

MONDAY, MAY 28, 2019

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 6:31 p.m.

Present--Mr. Morales, Mr. Wertz, Mr. Wilson, and Mr. Carey, Chairperson. Absent--Mr. Parker.

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; and 12 persons in the audience.

The minutes of the April 22, 2019, 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 April 30, 2019. Mayor Capello reported that as of April 30, 2019, 33 percent of the year is completed; revenues are at 36 percent; and expenditures are at 24 percent.

Councilmember Wilson introduced Resolution No. 26, as follows:

A RESOLUTION APPROVING THE FISCAL YEAR 2019 ANNUAL ACTION PLAN FOR THE COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM.

WHEREAS, under Title I of the Housing and Community Development Act of 1974, as Amended, the Secretary of the U.S. Department of Housing and Urban Development is authorized to extend financial assistance to communities in the elimination or prevention of slums or urban blight, or activities which will benefit low and moderate income persons, or other urgent community development needs; and

WHEREAS, the U.S. Department of Housing and Urban Development has estimated the FY 2019 CDBG entitlement grant to be \$648,962.00, plus estimated program income in the amount of \$20,000.00.

WHEREAS, the City of Lebanon has prepared a Consolidated Plan for 2015-2019 and an Annual Action Plan for the FY 2019 funding year that assesses the housing needs of extremely low, low, and moderate income households, homeless families and individuals, and others with special needs; and

WHEREAS, the Annual Action Plan for FY 2019 was on public display for 30 days and the City held a series of public hearings on said Annual Action Plan and the comments of various

JOURNAL OF COUNCIL – MAY 28, 2019

agencies, groups and citizens were taken into consideration in the preparation of the final document.

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 Annual Action Plan for the FY 2019 Community Development Block Grant Program is hereby in all respects approved and the City Clerk is hereby directed to file a copy of said Annual Action Plan with this resolution.

SECTION 2. The Mayor and City Council are cognizant of the conditions that are imposed in the undertaking and carrying out of community development, affordable housing and emergency homeless activities with federal financial assistance, including those relating to (a) the relocation of site occupants, (b) the prohibition of discrimination because of race, color, age, religion, sex, disability, familial status, or national origin and other assurances as set forth under the certifications.

Mayor Capello reported that the public hearing was held on May 23. The City is receiving an entitlement of \$648,962 and program income is projected to be \$20,000. The 2019 budget is \$18,899 less than 2018. She reported that up until 2005, the City of Lebanon received an entitlement of slightly more than \$1 million. Beginning in 2005, the entitlement began to steadily decrease until two years ago. She added that as a result of the decrease in funding, the City has not been able to solicit applications from community organizations for small projects.

Resolution No. 26 was passed finally on motion of Mr. Wilson, seconded by Mr. Wertz. Yeas--Mr. Carey, Mr. Morales, Mr. Wertz, and Mr. Wilson--4; nays--none.

Councilmember Wertz introduced Resolution No. 27, as follows:

A RESOLUTION AUTHORIZING THE FILING OF A HOME GRANT APPLICATION FOR FUNDS IN THE AMOUNT OF \$250,000 FROM THE PENNSYLVANIA DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT.

WHEREAS, the HOME applicant is desirous of obtaining funding from DCED for affordable housing activities fundable under Title II of the National Affordable Housing Act of 1990 (42 U.S.C. 12701 through 12839) and the implementing regulations at 24 CFR Part 92; and

WHEREAS, a housing need exists that has been identified in the local or state Consolidated Plan and the proposed housing activity addresses this need; and

WHEREAS, the HOME applicant has concluded the required citizen participation process.

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:

JOURNAL OF COUNCIL – MAY 28, 2019

SECTION 1. The Community Development Administrator is hereby authorized to prepare a HOME grant application in the amount of Two Hundred Fifty Thousand Dollars (\$250,000) for submission to the Pennsylvania Department of Community and Economic Development.

SECTION 2. The City of Lebanon will assure the provision of the other necessary funds to make the activity feasible.

SECTION 3. The City of Lebanon will reimburse the Commonwealth of Pennsylvania for any expenditure found by DCED to be ineligible.

SECTION 4. The Mayor is hereby authorized to execute the application for funds and, when awarded, the contract for the funds.

SECTION 5. The City Clerk is directed to execute a certificate attesting to the adoption of this resolution and to furnish a copy of the resolution to DCED.

