIVE PETITION FOR WELCOMING LEBANON ORDINANCE

For more detailed information, included in the January 22, 2020 City Council agenda packet were:

1. 2020-01-22_Item.0.7.C-WELCOMING LEBANON PETITION.pdf
2. 2020-01-06 Legal Opinion Re Welcoming Petition-Released to Public.pdf
3. January 6, 2020 Memo from City Clerk Sandra Allard to City Council re: Citizens' Initiative Petition transmitting the October 28, 2019 Initiative Petition
4. December 27, 2019 City Clerk Certification of Petition Signatures
5. October 16, 2019 Memo from City Clerk Sandra Allard to City Council re: Process for Citizens' Initiative Petition

Mr. Mulholland, City Manager, came forth and reviewed the general process for the Citizens' Binding Initiative Petition for the Welcoming Lebanon Ordinance noting the three courses of action the Council could take:

1. The Council could vote to approve the proposed Ordinance as it is. If that occurs, that would take effect immediately;
2. The Council could amend the petition as it is and that would take effect immediately;
3. The Council could take no action and put this before the voters.

If the Council chooses to make changes to the Ordinance it will take effect immediately. However, the original petition will go to the voters as it was initially proposed so there would be one version of the Ordinance in effect and the voters would be voting on something different in March, which would be the controlling document and take effect on January 1, 2021.

A Citizens' Binding Initiative Petition relative to a "Welcoming Lebanon Ordinance" was submitted by a lawfully established Petitioners' Committee to the City Clerk on October 15, 2019. In accordance with City Code Chapter 89, Initiative Petitions, §89-4, the sample question and explanation submitted by the Petitioners' Committee was submitted for legal review. Attorney H. Bernard Waugh provided a legal opinion addressing whether the sample question and explanation are sufficiently clear and in the appropriate form. Based on attorney Waugh's review and suggested clarifications, the Petitioners' Committee amended the proposed language and submitted a revised petition/ordinance on October 28, 2019.

In accordance with City Charter §C419:23a, Citizens Binding Initiative, a qualified petition requires signatures by ten (10) percent of the votes cast in the last gubernatorial election. In this instance, 611 signatures were required for the petition to be qualified. 680 qualified signatures were certified by the City Clerk on December 27, 2019.

Within 14 days of certifying the signatures, the City Clerk must forward the petition to the Council to be placed on a City Council agenda. Within 20 days of receipt of the City Clerk's certification at such Council meeting, the City Council must schedule and hold a public hearing and decide whether or not to pass the initiative (Welcoming Lebanon Ordinance) without alteration.

If, after the public hearing, the City Council decides not to pass the initiative, to pass the initiative with substantive alterations, or takes no action whatsoever, then the Council shall cause the original certified petition question and a brief explanation or synopsis to be placed on the ballot at the next municipal

election – March 10, 2020. If passed by a majority of voters, the initiative shall become effective the first day of the succeeding municipal year – beginning January 1, 2021.

Ms. Kathleen Beckett (Ward 3 and Chair of the Petitioners’ Committee) came before the Council and summarized the intent and purpose of the petition regarding the Citizens’ Binding Initiative Petition for the Welcoming Lebanon Ordinance. Her summarization included her comments below, which addressed some of the concerns expressed in the legal opinion by the City’s attorney. (The purpose, intent and the six (6) provisions of the petition can be found on pages 102-103 of the agenda packet.)

