

City of Biddeford
City Council
December 19, 2023 5:15 PM Council Chambers & Zoom

Status:

1. Roll Call - all present

Councilor Lessard
Councilor Ortiz
Councilor Emhiser
Councilor Whiting
Councilor Beaupre
Councilor Mills
Councilor Schlaver
Councilor Belanger
Councilor LaFountain

2. Pledge of Allegiance

2. Adjustment(s) to Agenda - none

4. Appointments:

- 4.a. 2023.152) Nomination and Election of Council President
12-19-2023 Nomination of Council President

Councilor Lessard – Motion to nominate Councilor LaFountain
Second: Councilor Mills
Councilor Emhiser – Motion to nominate Councilor Belanger
Second: Councilor Schlaver
Roll Call to cast vote for Council President:

Councilor Lessard - Councilor LaFountain
Councilor Ortiz - Councilor LaFountain
Councilor Emhiser - Councilor Belanger
Councilor Whiting - Councilor LaFountain
Councilor Beaupre – Councilor LaFountain
Councilor Mills - Councilor LaFountain
Councilor Schlaver - Councilor Belanger
Councilor Belanger – Councilor Belanger
Councilor LaFountain - Councilor LaFountain

Vote is 6 for Councilor LaFountain and 3 for Councilor Belanger
Councilor LaFountain is the new Council President.

- 4.b. 2023.153) Approval/Confirmation of Mayor's Appointment to the Finance Committee
20231219 Finance Committee Appointment- Mayor -ORDER

Motion: Councilor Whiting

Second: Councilor Emhiser

Vote: Unanimous in favor of Councilor Lessard to the Finance Committee.

Motion passed.

- 4.c. 2023.154) Approval/Confirmation of Council President's Appointment to the Finance Committee
20231219 Council President's Finance Committee Nomination - ORDER

Motion: Councilor LaFountain to appoint Councilor Beaupre

Second: Councilor Lessard

Vote: Unanimous in favor.

Motion passed.

- 4.d. COUNCIL WILL NOW GO INTO RECESS.
THE FINANCE COMMITTEE WILL NOW BEGIN.
COUNCIL WILL RECONVENE AT 6:00 PM AND BEGIN WITH AGENDA ITEM 4.e.

Council reconvened at 6:15 pm

- 4.e. 2023.155) Approval/Confirmation of City Solicitor
20231219 Confirmation of City Solicitor - ORDER

Motion: Councilor Whiting

Second: Councilor Lessard

Vote: Unanimous in favor.

Motion passed.

Harry B. Center II, Esq. was sworn in as City Solicitor.

- 4.f. Approval/Confirmation of Councilor Appointments to the Council Standing Committees
20231219 Mayors Appointments to Standing Committees-ORDER 2023.156
Motion: Councilor Belanger for both orders 2023.156 and 2023.157
Second: Councilor Schlaver
Vote: Unanimous in favor.
Both orders passed.

20231219 Social Services Committee Appointment-ORDER 2023.157

- 4.g. Approval/Appointments of Citizens to Committees

Motion by Councilor Belanger for blanket approval of Citizen Committee appointments, orders 2023.170 to 2023.181

Second: Councilor Whiting

Councilor Mills and Whiting asked about other committees not listed.

Mayor Grohman responded that there will be more appointments coming as applications are submitted and reviewed.

Vote: Unanimous in favor

Orders 2023.170 to 2023.181 passed.

20231219 Airport Commission Appointment -ORDER

20231219 Airport Commission Applications

20231219 Biddeford Fire Advisory Committee Appointment -ORDER

20231219 Biddeford Fire Advisory Application

20231219 Biddeford Police Advisory Committee Appointment -ORDER

20231219 Biddeford Police Advisory Committee Application

20231219 Board of Assessment Review Appointment -ORDER

20231219 Board of Assessment Review Application

20231219 Biddeford Housing Authority Appointment -ORDER

20231219 Biddeford Housing Authority Application

20231219 Historic Preservation Committee Appointment -ORDER

20231219 Historic Preservation Commission Application

20231219 Planning Board Appointment -ORDER

20231219 Planning Board Application

20231219 Recreation Commission Appointment -ORDER

20231219 Recreation Commission Application

20231219 Wastewater Management Commission Appointment-ORDER

20231219 Wastewater Management Commission Application

20231219 Recycling and Waste Management Commission Appointment-ORDER

20231219 Recycling and Waste Management Commission Application

20231219 Zoning Board of Appeals Appointment-ORDER

20231219 Zoning Board of Appeals Application

20231219 Policy Committee-ORDER

20231219 Policy Committee Application

5. Liquor License Consideration

- 5.a. 2023.159) Approval/HOB Winterfest Special Events Permit and Liquor License
HOB winterfest 2024 - ORDER
HOB Winterfest - APPLICANT MEMO
Winterfest February 8-11, 2024 - APPLICATION
Motion: Councilor Mills
Second: Councilor Whiting
HOB Director Delilah Poupore spoke about the event and the activities for the 3 days.
Vote: Unanimous in favor.
Motion passed.

