

FINAL

**CITY OF LEBANON
CITY COUNCIL
Minutes, Regular Session,
Wednesday, February 20, 2019
Lebanon Middle School
3 Moulton Avenue
7:00 p.m.**

MEMBERS PRESENT: Mayor Suzanne Prentiss, Assistant Mayor Tim McNamara, Councilors Clifton Below, Erling Heistad, Karen Liot Hill, Shane Smith, Jim Winny, Karen Zook

MEMBERS ABSENT: Councilor Bruce Bronner

STAFF PRESENT: City Manager Shaun Mulholland, Deputy City Manager Paula Maville, City Clerk Sandra Allard, Planning & Zoning Director David Brooks, Public Works Director Jim Donison

Mayor Prentiss called the meeting to order at 7:00 PM

1. **PLEDGE OF ALLEGIANCE:** Councilor Below led the Council in the Pledge.
2. **PUBLIC FORUM:** Mayor Prentiss made the Public Forum Announcement.
3. **OPEN TO PUBLIC:** No comments put forth by the public.
4. **RESOLUTIONS:** None
5. **ACCEPTANCE OF MINUTES:** None
6. **APPOINTMENTS:**

- Downtown TIF Advisory Board: Council Representative

Mayor Prentiss reached out by email to the interested parties and will hold an in-person meeting by Sunday, February 24, 2019.

- Local River Management Advisory Committee (Mascoma River): Ernst Oidtmann
Ernst Oidtmann submitted an application to be appointed to the NHDES Local River Management Advisory Committee. Councilor Bronner interviewed Dr. Oidtmann and his recommendation was read to the Council by Councilor Hill.

Councilor Hill nominated Mr. Ernst Oidtmann for reappointment to the Mascoma River Advisory Committee.

Seconded by Assistant Mayor McNamara.

**The vote on the Motion was unanimous in favor (8-0).*

7. PUBLIC HEARING ITEMS

A. ORDINANCE #2019-02 TO AMEND CITY CODE CHAPTER 68

A public hearing for the purpose of receiving public input and taking action to amend City Code Chapter 68, Fees, §68-15, Enumeration of Fees, to temporarily decrease Septage Disposal Rates.

Representing the item on behalf of City Staff was Director of Public Works Jim Donison.

BACKGROUND

It was brought to the City’s attention that a regional septage hauler, currently handling 2+ million gallons per year, does not utilize the City’s treatment plant due to the rates the City is charging as compared to a facility where they transport their septage more than an hour away. Mr. Mulholland said the primary objective of amending the Ordinance above is to reduce the septage haul rates so the City can bring in more activity, which will actually increase the amount of revenue the City could utilize.

Based on discussions with the City Manager’s Office regarding the fees currently charged to septage haulers vs. the cost to manage the collection and treatment of septage, it has been requested that a pilot study be conducted to determine if the City’s current rates (\$91/1,000 gallons from properties within Lebanon and \$136/1,000 gallons from properties outside of Lebanon) can be reduced while producing additional revenue. In order to complete this pilot study, an amendment is required to Chapter 68, Fees, of the City Code to temporarily reduce septage disposal rates.

Mr. Donison informed the Council about the amount of septage currently received at the Waste Water Treatment Plant and the potential future amount it would be able to treat, referring the Council to the memo sent from Mr. Jay Cairelli dated January 9, 2019 to the City Manager, the Mayor and City Councilors (included in agenda packet). The memo explains that direct costs associated with treating septage includes the cost of removing and handling solids combined with the cost to manage Biochemical Oxygen Demand (BOD). Treatment of septage may increase costs associated with the handling of solids and managing additional BOD, but the hope is that additional costs will be offset by the receipt of an additional 2.5 million gallons per year.

Mr. Donison answered the Council’s questions regarding what the down-side of this pilot would be, such as the amount/different types of sludge. A discussion took place regarding the costs to Lebanon residents for gallons treated per year now (\$0.10 per gal, with a Net Revenue to the City of \$75K) and the proposed costs to Lebanon residents for gallons treated per year with the pilot (\$0.08 per gal, with a Net Revenue to the City expected to be \$150K). The Sunset Provision of this pilot states that the rates imposed by this Section (Ordinance #2019-02, *City Code Chapter 68, Fees, §68-15, Enumeration of Fees*) shall expire December 31, 2019, or upon repeal or amendment by the Council based on new or additional information, whichever occurs earlier.

