

MONDAY, JUNE 22, 2020

The 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. Due to the Corona Virus Pandemic the meeting was held virtually via Zoom.

The meeting was called to order at 6:33 p.m.

Present—Mrs. Keller, Mr. Miller, Mr. Morales, Mr. Wertz, 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; and three persons in the audience.

The minutes of the May 26, 2020, 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 May 31, 2020. Mayor Capello reported that 42 percent of the fiscal year is completed; revenue is at 45 percent and expenditures are at 31 percent. She reported that for the same period in 2019, revenue was at 58 percent and expenditures were at 32 percent. She added that the shortage is largely due to a decrease in revenue received for real estate taxes, earned income tax, and the local services tax. She reported that a payment for earned income tax is anticipated in the next few weeks and she will have a more accurate projection of where things stand after receipt of that payment. She added that the Paycheck Protection Program has helped with earned income tax revenue and, hopefully, it will not have a negative effect on revenue as initially anticipated. Regarding expenditures, Mayor Capello reported that basically everything that does not represent a necessity has been put on hold.

Director of Administration-Assistant to the Mayor Melissa Quinones gave an update on the Department of Administration, as follows:

- The 2019 audit is underway. The majority of the work has been completed off site. The field work will be completed this week and we anticipate the audit to be completed on schedule.
- The Land Management computer software is being updated. The update will include added features which are helpful to the Code Enforcement Inspectors when writing notices of violation and tickets.
- City offices in the Municipal Building are being prepared for opening to the public. Sneeze guards are being installed in every office area.
- DCED awarded a \$250,000 Home grant to the City of Lebanon. The grant will be used for the owner occupied home rehabilitation program.

- Loan applications for the Small Business Recovery Program are being accepted during the period June 24-July 8. Information and applications are available on the City's website and Facebook page.

Mr. Wertz introduced Resolution No. 11 as follows:

A RESOLUTION APPROVING THE TRANSFER OF RESTAURANT LIQUOR LICENSE NO. R-17906 INTO THE CITY OF LEBANON FROM NORTH LEBANON TOWNSHIP FOR USE AT THE PREMISES LOCATED AT 633-635 CUMBERLAND STREET, LEBANON.

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. Four Js and a G, LLC., have requested the approval of the Lebanon City Council for the proposed transfer of Pennsylvania Restaurant Liquor License No. R-17906 currently owned by A & M Pizza Amato, Inc., to restaurant facilities within the City of Lebanon to be located at 633-635 Cumberland Street, Lebanon, Pennsylvania, 17042, 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-17906 into the City of Lebanon by Four Js and a G, LLC.

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

Councilmember Keller asked if there are any plans to use the art space on the second floor of the premises. Attorney Ehrgood replied that presently it has not been determined if the second floor space will be utilized. He added that it will depend on what is permitted by the PLCB.

Resolution No. 11 was passed finally on motion of Mr. Wertz, seconded by Mr. Miller. Yeas—Mrs. Keller, Mr. Miller, Mr. Morales, Mr. Wertz, and Mr. Carey, Chairperson—5; nays—none.

Mr. Carey called up Bill No. 1 on final reading, the title of which is as follows: AN ORDINANCE ADOPTING THE CITY OF LEBANON ZONING ORDINANCE DIVIDING THE CITY OF LEBANON, LEBANON COUNTY, PENNSYLVANIA, INTO ZONING DISTRICTS WITH VARYING REGULATIONS; PERMITTING, PROHIBITING AND REGULATING THE USES OF LAND, WATERCOURSES AND OTHER BODIES OF WATER, THE SIZE, HEIGHT, BULK, LOCATION, ERECTION, CONSTRUCTION, EXPANSION, RAZING, REMOVAL AND USE OF STRUCTURES, THE AREAS AND DIMENSIONS OF LAND AND WATER TO BE OCCUPIED BY USES AND STRUCTURES, AS WELL AS OPEN AREAS TO BE LEFT UNOCCUPIED; ESTABLISHING THE MAXIMUM DENSITY AND INTENSITY OF USES; PROVIDING FOR THE ADMINISTRATION AND ENFORCEMENT OF THIS ORDINANCE IN ACCORDANCE WITH THE PA. MUNICIPALITIES PLANNING CODE (MPC), AS AMENDED, INCLUDING PROVISIONS FOR SPECIAL EXCEPTION USES AND VARIANCES TO BE ADMINISTERED BY A ZONING HEARING BOARD; AND ESTABLISHING PROVISIONS FOR THE PROTECTIONS OF CERTAIN NATURAL FEATURES”.

