

MONDAY, MARCH 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 6:31 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; Robin L. Getz, Director of Public Works; Melissa E. Quinones, Director of Administration-Assistant to the Mayor; Duane Trautman, Fire Commissioner; 16 persons in the audience; and 2 members of the news media.

The minutes of the February 26, 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 February, 2018.

Mayor Capello presented an update on summer activities for youth since the Lauther Memorial Water Complex will be closed for the 2018 season, as follows:

- The City is finalizing a partnership with the Salvation Army Corps to operate a summer program. At a minimum, the City will coordinate a one hour presentation by ZooAmerica. The Corps' program is a four week program held from 12:00 noon-4:00 p.m., Monday through Friday.
- The Lebanon Valley Family YMCA is operating a playground program at Progressive Playground, with a one hour presentation by ZooAmerica. The playground program will be in operation Monday-Friday, from 10:00 a.m. – 2:00 p.m. for a period of five weeks. The program dates will be determined in the near future.
- The City will sponsor "Splash Days" at the above locations throughout the summer.
- Nature Camp – A three day Nature Camp will be held at the Stoever's Dam Nature Barn during the period July 11-13, 2018, from 9:00 a.m.-12:00 noon. The camp will focus on experimental learning, including a focus on planting and hiking. July 12 will feature "Critters Beyond the Backyard" by Jack Hubley. The camp is open to residents of the city and there is no fee.
- Mayor Capello reached out to administrators at the Lebanon School District and a round table discussion with Student Council has been scheduled to discuss recreational opportunities, including the pool.

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On motion of Mr. Wertz, seconded by Mr. Parker, Resolution No. 2 was introduced, as follows:

A RESOLUTION APPROVING THE TRANSFER OF RESTAURANT LIQUOR LICENSE NO. R-9324 INTO THE CITY OF LEBANON FROM UNION TOWNSHIP.

WHEREAS, Act 141 of 2000 (the “Act”) authorizes the Pennsylvania Liquor Control Board to approve, in certain instances, the transfer of restaurant liquor licenses across municipal boundaries within the same county regardless of the quota limitations provided for in Section 461 of the Liquor Code if, as in the City of Lebanon sales of liquor and malt or brewed beverages are legal in the municipality receiving the license; and

WHEREAS, the Act requires the applicant to obtain from the receiving municipality a resolution approving the inter-municipal transfer of the liquor license prior to an applicant’s submission of an application to the Pennsylvania Liquor Control Board; and

WHEREAS, the Liquor Code stipulates that, prior to adopting of a resolution by the receiving municipality, at least one hearing be held for the purpose of permitting individuals residing within the municipality to make comments and recommendations regarding applicant’s intent to transfer a liquor license into the receiving municipality; and

WHEREAS, an application for transfer filed under the Act must contain a copy of the resolution adopted by the municipality approving the transfer of a liquor license into the municipality.

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

SECTION 1. Turkey Hill, L.P. has requested the approval of the Lebanon City Council for the proposed transfer of Pennsylvania Restaurant Liquor License No. R-9324 (currently held by Woods Creek Corporation, 3275 State Route 72, Jonestown, Pennsylvania, 17038) by Turkey Hill, L.P. to restaurant facilities within the City of Lebanon to be located at 1201 Maple Street, Lebanon, Pennsylvania, 17046, with the understanding that said transfer must be approved at a later date by the Pennsylvania Liquor Control Board.

SECTION 2. Lebanon City Council has held a properly advertised public hearing pursuant to the notice provisions of Section 102 of the Liquor Code to receive comments on the proposed liquor license transfer.

SECTION 3. Lebanon City Council approves, by adoption of this resolution, the proposed inter-municipal transfer of Restaurant Liquor License No. R-9324 into the City of Lebanon by Turkey Hill, L.P.

SECTION 4. Transfers, designations and assignments of licenses hereunder are subject to approval by the Pennsylvania Liquor Control Board.

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Chairperson Carey read summary points from the public hearing held on February 22, 2018, as follows.

