

FINAL

**LEBANON CITY COUNCIL  
MINUTES, REGULAR SESSION  
Council Chambers - City Hall  
Wednesday, March 4, 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, GIS Coordinator Mark Goodwin, Lebanon Police Chief Richard Mello, Deputy Police Chief Phil Roberts, Lebanon Police Officer Isham

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Councilor's Bronner and Prentiss participated by phone due to work obligations.

**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:** No one from the public came forth.
- 4. RECOGNITIONS:** NONE
- 5. ACCEPTANCE OF MINUTES:**
  - February 5, 2020 (Regular Meeting)
  - February 19, 2020 (Regular Meeting)

***Councilor Heistad MOVED to approve the February 5, 2020 and February 29, 2020 Minutes as written in the March 4, 2020 City Council agenda packet.***

***Seconded by Councilor Sykes.***

**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 (9-0).***

**6. APPOINTMENTS:** NONE

**7. PUBLIC HEARING ITEMS:**

Councilor Hill recused herself because the Patch family are vendors of her business.

**A. DISCONTINUANCE OF CLASS VI ROAD #14 (BARDEN HILL ROAD)**

A public hearing for the purpose of receiving public input and taking action to discontinue in its entirety and relinquish any right, title, or future interest in Class VI Road #14 (Barden Hill Road) located on the easterly side of Meriden Road, as shown on the Draft Class VI Roads Map dated January 31, 2020.

Attorney Brad Atwood (representing Patch Forest, LLC) and Mr. Code Patch came before the Council regarding the following discontinuance of Class VI Roads listed as items: 7A (Barden Hill Road), 7B (Durkee Road), 7C (Atherton Road) and 7D (McCallister Road). All the following information was included in the agenda packet, along with the backgrounds of each road: 1. January 30, 2020 Letter from Patch Forest, LLC re: Request for Discontinuance of Class VI Roads (known as Barden Hill, Atherton, Durkee, McCallister) 2. January 31, 2020 Draft Class VI Road Map

Attorney Atwood informed the Council that since the Patch family's discontinuance application was filed, they retained Mr. Chris Rollins (Land Surveyor). After Mr. Rollins started looking through old town, county and court records, he found that all, or parts of the roads, have already been discontinued. Since Mr. Rollins has not been able to complete his research work, and is not ready to issue a final opinion, they request the Council grant them additional time to complete their research, and if the Class VI Roads Advisory Committee is still active, Mr. Rollins is happy to work with them on the Patch Forest LLC requests.

Mayor McNamara questioned if they were asking for a Continuance and Attorney Atwood said yes.

Mr. Chris Rollins informed the Council the Patch family requested he research the highways that cross the Patch property because their status is unknown. His research uncovered hundreds of paper copies of old handwritten documents, which has been fruitful because they now have a complete layout of Atherton Road and a possible discontinuance of that road. They also have a layout and a probable discontinuance of one half of Durkee Road. They are hopeful that with a little more time, research on the other roads will also be fruitful, which would benefit the Council on any decisions they may want to make after they provide the Council with a completed report.

Mr. Mulholland noted that there is no way of knowing how long Mr. Rollins' work might take. Mr. Rollins told the Council it should only take a month. Mr. Mulholland then suggested that no action be taken by the Council, and abutting landowners would be notified as to when the new Public Hearing would take place.

Mayor McNamara called upon the City's Counsel for his opinion on taking no action and he had no objection.

Assistant Mayor Below asked if this Public Hearing should be allowed to continue to hear comments from the public. Attorney Atwood informed the Council that, based on the research, some of the road requests will be different because Mr. Rollins' research may determine that the City may no longer have any legal interest in some of the roads, which may change who the legal abutters are.

Councilors Heistad and Sykes agreed that having more time to gather information should yield a better decision and define what action(s) should be taken.

In response to Mayor McNamara’s question, Attorney Atwood confirmed that the Patch Family, LLC would be withdrawing their application as presented at tonight’s meeting.

Mayor McNamara asked both the City’s Legal Counsel and Mr. Atwood for any current legal actions relative to removal of the lines and the Patch’s ability to continue their sap collection operations for the remainder of the season.

The City’s Legal Counsel said Grafton Superior Court has granted a Temporary Restraining Order based on the Patch Family’s application. The City and Patch Forest requested the court to not schedule a hearing on a Preliminary Injunction, which both parties would be required to attend, until after the Council has made a decision on the discontinuance of these roads. Attorney Atwood and Patch Forest, LLC have assented, in advance, to an extension of time for a Public Hearing, which would allow them to address the complaints.

