

City of Biddeford
Policy Committee
November 19, 2020 4:00 PM Via ZOOM
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- 1. Roll Call**
- 2. Pledge of Allegiance**
- 3. Adjustments to the Agenda**
- 4. Acceptance of Minutes**
 - 4.1. September 17, 2020 Policy Committee Minutes
[9-17-2020 Policy Comm Meeting Minutes.docx](#)
- 5. Discussion/Review**
 - 5.1. Establishment of Citizens' Advisory Committee
[Citizens' Advisory Committee Ordinance.docx](#)
[CAC Conflict of Interest.docx](#)
 - 5.2. Amendment/Ch. 2-Administration/Art. IV-Boards, Committees, Commissions/Division
12-Police Advisory Committee
[10-06-2020 Police Advisory Committee-various amendments.doc](#)
- 6. Adjourn**

**Policy Committee Meeting
September 17, 2020**

*NOTE: Due to COVID-19, this meeting was held virtually (via ZOOM),
and was live streamed on the City's website*

Committee Chair, Councilor John McCurry, Jr. called the meeting to order at 4:30 p.m.

Roll Call: Councilors John McCurry, Jr., Norman Belanger and Doris Ortiz; Committee Members Renee O'Neil and Nathan Bean

Staff Members present: Carmen Morris, City Clerk, Roger Beaupre, Police Chief, Code Enforcement Officer, Roby Fecteau and Planning & Development Director, Mathew Eddy

There were no adjustments to the agenda.

Acceptance of Minutes: **June 25, 2020**

Motion by Councilor Belanger, seconded by Member Bean to accept the minutes as printed.

Vote: Unanimous.

Discussion/Approval: **Ch. 42, Motor Vehicles & Traffic/Sec. 42-95-Four-way Stop Intersections/
Add Main Street, Lincoln & Adams Streets**

Motion by Member Bean, seconded by Councilor Ortiz to recommend the parking ordinance amendment.

Councilors McCurry and Ortiz suggested using flashing stop signs in order to make the stop intersection more visible, especially since this was never a four-way stop at this intersection, and folks will likely not pay attention to the two additional stop signs. Chief Beaupre also intends to use stop lines painted on the street and installing other signs warning drivers of the upcoming 4-way stop intersection

Vote: Unanimous.

Discussion/Approval: **Ch. 42, Motor Vehicles & Traffic/Sec. 42-96-Three-way Stop Intersections/Add Main Street, and Alfred Street; and Sec. 42-87-Yield Signs/Delete Alfred Street at Main Street**

Motion by Member Bean, seconded by Councilor Ortiz to recommend the parking ordinance amendment.

Vote: 1/4; Member Bean in favor.

Councilors McCurry, Ortiz, Belanger and Member O'Neil opposed.

Motion fails.

Discussion/Approval: **Ch. 2, Administration/Division 12-Police Advisory Committee/Clarification Amendments**

Motion by Councilor Belanger, seconded by Member O'Neil to recommend with the following amendment to the proposed ordinance language:

Sec. 2-321 (5) add: Make reports to the City Council at such times as may be requested by the City Council.

Vote: Unanimous.

*Discussion/Approval: **Marijuana Zoning Ordinance Referral to Planning Board***

Planning & Development Director, Mat Eddy gave an overview of this item.

Motion by Councilor Belanger, seconded by Councilor Ortiz to make all proposed amendments to Definitions that bring the City ordinance into compliance with State Law.

Vote: 4/1; Councilor McCurry opposed.

Councilors Belanger, Ortiz and Members Bean and O'Neil in favor.

Motion carries.

Motion by Councilor Belanger, seconded by Councilor Ortiz to amend to allow Zones I1, I2 and I3 to grow adult use marijuana –

Vote: 3/2; Councilor McCurry and Member O'Neil opposed.

Councilors Belanger, Ortiz and Member Bean in favor.

Motion carries.

Motion by Councilor Belanger, seconded by Councilor Ortiz to send the proposed amendments to the Land Use Ordinances, Section 77 to the City Council, who in turn, will recommend consideration by the Planning Board.

Vote: 4/1; Councilor McCurry opposed.

Councilors Belanger, Ortiz and Members Bean and O'Neil in favor.

Motion carries.

Motion by Councilor Belanger seconded by Councilor Ortiz to adjourn.

Vote: Unanimous.

Time: 5:48 p.m.

Note: We recommend that at least one City Councilor be involved and are looking for guidance on the best plan for this (member? non-voting advisory position?). The current neighborhood map spans Wards 2, 4, 5, 6, and very small sections of 3 and 7. Wards 2 and 5 make up the majority of the area. We would likely want representation from one of the major wards and/or an at-large rep. Language for this has not been included in the draft below, as we'd like guidance on the best way to implement.

DRAFT

CITIZENS' ADVISORY COMMITTEE

Establishment.

There is hereby created and established the Citizens' Advisory Committee, herein after CAC, comprised of seven members and a staff member of the Biddeford Office of Planning and Development serving in an ex-officio capacity. All members shall be citizens and reside within the corporate limits of the City of Biddeford, with the exception of the ex-officio member, who may reside outside of the City.

In appointing members to the CAC, the Mayor and City Council shall seek to appoint members from a cross section of all citizens, with particular emphasis on those living in US Census Tracts within City limits that are considered to be "low/moderate income" by the US Department of Housing and Urban Development (HUD). The CAC is established under the authority of the Biddeford City Council and shall serve under the directive of the City Council.