6. Public Addressing the Council...(3 minute limit per speaker for up to a total of 15 minutes)

One citizen spoke about the noise from the train horn when it passes through the neighborhood and asked Council to check into it.

7. Consideration of Minutes:

- 7.a. Approval of Minutes 11-21-2023
City Council Minutes 11-21-23

Motion: Councilor Mills
Second: Councilor Schlaver
Vote: Unanimous in favor
Motion passed.

8. Second Reading:

- 8.a. 2023.136 Approval/Mooring Fee Increase
20231121 Mooring Fee Increase - ORDER 2
20231121 Mooring Fee Increase - BRIEF
Motion: Councilor Mills
Second: Councilor Lessard
Vote: Unanimous in favor
Motion passed.
- 8.b. 2023.142) Approval/Amendment Street Reduction Ordinance Table B
20231121 Street Frontage Reduction Ordinance - ORDER
20231121 Street Frontage Reduction Ordinance - BRIEF
20231101 Memo to Planning Board - Street Reduction Ordinance w Attachment - REFERENCE
Motion: Councilor Mills
Second: Councilor Lessard
Vote: Unanimous in favor
Motion passed.
- 8.c. 2023.143) Approval/Amendment Zoning Ordinance Article VI - Performance Standards, Section 78 - Accessory Dwelling Units, Section B.1.a.
20231121 Amend Sec 78 Accessory Dwelling Units - ORDER
20231121 Amend Sec 78 Accessory Dwelling Unit - BRIEF
20231121 Section 78 Accessory Dwelling Units Full Text - REFERENCE
20231115 Planning Board Memo - ADU Ordinance Amendment - REFERENCE

Motion: Councilor Mills
Second: Councilor Lessard

Point of Order, Councilor Belanger, Council Rules allow for public comments at both first and second readings.

Vote: Unanimous in favor.
Motion passed.

8.d. 2023.144) Approval/Amendments Zoning Ordinance Table A, Accessory Dwelling Units (ADU)

20231121 ADU Table A Amendment - ORDER

20231121 ADU Table A Amendment - BRIEF

20231115 ADU Article V, Table A Amended - REFERENCE

20231115 Planning Board Memo - Accessory Dwelling Unit Amend Table A - REFERENCE

Motion: Councilor Mills

Second: Councilor Lessard

Vote: Unanimous in favor.

Motion passed.

8.e. 2023.145) Approval/Amendment to Zoning Ordinance Table A Marijuana Adult Use Sales

20231121 Amend Marijuana Adult Use Sales - Table A - ORDER

20231121 Marijuana Adult Use Sales - Amend Table A - BRIEF

20231115 Planning Board Memo - Marijuana Amendments - REFERENCE

20231121 Marijuana Adult Use Sales - Amend Table A - REFERENCE

Motion: Councilor Schlaver

Second: Councilor Mills

Councilor Lessard – is opposed, will have an adverse effect on residential development.

Vote: 7 yeas – Councilors Emhiser, Whiting, Beaupre, Mills, Schlaver, Belanger and LaFountain.

2 nays – Councilors Lessard and Ortiz.

Motion passed.

8.f. 2023.146) Approval/Amendment to Zoning Ordinance Article VI - Performance Standards, Section 77 Marijuana Establishments

20231121 Amend Performance Standards for Marijuana Odor Control - ORDER

20231121 Amend Performance Standards for Marijuana Odor Control - BRIEF

20231115 Planning Board Memo - Marijuana Amendments Odor Control - REFERENCE.

20231121 Marijuana Establishments Sec 77, Full Text w Amendments - REFERENCE

Motion: Councilor Belanger

Second: Councilor Whiting

Councilor Lessard – hard to track, dealt with this decades ago

Councilor Schlaver – is against this, there is already language on odor control.

Councilor Mills – is against this, it targets one industry.