Mayor Capello reported that representatives of the City met with DCED officials on May 24. As a result of that meeting, she is proposing some changes to the criteria for the loan program discussed at the public hearing on May 23, 2019, as follows:

- The recipients will receive a grant vs. a deferred loan.
- Recipients are eligible for a forgiveness grant for 100 percent of the costs for lead abatement.
- Up to \$20,000 may be granted as a conditional grant forgiven over a ten-year period (10 percent forgiven each year).
- There would be no cap on the amount of the grant; currently, there is a \$25,000 cap.

Resolution No. 27 was passed finally on motion of Mr. Wertz, seconded by Mr. Wilson. Yeas--Mr. Carey, Mr. Morales, Mr. Wertz, and Mr. Wilson--4; nays--none.

Mr. Morales introduced Resolution No. 28, as follows:

A RESOLUTION AUTHORIZING THE PROPER OFFICIALS OF THE CITY OF LEBANON TO FILE A GREENWAYS, TRAILS, AND RECREATION PROGRAM GRANT APPLICATION WITH THE COMMONWEALTH FINANCING AUTHORITY FOR A CONNECTOR TRAIL BETWEEN COLEMAN MEMORIAL PARK AND UNION CANAL TUNNEL PARK.

WHEREAS, the City of Lebanon (“Applicant”) desires to undertake the following project: Connector Trail between Coleman Memorial Park and Union Canal Tunnel Park.

WHEREAS, the applicant desires to apply to the Commonwealth Financing Authority for a grant in the amount of \$250,000.00 for the purpose of carrying out this project.

JOURNAL OF COUNCIL – MAY 28, 2019

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 Mayor and City Clerk are hereby designated as the official(s) to execute all documents and agreements between the City of Lebanon and the Commonwealth Financing Authority to facilitate and assist in obtaining the requested grant.

Mayor Capello reported that in May 2011, a Master Site Plan was completed for Coleman Memorial Park. The plan addressed pedestrian circulation, regional connections, and proposed improvements to an existing trail near the Brock Mansion in the western part of the park. The proposed connector spur or trail will connect Coleman Memorial Park to North 22nd Street, crossing over to Union Canal Drive. Mayor Capello reported that she has met with representatives of North Lebanon Township and they reported that North 22nd Street is a designated truck route. Currently, there is no safe walking path along North 22nd Street and Union Canal Drive for pedestrians. The proposed trail would improve pedestrian safety.

Mayor Capello further reported that part of the grant conditions is to reach the Latino-based population. The Lebanon School District (Northwest Elementary School) has applied for a grant to construct additional walkways into West Lebanon Township. This project would eventually connect Northwest Elementary School to Coleman Memorial Park and Union Canal Park.

Mayor Capello reported that the City will be applying for \$250,000 to improve the existing trail, construct a six foot walkway along Union Canal Drive, and install signage. She added that due to topography in that part of the park, this portion of the trail will not be handicapped accessible.

Craig Gates, 44 Berwyn Park, Lebanon, asked if the proposed project would also include the trail along Union Canal Park. Mayor Capello replied this project includes the installation of a six foot walkway along Union Canal Drive to the entrance of the Union Canal Park; however, it does not include improvements to the trail in Union Canal Park.

Resolution No. 28 was passed finally on motion of Mr. Morales, seconded by Mr. Carey. Yeas--Mr. Carey, Mr. Morales, Mr. Wertz, and Mr. Wilson--4; nays--none.

Mr. Wertz introduced Resolution No. 29, as follows:

A RESOLUTION AUTHORIZING THE DISPOSITION OF VARIOUS DOCUMENTS IN THE COMMUNITY AND ECONOMIC DEVELOPMENT OFFICE.

WHEREAS, by virtue of Resolution No. 36, Sessions 2008-2009, passed finally by City Council on April 27, 2009, the City of Lebanon declared its intent to follow the procedures for the disposition of records as set forth in the Retention and Disposition Schedule for Records of Pennsylvania Municipalities issued on December 16, 2008; and

JOURNAL OF COUNCIL – MAY 28, 2019

WHEREAS, in accordance with Act 428 of 1968, each individual act of disposition shall be approved by resolution of the governing body of the municipality.

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

SECTION 1. The disposition of the attached miscellaneous administrative records in the Community and Economic Development Office is hereby approved.