Turkey Hill and/or its legal representative indicated the following:

- This is a three step process. First step is the Public Hearing. Turkey Hill needs City Council's approval first in order to transfer a license into the City because the quota is based on population. The last census is 25,477. Thus, the quota limit is 8 and currently, the City has 20 licenses. The second step is land development and zoning approval. The third step is to apply for the transfer of the license to PLCB and that is when they will determine distances from schools, churches, etc....
- Governor Wolf started a campaign "Free the Beer" in response to a demand from residents to have more convenient places to purchase beer. The law made it less cumbersome to get a license to sell beer.
- Turkey Hill is a local business that wishes to provide additional amenities to its customers.
- The store is open 24/7, and it is proposed that alcohol sales would be restricted to Monday-Saturday, from 7:00 a.m.-2:00 a.m.; and Sunday, from 9:00 a.m.-2:00 a.m.
- Turkey Hill will be RAMP certified. There will be a designated manager who will receive RAMP Manager training.
- Turkey Hill has a 100 percent carding policy.
- The sale of single serving beer will be limited to two per person. Consumption must be in the seating area. There will be no Happy Hour or draft beer.
- Purchases must be made at a designated register.
- Security cameras will be installed to monitor the restaurant area.
- Turkey Hill will take the steps to have a civil engineer assess the current parking lot. He added that part of the remodels of the other stores has been to improve site lighting.
- Mr. Brown stated that at the other store locations, they are seeing fewer cars in the lot. He added that the typical customer is making ancillary sales at the same time and is coming to the store less often.
- Ms. Freeman reported that there are 21 restaurant licenses in the city and 4 are in safekeeping. The licenses being auctioned by the PLCB are due to non-renewals, citations, or the license has expired.
- Ms. Freeman added that the record is spotless as a result of Turkey Hill's strict policy regarding alcohol sales.

The City raised the following questions and/or concerns:

- Mayor Capello stated that the proposed location is a small store with a small parking lot. She added that this is one of the busiest Turkey Hill locations in the region, the lighting is poor and the pedestrian crosswalks are not high intensity crosswalks. Last week, a 79-year old pedestrian was struck and killed as she was crossing Maple Street. She added that she is not convinced the proposed site, in its present condition, is suitable for a restaurant facility with alcohol sales. Mayor Capello asked what the percentage of sales

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for gas, coffee, and groceries are at this location. Ms. Freeman did not have the information available.

- Mayor Capello asked if the City modified its PENNDOT permit and could upgrade to high intensity pedestrian crosswalks, would Turkey Hill be willing to pay for the improvements. Ms. Freeman replied that she does not want her client to agree to pay for anything at the public hearing; however, that issue could be addressed during the land development process. Mayor Capello indicated that the proposal would not require that a formal land development plan be filed and zoning alone would not address some of the concerns with lighting and crosswalks.
- Mayor Capello stated that she does not agree with the concept of convenience stores applying for a restaurant liquor license and selling hot dogs. She believes this amendment is going to hurt restaurants overall in the long haul. She added that with looking at economic development and supply and demand, it will increase the price of restaurant liquor licenses and hinder higher quality sit down restaurants and mom and pop restaurants. Ms. Freeman replied that to address the concern about supply and demand, the law firm regularly gets requests for the sale of licenses. She added that the PLCB also has a public auction every six months for the sale of liquor licenses.
- Chief Breiner stated that the City of Lebanon has an ordinance prohibiting open containers and he expressed his concern about patrons purchasing the beer and consuming it on the McDonald's parking lot directly across the street from the store.
- Councilman Morales stated that the Turkey Hill Store at 1201 Maple Street has a lot of vehicular traffic, as well as, walking traffic. He asked how employees will control the 2 maximum beer sales for a 30-seat restaurant. Mr. Brown stated that at present, there has not been a need to track sales. He added that when patrons come to the register they can purchase 2 drinks at one time. Ms. Freeman added that the associates are trained the same as a bartender at a large bar. Councilmember Morales stated that the turnover at this store is very heavy and he is concerned about adding the sale of liquor at the location.
- Councilmember Wertz asked if a patron is permitted to purchase a six pack and consume the beer in the store. Mr. Brown stated that is permitted; however, the policy is that no more than 2 beers can be consumed.
- Chief Breiner asked if the store has guidelines for barring someone from the premises. Mr. Brown replied that there is an incident form that must be submitted to the PLCB and to the corporate office.
- Chief Breiner asked if there is any research addressing an increase in alcohol-related crimes in the vicinity or calls for police assistance. Ms. Freeman replied that Mr. Brown provides his contact info to the police department and there have been no issues.

A City resident raised the following question and/or concern:

Cindy Schlegel, 571 Guilford Street, Lebanon, stated that Pennsylvania is behind the times with laws regarding the sale of alcohol. She supports alcohol sales at convenience stores; however, she is not in favor of sales at the proposed location due to the traffic congestion.