Councilor Belanger –will support this, the purpose is to allow Code Enforcement a process to deal with odor complaints, it is consistent with all industries.

Vote: 6 yeas – Councilors Lessard, Ortiz, Emhiser, Whiting, Beaupre, and Belanger.
3 nays – Councilors Mills, Schlaver and LaFountain.

Motion passed.

8.g. 2023.147) Approval/Amendment Table B Dimensional Requirements Density Bonus Ordinance

20231121 Amend Land Use Regulation - Density Bonus - ORDER

20231121 Amend Land Use Regulation - Density Bonus - BRIEF

20231115 Planning Board Memo - Land Use Table B Density Bonus - REFERENCE
Density Bonus Ordinance BIDDEFORD CODE NOTES for Table B PlanningBoard
Public Hearing AMENDED.docx

20231115 Plannig Board - Public Hearing Recommendation - Table B Amendment
- Full Text - REFERENCE UPDATE

Motion: Councilor Mills

Second: Councilor Lessard

Vote: Unanimous in favor.

Motion passed.

8.h. 2023.148) Approval/Amendment Code of Ordinances, Part III: Land Development Regulations, Article VI - Performance Standards, Section 40 (New Chapter) - Inclusionary Zoning (IZ)

20231121 Inclusionary Zoning IZ Amendment - ORDER

20231121 Inclusionary Zoning IZ Amendment - BRIEF

20230620 2023.25 Inclusionary Zoning Order Housing Task Force - REFERENCE

20231101 Planning Board Memo - Inclusionary Zoning Ordinance - REFERENCE

20231102 Planning Board Public Hearing - IZ Amendment - Full Text -
REFERENCE

Motion: Councilor LaFountain

Second: Councilor Emhiser

Vote: 7 yeas – Councilors Ortiz, Emhiser, Whiting, Beaupre, Mills, Schlaver and
LaFountain.

2 nays – Councilors Lessard and Belanger.

Motion passed.

Point of Order – Councilor Beaupre asked for clarification on the vote for item 8.f.
The vote was reviewed, it was 6 yeas and 3 nays, the motion passed.

8.i. 2023.149) Approval/Amendment Code of Ordinances, Part III: Land Use Development Regulations, Article II - Definitions

20231121 Ordinance Amendment for Definition of Affordable Housing
Development (Inclusionary Zoning) - ORDER 2nd

20231121 Affordable Housing Development Definitions Amendment - BRIEF

20231101 Planning Board IZ Ordinance and Density Bonus Definitions -
REFERENCE

Motion: Councilor LaFountain

Second: Councilor Emhiser

Vote: 8 yeas –Councilors Ortiz, Emhiser, Whiting, Beaupre, Mills, Schlaver, Belanger and LaFountain.

1 nay – Councilor Lessard

Motion passed.

9. Orders of the Day:

9.a. 2023.160) Approval/Adoption of Roberts Rules of Order

20231219 Adoption of Roberts Rules Order - ORDER

Motion: Councilor Mills

Second: Councilor Lessard

Vote: Unanimous in favor.

Motion passed.

9.b. 2023.161) Approval/Adoption/Code of Ordinance - Appendix A - Rules of the Council

20231219 Adoption of Rules of the Council Order - ORDER

20231219 Rules of City Council Redlined - REFERENCE

Motion: Councilor Belanger

Second: Councilor Lessard.

Councilor Mills would like more dialog before sending items back to Committees.

Vote: Unanimous in favor.

9.c. 2023.162) Approval/Purchase Trackless Tractor and Associated Equipment for Public Works

20231019 Approval Trackless Tractor and Associated Equipment - ORDER

20231219 Approval Trackless Tractor and Assoc Equipment - BRIEF

20231113 HP Fairfield Trackless Tractor - QUOTE

20231219 Trackless Vehicles Sole Source Provider - LETTER

Motion: Councilor Mills

Second: Councilor Lessard

Vote: Unanimous in favor.

Motion passed.

9.d. Approval/Purchase Plow Equipment Front Plow, Wing, Box, Salt Spreader, Viking Inc. for Public Works

20231019 Approval Purchase of Plow Equipment - ORDER

20231219 Approval Purchase of Plow Equipment - BRIEF

20231112 Viking Cives - QUOTE

20231112 Viking Cives Specifications - REFERENCE

20230911 HP Fairfield Sales - QUOTE

Motion: Councilor Mills

Second: Councilor Lessard

Public Works Director Jeff Demers spoke about the options as discussed in the Finance Committee. The quote for Viking can save approximately \$20,000 but is a different style of equipment and staff would need training and adjust to the usage. The quote from HP Fairfield is the same type of equipment as the current fleet and would allow for standardization of the fleet, parts, maintenance and training.

