

MONDAY, NOVEMBER 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 Carey presiding.

The meeting was called to order at 6:30 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; nine persons in the audience; and one member of the news media.

The minutes of the October 22 and November 15, 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 October 31, 2018.

Michelle Hawk, Director, Lebanon Community Library, provided an update on the library. She reported that the library is used by residents of the community for a variety reasons. This past summer, 400 kids participated in a summer learning program; 1,500 people participated in 39 family events; the FITT (Finding Independence Through Technology) sessions were sponsored by the Bishop Foundation; a class on the Spotted Lantern Fly was held; and the e-library was very popular. Recently, a Keystone Grant was awarded for the replacement of carpeting and painting in the library. Ms. Hawk reported that the value of the services, including Wi-Fi and programs, provided by the Lebanon Community Library for the year 2017 was approximately \$1.5 million.

Chairperson Carey announced that Council received the following communications:

Zelenkofske Axelrod, LLC, transmitting the audit of the City of Lebanon Financial Statements for the year ended December 31, 2017. Mayor Capello reported that there were no findings in the audit.

Mr. Carey called up Bill No. 7 on final reading, the title of which is as follows: "AN ORDINANCE MAKING APPROPRIATIONS OF THE CITY OF LEBANON, PA., FOR THE FISCAL YEAR BEGINNING JANUARY 1, 2019, AND ENDING DECEMBER 31, 2019". Bill No. 7 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.

Mayor Capello reported that there is no tax increase for FY 2019. She added that the percentage of wages and benefits vs. the total budget for 2019 is the lowest since she has been in office. She also noted that there are a few maintenance items that are scheduled for completion in 2019. Mayor Capello reported that 100 percent of the projected carryover was used to balance the 2019 budget.

Regarding the recent discussion about the financial issues with First Aid and Safety Patrol, Mayor Capello reported that in 2008 the State Legislature amended the various Municipal Codes which require local municipalities to have some financial responsibility for emergency medical services. Although First Aid and Safety Patrol provides services in the City of Lebanon, there has been no formal relationship between the entities. Prior to making a decision regarding a contribution to First Aid and Safety Patrol, representatives of the local municipalities are performing due diligence. She announced that upon receipt of a response from FASP, another meeting with representatives of the local municipalities will be held in the near future. Mayor Capello reported that the City is moving forward with the adoption of the budget and, if necessary, the budget will be reopened to allocate funds for a contribution to First Aid and Safety Patrol.

Mr. Parker introduced Bill No. 8, as follows:

AN ORDINANCE PROVIDING FOR THE TAX LEVY OF THE CITY OF LEBANON, PA.,  
FOR THE YEAR 2019.

Be It Ordained by the Council of the City of Lebanon, Pa., and it is hereby ordained by the authority of the same, That:

SECTION 1. The rate of taxation of the City of Lebanon, Pa., for the fiscal year 2019 and for general revenue purposes shall be Four and Five Hundred Eighty-One Thousandths (4.581) mills upon the dollar of the assessed valuation of all the real, personal and mixed property within the limits of said City, taxable for City purposes; such rate of taxation being at the rate of Forty-Five and Eighty-One Hundredths Cents (\$.4581) on each One Hundred Dollars (\$100.00) of the assessed valuation of such taxable property, which assessed valuation is the sum of Eight Hundred Fifty-Nine Million Seven Hundred Ninety-One Thousand Dollars (\$859,791,000.00)

SECTION 2. Any ordinance or part of ordinance conflicting with the provisions of this ordinance be and the same is hereby repealed so far as the same affects this ordinance.

Bill No. 8 was introduced and will be considered on final reading at the City Council meeting of December 17, 2018, on motion of Mr. Parker, seconded by Mr. Wilson. Yeas--Mr. Morales, Mr. Parker, Mr. Wertz, Mr. Wilson, and Mr. Carey, Chairperson--5; nays--none.

