

MONDAY, OCTOBER 24, 2022

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 Morales presiding.

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

Present--Mrs. Haitos, Mr. Martin, Mr. Miller, Mr. Wertz, and Mr. Morales, Chairperson. Absent—none.

Also present were Mayor Sherry L. Capello; Acting Chief of Police Bret Fisher; Donna Long Brightbill, City Solicitor; Robin L. Getz, Director of Public Works; Janelle Mendoff, Director of Community and Economic Development; Melissa E. Quinones, Director of Administration-Assistant to the Mayor; 10 persons in the audience; and 3 members of the news media.

The minutes of the September 26, 2022, 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 final budget report for the period January 1-August 31, 2022. Mayor Capello reported that 75 percent of the fiscal year is completed; revenues are at 96 percent; and expenditures are at 65 percent. Overall, we are performing better than budget in both categories. Councilmember Miller noted that the line items entitled "Street and Road Encroachment" and "Building Permits" are significantly different than the past and he asked if that is the result of specific activity in the city. Mayor Capello replied that the Lebanon Middle School project is underway and that is reflected in the line item for "Building Permits". She added that the increase in the line item entitled "Street and Road Encroachment" is largely due to the permits for curb and sidewalk repairs on Ninth Street in preparation for the next phase of the Route 72/422 Resurfacing Project.

Mr. Morales introduced Resolution No. 24, 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 THE RENOVATION OF A PEDESTRIAN ALLEYWAY (LIBERTY STREET) IN DOWNTOWN LEBANON TO CREATE AN URBAN GREENSPACE AREA TO BE KNOWN AS LIBERTY TRAIL PARK.

WHEREAS, the City of Lebanon ("Applicant") desires to undertake the following project: Liberty Trail Park Renovation

WHEREAS, the applicant desires to receive from the Pa. Department of Conservation and Natural Resources ("Department") 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 “Grant Agreement Signature Page”; 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 official, 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 showed a rendering of the project which encompasses Liberty Street between Walton Street and Spring Street. She explained that the City of Lebanon will be working with community partners on this project and the new park will include tables, benches, and lighting. She added that several years ago, public meetings were held and there was input on the design from the community. Resolution No. 24 will allow the City to file the grant application for funding. Mayor Capello told Council that the stormwater improvements will be completed by the City of Lebanon using American Rescue Plan Act funding. Chairperson Morales stated that the park will connect to Veterans Memorial Walkway which will allow connection to the Lebanon Valley Rails to Trails.

Karen Wolfe, 504 East Weidman Street, Lebanon, asked if there is a provision to keep trafficking of drugs out of the area. She asked how the area will be policed to keep the area safe for everyone. Mayor Capello replied that when she worked for Derry Township, she was certified in Crime Prevention Through Environmental Design (CPTED). She explained that the theory of CPTED is that through the built-in environment the behavior of people is influenced. Some of things they addressed included the addition of lighting in pedestrian walkways and planting thorny bushes to deter graffiti. She stated that she hopes the addition of this park will make it safer for the community. Chairperson Morales stated that he serves on the Board of Directors for Lebanon Valley Rails to Trails and the same concerns were raised when the trail was being developed; however, those concerns never came to fruition. Councilmember Miller

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stated that he is aware that there is a surveillance system on City Hall and he asked if Liberty Trail Park will be included in the surveillance to which Mayor Capello confirmed that a portion of Liberty Trail Park will be included in the surveillance.

Alisher Aminov, 300 South Lincoln Avenue, Lebanon, asked if the schematic of the new park is posted on the website. Community and Economic Development Administrator Janelle Mendoff replied that on the Community and Economic Page on the website, there is information about city projects being funded through the American Rescue Plan Act which includes Liberty Trail Park. It includes a link of the information presented at a community meeting held on August 31, 2022.

Mr. Aminov asked the cost of the project to which Mayor Capello replied that the estimated cost is up to \$509,000.00, excluding stormwater improvements.

Resolution No. 24 was passed finally on motion of Mr. Morales, seconded by Mr. Miller. Yeas--Mrs. Haitos, Mr. Martin, Mr. Miller, Mr. Wertz, and Mr. Morales, 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 FOR THE LEBANON CITY RESURFACING-PHASE 3-QUENTIN ROAD (SR 72N) PROJECT.

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 Department of Transportation to provide up to Two Million One Hundred Thirty Thousand Seven Hundred Fifty Dollars and Eighty-Nine Cents (\$2,130,750.89) reimbursement to the City of Lebanon for construction costs associated with the Lebanon City Resurfacing-Phase 3-Quentin Road (SR 72N) Project.

SECTION 2. The Mayor and City Clerk of the City of Lebanon are hereby authorized and directed to sign Reimbursement Agreement No. R22080006 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 explained that the amount of reimbursement is up to \$2,130,750. She added that preparations for this phase have been underway for the past year. The last phase of the Resurfacing Project will be Cumberland Street, from 16<sup>th</sup> Street to 5<sup>th</sup> Avenue. Mayor Capello explained that the resurfacing of Cumberland Street from 5<sup>th</sup> Avenue east to the city line will be a separate project led by PennDot.