Councilmember Keller asked if the amendment to the Zoning Code to address pawn shops is still on the table to which Mayor Capello confirmed that it is. Mayor Capello reported that the current ordinance was adopted more than 30 years ago with minor updates from time to time. The adoption of a new Zoning Code was an action item in the Early Intervention Plan. A grant was obtained for the project, staff put out an RFP and hired a consultant, and a Steering Committee was formed to work on the update. Since the introduction of the new ordinance, new uses such as Airbnb have come to light. During the course of developing the new ordinance, the Steering Committee conducted interviews with key stakeholders, talked to the Zoning Hearing Board members, held a public meeting with the Planning Commission, and received recommendation from both the City Planning Commission and the Lebanon County Planning Department. The draft ordinance was also posted on the city’s website and social media. In accordance with the *Pa. Municipalities Planning Code*, a public hearing was held last month to receive public comment. She reported that FEMA has mandated that floodplain regulations be updated and adopted no later than July 8. The updated floodplain regulations are

part of the Zoning Ordinance and she is recommending that Council adopt the ordinance as present. City staff will draft an amendment to address items that have come to light.

Chairperson Carey stated that it is important to have a Zoning Code with up-to-date language if we want the city to grow. He added that the adoption of the ordinance moves the city to a better position to make Lebanon City a better place.

Mary Louise Sholly, LebTown, asked for the natural features referenced in the ordinance to be identified. Mayor Capello explained that this is referring to flood plains, existing topography, and water tributaries. Mrs. Sholly asked if anything is ecologically endangered to which Mayor Capello replied it is not.

Laura LaBeau, WiLBuR Radio, asked if existing business and residences are grandfathered. Mayor Capello replied that an existing business or residence will be required to obtain a certificate of non-compliance which recognizes them as being grandfathered. She added that in the cases of the Airbnb which was discussed at the Pre-Council meeting, the owner, Kyle Brown, had a use which was not addressed in the ordinance. She further explained that every use must be addressed in the Zoning Code. In Mr. Brown's case, he did not apply for a permit or the issue would have been previously addressed.

Ms. LaBeau asked if there are any zoning applications in limbo. Mayor Capello explained that the Zoning Officer has been referring to both the current and draft ordinances when reviewing applications for the past few months. In addition, there have been no Zoning Hearing Board hearings held for the past few months.

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

Council Chairperson Carey asked Mayor Capello to give an update on the annual July 4 fireworks display at Coleman Memorial Park. Mayor Capello reported that in response to the public outcry after announcing that the fireworks were cancelled, the City of Lebanon set up a Go Fund Me page and raised almost \$3,000.00. In addition, businesses that previously donated to the Fireworks for the 4th Fund made a commitment to donate for 2020. Many of these businesses are also struggling from the impact of COVID-19, but they donated more than in the past. Mayor Capello reported that she did not feel it was appropriate to ask for donations during the pandemic; however, the community came through and we are near the fundraising goal of \$11,000. She added that an anonymous donor contributed \$4,000 for this year's display. Mayor Capello reported that Coleman Memorial Park will close to the public at 7:30 p.m. on July 4. She and staff will be meeting tomorrow to assess the region and the streets in the vicinity to develop a plan for viewing this year's display.

Chairperson Carey thanked those who made the display possible. He reminded the public to not set off private displays. Fire Commissioner Trautman reported although state law allows aerial fireworks, the city ordinance is more restrictive and specifically prohibits aerial fireworks. He added that the ordinance is very clear that only ground displays are permitted in certain circumstances. Chief Breiner reported that in order to make an arrest, the police officer

must be able to determine who set off the firework. He stressed that it is important for the public to contact the Lebanon Police Department when fireworks are being set off in their neighborhood.

Mayor Capello reported that the Recycling Center was initially closed as a result of the COVID-19 pandemic. During that time, the City received numerous phone calls from individuals residing outside of the city limits who use the Recycling Center on a regular basis. In the past recycling was profitable; however, she reported that there is a cost to the City to have the recycling hauled away from the Recycling Center. After evaluating the situation, it was decided to re-open the Recycling Center to city residents and property owners. The Department of Public Works will issue cards which must be shown to the Recycling Attendant prior to entering. At the present time, the Recycling Center is open on Saturdays. Non-city residents are encouraged to contact their respective municipality regarding what may be in place and the municipality's regulations for curbside pickup for recyclables by the trash hauler. Most haulers include the collection of recyclables in the monthly fee paid for trash collection. Mayor Capello stated that when Lebanon moves to the Green Phase of Governor's Wolf's mitigation plan, a decision will need to be made about restricting the use of the Recycling Center to city residents.