Mayor McNamara questioned if there was a deadline for the road lines to be removed. Mr. Mulholland said the Court has told the City those lines cannot be removed during the time the Temporary Restraining Order is in place.

Assistant Mayor Below wanted to be clear that the Temporary Restraining Order would stay in place until the hearing on the Preliminary Injunction takes place. The City’s Legal explained the differences between a Temporary Restraining Order and Preliminary (temporary) Injunction. Both he and Attorney Atwood have mutually asked the Court to postpone the Preliminary Injunction Hearing indefinitely while the Council entertains the discontinuance requests. Both parties have assented that the Temporary Restraining Order (TRO) remains in place until there is a hearing on the Preliminary Injunction. However, the City’s Legal Counsel said that the Court will not allow the TRO to go on indefinitely.

Mayor McNamara informed Attorney Atwood and Mr. Rollins that the Class VI Roads Committee would be restarted, especially since Mr. Rollins is willing to work with them on the above proposed Class VI road discontinuances as listed above.

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

**ACTION: NONE**

**Councilor Hill returned as a regular member of the Council.**

**B. DISCONTINUANCE OF CLASS VI ROAD #19 (DURKEE ROAD)**

A public hearing for the purpose of receiving public input and taking action to discontinue in its entirety and relinquish any right, title, or future interest in Class VI Road #19 (Durkee Road) located on the easterly side of Meriden Road, as shown on the Draft Class VI Roads Map dated January 31, 2020.

**ACTION: NONE**

**C. DISCONTINUANCE OF CLASS VI ROAD #20 (ATHERTON ROAD)**

A public hearing for the purpose of receiving public input and taking action to discontinue in

its entirety and relinquish any right, title, or future interest in Class VI Road #20 (Atherton Road) located on the easterly side of Meriden Road, as shown on the Draft Class VI Roads Map dated January 31, 2020.

**ACTION: NONE**

**D. DISCONTINUANCE OF CLASS VI ROAD #21 (MCCALLISTER ROAD)**

A public hearing for the purpose of receiving public input and taking action to discontinue in its entirety and relinquish any right, title, or future interest in Class VI Road #21 (McCallister Road) located on the easterly side of Meriden Road, as shown on the Draft Class VI Roads Map dated January 31, 2020.

**ACTION: NONE**

**E. ORDINANCE #2020-04**

A public hearing for the purpose of receiving public input and taking action to amend City Code Chapter 168, Vehicles and Traffic, to enable a City-wide speed limit of 25mph.

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. Also, please refer to the Information available but not included in the agenda packet: 1. February 19, 2020 City Council Agenda Packet, Item 9.C – Ordinance #2020-04 to Amend City Code Chapter 168.

Lebanon Police Chief Richard Mello came before the Council representing Ordinance #2020-04.

Throughout the course of any given year, the Police Department fields numerous calls regarding speeding cars in residential neighborhoods. Many traffic studies are conducted annually to determine the validity of these calls. The vast majority show that 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. Details of the study can be found in the agenda packet: memorandum from Police Chief Richard Mello.

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

**ACTION:**

***Councilor Heistad MOVED, that the Lebanon City Council hereby adopts Ordinance #2020-04, to amend City Code Chapter 168, Vehicles and Traffic, by adding new Section 168-10, Speed Limit. Seconded by Councilor Zook.***

Chief Mello stated the enforcement of Ordinance #2020-04 would be after the public is informed and educated.

**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 (9-0).*

## **8. OLD BUSINESS: NONE**

## **9. NEW BUSINESS**

### **A. Discussion of City's Policies & Practices regarding Illegal Immigration**

Included in the agenda packet were a number of documents that addressed the variety of questions and concerns posed around policing of immigration in the City and the application and acceptance of the COPS Grant. They are: 1. February 24, 2020 Question & Answer Document by Police Chief Richard Mello addressing questions related to Policing of Immigration Issues in the City. 2. July 10, 2017 Application for Grant Funding through the US Department of Justice Community Oriented Policing Services (COPS) Program 3. September 8, 2017 COPS Office Grant Application: New Opportunity for Additional Consideration 4. November 1, 2017 COPS Hiring Program Grant Award Notification 5. December 7-8, 2017 Email Communication (Chief Richard Mello; DOJ Staff Person Andrew Crane; Interim City Manager Paula Maville) regarding Acceptance of Award and Special Award Conditions 6. Excerpt of 2020 COPS Hiring Program Application Guide: Section 16-C – Certification of 287(g) Partnership and Certification of Illegal Immigration Cooperation.