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

In response to a recent inquiry into whether or not the City of Lebanon was the subject to an IRS employment audit, Mayor Capello reported that the answer is yes. She reported that the IRS Auditor advised that the City of Lebanon was selected for an audit after a computer search of W-2 forms showed that there were some employees with less Medicare wages than gross wages. She added that the auditor explained that this method is simply a way to determine who may need to be audited next since there are thousands of tax-exempt cities, counties, etc. and there are less than 100 employees that audit tax-exempt entities. He indicated that the IRS recognizes that 99.9 percent of the time every effort is made by municipalities to comply with the tax laws, but finance employees do not always know all of the tax laws or could misinterpret them in some way. Part of the audit process is meant to identify what the city is not aware of and help the city do things correctly going forward.

Mayor Capello reported that on July 14, 2022, the City received a letter from the Department of Treasury, Internal Revenue Service, Federal, State and Local Government Division, of the IRS employment tax audit for tax periods ending December 31, 2020 and December 31, 2021. She added that due to the seriousness of the matter and the technical knowledge needed concerning the tax laws, the City of Lebanon engaged with legal counsel specializing in tax law.

During a conference call with the IRS auditor, legal counsel, and city representatives on August 8, 2022, the City of Lebanon was requested to provide specific accounting and personnel information to which we responded to in a timely manner.

A second conference call was held on August 23, 2022. Part of the audit dealt with a review of police officers' Medicare and gross wages. Police Officers are permitted to not have social security taxes withheld from their pay. The City has not been able to determine when the police union voted to not have social security taxes withheld from their pay, but it was in place in 1968. A social security exemption is permitted for police officers and fire fighters as long as there is an agreement with the Commonwealth of Pennsylvania. The City of Lebanon is in possession of an agreement with the state for the social security exemption from withholding from 1968. She explained that at that time social security was defined to include Medicare-also known as FICA.

In 1985, the federal government/IRS amended their interpretation/ruling and Medicare tax was no longer permitted to be exempt from withholding for any new hires after 1986. It is not clear why the City of Lebanon did not make this change, but Mayor Capello stated that she would have to assume that city representatives were not made aware of this obscure tax law change and apparently, it was not commonly known in the accounting industry because it seems that all of the tax preparers, accountants and CPAs that have prepared individual tax returns for the officers and the city's auditors would have looked for this.

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Mayor Capello stated that in her opinion, if the elected officials (which would have included City Council and the Mayor in 1985) would have been notified, the change would have been implemented.

As a result of the audit, beginning with the pay of September 2, 2022, the City of Lebanon began withholding Medicare tax from police officers who were hired after April 1, 1986. Social security taxes are still exempt for all police officers. Currently, there is only one officer on the force who was hired prior to April 1, 1986.

Mayor Capello explained that social security/Medicare taxes amount to 7.65 percent of salary earned. The Medicare portion amount to 1.45 percent of salary earned. For 2022, the police officers received a 3 percent increase in base salary. She reported that the City has agreed to pay both the employer and employee shares of the tax for the periods ending December 31, 2020, and December 31, 2021 and also for 2022 up to the time the City appropriately notified the officers of the pending audit results. The total amount paid by the City of Lebanon was \$238,313.89.

Mayor Capello reported that the auditor also determined that Volunteer Fire Chiefs performing the same duties as Career Chiefs must be considered as employees and cannot simply be provided with a stipend in which Social Security/Medicare taxes are not withheld. She added this change will be implemented beginning January 1, 2023.

Lastly, Mayor Capello reported that certain uniform items are taxable to the employee if they are “suitable” to wear outside of work. Examples of uniform items that are taxable include tee shirts, shorts, sweatshirts, caps, etc. She added that the City of Lebanon will be required to report those items as taxable moving forward.

Craig Gates, 47 Berwyn Park, Lebanon, on behalf of the Community of Lebanon Association (CLA), reminded folks that the Tree Lighting Ceremony will be held on November 18 at Ninth and Cumberland Streets; and the Holiday Parade will be held on November 19, 2022, at 10:00 a.m. and will include bands, balloons, and sponsors. He announced that Channel 27 News will again live stream the parade. Registration forms for the parade are available on the CLA’s website. Carriage Rides are scheduled for December 2 and December 9, 2022, from 5:00 p.m. to 8:00 p.m.

Mayor Capello stated that the CLA does a wonderful job and thanked the volunteers for their work to make these annual events in Downtown Lebanon as success. She added that last year’s booth for the Channel 27 anchors to live stream the parade was a work of art and comparable to the live parades on television.

The meeting was adjourned at 6:58 p.m.

CHERYL J. GIBSON, City Clerk