

MONDAY, AUGUST 22, 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; Chief of Police Todd Breiner; Donna Long Brightbill, City Solicitor; Robin L. Getz, Director of Public Works; Melissa E. Quinones, Director of Administration-Assistant to the Mayor; A.J. Sweitzer, Assistant Fire Chief; Duane Trautman, Fire Commissioner; 35 persons in the audience; and 3 members of the news media.

The minutes of the July 25, 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 budget report for the period January 1 through July 31, 2022. Mayor Capello reported that 58 percent of the fiscal year is completed; revenues are at 72 percent; and expenditures are at 43 percent. Mayor Capello reported that we are performing better than budget in both categories.

Mayor Capello gave an update on the street light conversion to LED lights, as follows:

- In 2016, Lebanon Council adopted a resolution agreeing to convert the street lights to LED. The conversion to LED was not required.
- Act 129 directed electric companies to conserve energy.
- It was required that mercury vapor lights be converted to sodium vapor lights or LED.
- There is a 15-year period of time where lights can be converted for a nominal fee.
- There are 1,917 street lights in the City of Lebanon.
- 187 street lights are city-owned and are located mainly in the downtown area where you see the Victorian style light on skinny metal poles.
- 1,730 street lights are owned by Met-Ed.
- 239 city- and/or Met-Ed-owned street lights have been converted to LED
- The types of lights are: Modern Post Top, Four-sided Colonial, Acorn and Cobra Head.
- The lights at the new Northwest Elementary School are a new style cobrahead and are 4,000 Kelvin 140-watt LED which is a neutral light.
- There are three different types of light coverage: kidney shape which covers the width of the street; circular which is used when there are two streets on either side of an island; and oval which shines mainly on the street.
- The Kelvin System: 2,700-3,000 is a warm light; 3,000-4,000 is a transitional zone between warm and cool.

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- The standard Met-Ed light is 4,000 Kelvin
- When the conversions commenced, the Public Works Director thought they were no brighter than the current lights.
- The two goals in mind when converting were to make people feel safer when walking at night and to improve the lighting for motorists.
- Met-Ed was not changing out the entire head until the most recent conversions, which seemed to make the light brighter.
- No conversions were completed on either street previously mentioned at the Council meetings.

Mayor Capello stated that she appreciates the questions raised by Council and the public at previous meetings which resulted in the research reported at tonight's meeting.

Chairperson Morales announced that Council received a communication from Mayor Sherry L. Capello, informing Council of the reappointment of James Faren, 1261 Nowlen Street, Lebanon, to the City of Lebanon Planning Commission for a four-year term, effective July 26, 2022. Mayor Capello reported that there are five planning areas in the City and Mr. Faren represents Area 5 which is the southwest portion of the city. She added that Mr. Faren has served since 2004 and his expertise is appreciated. She extended her thanks to Mr. Faren for his service.

Mr. Miller called up Bill No. 2 on final reading, the title of which is as follows: "AN ORDINANCE AUTHORIZING THE SALE OF A PARCEL OF CITY-OWNED PROPERTY SITUATE AT 164 NORTH NINTH STREET, LEBANON, PENNSYLVANIA, AT PUBLIC AUCTION".

Mayor Capello reported that this property was acquired through the Norfolk Southern Bridge Project. All families displaced found housing, with the exception of one family that needed a house with five bedrooms with one on the first floor as well as a bathroom on the first floor. The property was previously used as a podiatrist's office, so there were numerous rooms. The City was required to keep the property for three years. In 2013, the City of Lebanon tried to sell the property by sealed bid and public auction but was not successful.

Bill No. 2 was passed finally on motion of Mr. Miller, seconded by Mr. Morales. Yeas—Mrs. Haitos, Mr. Martin, Mr. Miller, Mr. Wertz, and Mr. Morales, Chairperson—5; nays—none.

Mr. Martin called up Bill No. 3 on final reading, the title of which is as follows: AN ORDINANCE AMENDING ARTICLE 153, 'BUREAU OF FIRE: CAREER AND VOLUNTEER DIVISION', OF THE CODIFIED ORDINANCES OF THE CITY OF LEBANON, PENNSYLVANIA".

Mayor Capello reported that the City of Lebanon is one of two cities in Pennsylvania that still utilizes the term Fire Commissioner. The Lebanon County Department of Emergency Services uses the title Fire Chief in its system. This amendment will bring the Lebanon Fire Department in line with state and industry standards.

