

MONDAY, FEBRUARY 26, 2018

The regular monthly meeting of the Council of the City of Lebanon, Pa., was held in Council Chamber of the Municipal Building, Lebanon, Pa., this evening, Chairperson Parker presiding.

The meeting was called to order at 6:38 p.m.

Present--Mr. Morales, Mr. Parker, Mr. Wertz, Mr. Wilson, and Mr. Carey, Chairperson.
Absent--none.

Also present were Mayor Sherry L. Capello; Chief of Police Todd Breiner; Donna Long Brightbill, City Solicitor; Robin L. Getz, Director of Public Works; Janelle Mendoff, Community and Economic Development Administrator; Melissa E. Quinones, Director of Administration-Assistant to the Mayor; Duane Trautman, Fire Commissioner; 26 persons in the audience; and 2 members of the news media.

Chairperson Carey announced that Council met in Executive Session prior to this meeting to consult with the City Solicitor regarding information or strategy in connection with litigation or with issues on which identifiable complaints are expected to be filed.

The minutes of the January 22, 2018, City Council meeting were presented by the City Clerk. There being no corrections, deletions or additions, the minutes were approved as presented.

Chairperson Carey announced that Council received a budget report for the period January 1 through January 31, 2018.

Chairperson Carey announced that Council received a communication from Mayor Sherry L. Capello, informing Council of the reappointment of Kathy Kulbitsky, Northwest Savings Bank, 547 South Tenth Street, Lebanon; and Edward Naab, First Citizens Community Bank, 2217 West Cumberland Street, Lebanon, to the Lebanon Community Library Board of Directors for a three-year term, effective retroactively to January 1, 2018.

Regarding Resolution No. 2, approving the transfer of restaurant liquor license No. R-9324 into the City of Lebanon from Union Township, Chairperson Carey presented a letter to Paul Namey, Esquire, Flaherty and O'Hara, legal counsel for Turkey Hill, L.P., notifying them of the city's necessity for an extension of time, not to exceed 60 days, for the City of Lebanon to act on the request for approval of an inter-municipal transfer of a restaurant liquor license. Specifically, the request for the inter-municipal transfer of a restaurant liquor license shall be considered at the regularly scheduled meeting of March 26, 2018.

Councilmember Parker asked what are the other steps in the process. He noted that at the public hearing there were concerns expressed about the suitability of the location and the current pedestrian crossings. He stated that he believes those issues may be addressed by making changes and he asked at what point in the process can those concerns be addressed. Mr.

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Namey explained that after approval of the resolution to transfer the license from another municipality, Turkey Hill can apply to the PLCB. The applicant is required to provide documentation to the PLCB that the plans meet all municipal laws. He added that when Turkey Hill applies for the zoning permit, any operations that do not meet the code could be addressed.

Mayor Capello explained that lighting and crosswalk improvements would be addressed in a land development plan; however, a land development plan is not required for this project. Zoning and Building Code regulations would be applicable for the project. Mayor Capello expressed her concern for adequate off-street parking for the site. She added that when she raised her concerns about lighting, the current pedestrian crossings, and off-street parking at Thursday's public hearing, legal counsel representing Turkey Hill advised that it was not appropriate for discussions regarding improvements at the site prior to Council acting on the resolution approving the transfer of the license. Councilmember Parker stated that he feels if concerns have been expressed, the city should be in a position to have discussions with representatives of Turkey Hill to address those concerns as part of the process. Mr. Namey stated that the extension of time to act on the resolution gives the city an opportunity to discuss its concerns with Turkey Hill.

Councilmember Wilson asked if Turkey Hill is proposing to expand the current store to accommodate the 30 seats for the restaurant. Mayor Capello replied that the plans presented at the public hearing do not include expansion of the store. Councilmember Wilson stated that the store is in a high traffic area, and there is a church, a school, and a park in close proximity to the store. He asked where the additional parking will be added for the store. Mr. Namey replied that it has been consistently determined that there is no increase in patronage at convenience stores that sell liquor.

Mayor Capello asked if Turkey Hill has a breakdown for sales for gas, coffee, and groceries. Mr. Namey replied that for other clients, liquor sales represent approximately 10 percent of a store's total sales.

Allen Dale, 226 East High Street, Lebanon, stated that, in his opinion, the additional seating increases the number of people loitering which, in turn, impacts parking.