- Provision 1: The intent of this provision is to ensure unbiased, fair and impartial policing. They realize that fair and impartial policing requires a fair and impartial policing policy, training, data collection and citizen oversight. It is also important to state that this provision is in no way intended to interfere with criminal investigations or requirements for voter registration.
- Provision 2-5: The source for these provisions was the Hartford, VT ordinance as it was written at the time the initial proposal for a Welcoming Lebanon Ordinance was submitted. The provisions were vetted by the Hartford Select Board in collaboration with the immigrant community and citizens of Hartford. Given that the effort is to protect every person in our communities and the region, this strategy made sense. Ms. Beckett said it was important to note each of the six (6) requirements under provision #5 and read these requirements to the Council.
- Provision 6 was read to the Council. Ms. Beckett said it was important to make clear the reason for provision 6, noting that when Border Patrol setup a checkpoint between I-89 Exits 18 & 19 last September, the presence of Federal Immigration authorities in Lebanon was traumatizing for members of our community. She explained the fear created by this immigration action, noting that members of our immigrant community have been viciously attacked, beaten, and kidnapped at gunpoint in their countries of origin. It was reasonable, given the blatant and cruel hostility of our current administration for these individuals to be fearful that they will be detain and sent back to life threatening situations. She further described the DACA Program, the Temporary Protected Status for immigrants from Haiti and El Salvador, the Asylum Program and the Refugee Resettlement Program. Although immigration authorities are not supposed to retain US citizens, both ICE and Border Patrol have done so.

Ms. Beckett asked the Council if the City of Lebanon wants any person to be traumatized or detained due to our racially motivated and broken immigration system. As a City, don’t want to do what we can do to protect our neighbors. Provision 6 makes a small attempt to do this.

Mayor McNamara opened the Public Hearing and requested those who would be speaking hold their testimonies to three (3) minutes.

The Council recognized and took under advisement detailed testimonies, both for and against the proposed Ordinance, from the following people:

- Ms. Asma El Huni (lives in the Upper Valley) – Spoke in favor of proposed Ordinance.
- Mr. Liam Coyle (Ward 1) – Spoke in favor of the proposed Ordinance.
- Ms. Angela Zhang (Programs Director of LISTEN Community Services) – Spoke in favor of the proposed Ordinance.
- Ms. Amelia Sreen (Ward 2) – Spoke in favor of the proposed Ordinance.

- Ms. Kate Semple Barta (Immigration Attorney for WISE) – Spoke in favor of the proposed Ordinance.
- Ms. Yolanda Huerta (Hanover resident) – Spoke in favor of proposed Ordinance and read an email from an attorney on behalf of a group of Lebanon residents in favor of the proposed Ordinance.
- Mr. Gregory Schwarz (Ward 2) – Spoke against the proposed Ordinance, noting his concerns. Let it go before voters.
- Mr. Bryan Ware (Ward 1) – Spoke against the proposed Ordinance and addressed his concerns. Let it go before the voters.
- Ms. Sarah Wraight (Ward 1) – Spoke in favor of the proposed Ordinance.
- Mr. Richard Holms (Ward 3) – Spoke against the proposed Ordinance and his concerns regarding the Rule of Law and the provisions listed in the proposed petition.
- Mr. Al Patterson (Ward 3) – Spoke against the proposed Ordinance, expressly noting his disapproval on how the Police Dept. was negatively treated at the January 8, 2020 meeting. Table the petition or let it go before the voters.
- Richard Abel (Ward 1, NH State Representative) - Spoke in favor of the proposed Ordinance and addressed the law in the State of New Hampshire and how the State Legislature decisions on immigration affects what municipalities/towns can and cannot do. NH is not what is called a home rules State, meaning that a municipality cannot do whatever it wants, it can only do what the State Legislature authorizes it to do. In 2019, a bill was introduced in the State House, to allow municipalities and their agents, officers, and police officers, to enforce Federal Statutes about immigration. The House debated this, and the Bill was defeated by a large majority. It was the feeling of the State Legislature that they did not want to give this power to municipalities. What this means is that if a police officer or other municipal employee were to try to enforce Federal Immigration Statutes they would be breaking the law because they have not been authorized by the State Government to do this. The six (6) provisions of this proposed petition protects the employees of the City, including the Police Dept., from violating the law because the law does not allow any agent of a municipality or town to enforce a Federal Statute.
- Ms. Laurel Stavis (Grafton County, District 13, NH State Representative) - Spoke in favor of the proposed Ordinance and echoed what Mr. Abel said.
- Kesaya E. Noda (non-resident) – Spoke in favor of the proposed Ordinance and about her family experiences as a granddaughter of Japanese immigrants during World War II and the importance of migrant workers to our region.
- Lindsey Deerborn (Ward 1) - Spoke in favor of the proposed Ordinance.
- Reverend Steve Silver, Minister of the First Congregational Church of Lebanon (Ward 2) - Spoke in favor of the proposed Ordinance and quoted a bible verse from Leviticus, Chapter 19, verse 34.
- Mr. Phil Bush (Ward 1) – Spoke in favor of the proposed Ordinance and read a letter he sent to the Valley News (published on January 22, 2020).