SECTION 2. A copy of the list of documents is attached to and hereby made part of this resolution.

Resolution No. 29 was passed finally on motion of Mr. Wertz, seconded by Mr. Wilson. Yeas--Mr. Carey, Mr. Morales, Mr. Wertz, and Mr. Wilson--4; nays--none.

Mr. Wilson introduced Bill No. 11, as follows:

AN ORDINANCE ADOPTING THE MODEL FOOD CODE AS SET FORTH IN 7 PA. CODE CHAPTER 46, AND AS IS SUPERSEDED AND/OR SUPPLEMENTED BY THE U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES DULY ADOPTED FOOD CODE, AS THE FOOD CODE OF THE CITY OF LEBANON FOR REGULATING AND SETTING STANDARDS FOR MANAGEMNET AND PERSONNEL, FOOD OPERATIONS AND EQUIPMENT AND FACILITIES; AND PROVIDING FOR FOOD ESTABLISHMENT PLAN REVIEW, LICENSING, INSPECTION AND EMPLOYEE RESTRICTION; PROVIDING FOR THE ISSUANCE OF PERMITS AND LICENSES AND COLLECTION OF FEES THEREFORE; AND EACH AND ALL OF THE REGULATIONS, PROVISIONS, PENALTIES, CONDITIONS AND TERMS OF SAID FOOD CODE ON FILE IN THE CITY CLERK’S OFFICE ARE HEREBY REFERRED TO, ADOPTED AND MADE A PART HEREOF, AS IF FULLY SET OUT IN THIS PART, WITH ADDITIONS, INSERTIONS, DELETIONS AND CHANGES, IF ANY, PRESCRIBED IN SECTION 1103.02 OF THE CODIFIED ORIDNANCES OF THE CITY OF LEBANON; AND REPEALING ARTICLE 1103 OF THE CODIFIED ORDINANCES OF THE CITY OF LEBANON, AND ALL OTHER ORDINANCES AND PARTS OF ORDINANCES THAT CONFLICT THEREWITH.

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

SECTION 1. Article 1103, “Food Code”, of the Codified Ordinances of the City of Lebanon, Pennsylvania, is hereby repealed, rescinded, and deleted in its entirety and shall be replaced by the following new article:

“1103.01 Adoption of Code. The Model Food Code as set forth in 7 Pa. Code Chapter 46, including §46.4, and as is superseded and/or supplemented by the United States Department of Health and Human Services duly adopted Food Code, is hereby adopted as the Food Code of the City of Lebanon for regulating and setting standards for management and personnel, food

operations and equipment and facilities; and providing for retail food facility plan review, licensing, inspection and employee restriction; providing for the issuance of permits and licenses and collection of fees therefor; and each and all of the regulations, provisions, penalties, conditions and terms of said Food Code on file in the City Clerk's Office are hereby referred to, adopted and made a part hereof, as if fully set out in this Article, with the additions, insertions, deletions and changes, if any, prescribed in §1103.02, "Additions, Insertions and Changes".

1103.02 Additions, Insertions and Changes. The Food Code, published by the Commonwealth of Pennsylvania, Department of Agriculture, Bureau of Food Safety and Laboratory Services, on December 13, 2003, has been amended and revised and is adopted to apply to licensure and enforcement in the City of Lebanon in the following respects:

Section 46.3 Definitions (amend definition of *Licensor*).

Licensor shall mean the City of Lebanon

Section 46.1142 Application procedure for appropriate license (amended).

Prior to the opening of a retail food facility, the operator shall contact the Department or licensor to obtain the appropriate application form for the required license. The Department or licensor will supply the applicant with the appropriate form, based upon the type of retail food facility involved. The fee for processing applications shall be Twenty-Five Dollars (\$25.00) payable upon submitting the application.

Section 46.1143 Issuance (amended).