Bill No. 3 was passed finally on motion of Mr. Martin, seconded by Mr. Wertz. Yeas—Mrs. Haitos, Mr. Martin, Mr. Miller, Mr. Wertz, and Mr. Morales, Chairperson—5; nays—none.

Mr. Morales introduced Bill No. 4, as follows:

AMENDING SUBSECTION 107.03, “GENERAL RULES”, OF ARTICLE 107, “COUNCIL”, OF THE CODIFIED ORDINANCES TO ADDRESS PUBLIC PARTICIPATION AT COUNCIL MEETINGS.

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. Subsection 107.03, “General Rules”, of Article 107, “Council”, 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

§ 107.03 **General rules.**

(a) Meetings of Council.

- (1) Organization meeting. In years following municipal elections or if the presiding Chairperson of Council of the prior year is no longer in office, the City Clerk shall convene the organizational meeting and conduct the election of the Chairperson, after which said elected Chairperson shall preside over the remainder of the meeting. At all other organizational meetings, the presiding Chairperson of Council for the prior year shall preside.
- (2) The regular stated meetings of Council shall normally be held on the fourth Monday of each and every month at 6:30 p.m., prevailing time, in the Council Chamber in the Lebanon Municipal Building unless otherwise scheduled by Council.
- (3) Should a meeting fall on an officially designated City holiday, the meeting shall be held on the first regularly scheduled work day following the holiday, at the above stated time.
- (4) Work sessions of Council shall normally be held each and every month on the Thursday immediately preceding the regular monthly meeting of Council at 4:45 p.m. Council shall reserve the right to change meeting dates when they conflict with legal City holidays or for such other reasons as it may determine. Work sessions shall be informal and flexible. No formal action shall be taken.
- (5) Special meetings of Council may be called by the Chairman at such times as he shall deem necessary. The Chairman shall call a special meeting of Council upon the written request of three members of Council. A special meeting may not take place unless a minimum of 24 hours' written notice is given to each member of Council. Such written notice shall state the reason for the special meeting and shall be

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accompanied by the necessary written documentation to allow for informed discussion of the matter(s) to be considered.

- (6) Executive sessions or closed meetings may be held in accordance with the provisions of the State "Sunshine Law" Act.
- (7) Emergency meetings may be held for the purpose of acting in an emergency involving a clear and present danger to life, health, property or public peace. The Chairman of Council or his designee shall attempt to give prompt notice of the emergency meeting to all members of Council and to the Mayor. In the event of an emergency meeting, members of Council shall not be held in violation of the public notification sections of the Home Rule Charter.
- (8) All official, with the exception of executive sessions, meetings shall be open to the public.
- (9) All official meetings of Council shall be in accordance with the provisions of the State "Sunshine Law" Act.
- (10) Public notification of all official meetings of Council shall be in accordance with the State "Sunshine Law" Act and the Home Rule Charter.
- (11) A majority of the members of Council shall constitute a quorum and be necessary for the transaction of business. If a quorum is not present, those in attendance shall be named and they shall adjourn to a later time.

(b) Ordinances and resolutions.

- (1) In addition to the provisions of the Home Rule Charter, Article III, Sections 14 through 18, the following rules shall apply:
 - A. All ordinances and resolutions shall be presented in writing.
 - B. All ordinances shall be approved as to form and legality by the City Solicitor and shall be submitted to the City Solicitor no later than the close of business, one week prior to the Council work session at which they are to be considered.
 - C. The City Clerk shall prepare copies of all proposed ordinances and resolutions for distribution to all members of Council and the Mayor.
 - D. Upon being introduced, each proposed ordinance and resolution shall be read by title only, unless a member of Council requests a full reading.

(c) Order of business.

- (1) All reports, communications, ordinances, resolutions, contract documents or other matters to be considered by Council shall be submitted to the City Clerk whereupon

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the City Clerk shall present all items to the Chairman of Council who shall prepare an agenda for the meeting.