Mayor McNamara requested that the Public Hearing be **recessed** for a short time to address the remaining four (4) remaining New Business items on the agenda, noting some were time-sensitive.

Councilor Hill Moved that the Council recess for three (3) minutes to address procedural votes, set public hearings and to authorize the City Manager to enter into a lease agreement for Electrify America.

Seconded by Councilor Zook.

Roll Call Vote:

Mayor McNamara, Assistant Mayor Below and Councilors Bronner, Heistad, Hill, Prentiss, Winny and Zook all voting Yea.

Councilor Sykes voting Nay.

**The Vote on Motion was approved (8-1). Councilor Sykes voted against.*

9. NEW BUSINESS

A. Request for Sewer Main Extension - Ken Braverman, Mount Support Road, Lebanon – Not Discussed. Will be placed back on the agenda in February.

B. Electric Vehicle Charging Station Lease

Authorization for the City Manager to enter into a lease agreement with Electrify America for placement of an Electric Vehicle Charging Station in a portion of the parking area along Taylor Street, Lebanon

ACTION :

Councilor Hill MOVED, that the Lebanon City Council hereby authorizes the City Manager to execute a Lease Agreement between the City of Lebanon and Electrify America for an Electric Vehicle Charging Station within a portion of the parking area along Taylor Street Lebanon, as shown on the map presented as part of the January 22, 2020 City Council Agenda Packet.

Seconded by Councilor Sykes.

Roll Call Vote:

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

None voting Nay.

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

C. Discussion & Set Public Hearing for February 5, 2020: Ordinance #2020-01 to amend City Code Chapter 160, Tobacco Products and Equipment, §160-5, Distribution and Sales Prohibited, to include a minimum age of 21 for purchasing tobacco and nicotine products.

ACTION:

Councilor Hill MOVED, that the Lebanon City Council hereby schedules a public hearing for Wednesday, February 5, 2020, beginning at 7:00 p.m. in Council Chambers, 3rd Floor, 20 West Park Street, for the purpose of receiving public input and taking action on Proposed Ordinance #2020-01, to amend the Code of the City of Lebanon, Chapter 160, Tobacco Products and Equipment, by amending Section 160-5, “Distribution and Sales Prohibited” to include a minimum age of 21 for purchasing tobacco and nicotine products.

Councilor Winny recused himself from this vote.

Seconded by Councilor Heistad .

Roll Call Vote:

**Mayor McNamara, Assistant Mayor Below and Councilors Bronner, Heistad, Hill, Prentiss, Sykes, Winny and Zook all voting Yea.
None voting Nay.**

****The Vote on the MOTION passed (8-0-1). Councilor Winny was recused.***

Councilor Winny returned as a regular member of the Council.