Lebanon City Manager Shaun Mulholland, and Lebanon Police Chief Richard Mello came before the Council to discuss and answer questions regarding the above.

Over the last several months, there has been much discussion and many questions regarding the City's policies & practices when dealing with immigration issues in the City. Specific concerns have been expressed regarding the City's 2017 application for and acceptance of an officer hiring grant through the US Department of Justice's Community Oriented Policing Services (COPS) Program and its subsequent effect on policing of immigration.

Mr. Mulholland informed the Council and public that this is an opportunity to go over the issues to make sure there is a clear understanding of where the City stands on this issue, noting he would be talking about the actual COPS Grant application and Chief Mello would be reviewing law enforcement.

Mr. Mulholland asked the Council to reference the following application pages (in agenda packet) that the City initial submitted for the COPS Grant, noting the grant was used to hire two (2) new police officers that provided matching funds for the City. There were several different options the City could have chosen for the grant, but they chose the following:

- Page 103: Note there is a check in the **Building Trust and Respect** section, and there was no check for Illegal Immigration (top of page). The City did not choose Illegal Immigration because this was not the City's objective.
- Page 117: This deals with Section 16B, which applies to the requirements under Federal US Codes of Regulations, Certification of Compliance with 8 U.S.C. § 1373. Those requirements are outlined on this page (i.e., you cannot have policies that would prohibit the sharing of that information; the City could not develop those policies or enact them as law; or, the Police

Department could not develop internal policies that would prohibit the sharing of information with Federal Officials - in this case immigration officials.) We had to agree to these and said the City has been these anyway. This is common practice, and most police departments do share information with other Federal Law Enforcement Agencies, especially after 9/11 that enhanced the need to share information with other agencies.

- Page 123: A supplemental was added to the grant by the Federal Government and signed on September 8, 2017. Apparently there was some confusion in the COPS Office at the US Department of Justice, where they would award extra points to communities that agreed to the subsections (labeled as 1, 2, and 3). # 2 further details what was agreed to earlier in §1373 regarding the sharing information and holding people in detention facilities. The City of Lebanon does not have detention facilities and in the State of NH, only the County does. Lebanon's facilities are only holding cells where people can be detained up to 4 hours.
- Page 149 under §16.C: Certification of 287(g) Partnership and Certification of Illegal Immigration Cooperation. Halfway down the page, please note that “yes, my agency operates its own detention or correctional facility, etc.” is **Not Checked**. So, if you go back to page 123, when the City agreed to do this, it would have been true, but the City does not have those correctional or detentions facilities as defined by the Federal Government.
- Page 146: Clarifications from Mr. Andrew Crane (Department of Justice, COPS Office) dated December 7, 2017 that states: This Award Document Supplement, Special Award Conditions applies to all agencies that selected one of the focus area that receive bonus points. **Since you did not select any of the priority focus area, this special conditions does not apply to your agency.** I will add this email to your grant file as a record of my guidance that the special condition does **not apply** to your agency, and the supplement should not have been added.” Also, please refer to the email sent to the COPS Office from Chief Mello

Mr. Mulholland wanted to make it clear, after some apparent misconceptions about what the City agreed to, the documents provided should lay these issues to rest.

Lebanon Police Chief Richard Mello reviewed the relevant statistical data at the top of his memo (2016-2019). His information included evidence and data based on questions from community events where people were questioning the LPD's activities. When the COPS Grant was applied for, the LPD had a very particular purposes in mind: 1) to get additional staffing, which was sorely needed, and 2) the ability to pursue Community Policing. He has implemented and expanded on the programs the City already had. He understands some of the perceptions in the community; the ongoing national conversations; the policies at the national level being enforced by law enforcement officers at the Federal level and how perceptions of the LPD are formed as a result of that, which leads to concerns people have expressed within the community.

Mayor McNamara reiterated this session in not a Public Hearing, but every City Council meeting is a public meeting and the Council tries to be as transparent as possible. After the Council's questions are answered, questions from the audience will be entertained and folks will be allowed to speak for up to 3-minutes per person.

Councilor Hill asked Chief Mello to expand on a few of questions, noting that hearing from him directly would be helpful. She started her line of questioning as follows:

- Members of the community saw Lebanon Police cruisers and personnel on site at a checkpoint on I-89, which led to a perception in the community that Lebanon Police was part of that checkpoint. For the record, what was LPD's involvement in that particular incident?