Mr. Morales introduced Bill No. 9, as follows:

AN ORDINANCE AUTHORIZING THE ISSUANCE OF A TAX AND REVENUE  
ANTICIPATION NOTE, SERIES OF 2019 IN A PRINCIPAL AMOUNT OF ONE

MILLION DOLLARS (\$1,000,000); PROVIDING FOR THE DATED DATE, INTEREST RATE, MATURITY DATE, PAYMENT AND PLACE OF PAYMENT IN RESPECT OF THE NOTE; ACCEPTING THE PROPOSAL ATTACHED HERETO AS EXHIBIT “B” FROM THE FINANCIAL INSTITUTION OR ENTITY NAMED THEREIN FOR THE PURCHASE OF THE NOTE; NAMING A SINKING FUND DEPOSITARY/PAYING AGENT; AUTHORIZING THE PROPER OFFICERS OF THE CITY TO EXECUTE AND DELIVER THE NOTE AND CERTAIN OTHER DOCUMENTS AND CERTIFICATES IN CONNECTION THEREWITH; AUTHORIZING AND DIRECTING THE PREPARATION, CERTIFICATION AND FILING OF THE NECESSARY DOCUMENTS WITH THE DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT OF THE COMMONWEALTH OF PENNSYLVANIA; SETTING FORTH A FORM OF THE NOTE.

WHEREAS, City of Lebanon, Lebanon County, Pennsylvania (the “City”), anticipates receiving taxes and other revenues during the fiscal year ending December 31, 2019, which taxes and other revenues are currently uncollected; and

WHEREAS, the City has estimated, on a monthly basis, its expected taxes, revenues and expenditures for the fiscal year ending December 31, 2019, and has determined that during a portion of such fiscal year it will experience a “cumulative cash flow deficit” as such phrase is defined in the regulations promulgated under Sections 103 and 148 of the Internal Revenue Code of 1986, as amended (the “Code”); and

WHEREAS, the City has determined to borrow monies for the purpose of funding, in part, such cumulative cash flow deficit by issuing a note to be repaid from the anticipated taxes and revenues, all in accordance with the Local Government Unit Debt Act of the Commonwealth of Pennsylvania, Act 53 Pa.C.S., Chapters 80-82, as reenacted and amended (the “Debt Act”); and

WHEREAS, the City has received an acceptable proposal for the purchase of its Tax and Revenue Anticipation Note as hereinafter described; and

WHEREAS, as required by Section 8126 of the Debt Act, officials of the City have heretofore made an estimate of the taxes and revenues to be received during such fiscal year ending December 31, 2019, and, by their execution of a certificate with respect thereto dated this date, have certified to such estimate.

NOW, THEREFORE, BE IT ORDAINED AND ENACTED by the Council of the City of Lebanon, Lebanon County, Pennsylvania (the “Council”), in lawful session duly assembled, as follows:

SECTION 1. For the reasons and purposes recited above, the City hereby exercises its power and authority to borrow money and authorizes the issuance and sale of its Tax and Revenue Anticipation Note, Series of 2019, in the principal amount of One Million Dollars (\$1,000,000) (the “Note”) in anticipation of the receipt of current taxes and revenues during the fiscal year ending December 31, 2019, such Note to be issued, sold and delivered as hereinafter provided.

SECTION 2. The Mayor and the City Clerk are hereby authorized and directed, in the name and on behalf of the City, to prepare and file with the Department of Community and Economic Development of the Commonwealth of Pennsylvania a certified copy of this Ordinance, a certificate setting forth the taxes and revenues to be collected in the fiscal year ending December 31, 2019, and a true copy of the accepted Proposal (hereinafter defined) for the purchase of the Note, all as set forth in and required by Section 8128 of the Debt Act. The Mayor and the City Clerk are also hereby authorized and directed, in the name and on behalf of the City, to prepare and verify a certificate, in accordance with Sections 103 and 148 of the Code and the regulations applicable thereto, setting forth the anticipated use of the proceeds, to prepare and deliver to the Purchaser of the Note the certificate required by Section 8127 of the Debt Act relating to the total amount of the City's tax and revenue anticipation notes outstanding on the date of delivery of the Note, and to take any and all other action, and to execute and deliver any and all other documents and instruments, as may be necessary, proper or desirable to effect the issuance and sale of the Note as contemplated herein. The certification made on the date of enactment of this Ordinance by the aforementioned officials of the City, relating to the amount of taxes and other revenues remaining to be collected by the City in the fiscal year ending December 31, 2019, is hereby ratified and approved.