D. Discussion & Set Public Hearing for February 5, 2020: Ordinance #2020-02 to amend City Code Chapter 168, Vehicles and Traffic, §168-1 No parking, to restrict parking along Moulton Avenue, Lebanon

ACTION:

***Councilor Hill MOVED, that the Lebanon City Council hereby schedules a public hearing for Wednesday, February 5, 2020, beginning at 7:00 p.m. in Council Chambers, 3rd Floor, 20 West Park Street, for the purpose of receiving public input and taking action on Proposed Ordinance #2020-02, to amend the Code of the City of Lebanon, Chapter 168, Vehicles and Traffic by amending Section 168-1, “No Parking” to restrict parking on Moulton Avenue.
Seconded by Councilor Winny.***

Roll Call Vote:

**Mayor McNamara, Assistant Mayor Below and Councilors Bronner, Heistad, Hill, Prentiss, Sykes, Winny and Zook all voting Yea.
None voting Nay.**

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

***Councilor Bronner MOVED to resume the Public Hearing.
Seconded by Councilor Winny.***

Roll Call Vote:

**Mayor McNamara, Assistant Mayor Below and Councilors Bronner, Heistad, Hill, Prentiss, Sykes, Winny and Zook all voting Yea.
None voting Nay.**

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

Upon resuming the Public Hearing for the Citizens’ Binding Initiative Petition relative to a “Welcoming Lebanon Ordinance”, the Council recognized and took under advisement the following people who came forth to give their detailed testimonies either for or against the proposed Ordinance.

- Ms. Jan Holmes (Ward 3) – Questioned if the City would be setting a precedent for law enforcement officers to ignore a law.
- Sarah McDonald (Ward 1) – Spoke in support of the proposed Ordinance.
- Ms. Diane Root (Ward 1) – Spoke in support of the proposed Ordinance.
- Mr. Richard Ford Burley (Ward 3) – Spoke in support of the proposed Ordinance.
- Ms. Rosemary Stone (Ward 1) – Spoke against the proposed Ordinance.
- Mr. Bill Secord (Ward 1) – Spoke in support of the proposed Ordinance.

- Ms. Kathy Beckett (Ward 1) Spoke in support of the proposed Ordinance and addressed Federal Funding requirement concerns.

**Councilor Hill *MOVED* to extend the Lebanon City Council meeting to 10:30PM.
*Seconded by Councilor Heistad.***

Roll Call Vote:

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

None voting Nay.

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

- Mr. Ben Mortell (Ward 1) – Presented a letter to the Council and supported the proposed Ordinance.
- The Council recognized a person who wished to remain unnamed. The unnamed person spoke in support of the proposed Ordinance.
- Councilor Winny (Ward 1) read a letter from his constituent (Mr. Mark Pageau).

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

Mayor McNamara informed the public that he has never seen as much passion on an issue as he has on this one. He very much appreciated everyone being willing to speak on either side of this issue and was really humbled by the civility he experienced tonight. He felt everyone would go away from this meeting respecting everyone else's opinion and that is a great testimony to both the way we do things in the City of Lebanon and to our democracy in general.

Mayor McNamara reviewed the three (3) options available to the Council:

1. Take no action, and this will go on the Ballot of March 10, 2020 as is.
2. The Council can opt to adopt this with modifications. If this is done, it goes into effect with those modifications tomorrow (January 23, 2020) but then it still goes on the ballot on March 10, 2020. If that version passes, then that version supersedes the version that the Council adopted but only after January 1, 2021.
3. The Council can pass exactly what has been proposed in the Petition, in which case it does not go to the voters, it goes into effect immediately.

Assistant Mayor Below shared impassioned recollections centered around his father's Eulogy for Dr. Martin Luther King, Jr. and growing up as the son of Baptist minister in the segregated South, where racism and injustice was prevalent at that time. Reading his father's Eulogy, he spoke about Dr. Martin Luther King, Jr.'s belief that "violence would only bring violence and in the violence of racial strife there would be no freedom or brotherhood for anyone. Dr. King was not the only one who believed this: Jesus, 2000 years ago, knew that if mankind were to ever achieve any sense of brotherhood, it would have to be done through love and not hate. The dream of Martin Luther King, Jr. is still America's dream, not yet fully achieved. The way in which we attack the problems before us, either creatively or destructively, might determine if we lose the last best hope on earth. He wanted to take his place beside the Martin Luther King's and those who walk the earth in love, hope, honor and dignity." He passionately spoke about the reasons behind the causes of immigration and asked if anyone could not see the humanity in all

of our neighbors. He was very much in sympathy and in accord with the intentions and motivation with this proposed Ordinance. While he supported the intent behind this Ordinance, he noted some language ambiguity (i.e. under provision #2) from what the City's legal opinion was and spoke about how New Hampshire State Law requires certain information be shared. He felt this Ordinance was not ready to pass as written and suggested it go before the voters.