Chief Mello: It is important to note the LPD was aware that Border Patrol was coming to setup a checkpoint in the City on that date. When Border Patrol is going to be in the City they call the LPD so LPD will not be surprised (i.e., thinking an emergency response is needed when a call comes in about a certain location where badged men coming out of the vehicles). It is also appropriate for Border Patrol to tell us they are coming so he can staff according, noting sometimes these types of activities, historically in NH, have seen protest activity. Back in September 2019, his initial thought was to look at and prepare for additional staffing to handle any type of traffic back-up or protest issues. The LPD received several calls that day to deal with what could be called be local or state issues. In regard to the checkpoint, the LPD received a call about some individuals reported to be on the highway. Cruisers were called to investigate this problem and found a group of people in the grass area off of where the operation was happening. This was not unlawful, and LPD spent less than 5 minutes there and then cleared the site. Yes, you definitely could have seen LPD cruisers coming up through that area, being parked for a period of time dealing with that very solidary issue, but in no way, and at no time, did LPD officers collaborate, participate, engage, help setup, or in any other way participate in that checkpoint.

- There is concern that people are being asked about their immigration status during a pullover for speeding or other traffic violation. There is fear people will suffer dire consequences if they are unable to produce citizenship papers. What is the protocol for traffic stops in the City of Lebanon and how do you ensure that all LPD officers are following protocol.

Chief Mello: The LPD will never ask for citizenship papers. They do ask for identity documents such as a license or non-driver identification. Sometime people who do not have a license or non-driver identification will produce a Passport or some other form of documentation that can verify their identity. There are instances where LPD may ask for a name, Social Security number, date of birth, where they are from, or where they were born if they can't provide any documents to prove their identity that would help the LPD find them in the State computer under their motor vehicle or license record. If an LPD officer goes back to run their information and finds no information on the subjects identification, we may very well go back and to the violator and question why they do not have a license. This will lead to a line of questioning asking them where they lived before, where were they born: all valid questions for the purposes of trying to figure out who this person is, or why they may not have a license. While the LPD may go down this line of questioning, the purpose should not be viewed as investigating immigration status - that's not the point. Even if the person comes out and says they are here illegally, are undocumented, or overstayed their Visa, the officer is going to say: Okay, thank you, but let's get back to the license issue. He knows the community and others might have issues with that, or not believe him, but the proof is in the pudding. He went back and researched the logs/records for four (4) years and could not find one instance where an LPD officer arrested someone for being an immigrant or having a questionable immigration status.

He verifies officers are following protocol by looking through LPD's historical and statistical logs and looking at body/in-car cameras, noting he has heard comments at some of the public

meetings that LPD officers were asking for immigration status. However, the LPD does not have any instances where there has been a complaint about LPD using race, demographics, or other immigration-type issues where an arrest was made. If there was specific information, he would go to the date/time, look at the cameras, listen to the entire conversation, and get to the bottom of this issue very quickly, noting audits are required every month for every officer, regarding camera interactions. In addition, he looks at arrests and motor vehicle stops interactions on a routine basis to make sure officers are following LPD and camera policies to ensure they are acting appropriately. Anytime there is a complaint cameras are immediately accessed to see what the interaction was and if there is any merit a complaint.

Assistant Mayor Below asked how long the body and vehicle camera information was kept. Chief Mello said this is spelled out by Statute (RSA; § 105) and explained the various retentions (i.e., No arrest or violations – 6 months; Arrests – 3 years and certain categories can be kept forever).

Councilor Sykes asked Chief Mello what the effect would be on the COPS Grant if the City passes the proposed Ordinance. Chief Mello said this is the last year (2020) the LPD will be getting funds back from the \$250K Federal Government grant, noting the total for this year would be \$51K. The LPD is required to maintain the officers hired through this grant through the 4<sup>th</sup> year, so next year (2021) the City pays their salary. Mr. Mulholland was uncertain if the COPS office would ask for the \$250K back and an answer to that question was not provided, most likely because they did not have an answer due to court cases in other parts of the country. Further discussions took place regarding potential Supreme Court decisions.

Councilor Hill asked Chief Mello how the LPD has been dealing with Fair/Impartial Policing in the City, the LPD's internal policies, and his approach to these over the last couple of years.