- A. Copies of the agenda, along with all supporting documents, shall be given to each Council member, the Mayor, and the City Solicitor at least 24 hours prior to the Pre-Council meeting at which it is to be considered.
 - B. The agenda for the regular monthly meeting of Council shall be presented to each Council member, the Mayor and the City Solicitor at least 24 hours prior to the meeting.
 - C. Items not on the agenda may not be considered unless a majority of Council members present agree to do so.
- (2) Parliamentary procedures, as contained in Robert's Rules of Order, most recent edition, shall govern the meetings of the Council unless they are in conflict with these Rules of Procedure, the Home Rule Charter or the laws of the Commonwealth of Pennsylvania.
- (d) Public participation.
- (1) In accordance with Act 84 of the 1986 Pennsylvania General Assembly, as amended, residents and/or taxpayers of the City of Lebanon shall be entitled to address Council as prescribed below:
 - A. All persons attending the meeting shall sign in prior to the start of the meeting on a form provided by the City Clerk. Each person shall list their name and address and indicate whether they are a resident or taxpayer of the City of Lebanon.
 - B. Persons wishing to address Council with specific items shall request in writing to be placed on the agenda no later than seven days prior to the meeting in question. Such request shall contain the name and address of the person making the request, the nature and content and reason for the request, and a copy of any items intended to be distributed. Such request shall be made to the City Clerk for subsequent approval and placement on the agenda by the Chairperson of Council.
 - C. Persons not making requests as above, but wishing to address Council, may request to be recognized no less than 15 minutes prior to any regularly scheduled meeting of Council. Placement on the agenda is at the discretion of the Chairperson of Council. This request may be made to the City Clerk or the Chairperson of the Council.
 - D. At his/her discretion, the Chairperson may open a portion of any regularly scheduled meeting for public comment.
 - E. In any event, the Chairperson of Council may determine the length of time for all public comment. and all persons wishing to address Council shall state their name and address before doing so.

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- (e) Written communications. Interested parties or their authorized representatives may address Council by written communication in regard to any matter concerning the City's business over which Council has control, at any time by direct mail or by any other form of written communication. Copies of all such communications shall be given to all Council members along with the meeting agenda.
- (f) Suspension of the rules. Any rule may be suspended with the unanimous approval of all Council members present. The vote on any such suspension shall be by roll call and entered upon the minutes of the meeting.

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”.

Chairperson Morales explained that Bill No. 4 amends the Rules of Council to require that individuals sign in with name and address at meetings. Mayor Capello added that she previously worked at Palmyra Borough and it was required when she came on board there. She added that signing in at meetings is somewhat standard procedure and also helps with minute taking with spelling names.

Bill No. 4 was introduced and will be considered on final reading at the City Council meeting of September 26, 2022, on motion of Mr. Morales, seconded by Mrs. Haitos. Yeas—Mrs. Haitos, Mr. Martin, Mr. Miller, Mr. Wertz, and Mr. Morales, Chairperson—5; nays—none.

Jackie Keeney, 503 Dead End Road, Lititz, addressed Council regarding the Gunner Incident on July 6, 2022. She told Council that appalled would be the single word she would use to describe what she felt on so many levels following last month's Council meeting. She was appalled at the Councilmember who applauded members of his community for coming together to express a passion they shared. She added that passion by definition is a powerful or compelling feeling of love or hate. This group was brought together out of the hate passion—hate of the negligence of the Lebanon City Police Department and this Council; hate at the lack of accountability being taken for their action or lack thereof which caused the unnecessary death of Gunner; hate at the continued refusal by elected officials and the Chief who looked past their own self pride and did not own the fact that death could have and should have been prevented. She told Council that she was appalled by Mayor Capello's statement that she felt the police officers handled the Gunner situation properly given the circumstances and stating that a tail that is wagging is not necessarily a sign of a friendly dog. Ms. Keeney said to take that remark one step further, not every dog that growls is a vicious dog. She added that this is where proper training and education come in and under no circumstance should the death of a citizen's family member be accepted as the end goal. She stated that she was most appalled that Gunner was not the first fatality of this kind by a Lebanon Police Officer. Obviously, there was not enough done after the last incident to prevent a repeat. She told Council that it is time to put a plan in place that not only prevents another senseless killing but holds the officers accountable, and that it is unacceptable and incompetent for the Chief to refuse professional training and education being offered at no cost to the department. Ultimately, the accountability for the loss of Gunner's life belongs to the officer who pulled the trigger, his colleagues who were assisting him, the Chief for lack of properly training, and the Mayor for lack of proper policy. She told Council that it is

their duty to never let this horrific situation happen again and to harness the passion of your community members who came together to fix this broken system.