Councilor Zook spoke about concerns she had with provisions #6 and #1. She was agreeable to passing an amended version.

Councilor Heistad spoke about his family's immigration and a naturalized citizen, who is a City employee and lives in fear every day of being detained. His wife is supervisor of the checklist and needs to collect some very specific information from those who are registering to vote. What he sees in this Ordinance is that she cannot collect what the State law requires her to collect – this is a big problem. In no way does he want to be seen as someone who is not welcoming to anyone coming to town, so he was uncertain how to move forward with this Ordinance.

***Councilor Hill MOVED to extend the meeting to 10:45 PM.
Seconded by Councilor Prentiss.***

Roll Call Vote:

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

None voting Nay.

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

Councilor Hill acknowledged the efforts of the people who worked so hard on this petition and everyone who was in attendance. She also acknowledged the pain and fear that so many people are clearly living in, even in our own community, and the idea that people do not feel safe and unwelcomed. While she was happy and proud to live in a community where love for one another was expressed by so many people she shared some of the specific language concerns that Councilor Below raised. Her particular concern was provision #1 and felt this could actually hinder the efforts of the City to monitor and hold itself accountable, noting that collecting data is incredibly important so we can analyze that data and see if there are problematic patterns the City needs to address. This should go before the voters in March. The Council can then work collaboratively with the leaders of this effort between March and January 1, 2021 to correct some of the wording choices and the areas that the City's legal counsel identified.

Councilor Sykes felt it was a moral imperative that this Ordinance goes on the March ballot as is. This is something that the Council should do, and must do.

Councilor Bronner spoke about being a second generation immigrant and noted that we are all immigrants here, unless someone is a Native American. This country was built and populated by immigrants and he certainly wants all immigrants to feel welcomed and not feel persecuted or feel afraid. However, he did not agree with all provisions of the Ordinance and could not support the passing of this Ordinance as written. This should go before the voters on the ballot.

Councilor Winny said this Ordinance hits very close to him, not only because he is the only immigrant on the Council, but he is also a Social Worker. The intent behind the Ordinance is good and he supported the ideas behind it, but also had concerns about the language and some of the unintended consequences that may result from the Ordinance as written. He would love to be a part of the conversation over time working out what the best way to get this stuff done is, so it is done right. The law has very specific ways it needs to be phrased or you can end up with some very bad results. While he was fully in support of immigrants, he felt this is not the best way to get to where we want to go.

Councilor Prentiss supported the spirit of the proposal, but the legal opinion is such that she cannot support the Ordinance in its current form and did not support amending this on the fly. This should go before the voters, which will determine what the next steps are, including the opportunity to address and fix the conflicts. This is a “Welcoming Lebanon Ordinance.” There has been some negativity about policing in Lebanon and that concerns her because part of the Welcoming Ordinance is that we all have a role (citizens, residents, police and government) to be welcoming people.

Mayor McNamara concurred with a lot of what Assistant Mayor Below said. We all know we have a broken immigration system in this country. The broken immigration system that is being enforced, in his opinion, in a very mean-spirited way. There is a lot of work to be done in Washington. Immigration is a Federal issue. He agreed with a number of sentiments expressed and considers them as aspirational, not just as they apply to our employees, but they should be aspirational for all of us in how we behave towards others, regardless of who the others are. He did not feel it would prudent for him to support amending this Ordinance at this point, or support passing it in its current form, and felt this should go before the voters. If the voters approve it, then we have the opportunity between now and January 1, 2021 to work on this to make it better, more enforceable and more usable, particularly by law enforcement personnel. If it does not pass by the voters, we can have another discussion. He noted the City does have a bias-based policy and urged folks to take a look at this policy (adopted in 2017), which accomplishes a lot of things discussed tonight.