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

After the Council discussed the provisions of proposed pilot and the potential to reduce sewer rates for Lebanon resident’s, the following Action took place:

ACTION

Councilor Below MOVED, that the Lebanon City Council hereby adopts proposed Ordinance #2019-02, to amend City Code Chapter 68, Fees, §68-15, Enumeration of Fees, to temporarily decrease Septage Disposal Rates, with a sunset date of December 31, 2019.

Seconded by Assistant Mayor McNamara.

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

8. OLD BUSINESS

A. ACTION ON PROPOSED ZONING AMENDMENT: DEFINITION OF 'FAMILY' (Public Hearing Held 1/16/19 - Item Tabled)

Representing the item on behalf of City Staff was Planning & Zoning Director David Brooks

BACKGROUND

At the October 17, 2018 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. Legal review was obtained, and all boards completed their review.

A public hearing on all proposed amendments was held on January 16th, at which time the action on Amendment #7 – to revise the definition of “Family” (Zoning Ordinance Appendix A) - was tabled to allow staff time to review a potential change to the proposed definition.

Mr. Brooks informed the Council that the decision to amend the definition of “Family” began with a code enforcement issue that the City’s attorney became involved with. Through last summer, the Planning Staff worked on a proposal that would have amended the definition to keep the first clause of the definition but add up to one (1) unrelated person. When the proposal was reviewed by the Council in January, based on discussions at the meeting and comments by members of the public in attendance, Council asked the Planning staff to further investigate the ability to allow additional unrelated people to share a housekeeping unit with a family; or to allow up to four (4) unrelated people to share a housekeeping unit.

Planning Staff reviewed a variety of definitions for “Family” from various sources and reviewed the proposed definition of “Family” with members of the Fire Department and Attorney Christine Fillmore. As a result, they crafted a revision to the proposed definition which expands the number of unrelated individuals that may share a “single housekeeping unit,” and further clarified what a single housekeeping unit is. Planning Staff felt that the definition proposed on page 18 of the agenda packet is a compromise and in line with where other communities have adopted. (All materials were included in the February 20, 2019 agenda packet (pages 15-18).

***Assistant McNamara MOVED to take this discussion off the table before a Motion was presented.
Seconded by Councilor Hill.***

****The vote on the Motion passed unanimously (8-0).***

Council discussions took place regarding: clarification of the number of related/unrelated individuals who could live in one household; whether or not there was a need to get further input from the Zoning Board of Adjustment and Planning Board; the need to include foster children/guardianship in the definition; whether capping the number of people per bedroom would be viable (e.g., two people per bedroom); the definition language of “Family” vs. “Household”; the need to amend the Zoning Ordinance because the City’s residential/nonresidential zones are structured around one family, two family and multi-family designations; the different ways families are now structured; restructuring the statement “common use of *all* living and eating areas within the dwelling unit”; defining the occupancy space by square footage, and; defining occupancy by something other than the use of the word “Family.”

Ms. Kathie Romano (Ward 1) described in great detail her concerns regarding related/unrelated occupancy of a household unit and the differences between the use of connector words “and” vs. “or”. She spoke about the potential of landlords overcrowding their properties to receive more rent and the unintended consequences of raising household limits that could potentially take away affordable housing

units and have a negative effect on the quality of life for residents in Lebanon (e.g., Fraternity/Sorority housing). She felt the Council should stick with the original definition of “Family + 1” and saw no reason to increase *unrelated +3* to *unrelated +4*.

Ms. Jolin Kish (Hanover resident) said she manages over 520 tenants and could safely say that none of them are undergraduates in Lebanon. She described her company’s leasing policy to the Council and commented that most landlords do not want overcrowded units due to the wear and tear on their properties. She emphasized that care needed to be taken on how the term “Family” is defined and cautioned about regulating what a family is allowed to do because economically a family has to have a place to live. She noted the different types of families that exist today (e.g., a single mom with two children leasing a studio apartment because that is what she can afford). She also informed the Council how her company addresses the common areas in their leases and addressed Hanover’s Housing Ordinance Code.

Assistant Mayor McNamara acknowledged Ms. Romano’s concerns about unintended consequences and said that changes to Ordinances are not permanent and sometimes an Ordinance needs to be revisited to address any unintended consequences. It is almost impossible to tease out all the unintended consequences and scenarios without trying it on for size first. If this Ordinance needs to be tweaked later on, this could be done. He suggested that something would need to be done to gather data in order to see if there are any adverse unintended consequences.