James Fick, 1605 Blueberry Lane, Lebanon, stated that he frequents the Maple Street Turkey Hill frequently. With the opening of the elementary school in September, the nearby church and park, and McDonald's in the immediate vicinity of the store, he feels the impact of traffic on the intersection is not feasible.

Dawn Fenstermacher, 34 Walnut Street, Lebanon, stated that ingress and egress to the store is already very difficult. In addition, she feels the sale of alcohol at the store will increase crime. Mr. Namey stated that historical data has shown there is no increase in crime rates when a convenience store sells alcohol.

Mr. Namey reminded Council that a public hearing was held on February 22, 2018, and the decision must be made based on information presented at the public hearing.

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Councilmember Wilson stated that when considering an inter-municipal transfer of a liquor license, he feels Council needs to consider whether it is best for the City of Lebanon to have an eatery that serves alcohol or a convenience store that sells alcohol. Mayor Capello explained that the state legislature did not provide for a separate license category for convenience stores; therefore, convenience stores have no other option other than to acquire a restaurant liquor license.

Mr. Morales introduced Resolution No. 3, as follows:

A RESOLUTION TO THE COMMISSIONERS OF LEBANON COUNTY REQUESTING \$25,477.00 IN FINANCIAL AID FOR THE IMPROVEMENT OF CITY STREETS, AND AUTHORIZING THE PROPER OFFICIALS TO EXECUTE AN APPLICATION FOR SAME.

WHEREAS, the undersigned Municipality desires to take advantage of the Act approved June 1, 1945, P.P. 1242, and as provided in the Act approved May 18, 1945, P.L. 803, permitting counties of the Commonwealth of Pennsylvania to appropriate and expend monies for the improvement and maintenance of state highways and state-aid highways or any public highway in any county of the Commonwealth.

NOW, THEREFORE, Be It Resolved that we, the officials of the City of Lebanon, Lebanon County, Pennsylvania, in regular session assembled on this twenty-sixth day of February, 2018, do hereby make application to the County Commissioners of Lebanon County for an allocation of County Liquid Fuels Tax Funds in the amount of Twenty-Five Thousand Four Hundred Seventy-Seven Dollars (\$25,477.00) to be used in the improvement of the following:

- a. Paving and/or general maintenance of city streets.

It is certified by the Municipality and the officers who execute this application that all materials used and work done hereunder shall conform to the current Pennsylvania Department of Transportation specifications, or specifications approved by the Department, and that all work will be done within the legal right-of-way or with permission of the abutting property owners.

Resolution No. 3 was passed finally on motion of Mr. Morales, seconded by Mr. Parker. Yeas--Mr. Morales, Mr. Parker, Mr. Wertz, Mr. Wilson, and Mr. Carey, Chairperson--5; nays--none.

Mr. Carey introduced Resolution No. 4, as follows:

A RESOLUTION RATIFYING AN AGREEMENT BETWEEN THE CITY OF LEBANON AND THE AMERICAN FEDERATION OF STATE, COUNTY AND MUNICIPAL EMPLOYEES, AFL-CIO, FOR THE YEARS 2018-2021.

Be It Resolved by the Council of the City of Lebanon, Pennsylvania, and it is hereby resolved by the authority of the same, That:

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SECTION 1. The agreement between the City of Lebanon and the American Federation of State, County, and Municipal Employees, AFL-CIO, effective January 1, 2018, through December 31, 2021, be and it is hereby ratified.

SECTION 2. A copy of said agreement is attached to and hereby made part of this agreement.

Mayor Capello explained that the AFSCME contract is very similar to the police contract. The contract provides for a three percent increase in annual salary each year, an increase to the call out rate, and an increase to the shift differential rates. Changes to the health benefit included an increase in the deductible, an increase in the employee's share of the premium, an increase in the copay, and an increase in the spousal penalty.

Resolution No. 4 was passed finally on motion of Mr. Carey, seconded by Mr. Wertz. Yeas--Mr. Morales, Mr. Parker, Mr. Wertz, Mr. Wilson, and Mr. Carey, Chairperson--5; nays--none.

Mr. Wertz called up Bill No. 1 on final reading, the title of which is as follows: "AN ORDINANCE ESTABLISHING STORMWATER MANAGEMENT FEES FOR THE CITY OF LEBANON, PENNSYLVANIA".