- (a) New, converted or remodeled retail food facilities. For retail food facilities that are required to submit plans as specified in §46.1121(a) (relating to facility and operating plans), the Department or licensor will issue a license to the applicant after the following occur:
 - (1) The required plans, specifications and information are reviewed and approved.
 - (2) A preoperational inspection, as described in §46.1124 (relating to preoperational inspection of construction), shows that the facility is built or remodeled in accordance with the approved plans and specifications and that the facility is in compliance with this chapter.
 - (3) A properly completed application is submitted.
 - (4) The fee for the review of the plans and pre-operational inspection shall be One Hundred Dollars (\$100.00) payable upon submission of the plans to the Department of Public Safety. This fee shall include one pre-operational inspection and one pre-opening inspection.
- (b) License Renewal. The retail food facility operator of an existing retail food facility within the City of Lebanon shall submit an application, the required fee as set in paragraph (d) and be in compliance with this chapter prior to issuance by the City of Lebanon of a renewed license, or the issuance of a renewed license by the City of Lebanon. The annual license period shall be July 1 to June 30. Renewals of license shall be due no later than June 30 of each year. A food facility that opens prior to the annual license renewal period shall have its initial fees pro-rated by month prior to the renewal date.

- (c) Change of ownership. Licenses are nontransferable. New owners shall apply to the Department or licensor in accordance with §46.1142 (relating to application procedure for appropriate license).
- (d) License. Prior to issuance of a license and following the pre-operational inspection, the retail food facility operator shall pay a fee in accordance with the following schedule:
 - (1) Public Eating and Drinking Place - \$125.00
 - (2) Retail Food Establishment (with time and temperature controlled for safety foods) - \$125.00
 - (3) Retail Food Facility (with no time and no temperature controlled safety foods) - \$75.00
 - (4) Mobile Retail Food Establishment (w/time and temperature controlled safety foods)- \$125.00
 - (5) Mobile Retail Food Establishment (with no time and no temperature controlled foods) - \$75.00
 - (6) Temporary Food Sales - \$30.00 per event, for a maximum of three events per calendar year. More than three events will be considered a permanent retail food facility and a fee of \$125 will be assessed.
 - (7) Individual Farmers' Market Food Operator - \$45.00
- (e) Nonprofit organizations, including churches, fire companies, sports organizations and other organizations raising funds for benevolent and/or charitable purposes may petition the Mayor for a waiver of the designated permit fees. All applicants requesting fees to be waived are required to submit an application not less than thirty (30) days prior to the date of the function. The application shall state the date and location of the function or event. Upon approval of the application, the applicant will be issued a temporary event license.
- (f) Inspections. The City of Lebanon may conduct the following types of inspections of food facilities prior to the issuance of a new or renewal of a license, periodically throughout the year to determine if the licensee is in compliance with the requirements of the Food Code, or upon the receipt of a complaint or complaints from the public or any federal, state, or local agency or its agents that the licensee is not in compliance with requirements of the Food Code:
 - (1) Annual or Regular Inspection (one inspection included with the annual license fee)
 - (2) Pre-Opening Inspection (one pre-operational and one pre-opening inspection included in license fee).
 - (3) Compliance Inspection. If inspection interval is more than one time per year due to the factors set forth in Section 8-4, "Inspection and Corrections of Violations", a fee of \$75.00 shall be assessed for each inspection conducted.
 - (4) Complaint Inspection. If a complaint is found to be valid, a fee of Seventy-Five Dollars (\$75.00) shall be assessed.

License Display; License Nontransferable (addition)

- (a) Licenses herein provided for shall specify the date of issuance, the period which is covered, the name of the issuing authority and the place permitted or licensed premises. Such licenses shall be conspicuously displayed at all times. Licenses shall not be transferable. A license shall be required for each retail food facility.

8.911.10 Authorities, Methods, Fines, and Sentences for Criminal Proceedings (amended)

- (a) The City of Lebanon may seek to enforce the provisions of this Code and its orders by instituting criminal proceedings as provided in law against the permit holder or other persons who violate its provisions.
- (b) Any person violating this ordinance shall, upon conviction be guilty of a misdemeanor, punishable by:
 - (1) A fine of not less than One Hundred Dollars (\$100.00) nor more than Three Hundred Dollars (\$300.00) and/or imprisoned not more than ninety (90) days, plus costs of prosecution, for the first offense.
 - (2) A fine of not less than Three Hundred Dollars (\$300.00) nor more than One Thousand Dollars (\$1,000.00) and/or imprisoned not more than ninety (90) day, plus costs of prosecution, for all succeeding offenses.
- (c) Each day that a violation continues after due notice has been served shall be deemed a separate offense. A person who violates any provision of this ordinance or any rule, regulation, standard or order made under this ordinance commits a misdemeanor of the third degree if the violation is a third or subsequent offense and if the violation occurs within two years of the date of the last previous offense.