Councilperson Wilson stated that he talked to constituents in that area, as well as, store staff and they are not in favor of the sale of alcohol at this store. He stated that he has concerns about parking; the proximity to a church, a park, and the new elementary school; there is a

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housing development across the road; the area where patrons would consume alcohol is among kids; and half the store would be used for seating. He added that he is also concerned patrons will purchase alcohol at Turkey Hill and consume it on the parking lot of McDonalds which is directly across the street or take it into Coleman Memorial Park for consumption. Councilperson Wilson stated that he is concerned that there will be no liquor licenses available for eateries and restaurants that may consider locating in the city in the future.

Shelby Lister, 1319 Poplar Street, Lebanon, Boy Scout Troop 12, asked if there are any positives to selling alcohol at this location. A representative of Turkey Hill stated that Turkey Hill is trying to stay competitive and the main objective is to provide convenience. He added that a transfer of a liquor license was approved for Weis Markets on South 12<sup>th</sup> Street which is a competitor.

Ellen Freeman, Esquire, representing Turkey Hill, reminded Council that the Pa. Liquor Code is very clear that Council's decision must be based only the comments from the public hearing held on February 22, 2018.

Councilmember Parker stated that he is not opposed to the sale of alcohol at convenience stores; however, he has concerns about this location. City officials clearly raised issues with lighting, traffic, crosswalks, congestion, etc. at the public hearing held on February 22, 2018, and legal counsel for Turkey Hill took the position that those concerns would not be addressed at the public hearing. A representative from Turkey Hill stated that Turkey Hill would agree to update lighting and contribute towards the cost of crosswalk upgrades; however, they did not want to do it in that forum.

Lori Boyer, 1019 Mifflin Street, Lebanon, stated that she is concerned with the increased traffic and parking at the Maple Street location.

Chairperson Carey called for a vote on the adoption of Resolution No. 2. Yeas—none; Nays—Mr. Morales, Mr. Parker, Mr. Wertz, Mr. Wilson, and Mr. Carey, Chairperson—5.

Mr. Parker introduced Resolution No. 5, as follows:

A RESOLUTION AUTHORIZING THE PROPER OFFICIALS OF THE CITY OF LEBANON TO FILE A GRANT APPLICATION WITH THE PENNSYLVANIA DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES FOR PHASE 2 OF THE PLAYGROUND PROJECT AT SOUTHWEST PARK.

WHEREAS, the City of Lebanon (“Applicant”) desires to undertake the following project: Southwest Park Playground Project – Phase 2; and

WHEREAS, the applicant desires to apply to the Pa. Department of Conservation and Natural Resources (“Department”) for a grant for the purpose of carrying out this project; and

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WHEREAS, the application package includes a document entitled “Terms and Conditions of Grant” and a document entitled “Signature Page for Grant Application and Grant Agreement”; and

WHEREAS, the applicant understands that the contents of the document entitled “Terms and Conditions of Grant”, including appendices referred to therein, will become the terms and conditions of a Grant Agreement between the applicant and the Department if the applicant is awarded a grant.

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

SECTION 1. The “Grant Agreement Signature Page” may be signed on behalf of the applicant by the official who, at the time is signing, has the title of Mayor.

SECTION 2. If this official signed the “Grant Agreement Signature Page” prior to the passage of this resolution, this grant of authority applies retroactively to the date of signing.

SECTION 3. If the applicant is awarded a grant, the “Grant Agreement Signature Page”, signed by the above officials, will become the applicant/grantee’s executed signature page for the Grant Agreement, and the applicant/grantee will be bound by the Grant Agreement.

SECTION 4. Any amendment to the Grant Agreement may be signed on behalf of the grantee by the official who, at the time of signing the amendment, has the title specified in paragraph 1 and the grantee will be bound by the amendment.

Mayor Capello reported that Phase 1 of the playground project was completed in September 2017 and is designed for children ages 5-12. The proposed grant would be used for completion of Phase 2 of the playground which will be designed for toddlers. The city’s 50 percent match will be paid from the Schropp Bequest.

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

Mr. Carey introduced Resolution No. 6, as follows:

A RESOLUTION RATIFYING THE MAYOR’S DECISION TO EXECUTE AN AGREEMENT BETWEEN THE CITY OF LEBANON AND KEYSTONE MUNICIPAL COLLECTIONS FOR THE BILLING AND COLLECTION OF STORMWATER MANAGEMENT FEES.