Chief Mello said that when he first came to the City in 2015, the LPD did not have a Fair/Impartial Policing Policy. They had in-car cameras, but no body cameras. They had a good Policy Manual, but were not pursuing International Accreditation, which is a process where police departments around the world are judged on their model of best practices. The LPD has taken progressive steps to become more professional and accountable in modeling best practices for industry-wide law enforcement and this accreditation prohibits any type of bias in policing. In 2018 he enacted this policy in the City. When LPD officers go out for any reason, they do not use race, gender, demographics, religion or any other non-probable cause-based factor in forming probable cause or articulable suspicion. The next step is the CALEA process, which means they immediately do a self-assessment that includes going back to review old policies, adding policies that are required by CALEA, modifying policies to meet the stringent standards of CALEA, and then they have to prove the LPD actually follows each of these policies. He further discussed the documentation needed by CALEA, including a Complaint Policy that can be investigated. For the last 4 years he has not seen any complaints come through, but if there are any in the future, the LPD has the tools in place to resolve those complaints. (The Bias-Based Policing Policy is available on the City's website.)

Councilor Hill asked how someone can make a complaint without fear of retaliation. Chief Mello said under CALEA Guidelines, the LPD is required to accept anonymous complaints and using vehicle/body cameras is not a guessing game. If there was an anonymous complaint or inquiry, he could go back and look through LPD's documentation and cameras to see what happened. The Police

Department also has checks and balances, noting every year he sits down with the City Manager and shares the results of all complaints.

Chief Mello explained the importance of collecting data and evidence-based policing, how decisions are made to keep LPD officers informed, and how policing decisions are made. Regarding his awareness of whether people have been pulled over or targeted for anything having to do with immigration, race or other demographics he has not had anyone come to him and report any specific incident, officer, or other problem, noting the topic of immigration or bias-based policing has come up on many occasions

The Council discussed ways anonymous complaints could be filed such as: through the City Manager; contacting members of the City Council; the collection of data to determine if officers have participated in any biased policing without a complaint; development of a 3-year Citizens Survey plan to gauge the public's perception of crime, safety and other issues; and, possible endangerment of officers under the proposed Welcoming Lebanon Ordinance. Chief Mello referred to the section of proposed Ordinance that is a violation of Federal/State Law and explained how it could put officers and the public at risk if LPD warned people about Border Patrol enforcement operations, noting that Border Patrol would stop telling the LPD they were coming. This means the LPD would be completely unprepared for any ramifications that may follow.

Mayor McNamara opened up the meeting for questions from the public and the following people came forth:

Ms. Diane Martel (Ward 1): She asked if Chief Mello was planning on giving his officers sensitivity training; if he ever put anyone on a 4-hr. immigration hold before they were transferred to the county facilities; and, what he would do if someone wanted to file a complaint just get a person out of their residents because of prejudices. Chief Mello said LPD provides training, specifically on profiling, bias-based policing, and crisis training. He outlined one incident where someone was arrested on a criminal violation of State Law where immigration did pick that person up based upon an inquiry. LPD would also investigate her type of incident.

Ms. Kathleen Beckett (Ward 3 and Chair of the Petitioners' Committee): She said her questions were based on concerns from the City's residents going back to 2017, and referred to the ACLU's Model City Policies. Chief Mello said LPD would allow ICE in their facility; currently would allow ICE to pick up someone being held on a detainer; and would arrest someone (such as the instance he described in 2018). Her point - the citizens were asking you not to do those things. There was a forum on May 30, 2017, and people were left with the impression that the LPD would not do any immigration enforcement, but he did not let the citizens know he was not going to follow the first 4 Model ACLU City Policies. She read a summary from Councilor Hill (on page 12, December 6, 2017 City Council Meeting) questioning the actions of immigration authorities, and then asked why he was not following what the citizens of Lebanon want.

Mayor McNamara asked who she was speaking for when she mentioned the citizens of Lebanon and why she was bringing up 2017 in referring to the petition. Ms. Beckett said she was speaking for the 771 people who signed the petition and the statement from 2017 addresses the COPS Grant. Ms. Beckett asked the Council to answer the following question regarding local police enforcement and Federal Immigration Law: Do you recognize and respect the will of the people on this issue?