Denise Derr, 11 Leno Drive, Palmyra, stated that she does not currently live in the city limits but grew up in the city and her parents still reside in the city. She stated that she visits her parents regularly and takes her dogs Dexter and Riley to their house because the dogs are part of the family. She stated that this is the reason she feels so compelled to be part of this discussion. She fears that Dexter or Riley could become the next victim of the Lebanon Police Department should they be spooked by a loud car or a motorcycle racing through the streets of Lebanon which occurs regularly. She stated that she is baffled about the Gunner situation. She realizes people are not perfect and everyone make mistakes which sometimes cause others their lives. Ms. Derr told Council that she has been a registered nurse for 35 years and has seen and heard stories of medical professionals making a mistake that resulted in the loss of a life. She added that in those cases, a root cause analysis is immediately performed, an action plan is put in place, mandatory training is assigned to every member of the organization and changes in policy and procedure are made to prevent the error from happening again. She acknowledged that not all action plans will be foolproof, but they are meant to put checks and balances in place to reduce the chance of another life being lost due to that process. She told Council that at last month's meeting, she listened to Mayor Capello say that the outcome of the Gunner incident was unfortunate and she supported the officer stating that he followed proper protocol. She added that what she saw on video that was provided, and unfortunately is not the one that Mayor Capello referenced, she saw three large men cornering a frightened dog. She added that she saw three officers that looked unsure of how to handle the frightened dog and no wonder Gunner growled as he was backed into a corner by three large men. She told Mayor Capello that the death of Gunner was not only unfortunate, but someone made a mistake. A mistake that cost a life, a mistake that warrants a root cause analysis, and a corrective action plan that includes mandatory training for every officer of Lebanon City. She added that she heard Diane Ford of the Vetting Zoo offer free services to educate the Lebanon City Police Department on how to safely deal with loose and frightened dogs. Dr. Ford offered to be a free resource for situations of this kind and to donate proper equipment and supplies to deal with situations like Gunner. She further stated that Dr. Ford even attempted to attend the National Night Out in the City of Lebanon to educate the public on how to prevent situations like Gunner from happening again and they were denied access by the city. She stated that instead of embracing any or all of the services offered, the City Council and Lebanon City Police Chief said no to all of the resources being offered. In her opinion, this is a red flag and says that the elected officials of the City of Lebanon and the Police Chief are not doing due diligence to keep the City of Lebanon safe. Further, they have not taken an honest look at the root cause of the situation. She explained that a playful dog got lost in the city, a concerned citizen called for assistance with how to safely capture said dog, a Lebanon City officer responded to the call, and the officer was not properly trained in handling the dog. She reiterated that the dog grew increasingly fearful when officers cornered him, then put a noose around his neck. When the dog did what any of us would try to do to get out of it, the officer who already had control over the dog and tased him, shot and killed him. In closing, Ms. Derr challenged the elected officials of the City of Lebanon to do a thorough root cause analysis of Gunner's shooting and implement mandatory training for all officers and to implement policy changes to prevent another unnecessary death at the hands of a Lebanon City Police officer.

Mayor Capello thanked both speakers for their comments. Mayor Capello stated that respectfully the comments were not quite accurate as to what she said at last month's meeting. She reported that she said "regrettably" and based on the circumstances she felt the officers acted appropriately. Mayor Capello added that as a part of the City's continuing and ongoing efforts to improve the provision of police services and prior to the Shugart's demand letter, the City began the process of working with a law enforcement-specific animal control consultant to provide additional training for the officers, possible policy changes, and possible equipment to be used in addressing dog handling and control calls.

Chairperson Morales stated that there is an ongoing internal investigation and ongoing litigation in this matter. He added that he believes some of the statements that were made are a little premature. He stated that he doesn't believe there is anyone in this room or anyone on Mayor Capello's staff that takes this lightly or wants to see this happen again. He stated that he will be following up on this as well to make sure that officials look into this matter. He stated that due to the litigation, the City is choosing to not make additional remarks.

Mayor Capello stated that the Chief reached out to several different companies, but chose to go with the Pennsylvania Academy for Animal Care and Control. This group certifies the humane officers and the founder/owner and the director of training is a prior Pennsylvania State Trooper. She added that a law enforcement response is different from rescuing a dog. She added that she wanted to make sure that the officers can be the most professional and humane at the same time, and thought that this would be the best organization to utilize. The difficult part of it is getting all of the officers trained within a certain period of time and coordinating all of that, but the Chief is definitely on the way with finalizing the arrangements for training.