Councilmember Miller stated that recently there has been local and national conversation about police departments. He commended Chief Breiner and the members of the Lebanon Police Department for the job they are doing in Lebanon City.

Councilmember Keller agreed that the Lebanon Police Department is great. As a Councilmember, she requested a copy of the police policy manual so that she can do her due diligence and review the policies. Mayor Capello replied that she can release the same information that is being released in response to any other public request.

Councilmember Keller reported that there is still graffiti at the GSH property which she previously reported. Mayor Capello replied that she will have the Code Enforcement Inspectors follow up.

Councilmember Keller asked how long it takes for a response when a member of the public requests to meet with the Mayor. Mayor Capello responded that the only requests for a meeting that she received were for a meeting to discuss the issues regarding racial equity and policy brutality. She responded to those folks and asked for time until she completes the workshop being sponsored by SARCC. Mayor Capello responded that she is participating in the SARCC workshop where they will discuss the 777 Program. She is proposing to provide an index of the police policy until a review of the policy is completed. She added that several community organizations and individuals have requested a meeting regarding the same subject and she would like to meet with the group vs. individual meetings. She added that this is an emotionally charged issue and she is hoping that restrictions will be lightened and she will be able to hold a public meeting in person vs. a virtual meeting.

Councilmember Keller asked if the City is planning for a Juneteenth celebration in the future. Mayor Capello responded that the City of Lebanon usually does not sponsor community events. The community events are organized and coordinated by other organizations.

Councilmember Keller asked if the Mayor can release the police policy. Mayor Capello responded that she can provide anything that is not tactical. She explained that tactical matters deal with public safety issues for the police officers, the suspect, and the general public. She further stated that the City of Lebanon's police policy and training does not and has not included choke holds and strangle holds as a restraint method.

Councilmember Wertz asked if there is a protocol for renewing a card for the Green Waste Center during the yellow phase. Director of Public Works Robin Getz replied that the person should contact the Public Works Department and staff will email an application, make arrangements for payment, and mail the card.

Councilmember Wertz reported that a concrete waste receptacle was pushed onto Cumberland Street in front of HACC and it is blocking a parking space. Mayor Capello responded that the Lebanon Police Department is aware of the incident and is working on the case. They believe the person also pulled flowers from several planters. Chief Breiner reported that the incident was recorded on security cameras and the officers are working to confirm the identity of the suspect.

Councilmember Morales thanked Chief Breiner for his heartfelt response at Thursday's meeting. He added that Lebanon City has a great police department and officers have been professional which he feels is indicative of a history of strong leadership and policies that have been built upon by many Chiefs.

Amaury Abreau, 409 Chestnut Street, Lebanon, reported that many of his questions were answered earlier in the meeting. He asked whether at some point in the future will any part of the police manual be available for review by the public. Mayor Capello responded the manual will be available for review by the public after redactions have been made. In addition, she will coordinate a public meeting with the group that has been requesting the documents. She added that one of his questions referenced the FOIA. She explained that Pennsylvania has a Right to Know Law which governs which records may be disclosed. The Office of Open Records administers the Right to Know Law. In accordance with the Office of Open Records, tactical policies may not be public because it may jeopardize police officer safety, suspect safety, and safety of the general public. She added that the law is available online.

Mr. Abreau asked if there is a time frame for releasing the police manual online. Mayor Capello replied that it is currently being reviewed and tactical information is being redacted; however, in the meantime, she will agree to release the index of the policies.

Mr. Abreau asked if there are activity goals for police officers for tickets, etc. to which Mayor Capello replied no.

Regarding the intermunicipal transfer of a liquor license to Four Gs and a J, Ms. LeBeau stated that the Attorney Ehrgood mentioned that in accordance with the Conditional Licensing Agreement (CLA), the owners of the establishment must meet with the Chief of Police on a quarterly basis. She asked if that is to review any incidents that occur at the establishment. Chief Breiner responded that the incidents would be reviewed and they will also discuss any suggestions either party has to better the establishment. He added that the new owners can request to have the CLA removed.

The meeting was adjourned at 7:34 p.m.

CHERYL J. GIBSON, Clerk