SECTION 3. The Note shall be designated "City of Lebanon, Lebanon County, Pennsylvania, Tax and Revenue Anticipation Note, Series of 2019", shall be in registered form, without coupons, shall be prepayable prior to maturity, shall be in the denomination of One Million Dollars (\$1,000,000), shall be dated the date of issuance, shall bear interest at the rate of interest set forth in the Proposal from the date of delivery until maturity, shall mature on December 31, 2019, and shall be payable as to principal and interest at the place and in the manner and be otherwise in substantially the form set forth in the form of Note attached as Exhibit "A" hereto and the Proposal attached as Exhibit "B" hereto.

SECTION 4. The Note, when issued, will be a general obligation of the City.

SECTION 5. The Note shall be executed by the Mayor and the City Clerk and shall have the corporate seal of the City affixed thereto. The Mayor and the City Clerk are further authorized and directed to deliver the Note to the Purchaser hereinafter named upon the terms and conditions hereinafter provided and to execute and deliver such other documents and instruments and to take such other action as may be necessary or appropriate to effect the issuance and sale of the Note in accordance with this Ordinance and the Debt Act.

SECTION 6. The Note, together with any other tax and revenue anticipation notes issued, or to be issued, by the City during the City's fiscal year ending on December 31, 2019, shall, upon issuance thereof, be equally and ratably secured by a pledge of, security interest in, and a lien and charge on, the taxes and other revenues to be received by the City during the period when the Note is outstanding; and the Mayor and the City Clerk are hereby authorized and directed to prepare and file, or to have filed, such financing statements as may be necessary to fully perfect such pledge, security interest, lien and charge pursuant to the Pennsylvania Uniform Commercial Code and Section 8125 of the Debt Act.

SECTION 7. The City hereby covenants that it will not make any use of the proceeds of the Note or do or suffer any other action which, if such use or action had been reasonably

expected on the date of issuance of the Note, would cause the Note to be an “arbitrage bond” or a “private activity bond” as such terms are defined in Section 148 or Section 141 of the Code and the regulations applicable thereto and further covenants that it will comply with Section 148 and Section 141 of the Code, and with any regulations applicable thereto, throughout the term of the Note, including without limitation, any requirements relating to a rebate of certain excess earnings pursuant to Section 148(f) of the Code of any regulations applicable thereto now existing or promulgated hereafter. In connection therewith, the Mayor and the City Clerk are hereby authorized and directed to execute and to deliver, in the name and on behalf of the City, any and all documents or other instruments which Stevens & Lee, P.C., Bond Counsel, may reasonably request to provide its opinion that the Note is not an “arbitrage bond” or a “private activity bond” within the meaning of Section 148 and Section 141 of the Code and the regulations applicable thereto.

SECTION 8. The formal proposal (the “Proposal”) of the lender identified therein (the “Purchaser”), presented to the Council is attached hereto as Exhibit “B”, is hereby accepted and the Note is hereby awarded to the Purchaser at a private sale for the purchase price of \$1,000,000. The terms of the Proposal are incorporated herein by reference with the same effect as if set forth in full at this place. The Mayor and the City Clerk are hereby authorized and directed to accept the Proposal, in the name of and on behalf of the City, by executing the City’s acceptance on an original copy of the Proposal, to deliver a copy of the same to the Purchaser and to file the original with the records of the City.

The Mayor and the City Clerk are hereby authorized to deliver the Note to the Purchaser upon receipt of the full principal amount of the purchase price for such Note and upon compliance with all conditions precedent to such delivery as required by the Debt Act, this Ordinance and the Proposal; and such Mayor and City Clerk are hereby authorized and directed to prepare, verify and deliver to the Purchaser concurrently with the delivery of the Note, the certificate required by Section 8127 of the Debt Act, a copy of which certificate shall be retained with the records of the City until all tax and revenue anticipation notes issued by the City during the fiscal year ending on December 31, 2019, shall have been paid in full.

SECTION 9. The form of the Note shall be substantially as set forth and attached hereto as Exhibit “A,” which form is hereby incorporated by reference and adopted as if fully recited at length herein and said form is hereby approved by this Council.