Councilor Lessard – motion to amend the order to accept the quote from HP Fairfield for \$174,187.50 or less.

Second: Councilor Belanger

Councilor Schlaver – the lower bid might allow the City to try a new style of equipment that could save money on each new purchase in the future.

Vote on amendment – Unanimous in favor.

Amendment passed.

Vote on order as amended: Unanimous in favor.

Motion passed.

9.e. REMOVE FROM TABLE - Approval/York-Laonia Riverwalk Sidewalk Improvements Award Contract

20231121 York-Laonia Riverwalk - ORDER

20231219 Update - York-Laonia Project - MEMO

20230719 FY24 CIP Allocation - REFERENCE

20230905 FY24 CIP Funding Analysis, 5 Boxes - REFERENCE.pdf

20231121 York-Laonia Riverwalk - BRIEF

1 - Overall Riverwalk Connections Site Plan - REFERENCE

2 - Shaw Brothers Bid Tab - REFERENCE

3 - 2018 Joint Developer Agreement - REFERENCE

4 - Various Stakeholders Design Approval - REFERENCE

5 - Detailed Grading Plan Sample - REFERENCE

Motion to Remove from Table: Councilor Belanger and he clarified that there is no public comment on a Remove from Table agenda item.

Second: Councilor Lessard

Vote to remove from Table: 8 yeas – Councilors Lessard, Ortiz, Emhiser, Whiting, Beaupre, Schlaver, Belanger and LaFountain.

1 nay – Councilor Mills

Motion passed.

Councilor LaFountain asked for more information from City staff if there were any updates on the engineering to reduce costs as motioned at the last meeting.

City Engineer Director Craig Cheken spoke about the engineering process. This has been worked on for 3 years by staff and has gone through 7 different approvals. The scope was designed by staff, allowing major savings compared to outsourcing the work. He has put in hundreds of hours on the design and then it was put out to bid twice, with only one bid and it was from a reputable company. He supports the plan.

Councilor Belanger – motion to amend the order to list the funding for this project:

Funding for this \$1,250,000 project will be as follows:

- \$581,568.23 from Community Development Block Grant (CDBG) funds

\$450,000 from FY23 CIP funds

\$218,431.77 from 400-32340-60610 Capital Expenditures (undesignated capital funds Box A)

Second: Councilor Lessard

Vote on the amendment: 8 yeas – Councilors Lessard, Ortiz, Emhiser, Whiting, Beaupre, Schlaver, Belanger and LaFountain.

1 nay – Councilor Mills

Amendment passed.

Councilors LaFountain and Ortiz – appreciate the staff work on this project, have objections to the funding.

Vote on the order as amended: 8 yeas – Councilors Lessard, Ortiz, Emhiser, Whiting, Beaupre, Schlaver, Belanger and LaFountain.

1 nay – Councilor Mills

Motion passed.

- 9.f. Approval/Police Department Asset Forfeiture
20231219 Acceptance of Asset Forfeiture Funds - ORDER
20231219 Acceptance of Asset Forfeiture Funds - BRIEF
Motion: Councilor LaFountain
Second: Councilor Lessard
Councilor LaFountain asked for the total of the fund.

City Manager Jim Bennett said there was approximately \$150,000 and Council has appropriated \$100,000 so far.

Vote: Unanimous in favor.

Motion passed.

- 9.g. Authorization/3 Year Retroactive Sewer Billing for 17 Yates Street, Map 59 Lot 115
20231219 Retroactive Sewer Billing for 17 Yates Street - ORDER
20231219 Retroactive Sewer Billing for 17 Yates Street - BRIEF
Motion: Councilor Belanger
Second: Councilor Lessard

Councilor Emhiser asked about the two meters at the Biddeford Yacht Club.

City Manager Bennett – that will be checked before sending the bill, this account hasn't been billed in over 10 years; the City is billing 3 years of that for approximately \$850.00.

Vote: Unanimous in favor.

Motion passed.

- 9.h. Authorization/3-Year Retroactive Sewer Billing for 15 Beaudoin Ave, Map 18 Lot 61-2
20231219 Retroactive Sewer Billing for 15 Beaudoin Avenue - ORDER
20231219 Retroactive Sewer Billing for 15 Beaudoin Ave - BRIEF
Motion: Councilor Belanger
Second: Councilor Lessard

Councilor Whiting asked if this would set a precedent.