Laura LeBeau, WiLBuR Radio, asked if the City of Lebanon reached out to PA Academy for Animal Care and Control before or after Gunner was shot. Mayor Capello responded that they were contacted after he was shot, but before the letter from the Shugart's attorney was received.

Ms. LeBeau asked if the Councilmembers have been given the opportunity to view the body cam video from the Officers involved in the incident. Mayor Capello responded that in addition to herself, the only persons who viewed the body cam video were the Chief, the Captain, and legal counsel for the City.

Ms. LeBeau asked if no one else on Council has a desire to view the video. She asked if viewing the video would better inform Council's decision-making with regard to what the Mayor or Chief propose, or even what these citizens are proposing. Chairperson Morales replied that he will wait for the internal investigation to be completed. He added that when the internal investigation is completed, Mayor Capello will report back to Council and advise what policies are going to be implemented and the training details. He added that he can't speak for Council or that he won't request to view the video in the future, but that is his position at this time.

Ms. LeBeau stated that she is flabbergasted that in the midst of this heated situation, City Council has not taken the opportunity or requested to view the video. Mayor Capello

responded that when this first started and we knew there was potential litigation, legal counsel recommended that no one, and he included Council, be allowed to view the video. She added that even if a Councilmember would have requested to view the video, she would have said no at that point because legal counsel wants to control the City's response which is all part of negotiation and litigation

Ms. LeBeau stated that last week, she spoke to Attorney Bergsten who is representing the Shugart family. Attorney Bergsten confirmed that the letter had been directed to city officials and the attorney who she assumes is an insurance company attorney to which Mayor Capello confirmed that is correct. Ms. LeBeau added that Attorney Bergsten did not indicate anything beyond the letter with the demand for a monetary request of \$125,000 was served. She asked if it is correct that nothing has been filed; however, the City of Lebanon is taking a defensive posture. Mayor Capello replied that the City was put on notice and is acting accordingly since there is the potential for a suit. She added that the Plaintiff's attorney gave notice to save records and videos, and the City's insurance company felt that it was far enough to assign defense counsel. Based on the advice of defense counsel, the video was not shared. Mayor Capello reported that defense counsel had a conversation with the Plaintiff's attorney to discuss several things, one of which was an offer for the Plaintiff to come into his office and view the video. However, the video is not something we want to release to the public. She added that preferably she doesn't want it circulating and have a kid view it. Mayor Capello stated that she is not saying that she agrees or likes the situation. She reiterated that what happened is regrettable and we need to move forward and do better in the future if we can.

Chris Coyle, LebTown, asked who is heading up the internal investigation to which Mayor Capello replied Chief Breiner. Mr. Coyle asked if it is correct that there has been a threat of litigation, but no lawsuit has been filed at this point to which Mayor Capello replied that it is her understanding that a lawsuit has not been filed in the court system, but the City of Lebanon was put on notice and asked to preserve the records. Additionally, Mr. Coyle asked if it is correct that the attorney assigned by the insurance company in this matter advised the City not to disclose the police video to which Mayor Capello replied that is correct.

Councilmember Martin extended his thanks to the Community of Lebanon Association for their hard work in organizing events. He added that the Car Show held on August 21 was well attended and was a great success.

Craig Gates, 44 Berwyn Park, Lebanon, reminded everyone that the Community of Lebanon Association's Music and Brew Fest on 8th Street is scheduled for September 17. This event is the kickoff of the Lebanon Valley Libations Trail. He also reported that this Saturday, students from Lebanon Valley College will be volunteering to help clean up in the downtown area. In conjunction with the cleanup, the CLA will be sending the students into the businesses.

Councilmember Morales added that approximately 80 members of the Lebanon Valley College football team volunteered at Coleman Memorial Park recently. Mayor Capello added that Coach Giovino and about 125-130 football players volunteered in the city. They worked at Coleman Memorial Park Miniature Golf Course, the channel at Freeman Street and 14th Street, and the trail at Stoever's Dam Park.

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Jerry Kalinoski, 412 Weidman Street, Lebanon, asked if there has been action on obtaining a proposal for solar panels at City Hall. Mayor Capello responded that we contacted the company Mr. Kalinoski suggested and we are waiting for their proposal.

The meeting was adjourned at 7:15 p.m.

CHERYL J. GIBSON, City Clerk