Mayor Capello explained that each property generates storm water runoff. In accordance with federal and state requirements, municipalities are mandated to develop a plan to clean up the water entering the system. Each year, the requirements have become more strict. During the current permit process, it was determined that the City of Lebanon could not meet the requirements on its own. She explained that the City of Lebanon joined a consortium which includes five other municipalities and an authority to develop a plan. The City of Lebanon contracted with Steckbeck Engineering and Surveying, Inc., to prepare a rate study which included several scenarios. Mayor Capello explained that she proposed the scenario that, in her opinion, was fair to all property owners. City property owners will pay a fee of \$60.00 per ERU, plus \$12.50 for each additional ERU. She clarified that an ERU is equal to single family residential unit.

Joe Reich, 930 Crowell Street, Lebanon, asked how fast the fee will increase. Mr. Reich stated that he heard a news account that another municipality successfully fought the mandate. Mayor Capello responded that some municipalities are not required to file for a permit; however, she is not aware of any challenges. She explained that the previous administration ignored the requirements and was fined almost \$175,000. Mayor Capello reported that State Representative Frank Ryan attended a previous meeting and he continues to fight for changes to the law that would be beneficial to the City of Lebanon and its property owners. She added that the permit is for a period of five years and she does not anticipate a change to the fee during that period of time.

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Steve Matzura, Esquire, McNees, Wallace & Nurick, LLC, representing CSR, questioned the provision in Section 6 of the ordinance to increase the fees by resolution since the fees are being established by ordinance.

Regarding Section 9 of the ordinance, Mr. Matzura asked how the cap works. City Engineer Steve Sherk explained that the city has a budget for the stormwater program and it was determined that \$75,000 was a reasonable amount to allow for credits. When a property owner applies for credit, it carries forward the following years of the permit. After the \$75,000 in credits are granted, there will be no additional credits granted. Mr. Matzura recommended a provision to appeal a denial of a credit. He stated that a property owner could have a better project; however, it could be denied simply because the \$75,000 threshold for credits was reached. City Engineer Steve Sherk agreed that Mr. Matzura has a valid point regarding the credits. He suggested that projects submitted after the \$75,000 threshold would almost have to be considered on a case-by-case basis, depending on the value or the load reduction.

City Solicitor Donna Brightbill asked Mr. Matzura to provide information from other municipalities that handle the credits differently to which Mr. Matzura agreed.

Dawn Fenstermacher, 34 Walnut Street, Lebanon, asked if the provision for credits is only applicable to businesses to which Mr. Sherk replied that both businesses and owners of residential properties are eligible to apply for a credit.

Mayor Capello stated that \$75,000 for credits is built into the program. If the credits are higher, the city would need to consider the impact on the program budget.

Jim Roland, 914 Mifflin Street, Lebanon, expressed his concern that the Lebanon School District is required to pay the fee. He feels the fee will be passed onto the property owners via a tax increase.

Bill No. 1 was passed finally on motion of Mr. Wertz, seconded by Mr. Carey. Yeas--Mr. Morales, Mr. Parker, Mr. Wertz, Mr. Wilson, and Mr. Carey, Chairperson--5; nays--none.

Mr. Wilson called up Bill No. 2 on final reading, the title of which is as follows: "AN ORDINANCE AMENDING THE TRAFFIC CONTROL MAP OF THE CITY OF LEBANON, PA., TO ESTABLISH A 'NO STOPPING, STANDING, OR PARKING' ZONE ON OLD FORGE ROAD, BETWEEN STEEL STREET AND CONCENTRATOR ROAD; AND REPEALING BILL NO. 21, SESSIONS 2016-2017".

James Fick, 1605 Blueberry Lane, Lebanon, asked why the "No Stopping, Standing, or Parking" zone is being limited to the area between Concentrator Road and Steel Street. He explained that litter has been a problem on Old Forge Road for the past 20 years. Mayor Capello replied that in order to establish a "No Stopping, Standing, or Parking" zone, certain criteria must be met. The area of Old Forge Road that meets the criteria is between Concentrator Road and Steel Street.

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Bill No. 2 was passed finally on motion of Mr. Wilson, seconded by Mr. Morales. Yeas--Mr. Morales, Mr. Parker, Mr. Wertz, Mr. Wilson, and Mr. Carey, Chairperson--5; nays--none.

The meeting was adjourned at 8:00 p.m.

CHERYL J. GIBSON, Clerk