City Solicitor Center – it would not, the City can set these case by case.

City Manager – the amount is \$221.50

Vote: Unanimous in favor.

Motion passed

- 9.i. Approval/Abatement 0 Jabez Lane
20231219 Approval Tax Abatement 0 Jabez Lane - ORDER
20231219 Approval Tax Abatement 0 Jabez Lane - BRIEF
Motion: Councilor Mills
Second: Councilor Lessard

Councilor Mills questioned if the Council needed to vote on this because the amount was small.

City Manager Bennett explained that it is required by the abatement process.

Vote: Unanimous in favor.

Motion passed.

Councilor Lessard – motion to consider agenda items 9K and 9L before 9J.

Second – Councilor Mills

Mayor Grohman- requested to proceed in order, staff input might be needed on all 3.
Councilor Mills withdrew the Second.

Councilor Lessard – motion to go into Executive Session, 405 (6) (c) Real Estate matters at 7:07 pm

Second: Councilor Belanger

Vote: 7 yeas Councilors Lessard, Ortiz, Emhiser, Whiting, Beaupre, Belanger and LaFountain.

2 nays Councilors Mills and Schlaver

Motion passed.

Councilor Mills – motion to come out of Executive Session at 7:26 pm

Second: Councilor Emhiser

Vote: Unanimous in favor.

Motion passed.

- 9.j. Approval/Updates JDA 3 Lincoln St. LLC
20231219 3 Lincoln LLC MPDA Amendments - ORDER
20201117 Master Plan Development Agreement - 3 Lincoln LLC - REFERENCE
20231219 Original 3 Lincoln LLC JDA Principles - REFERENCE.docx
Motion: Councilor Emhiser
Second: Councilor Belanger

City Manager Bennett – provided an update on the project. There were several projects that had to be revised due to Shoreland Zoning updates, the others have already been done, this is the last one.

Vote: Unanimous in favor.

Motion passed.

- 9.k. 2023.169) Approval/Authorization to Amend and Clarify Eon Entities JDA dated September 21, 2021

20231219 Eon Entities JDA Amendment and Clarification - ORDER

20231219 Eon Entities JDA Amendment and Clarification - MEMO

20231211 Letter from Mike Eon with Support Documents - REFERENCE

20230424 400 unit Subdivision Barra Rd, Ability to Serve Letter - REFERENCE

Motion: Councilor Mills

Second: Councilor Belanger

City Manager Bennett describe the phases of the project and that this motion allows him to sign the JDA.

Vote: Unanimous in favor.

Motion passed.

- 9.l. Approval/Purchase 2024 Public Works Ford 2500 Pickup

20231019 Approval Purchase Ford F-2500 Pickup - ORDER

20231219 Approval Purchase Ford F-2500 Pickup - BRIEF

20231219 Ford F-2500 Bid Tabulation - REFERENCE

Motion: Councilor Mills

Second: Councilor Lessard

Vote: Unanimous in favor.

Motion passed.

10. Public Addressing the Council..(5 minute limit per speaker)

None

11. City Manager Report

The grant for Safer Streets did not get approved, no one in the state got money for implementation, the next opportunity is in March and staff is working on it. We did get a \$340,000 award with a \$75,000 match to look at all traffic elements at the 5 points intersection – vehicle, pedestrian and bicycle. Staff will come back to Council with the RFP. He also wants to thank all of those who serve the City, especially those on the holidays.

12. Other Business

Councilor Lessard – the Christmas Day trash pick up is moved and people can put extra City bags out in addition to their cans.

Councilor Emhiser added that for the Monday pick up locations, recycling moved to Saturday and trash to Tuesday, for the next two weeks.

Councilor Mills will be bringing Functional Zero and ALICE information to the Council in the future.

13. Council President Addressing the Council

Thank you to everyone. He recently toured Public Works, they take impeccable care of City vehicles.

14. Mayor Addressing the Council

Reminded everyone of the Council Workshop on January 9th at 5:30 pm to review the Unhoused report.

Executive Session

Executive Session 405 (6) a personnel matters

15. Adjourn

Councilor Belanger - Motion to adjourn the regular meeting at 7:43 pm and go into Executive Session

Second – Councilor Lessard

Vote: Unanimous in favor.

Councilor Belanger Motion to come out of Executive Session at 8:30 pm

Second – Councilor Lessard

Vote: Unanimous in favor.

Attest:



Robin Patterson, City Clerk