Chief Mello addressed the Council saying: Ms. Beckett has now made several attempts to question his integrity and if he is being honest in some of the things he said. Going back to the forums and meetings, where we were talking generally about this very issue, he had to speak philosophically because LPD does not have a lot of contact with immigration and Border Patrol. The ACLU put out the Model City Policies. Some of those items were worked into the LPD Biased-Based Policing Policy and others were not. The ones that were not added includes: allowing Federal Agencies to come into our building if they need to pick up people; and, the LPD allows detainers, which are said to not be Judicial Warrants, etc. These are all true. In 2017, when he spoke about this, but was going on antidotal information - meaning he did not have any data in preparation for that meeting and did not know what the questions would be. Also, in going back and looking at the data, the LPD did not have any immigration contacts in 2016 or 2017. He was trying to be transparent at that meeting but was not going off of data. He apologized for his recollection and for not being accurate with the data, but was trying to being transparent and was not being dishonest. His job is to operate under the current policies of the Police Department and do the best job he can to provide policing services to the City, and felt he does that. Certainly, the voters will have an opportunity to weigh in on this issue, and the LPD will abide by the wishes of the voters and the Council's purview.

Councilor Zook questioned what would happen if someone called up to complain that a person was here illegally. Chief Mello said he was uncertain if the LPD would even entertain the complaint and then try to figure a way to resolve their issue. The LPD does not investigate immigration status complaints, but may refer the complainants to contact the immigration office.

Susan Johnson (Ward 3): She was at Candidates Night where people were speculating that the Ordinance would forbid the COPS Grant saying this is what pays for the School Resource Officers. She wanted to put this issue to rest. Chief Mello said the COPS Grant funds were never used for School Resource Officers, they are supported by the school and City budgets.

Ms. Asma El Huni (lives in the Upper Valley): She asked why the checkpoint setup on September 5, 2019, was not on the LPD website under monthly activity highlights. Do you see it problematic when you sit here and say that it is really important that Border Patrol informs the LPD when they come into our town and how people can see that as collaboration. She was one of the people who came out to the checkpoint and was told that Lebanon cops were there while it was being setup. Do you see how that is problematic that we are using Lebanon tax dollars. While you may not think that is collaboration, many people would think that is collaborating with ICE. If they (ICE) wants to come in and harm our communities, why are you help them by clearing the roads up. Do you know there is a problem with policing within the country, not just in Lebanon, and what are we going to do to hold police accountable.

Mayor McNamara interrupted Ms. El Huni noting she was asking questions regarding Chief Mello's opinion. Ms. El Huni replied by asked if they (City Councilors) were okay with police accountability not being in the City's hands, noting this law they are trying to pass will ensure police accountability, not done by the police force but by laws to ensure that police are held accountable if they do something like share information with immigration and customs enforcement.

Councilor Heistad questioned what law Ms. El Huni was referring to. It was an Ordinance and not a Law. Ms. El Huni said it would be considered like a law, so Chief Mello would have to follow it. That's why we are trying to pass it (Ordinance), because he (Chief Mello) would have to follow it.

Mayor McNamara asked Chief Mello to answer whatever portion of Ms. El Huni's questions he wanted to because some of what she was asking pertained to issues outside the Lebanon Police Department.

Chief Mello said the September 5, 2019 incident was not on the Police Log because if a call is not for services within the City, it would not be included in the log, noting they (Border Patrol or any Federal agencies) can come into the City any time they want to conduct Federal operations. He also noted Ms. El Huni has mentioned this before during the meetings he attended: LPD Cruisers were helping Boarder Patrol set up. He does not have any information to support that accusation, neither does he have any information that would suggest the LPD helped them (Border Patrol) setup. No one has come forward with any specific information about this other than Ms. El Huni. He understood her perception concerns. They are the same perceptions people sometimes have because LPD is considered law enforcement. As far as the accountability piece, the LPD will follow those portions of the Ordinance that are deemed legal.

Ms. El Huni questioned Chief Mello's fact that he is able to look back. She needed everyone to understand people are terrified of complaining, so you are not going to get complaints. To assume if they (LPD) do not have complaints, and these things are not happening, is very problematic. We need accountability. These are the checks and balances this country stands for, and we need you to stand up for us, as people in power, to ensure that our police are doing what they are saying.

Mr. Liam Coyle (Ward 1): He read a legal statement from the NH ACLU supporting the proposed Ordinance, noting the LPD has no policy reflecting this constitutional principle. Chief Mello was unsure what policy he was referring to, but as far as a policy on how the LPD deals with immigration is a good point. This one incident in 2018 has provided the LPD the ability to do a deep dive on that particular type of high liability situation and we are now working with the City's Legal Counsel to help them develop a policy that would give them a better footing on how to handle these types of situations, such as what the LPD should and should not do under current guidelines and laws. If the (proposed) Ordinance is passed, then the LPD will have to revamp their policy to model that Ordinance.