SECTION 10. The proper officers of the City are hereby authorized, empowered and directed to contract the Purchaser for its services as paying agent and sinking fund depository (the “Paying Agent”) in accordance with the terms of the Proposal, this Ordinance and the Debt Act. The proper officers of the City are hereby authorized to establish a sinking fund for the Note with the Paying Agent for the benefit of the holder of the Note. The City Controller or other proper officer of the City is hereby authorized and directed to make deposits to the sinking fund to be held for the payment of principal and interest on the Note no later than the date of final maturity thereof.

Thereafter, the Paying Agent shall, without further authorization or direction from the City or any of its officials, withdraw moneys from the sinking fund and apply such moneys to the payment of principal and interest then due on the Note. Deposit by the City into the sinking fund

of the full amount of such money shall satisfy in full the obligation of the City to pay principal and interest with respect to the Note.

SECTION 11. The City hereby appoints Stevens & Lee, P.C., to serve as Bond Counsel and Financial S&Lutions LLC to serve as financial advisor to the City, all in connection with the issuance and sale of the Note.

SECTION 12. The City Controller or other proper official of the City is hereby authorized and directed to pay at, or subsequent to, the closing for the issuance of the Note, all costs and expense of the issuance incurred by or on behalf of the City or required to be paid by the City, all in accordance with the provisions of the Purchaser's proposal.

*[Remainder of page intentionally left blank]*

EXHIBIT "A"

FORM OF NOTE

R-1

\$1,000,000

CITY OF LEBANON  
LEBANON COUNTY, PENNSYLVANIA  
TAX AND REVENUE ANTICIPATION NOTE  
SERIES OF 2019  
DATED JANUARY \_\_, 2019

The City of Lebanon (the "City"), Lebanon County, Commonwealth of Pennsylvania (the "Commonwealth"), for value received, hereby promises to pay to \_\_\_\_\_, \_\_\_\_\_, Pennsylvania (the "Purchaser"), on December 31, 2019, the principal sum of One Million Dollars (\$1,000,000), plus accrued interest thereon, computed at a fixed rate of \_\_\_\_\_ and \_\_\_\_\_ hundredths percent (\_\_\_\_%) per annum. Both the principal of and interest on this Note shall be payable in lawful money of the United States of America upon presentation and surrender of this Note at the office of the Purchaser (also, the "Paying Agent") in \_\_\_\_\_, Pennsylvania.

The City has the option to prepay principal or any payment of interest at any time prior to the respective payment date thereof, without notice or penalty.

This Tax and Revenue Anticipation Note, Series of 2019 (the "Note"), is authorized and issued in the principal amount of \$1,000,000 in accordance with the provisions of the Local Government Unit Debt Act of the Commonwealth, as codified by the Act of December 19, 1996, P.L. 1158, No. 177 (the "Act"), and pursuant to an ordinance, dated December 17, 2018 (the "Ordinance"), duly enacted by the City and filed, together with other required documents, with the Pennsylvania Department of Community and Economic Development. Reference is hereby made to the Act and the Ordinance for a complete statement of the rights and limitations of rights of owners of the Note, to all of which the owner hereof by acceptance of this Note assents.

This Note is issued under and in accordance with the Act, for the purpose of providing funds for current expenses payable in the current fiscal year in anticipation of the receipt of taxes and other revenues by the City from the date of original delivery of the Note to the stated maturity date thereof.

This Note is secured under the Ordinance by the pledge of, security interest in and a lien and charge on the taxes and other revenues of the City specified in the Ordinance to be received during the period when the Note is outstanding, together with all proceeds thereof. Such pledge, security interest, lien and charge have been perfected and are enforceable in the manner provided by the Act.

The City has covenanted that it will deposit in the sinking fund for the Note established by the Ordinance with the Paying Agent such amounts as will be sufficient to pay the principal of and interest on the Note issued pursuant to the Ordinance as and when the same shall become due and payable, and such sinking fund shall be applied exclusively to such purpose.

The Purchaser shall have the right to exercise the remedies set forth in the Act. Any failure by the Purchaser to exercise any right or privilege hereunder shall not be construed as a waiver of the right or privilege to exercise such right or privilege, or to exercise any other right or privilege, at any other time, and from time to time, thereafter.

In the Ordinance, the City has covenanted that it will not make any use of the proceeds of the Note or take or omit to take any other action which would cause the Note to be an “arbitrage bond” or a “private activity bond” as such terms are defined in Sections 148 and 141 of the Internal Revenue Code of 1986, as amended (the “Code”), and applicable regulations promulgated with respect thereto, including, but not limited to, provisions regarding the use or investment of the proceeds of the Note and the rebate requirements in Section 148(f) of the Code.