8.911.13 Authorities, Methods, Fines, and Sentences for Civil Proceedings (amended)

- (a) The City of Lebanon may seek to enforce the provisions of this Code and its orders by instituting civil proceedings as provided in law against the permit holder or other persons who violate its provisions.
- (b) In addition to any criminal fines and sentences imposed as specified in §8-911.10, or to being enjoined as specified in §8-912.10, a PERSON who violates a provision of this Code, any rule or regulation adopted in accordance with LAW related to FOOD ESTABLISHMENTS within the scope of this Code, or to any term, condition, or limitation of a PERMIT issued as specified in §8-303.10 and 8-303.20 is subject to a civil penalty of not less than One Hundred Dollars nor more than Three Hundred Dollars (\$300.00) and/or imprisoned not more than ninety (90) days, plus costs of prosecution.
- (c) Each day that a violation continues after due notice has been served shall be deemed a separate offense. A person who violates any provision of this ordinance or any rule, regulation, standard or order made under this ordinance commits a misdemeanor of the third degree if the violation is a third or subsequent offense and if the violation occurs within two years of the date of the last previous offense.

JOURNAL OF COUNCIL – MAY 28, 2019

SECTION 2. If any section, subsection, sentence, clause or phrase of this ordinance, for any reason, held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance. The City of Lebanon hereby declares that it would have passed this ordinance, and each section, subsection, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared unconstitutional.

Mayor Capello reported that in 2018, the U.S. Food and Drug Administration released the 2017 Food Code. The model regulations are permitted to be adopted by counties and local municipalities. She reviewed the following four major revisions included in this update:

1. Revised the requirement for the person in charge to be a Certified Food Protection Manager. Previously, the facility only needed to have a person within the operation to be certified.
2. Added a new section that addresses the use of bandages, finger cots (details how a wound to the hand is covered and then covered with a glove until healed.
3. Harmonized cooking time/temp parameters for meat and poultry.
4. Updated procedures for retail food operations to be able to continue service during extended water or electrical outages if a written emergency plan is pre-approved and the regulatory authority is notified upon the implementation of the plan.

Mayor Capello stated that the City met with a Pa. State Department of Ag employee and had his supervisor review the City's Code. In addition to the above changes, some definitions were clarified and there were some minor revisions throughout the code based on those clarifications. Mayor Capello added that the fees have been amended to be in line with the State's fees.

Pam Tricamo, 887 East Lehman Street, Lebanon, asked if the amendments will effect non-profit organizations. Mayor Capello replied that there is a new employee in this position. She added that he is on top of the regulations and may do things differently than the previous employee.

Bill No. 11 was introduced and will be considered on final reading at the City Council meeting of June 24, 2019, on motion of Mr. Wilson, seconded by Mr. Morales. Yeas--Mr. Carey, Mr. Morales, Mr. Wertz, and Mr. Wilson--4; nays--none.

Councilmember Morales thanked the Lebanon Police Department for addressing a recent issue with music at the car wash on North Seventh Street.

Councilmember Wilson asked if landlords are able to evict a tenant if they have been cited three times. Mayor Capello replied that after three guilty verdicts for disruptive conduct a tenant may be asked to leave.

George Horn, 315 South First Avenue, Lebanon, asked what projects are being completed by Comcast at Stoever's Dam Park. Mayor Capello replied that in conjunction with

JOURNAL OF COUNCIL – MAY 28, 2019

the annual Comcast Cares Day, Comcast employees from the region chose Stoever's Dam Park as this year's project and improved the walking path.

Craig Gates, 44 Berwyn Park, Lebanon, asked if the paving project on Walnut Street has been delayed. Mayor Capello replied that due to the amount of repairs needed on the utilities, the anticipated start date for the project is Spring 2021.

Amy Keller, 304 South Fourth Street, Lebanon, asked if motorized bikes are regulated in the City of Lebanon. Chief of Police Todd Breiner replied that if the bikes are over 50 cc they must be registered.

Councilmember Wilson asked if a church must meet ADA requirements when installing new playground equipment. Mayor Capello replied she would check with the person in charge of enforcement.

The meeting was adjourned at 7:07 p.m.

CHERYL J. GIBSON, Clerk