Ms. Diane Root (Ward 1): She had a question regarding people who, historically, are coming to an institution that has been problematic and asked where, other than police, people can go. Chief Mello informed her the City Manager has taken complaints before, but they could also file complaints with the Attorney General's Office. Mr. Mulholland also explained to her that he would do any investigations himself, but would hire Municipal Resources Incorporated to investigate serious complaints about the Police Department.

Councilor Heistad invited anyone to call their City Councilors to express their concerns. Councilors would all be willing to bring those concerns to the City Manager, if appropriate, or to where they felt would be the most effective place to be heard.

Councilor Hill concurred, noting the Council's function, according to the City Charter, is to provide a conduit between citizens and the City's administration. There is a very specific flow chart in the City's Charter that oversees how citizens can bring complaints to their City Councilors. She liked the idea of an Ombudsman and appreciated the willingness of Chief Mello to sit here and respond, in an open and transparent manner, to all the questions asked of him, as well as his willingness to entertain suggestions about ways to improve training, assessments, and the performance of the LPD. She applauded everyone involved with organizing this Ordinance, how they have interacted with the City, and their understand regarding the concerns raised around the City's issues of data collection and other particular provisions

that may be problematic if the Ordinance is adopted. Hopefully, we will be able to work together in a collaborative, restorative way, regardless of the outcome. Even if the Ordinance does not pass, there are provisions worth pursuing.

Councilor Prentiss felt the questions asked and answered in the packet were very thorough and appreciated the work on this.

Ms. Sara Wraight (Ward 1): She read an open letter from the Town of Exeter about an experience they had directly related to the issues that have discussed and asked if Chief Mello knew anything about this issue. Chief Mello said there is a lot going on at the National level that police departments struggle with, noting the Federal Government does not provide guidance to local law enforcement. The LPD has reached out to legal counsel to help guide them in mitigating liability.

Ms. Kira Kelly (Resident of Vermont, President of the Vermont National Lawyers Guild, and licensed in, and practicing, in New Hampshire in the areas of Constitutional, Criminal and Municipal Law). She said she deals a lot with Ordinances, such as these, that expand fundamental protections for human rights and compliance and are enumerated in the State and Federal Constitutions. While she did not have any questions for the Council or Chief Mello, she did present her legal view regarding the following:

- Anonymous complaints and body cams.
- Provisions of the proposed Ordinance that prevents the collection of data pertaining to race, especially during traffic stops.
- The Right-to-Know Law in NH and how this (proposed) Ordinance protects a Right-to-Know request. (NH RSA: 91(a))
- The notification provision in the (proposed) Ordinance as it pertained to public safety concerns and Chief Mello's statements about potential criminal activity if Border Patrol does not contact the LPD in advance of a checkpoint.

Assistant Mayor Below thought Chief Mello was talking about a public safety concern in terms (i.e., if LPD received a call about a car on the interstate stopping vehicles, and if the LPD did not know anything about it they would need to respond to the call as if it might be a criminal activity).

Chief Mello said violent immigrants was not in his mindset when noting that, nor was it his intent to say that immigrants were violent and would be the reason the LPD should not be notified.

Councilor Hill also did not hear Chief Mello say anything at all related to immigrants being tied to safety concerns. What she heard him referring to was traffic on the highway being tied up, noting this is an example of perception because we all, literally, heard the same words but came up with multiple interpretations and questioned if this partly comes from our own filters and biases.

Ms. Kelly assumed that if Border Patrol were setting up a checkpoint, and by doing so created additional safety concerns in the town, they would be leaning on local police to expend their own resources to mitigate the safety concerns that they, themselves, brought into town. That bring us to the point on how this would be mitigated: Are we going to mitigate this with police assistance or by letting people know that the checkpoint is coming up so they can self-mitigate and go around the checkpoint.

Mayor McNamara felt she was asking philosophical and legal questions that cannot be determined here.

Mr. Frank Gould (periphery of Ward 2 & 3): He was impressed with the work Chief Mello said he has done. The problem is - it has not been public enough. He felt the Chief, the City Council and the City Government should spend more time figuring out an Ordinance that works for the police and the community.

Ms. El Huni once again came forth and expressed her concerns with Border Patrol coming into our town, using our tax dollars, and if there is backed up traffic using our police officers to fix that problem. Again, she felt that if they are coming into our town, the Police Department should not be making it easier for them to come in again.