No recourse shall be had for the payment of the principal of or interest on this Note, for any claim based hereon or on the Ordinance any member, officer or employee, past, present, or future, of the City or of any successor body, as such, either directly or through the City or any such successor body, under any constitutional provision, statute or rule of law, or by the enforcement of any assessment or by any legal or equitable proceeding or otherwise, and all such liability of such members, officers or employees is released as a condition of and as consideration for the issuance of this Note.

It is hereby certified that all actions required by the Act to be taken to render this Note valid and obligatory have been taken pursuant to the Act, that all acts, conditions and things required by the laws of the Commonwealth to exist, to have happened or to have been performed precedent to and in the authorization and issuance of this Note exist, have happened and have been performed in regular and due form and manner as required by law; and that all existing indebtedness of the City is within every limitation prescribed by the Constitution and the statutes of the Commonwealth.

IN WITNESS WHEREOF, the City has caused this Note to be executed by its Mayor, its seal to be hereunto affixed and the same to be attested by the City Clerk.

CITY OF LEBANON,  
Lebanon County, Pennsylvania

(SEAL)

By: \_\_\_\_\_  
Mayor

Attest: \_\_\_\_\_  
City Clerk

EXHIBIT “B”

PROPOSAL FOR PURCHASE OF NOTE

Mayor Capello stated that the Tax and Revenue Anticipation Note (TRAN) serves as an insurance policy for the City of Lebanon. The revenue from real estate taxes begins coming in at the end of March. If needed, funds from the TRAN can be used to cover operating costs.

Bill No. 9 was introduced and will be considered on final reading at the Council meeting of December 17, 2018, 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.

Councilmember Wilson requested a report of the Business Improvement District at a future meeting.

Laura LeBeau, WLBR Radio, regarding the First Aid and Safety Patrol issue, asked what is included in “due diligence”. Mayor Capello replied that the first step is to get answers from Executive Director Bryan Smith, including a list of creditors, how much is owed to creditors, how far behind is FASP in paying debts, and what steps have been taken to collect debt owed to FASP.

Councilmember Parker stated that a number of concerns were discussed at Thursday’s Pre-Council meeting. He added that prior to making a decision, Council needs answers to questions.

Ms. LeBeau asked how reopening the budget may affect the no tax increase budget adopted by Council. Mayor Capello stated that is something she and Council will discuss, if necessary. She added that there are funds set aside for capital projects, and that may be one possibility to consider. She noted that potentially there are two things to consider: emergency funding to allow FASP to continue operations and a long range plan for supporting FASP.

Councilmember Parker stated that FASP has also approached other municipalities. Council previously discussed that there by some tradeoffs such as representation on the FASP Board of Directors.

Councilmember Morales stated that there was also discussion regarding the possibility of services being offered by other providers. He noted that taxpayers are not happy about the possibility of a tax increase.

Chairperson Carey stated that he is confident that we will be able to resolve this issue and citizens do not need to worry that an ambulance will not show up at their door in the case of an emergency.

Ms. LeBeau asked if there is any possibility of impropriety of funds to which Mayor Capello replied that she has no knowledge of impropriety.

Ed Salem, 214 Mifflin Street, Lebanon, stated that it was reported that FASP wrote off \$1 million for bills that were not collected. As a taxpayer, he feels a lot of questions need to be answered before the Council makes a contribution to the organization.

Dawn Fenstermacher, 34 Walnut Street, Lebanon, asked which municipalities are participating in the discussions. Mayor Capello reported that there are 15 partner municipalities: City of Lebanon, North Lebanon Township, North Cornwall Township, Cornwall Borough, South Annville Township, South Lebanon Township, North Annville Township, Jonestown Borough, West Lebanon Township, East Hanover Township, Swatara Township, West Cornwall Township, Annville Township, Bethel Township, and Union Township.

Councilmember Wilson stated that Council will need to consider all options as this would be the third fee imposed for some residents. He added that it might mean a project scheduled for 2019 be delayed to a future date.

The meeting was adjourned at 7:27 p.m.

CHERYL J. GIBSON, Clerk