

MONDAY, JANUARY 25, 2021

The regular monthly meeting of the Council of the City of Lebanon, Pa., Chairperson Morales presiding. Due to the Corona Virus Pandemic the meeting was held virtually via Zoom.

The meeting was called to order at 6:30 p.m.

Present--Mr. Bost, Mr. Carey, Mr. Miller, Mr. Wertz, and Mr. Morales, 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; one person in the audience; and one member of the news media.

The minutes of the December 14, 2020, and January 4, 2021, City Council meeting were presented by the City Clerk. There being no corrections, deletions or additions, the minutes were approved as presented.

Chairperson Morales announced that Council received a preliminary budget report for the period January 1 through December 31, 2020. The report is a preliminary statement using modified cash basis accounting and does not reflect the year end accruals necessary to provide an accurate and comparative 2020 statement of finances. Mayor Capello reported that presently revenues are at 105 percent and expenditures are at 87 percent which is better than budget. For the same period in 2019, revenues were at 110 percent and expenditures were at 91 percent. She added that the City is still receiving bills for FY 2020 and the Finance Officer needs to reverse some accruals. The budget for year end 2020 will not be available for approximately two months.

Chairperson Carey announced that Council received a communication from Mayor Sherry L. Capello, informing Council of the reappointment of Martin Yocum to the City of Lebanon Authority for a five-year term, effective January 1, 2021. Mayor Capello reported that Mr. Yocum has served on the Authority for the past 15 years and is doing a great job. On behalf of Council, Chairperson extended thanks to Mr. Yocum for his service.

Mr. Wertz introduced Resolution No. 24, as follows:

A RESOLUTION AUTHORIZING THE FILING OF AN APPLICATION FOR FUNDS IN THE AMOUNT OF \$2,000,000 FROM THE COMMONWEALTH OF PENNSYLVANIA UNDER THE REDEVELOPMENT ASSISTANCE CAPITAL PROGRAM FOR THE MARKET SQUARE TRANSIT INTERMODAL CENTER WITH LEBANON CITY HALL.

JOURNAL OF COUNCIL – JANUARY 25, 2021

WHEREAS, the City of Lebanon (“Applicant”) is desirous of obtaining funding in the amount of Two Million Dollars (\$2,000,000) from the Commonwealth under the Redevelopment Capital Assistance Program, Act 67 of 2004 for the Market Square Transit Intermodal Center with Lebanon City Hall.

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. A redevelopment need exists that has been identified in the Grow Lebanon 2020 Economic Development Action Agenda for the City of Lebanon and the proposed activity addresses this need.

SECTION 2. The Applicant has concluded the required citizen participation process.

SECTION 3. The Applicant will assure the provision of the other necessary funds to make the activity feasible.

SECTION 4. The Mayor and City Clerk are directed to execute a certificate attesting to the adoption of this Resolution and all other necessary documents required by the application and, when awarded, the contract for the funds, and to furnish a copy of the resolution to the Commonwealth of Pennsylvania.

Mayor Capello reported that the \$2 million RCAP grant was awarded to the City of Lebanon in August 2019. However, the City had to wait for executed Agreements of Sale with the County of Lebanon and Harrisburg Area Community College as well as cost estimates for the project prior to filing the application with the State’s Office of Budget. In addition, the City could not request a change in location from Ninth and Cumberland Streets to HACC (735 Cumberland Street) of the city offices until the application was submitted. Mayor Capello reported that the City received a verbal acknowledgment for the approval of the change in location of city offices. The breakdown for Phase 1 of the project is \$2 million RCAP funding; \$2.25 million from the sale of the City’s portion of the Municipal Building to the County of Lebanon; and a bond in the amount of \$2+ million. Mayor Capello reported that the City also filed for additional RCAP funding in the amount of \$8.4 million for Phase 2 of the project which will be for a Transit Intermodal Center and municipal parking garage, similar to the facility the City of Easton constructed.

Resolution No. 24 was passed finally on motion of Mr. Wertz, seconded by Mr. Carey. Yeas--Mr. Bost, Mr. Carey, Mr. Miller, Mr. Morales, and Mr. Wertz, Chairperson—5; nays—none.

Mr. Miller introduced Resolution No. 25, as follows:

A RESOLUTION AUTHORIZING THE PROPER OFFICIALS OF THE CITY OF LEBANON TO ENTER INTO A REIMBURSEMENT AGREEMENT WITH THE PENNSYLVANIA DEPARTMENT OF TRANSPORTATION FOR THE NORTH LINCOLN AVENUE BRIDGE OVER THE QUITTAPAHILLA CREEK PROJECT.

JOURNAL OF COUNCIL – JANUARY 25, 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:

SECTION 1. Lebanon City Council does hereby authorize the submission request for the Pennsylvania Department of Transportation to provide up to One Million Nine Hundred Thousand (\$1,900,000.00) reimbursement to the City of Lebanon for costs associated with the North Lincoln Avenue Bridge over the Quittapahilla Creek Project.