Councilor Hill noted that she never said she is okay with Border Patrol doing checkpoints in the City of Lebanon; and is on record in the Valley News saying they should not be in the City of Lebanon; she called Tim to alert the Valley News to their presence, along with Chief Mello to asked if there was anything he could do to get them out of town; and she was not okay with the Lebanon taxpayers mitigating the costs for Board Patrols actions. Her responsibility, as a City Councilor, is the safety and welfare of the people who are in her City at any given time. If Federal Law requires Border Patrol to setup checkpoints a hundred miles from an international border and our City happens to be there, and if they can show up at any time, she expects the City's Police Department is going to take action to protect the people, visitors, and businesses in our City. Unfortunately, that means it is going to cost money for the taxpayers of Lebanon. We all have the same values of wanting to feel safe, respected, have a sense of purpose, and have the ability to live our lives and pursue happiness. This is the American dream. Until the law is changed at the Federal level, she may have to be okay with this, but not in the way it was characterized. The people of Lebanon, who are really passionate about this issue, should work with our Legislative Delegation at the Federal level to make sure the Border Patrol operates within a reasonable distance of the boarder (i.e., 5-miles, or 10-miles). There is no reason for the Border Patrol to be in the City of Lebanon at all.

Councilor Zook reminded everyone that the Council is not taking any action on this Ordinance. The voters will have that opportunity on Tuesday (March 10, 2020) at the Municipal Election, and hoped that everyone who has a strong feeling about this Ordinance will exercise their right to vote.

Mayor McNamara hoped that regardless of how things turn out, we should continue this discussion and try to come up with a situation where everyone feels welcome.

**ACTION:**

**No action was required by the City Council. Item was for informational purposes only.**

**10. REPORTS**

**A. City Manager:**

Mr. Mulholland updated the Council on the following:

- Solar Exemption letters have gone out.
- The Electrify America Charging Station Lease has been signed for Tailor Street.
- The lease was signed for a Nissan Leaf (EV). A charging station at the DPW garage has already been installed and there will be another one installed at City Hall.
- The TIF Advisory Board and the Arts & Culture Commission will be working together to address issues and enhance the Arts as the City moves toward the development of the downtown area.
- The Sunset of EVEC will be held on the March 18<sup>th</sup>.

- Legislation issues: Cyber Security Bill, the Solid Waste Tax Bill, and Landfill Bill.
- Gas-to-Energy Project: Working with Liberty Utilities for the interconnection study.
- Dry Bridge on Rte. 12: Meeting will be held on March 17, 2020.
- Westboro Yard.

Assistant Mayor Below spoke about the bill he supported regarding Solar Energy Systems and the PUC regarding the rules for Community Power Aggregation.

### **COVID-19 Briefing**

Mr. Mulholland informed the Council the City has been making preparations with Staff . We are now operating under the Regional Public Health Plan that involves twelve (12 ) communities in the Upper Valley, all hospitals in the area, and the Department of Health and Human Services. MACE (Multi-Agency Coordinating Entity) is now operational with the goal of making sure coordinated, consistent, and credible information goes out to everybody in the Upper Valley. Ms. Paula Maville has been appointed as Lebanon’s Public Information Officer and will be leading MACE, in cooperation with State officials.

For the upcoming elections on March 10<sup>th</sup>, the City has taken steps to make sure we are prepared by providing surgical masks, for those who wish to use them, along with disinfecting wipes for voters to use when they go into the voting booths. Hand Sanitizer lotions will not be available due to a shortage and the need to preserve these for health care workers. Information has been provided on the City’s website which includes information provided from the DHHS and CDC.

All critical functions of the City have been identified and planned for, especially for public safety agencies. DPW has a plan for plowing roads, if necessary. Plans are also in place for Water Works, to make sure there is safe drinking water, along with the City’s Waste and Solid Wastewater facilities. Human Services will also be activated if the need arises.

Mayor McNamara noted the following meetings:

- March 12, 2020 at 8 am, there will be a canvas of the vote. A quorum is needed for this meeting.
- March 18, 2020, next City Council meeting.
- March 25, 2020 the City Council Organizational meeting will be taking place.

**B. Council Representatives to other bodies: NONE**

**11. FUTURE AGENDA ITEMS: NONE**

**12. NON-PUBLIC SESSION: NONE**

**13. ADJOURNMENT:**

*Assistant Mayor Below MOVED for adjournment.  
Seconded by Councilor Winny.*

**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 (9-0).*

***The meeting was adjourned at 9:27 p.m.***

Respectfully submitted,  
Dona E. Gibson  
Recording Secretary