ACTION

Councilor Hill MOVED, that the Lebanon City Council hereby sets a public hearing for Wednesday, March 6, 2019, beginning at 7:00pm in Council Chambers, City Hall, for the purpose of receiving public input and taking action to amend the definition of “Family” as presented in the February 20, 2019 Lebanon agenda packed on page 18.

Seconded by Councilor Smith.

After some clarification questions were discussed, Mr. Brooks said he would address the addition of foster children and guardianships to the list of relations that he will bring back to the Council for consideration.

****The vote on the MOTION was unanimous (8-0).***

8. OLD BUSINESS

B. WESTBORO YARD

City Manager Mulholland updated the Council on the status of Westboro Yard and informed the Council about a notice he received from the Office of Strategic Initiatives regarding surplus property, noting the City has until March 11, 2019 to send them comments. He explained what the focus would be for Westboro Yard and what should be included in the agreement, noting that the City would like to have local regulations be applicable to any type of structure(s) built in Westboro Yard. Whether the City is successful in having their comments added to the agreement is uncertain, but at least they would be on the record. He will wait until after March 6, 2019 to submit the City’s comments in order to allow Council members to send him their feedback. Once he has received the Council’s comments, he will draft a letter to the OSI for signature by the Mayor and cc the Governor when the letter is sent. He will also send the existing Temporary Use Agreement between the NHDOT and Rymes Propane to Council members for their review.

9. NEW BUSINESS

A. SURPLUS PROPERTY – HANOVER STREET EXT., LEBANON

Determination as Surplus to City Needs and Authorization to Dispose of a City-owned Parcel identified as Tax Map 49, Lot 19, located on Hanover Street Ext., Lebanon.

Representing the item on behalf of City Staff was City Manager Shaun Mulholland.

BACKGROUND

In accordance with Council Policy CC-102, City Real Property Transactions, the property known as Tax Map 49, Lot 19, located on Hanover Street Ext., Lebanon was put forth to the Planning Board, Conservation Commission, City Department Heads, and the Lebanon School District for consideration of future use.

The request was reviewed by the Planning Board on December 10th and the Conservation Commission on December 13th. No response was received from the School District. All City Department Heads have reviewed the potential for future use and recommended that the property be deemed surplus and sold.

All materials were provided in the February 20, 2019 agenda packet, pages 19-48. After a short discussion regarding the use of the property listed above, the following took place:

ACTION

MOVED by Councilor Below:

FOR THE PURPOSE OF deeming Tax Map 49, Lot 19 located on Hanover Street Ext., Lebanon, as Surplus City Property and authorizing the City Manager to dispose of said property.

BE IT HEREBY RESOLVED that the Lebanon City Council, after review and comment by the Planning Board, Conservation Commission, and members of City Staff, hereby authorizes the City Manager to convey, in a manner consistent with Council Policy CC-102, City Real Property Transactions, property identified as Tax Map 49, Lot 19, located on Hanover Street Ext., Lebanon.

Seconded by Councilor Hill.

**The vote on the MOTION was unanimous (8-0).*

10. REPORTS

A. City Manager

Mr. Mulholland updated the Council on the following:

- 3 Seminary Hill: Road structure cannot be saved.
- New standards from the State regarding PFOAs/PFOS: The City is getting ahead of this issue in advance of a ruling.
- New laptops for the Council should arrive after March 1, 2019.
- Tunnel Update.
- He is rewriting the verbiage on the Purchasing Policy and will bring back to the Council for their review.
- Status of streetlights: While progress is being made, there will be a delay in the Public Hearing while a determination is made about the removal of some streetlights.
- Legislative updates:
 - HB 644 passed House Committee.
 - HB 700 regarding utility assessments.
- Four funding requests have been received.
- Energy Bills: Councilor Below informed the Council about 4 Policy Legislative Bills before the State Legislature and his testimonies.
- City Council Organizational meetings will be held on April 23 and April 25th.

- Road Degradation will be discussed on March 6, 2019.

B. Council Representatives to other bodies

- Councilor Hill update the Council on HB 564 regarding Gun Free School Zones.
- Councilor Zook informed the Council that due to a generous anonymous donation, the Heritage Commission’s Fountain Working Group will not be retiring after all.

11. FUTURE AGENDA ITEMS: None.

12. NON-PUBLIC SESSION: None

13. Adjournment:

Councilor Hill Moved for adjournment.

Seconded by Councilor Winny.

**The MOTION passed (8-0).*

The meeting was adjourned at 8:44 PM.

Respectfully submitted,
Dona E. Gibson
Recording Secretary