SECTION 2. The Mayor and City Clerk of the City of Lebanon are hereby authorized and directed to sign Reimbursement Agreement No. R21080002 on behalf of the City of Lebanon.

SECTION 3. Any resolution or part of resolution conflicting with the provisions of this resolution be and the same are hereby repealed so far as the same affects this resolution.

Mayor Capello reported that this will be a pre-cast box culvert. The City of Lebanon is responsible for paying five percent of the cost; the balance will be funded by the federal and state government. The project will be let on December 14, 2023. Currently, PennDot is working on construction easements and the utility disconnect and reconnect designs for the project.

Resolution No. 25 was passed finally on motion of Mr. Miller, seconded by Mr. Bost. Yeas--Mr. Bost, Mr. Carey, Mr. Miller, Mr. Wertz, and Mr. Morales, Chairperson--5; nays--none.

Resolution No. 26 was introduced, as follows: Yeas--Mr. Bost, Mr. Carey, Mr. Miller, Mr. Morales, and Mr. Wertz, Chairperson--5; nays--none.

“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

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 following records in the Community and Economic Development Office is hereby approved:

- CPD/CDBG 2009 & Prior

## JOURNAL OF COUNCIL – JANUARY 25, 2021

- Enterprise Zone Program 2000 & Prior
- DCA – Legislative Initiative Program 2000 & Prior
- Redevelopment Authority payment logs & invoice copies 2000 & Prior
- Small Cities Program 2000 & Prior
- Overall Economic Development Program 2000 & Prior
- Keystone Grants 2000 & Prior
- Fair Housing Analysis 2005 & Prior
- Keystone Opportunity Zone 2000 & Prior
- Community Development Office Miscellaneous Administration file 2009 & Prior
- EDI- Special Projects Grant 2009 & Prior
- HOME Program file 2000 & prior
- Community & Economic Development Office Programs Billing Cycles 2000 & Prior
- Single Audits 1991-1995

Mayor Capello reported that as staff prepares for the move of city offices, Council will see these resolutions regularly. The City of Lebanon follows the State Historical Commission's Records Retention and Disposition Schedule which requires that the disposition of records be approved by resolution.

Resolution No. 26 was passed finally on motion of Mr. Bost, seconded by Mr. Carey. Yeas--Mr. Bost, Mr. Carey, Mr. Miller, Mr. Wertz, and Mr. Morales, Chairperson--5; nays--none.

Mr. Bost introduced Bill No. 6, as follow:

AN ORDINANCE AMENDING ARTICLE 1501, "INTERNATIONL FIRE CODE", OF THE CODIFIED ORDINANCES OF THE CITY OF LEBANON WHICH PROHIBITS OPEN BURNING IN THE CITY OF LEBANON, ADDING THE DEFINITION OF BURN CONTAINER AND CREATING A PERMITTING PROCESS FOR PUBLIC DEMONSTRATIONS INVOLVING BURNING OF A FLAG.

WHEREAS, the Council of the City of Lebanon believes that outdoor burning can be detrimental to the physical, mental and social well-being of the residents of the City of Lebanon as well as to their comfort, living conditions, general welfare and safety and that outdoor burning is therefore a public health and welfare hazard if not properly restricted and regulated; and

WHEREAS, the Council of the City of Lebanon believes that the existing ordinance, which restricts and regulates outdoor burning is in the best interests of the health, safety and welfare of the residents of the City of Lebanon; and

WHEREAS, the Council of the City of Lebanon recognizes that certain forms of burning have been deemed as constitutionally protected forms of First Amendment speech and the City intends to adopt a permitting requirement for such burns to protect and preserve the health, safety and welfare of the residents of the City of Lebanon.

JOURNAL OF COUNCIL – JANUARY 25, 2021

NOW, THEREFORE, 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. Subsection 1501.02, “Additions , Deletions and Changes” of Article 1501, “International Fire Code”, is hereby amended to add the definition of “Burn Container” to IFC Section 302, “Definitions”, and to add a new requirement for public demonstrations IFC Section 307, “Open Burning, Recreational Fires and Portable Outdoor Fireplaces”, as follows:

IFC 302.1 Definitions (addition)

BURN CONTAINER. Any noncombustible container or enclosure used to dispose of materials through burning which does not contain holes greater than one inch and which is covered by a wire mesh or other noncombustible cover to prevent fly ash from escaping into the atmosphere.