The Council discussed the three proposed motions that were included in the agenda packet.

***Councilor Bronner MOVED to adjourn.
Seconded by Councilor Heistad.***

Roll Call Vote:

***Mayor McNamara and Councilors Bronner, Prentiss, Winny and all voting Yea.
Assistant Mayor Below and Councilors Zook, Heistad, Sykes, and Hill all voting Nay.***

****The Vote on the Motion was (4-5). The MOTION FAILED.***

Ms. Beckett said that the Lebanon group would be willing to work with the Council once the voters pass the Ordinance and requested the Council make a statement in support of the Ordinance and are willing to work with them.

Mayor McNamara said that they have the individual Council comments about how each feels and does not feel anything more is needed.

Councilor Sykes questioned if the three Motions presented in the agenda packet were the only Motions available. Mayor McNamara said yes. Councilor Sykes was unhappy with the Motions provided. What he wanted to achieve, through a Motion, was to include what every single Councilor spoke about and include that the Council was in favor of the concept of this idea and supported an open and welcoming Lebanon. He did not see this reflected in the three Motions. Therefore, he would support sending this to the voters.

***Councilor Hill MOVED to extend the meeting by 10 minutes (10:55 PM).
Seconded by Councilor Heistad.***

Roll Call Vote:

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

Councilor Bronner voted Nay.

****The Vote on the MOTION passed (8-1). Councilor Bronner opposed.***

Mr. Mulholland informed the Council about the Charter approved by the voters and noted the Council needs to comply with the provision of this Charter. The Council can choose to approve the Ordinance as is; take no action; or, amend it. You cannot amend the Ordinance and say you will do it in 30 days or 6 months, it takes effect immediately. You are hemmed in by the provisions of the Charter, which leaves you those three options only.

Councilor Prentiss reminded everyone that almost everyone on the Council was in support of an Ordinance Resolution, which was basically the “Welcoming Lebanon Resolution” almost three years ago. Our support on the record is for an open, welcoming and diverse community, as stated in the Resolution.

Councilor Hill MOVED that:

WHEREAS the City Council or the City of Lebanon, NH desires to proclaim itself to be a welcoming and open community, the City Council of Lebanon, NH takes **NO ACTION** this evening on the “Welcoming Lebanon Ordinance” and in taking this action, sends it to the voters in March 2020.

Seconded by Councilor Sykes.

Mayor McNamara questioned if this Motion effectively does the same thing that the 3rd Motion does and was uncertain if it was in conformance with the Charter.

Attorney Bernie Waugh, Jr. informed the Council about what the Charter says: Anything you do, other than passing it (the Ordinance) as is and without changes sends it to the voters. In his opinion, he advised the Council to pass the Motion as presented because it would have that same effect.

Mayor McNamara reaffirmed, from legal counsel, that the Motion is legal and retains conformity with the Charter and would accomplish sending it onto the voters with the sentiment expressed.

Roll Call Vote:

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

Councilor Bronner voted Nay.

****The Vote on the MOTION passed (8-1).***

The Citizens' Binding Initiative Petition for the Welcoming Lebanon Ordinance will go before the voters in March.

8. OLD BUSINESS: NONE

10. REPORTS

A. City Manager: No report

B. Council Representatives to other bodies: No report

11. FUTURE AGENDA ITEMS: NONE

12. NON-PUBLIC SESSION: NONE

13. ADJOURNMENT:

Councilor Bronner MOVED for adjournment.

Seconded by Councilor Zook.

Roll Call Vote:

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

None voting Nay.

****The MOTION passed unanimously (9-0).***

The meeting was adjourned at 10:50 PM.

Respectfully submitted,

Dona E. Gibson

Recording Secretary