WHEREAS, the City of Lebanon joined with Annville Township, Cleona Borough Authority, North Cornwall Township, North Lebanon Township, and South Lebanon Township to form a consortium known as the Lebanon County Stormwater Consortium to prepare and implement a Pollution Reduction Plan (“PRP”); and

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WHEREAS, Lebanon City Council adopted an ordinance establishing stormwater management fees for the City of Lebanon; and

WHEREAS, Mayor Sherry Capello engaged Keystone Collections Group to oversee the billing and collection of the stormwater management fees for the City of Lebanon.

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

SECTION 1. Lebanon City Council hereby ratifies the Mayor's decision to execute an Agreement between the City of Lebanon and Keystone Municipal Collections for billing and collection of stormwater management fees in accordance with the fees and terms set forth in the agreement.

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

Mayor Capello stated that the proposal submitted by Keystone Municipal Collections represented the lowest cost to the City. Payments for the storm water fee will be accepted at Keystone Municipal Collections' office located in the Municipal Building. Mayor Capello reported that she anticipates bills will be mailed in the next 30-60 days; thereafter, the bills will be issued in January each year.

Resolution No. 6 was passed finally on motion of Mr. Carey, seconded by Mr. Parker. Yeas—Mr. Morales, Mr. Parker, Mr. Wertz, Mr. Wilson, and Mr. Carey, Chairperson—5; nays—none.

Mr. Morales introduced Resolution No. 7, as follows:

A RESOLUTION SUPPORTING THE SWATARA WATERSHED ASSOCIATION'S 30<sup>TH</sup> ANNUAL SOJOURN ON MAY 5-6, 2018, AND ENCOURAGING EFFORTS BEHIND THE SWATARA SOJOURN IN THE COMMUNITY WATERSHED CLEANUP.

WHEREAS, the City of Lebanon acknowledges that the Swatara Creek is the lifeblood of many communities and is integral to public health and safety; and

WHEREAS, the City of Lebanon recognizes that the Swatara Creek is still navigable by small craft; and

WHEREAS, the City of Lebanon supports the Swatara Sojourn Canoeing and Cleanup Trip to be held on May 5-6, 2018; and

WHEREAS, the Swatara Watershed Association's annual float also serves the local community by affording an opportunity to clean out debris from the Swatara Creek; and

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WHEREAS, the purpose of the Swatara Watershed Association's 30<sup>th</sup> Annual Swatara Sojourn is to support local initiatives to enhance the visual impact of a route; maintain the natural resources and intrinsic qualities along the route; and educate residents and visitors about the history and culture of Pennsylvania.

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

SECTION 1. The City of Lebanon supports the Swatara Watershed Association's 30<sup>th</sup> Annual Sojourn on May 5-6, 2018, and encourages the efforts in the community watershed cleanup.

Mayor Capello reported that the group cleans up debris from the Swatara Creek during this event, and the City's support of their efforts is included in the City's MS4 permit application.

Resolution No. 7 was passed finally on motion of Mr. Morales, seconded by Mr. Wilson. Yeas—Mr. Morales, Mr. Parker, Mr. Wertz, Mr. Wilson, and Mr. Carey, Chairperson—5; nays—none.

Allen Dale, 226 East High Street, Lebanon, asked if Turkey Hill has any recourse to the denial of the liquor license transfer. Councilmember Parker stated that Turkey Hill can file an appeal. He noted that this is the fourth request that has come before Council, and the previous three were approved. City Solicitor Donna Long Brightbill reported that although the law does not provide for an appeal, the Superior Court has determined that an appeal may be filed under the Local Agency Law.

Dawn Fenstermacher, 34 Walnut Street, Lebanon, stated that water lines are being installed on Walnut Street. Mayor Capello explained that if a street is resurfaced, there is a moratorium for five years. The resurfacing of Rt. 72 and Rt. 422 will take place in 2019, 2020, or 2021, and all utility work must be completed prior to resurfacing.

Mrs. Fenstermacher asked the location of the sidewalk repairs that was recently put out on bid by the City of Lebanon. Director of Public Works Robin Getz stated that it is for repair of the sidewalk at the 9<sup>th</sup> and 10<sup>th</sup> Street Bridges.

Mrs. Fenstermacher reported that residents are allowing their dogs to run loose at Southeast Playground. She has reported the issue to the Lebanon Police Department.

Mrs. Fenstermacher complained about the excessive use of brake retarders by tractor trailer drivers, as well as, speeding on Walnut Street, especially on weekends. She reported that the Lebanon Police Department set up the speed wagon and that helped to deter some drivers.



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The meeting was adjourned at 7:25 p.m.

CHERYL J. GIBSON, Clerk