IFC 307.2.2 Public Demonstrations (addition)

- A. Any person desiring to conduct a public demonstration involving the burning of flags or other items in the City of Lebanon shall make application to the City Clerk for a permit therefore on a form made available by the City for such purpose. No fee shall be charged to make such application.
- B. The City shall decide any application for issuance of a permit for any demonstration involving the burning of a flag or other item for the proposed date if application is made therefore at least two business days immediately preceding the date of the proposed demonstration.
- C. Any permit as issued shall be subject to the following terms:
  1. The permittee must ensure that an operable fire extinguisher will be present at the proposed demonstration at all times.
  2. No permittee shall burn a flag or other item exceeding four (4) feet by six (6) feet in area.
  3. No permittee shall burn any item except directly in a burn container.
  4. The metal or other fire-resistant container and any remnants of the burn must be immediately removed by the applicant after the demonstration is over.
  5. If there is damage to property caused by the burn, the applicant is responsible for the damage.
  6. The container must be fifteen (15) feet from any building or combustible material.
  7. No permittee shall leave the scene of a demonstration without ensuring that any fire started as part of the demonstration has been fully extinguished.
- D. Penalties: Any person who violates any provision of this subsection shall be sentenced:
  1. Upon the conviction of a first violation to pay a fine of not less than One Hundred Dollars (\$100) nor more than Five Hundred Dollars (\$500) and costs of prosecution, and in default of payment of such fines and costs, to imprisonment

## JOURNAL OF COUNCIL – JANUARY 25, 2021

- for not more than thirty (30) days.
2. Upon conviction for second or subsequent violation, to pay a fine of not less than Five Hundred Dollars (\$500) nor more than One Thousand Dollars (\$1,000) and costs of prosecution, and in default of payment of such fines and costs, to imprisonment for not more than ninety (90) days.
  3. Each day that a violation continues after notice of the violation has been served shall be deemed to be a separate offense.
- E. Enforcement. The provisions of this Ordinance shall be enforced by the Fire Commissioner or by civil action or both as the City may elect.

SECTION 3. The remainder of Article 1501 of the Codified Ordinances not amended shall remain in full force and effect.

Mayor Capello reported that in light of current events, it was brought to the City's attention that the ordinance must be updated to allow the burning of a flag at a protest as part of protected form of a person's freedom of speech. At Thursday's Pre-Council meeting, Councilmember Miller asked if the language in the ordinance needed to limit the number of one inch holes in the container and Mayor Capello agreed to research and respond by Monday's meeting. Mayor Capello reported that the answer is no. Mayor Capello researched and discussed Councilmember Miller's concern with Fire Commissioner Duane Trautman who is certified in fire investigation and it doesn't matter how many one inch holes are in the container; it is only important that the holes are not greater than one inch so that embers cannot come through.

Mayor Capello reported that the ordinance recognizes that certain forms of burning are deemed protected speech. Summarizing the amendment to the ordinance, the definition of burn container is being added; a new requirement for public demonstrations involving burning would require that the applicant submit the request to hold the event at least 48 hours preceding the demonstration; the applicant must ensure that an operable fire extinguisher is present at the demonstration at all times; no flag or other items exceeding 4x6 feet shall be burned; the applicant must remove the burn container and any remnants of the burn immediately following the demonstration; the container must be 15 feet from any building or combustible material; and the applicant is responsible for damages resulting from the burn.

Bill No. 6 was introduced and will be considered on final reading at the February 22, 2021, City Council meeting on motion of Mr. Bost, seconded by Mr. Miller. Yeas--Mr. Bost, Mr. Carey, Mr. Miller, Mr. Morales, and Mr. Wertz, Chairperson--5; nays--none.

Councilmember Carey reminded residents that the City of Lebanon's Facebook site contains information about good things happening in the City. Recently, there was information about the First Time Homebuyer Program; an update on the Bike Track and new pavilion at Coleman Memorial Park. He extended thanks to Arthur J. Funk & Sons and the Dave and Laurie Funk Foundation for their donation of the pavilion. He also extended thanks to LaPlacita and Jovi restaurants for their donation of over 200 meals to Lebanon County Christian Ministries.

## JOURNAL OF COUNCIL – JANUARY 25, 2021

Mayor Capello announced that Karl French recently passed away. She stated that Mr. French owned an excavation company and he was a very good neighbor to the City of Lebanon and other municipalities in the County of Lebanon. He was a very community-minded person and helped bring projects to fruition.

Mayor Capello announced that the Bike Park will not reopen until Spring 2021. In order to keep the track intact and good structural condition, the Bike Park is closed. Chairperson Morales announced that SAMBA recently gave a report at the Coleman Memorial Park Board meeting and the Bike Park was used so heavily that some changes needed to be made.

Chairperson Morales reminded citizens that COVID-19 is still raging. On a personal level, he recently lost his mother five days after his father tested positive for COVID-19.

Mayor Capello also extended condolences to the family of Senator Dave Arnold who recently passed.

The meeting was adjourned at 7:05 p.m.

CHERYL J. GIBSON, Clerk