Purpose; responsibilities.

(a) The purpose of the Committee is to provide an organized forum for two-way communication between the Office of Planning and Development and the community regarding Community Development Block Grant (CDBG) funding priorities and other community development needs.

(b) Responsibilities shall include:

- (1) Providing comments and/or recommendations in areas such as the assessment of needs, reviewing potential projects, and conducting Public Hearings to keep the citizenry informed.
- (2) Reviewing the Consolidated Plan, Consolidated Annual Performance & Evaluation Report (CAPER), Consolidated Annual Action Plan and any substantial amendments to any of the foregoing documents prior to publication, public review and public hearings.
- (3) Outreach to individuals and groups in the neighborhood(s) to involve them in decision making.
- (4) Where appropriate, making recommendations to the Office of Planning and Development and City Council on substantive issues, with the goal of improved community input to the City's Community Development Block Grant funding allocations.
- (5) Assist the Office of Planning and Development in identifying potential community partnerships, resources, and support to address emerging community needs and development opportunities.
- (6) Receive information and comments from fellow citizens at the Committee's regular monthly meetings and biennial public hearing forums.

(7) Make presentations to the City Council at such times as may be requested by the City Council or as the CAC determines is necessary.

Membership.

Members shall be appointed by the Mayor and confirmed by a majority of the City Council for staggered two-year terms. All subsequent appointments, except to fill a vacancy, shall be for two-year terms. After the initial term expires, the member may apply for reappointment for up to one additional two-year term. Thereafter, the member will need to wait one full year before re-applying for appointment. Members of the Committee shall serve without pay and at the discretion of the City Council. The Planning & Development Director will designate the ex officio staff member to provide assistance to the CAC.

Vacancies.

A vacancy in the membership of the Committee shall be determined upon the occurrence of any of the following:

- (1) The change in a member's primary residence to a place outside the City;
- (2) The death of a member;
- (3) The effective date of the resignation of a member;
- (4) The expiration of the member's term of office;
- (5) Three unexcused absences during a one-year period;
- (6) The removal of a member by the City Council for misconduct or nonperformance of duty.

A member may resign by submitting a written resignation to the Chair of the Committee. Once received by the Chair of the Committee, the Mayor's office will be notified. The resignation may not be withdrawn, and the member's office shall become vacant on the date specified in the resignation. If a vacancy in the membership of the Committee occurs, the Mayor shall nominate a person to fill the vacancy within a period not to exceed thirty (30) days of its occurrence. The nomination shall be subject to the confirmation of the City Council. The person named to fill a vacancy shall serve out the term of the individual he/she replaces on the Committee.

Organization of Committee.

- (a) The Committee shall annually elect one of its members as Chair.
- (b) A quorum shall consist of 50% (plus one if an even number) of appointed members. The Chair shall be counted in determining a quorum and shall have one vote.
- (c) A quorum shall be necessary to take any CAC action authorized or required. An issue shall carry by a majority of those voting.
- (d) The ex-officio member of the CAC is a nonvoting member and shall serve in an advisory capacity.
- (e) *The duties of a secretary responsible for recording meeting minutes shall be rotated sequentially among the Committee's membership for each meeting. The Chair shall be excluded from this responsibility. A roster for secretarial duties shall be established by the Committee.*
- (f) Notice of any expired terms and/or vacancies shall be given to the public. The Mayor shall nominate and the City Council shall confirm all appointments to fill expired terms and/or vacancies. The City Council may remove any member for misconduct or nonperformance of duty.

(g) The CAC may adopt and amend from time to time rules to govern the conduct of its administrative business.

Meetings.

(a) Meetings of the CAC shall be established by the Committee. Meetings shall be held at the Biddeford City Hall or at a suitable municipal public location. Meetings may be conducted virtually. Prior notice of any change in meeting date, time or place shall be provided to all members, the public, and the administrative staff a minimum of forty-eight (48) hours in advance of said meeting.

(b) All regularly scheduled and special meetings shall have an agenda approved by the Chair.

Citizens Advisory Committee Conflict of Interest

Conflict of Interest policy means that members of the CAC cannot apply for CDBG programs.

We are developing a process by which those who are interested in both CAC membership and accessing CDBG program(s) can apply to HUD for an exception. It is important to note that applying for an exception does not guarantee that HUD will grant it.

Here is the process to follow:

Confirm the programs available

Some programs might be for LMI people only, but some might apply to you if you serve LMI people (even if you are not LMI yourself). Contact Abigail Smallwood for details – abigail.smallwood@biddefordmaine.org.

Check eligibility

To determine whether you are eligible for CDBG programs, check the income limits chart published by HUD here: <https://www.huduser.gov/portal/datasets/il.html>

At this link, click the link under the first section, “Access Individual Income Limits Areas.” Select “Maine.” In the box that pops up, scroll down and click on “Biddeford city (York County), ME.” Click “View County Calculations.” This will bring up a chart – find your household size then look down to the bottom row, “Low (80%) Income Limits.” If your household income is under this number, you are LMI (low or moderate income) and are likely eligible for CDBG programs.

Think of nonprofit boards that you serve on

CDBG funding often goes to local nonprofits. If you serve on the board of a nonprofit, you would need to recuse yourself both from the vote to apply for funding on the nonprofit board and from the vote by the CAC to approve funds. This type of conflict of interest does not need to go through the process detailed below, but you do need to notify the CAC Chair.

If you want to access a CDBG program

The easiest way to be involved while still being able to access CDBG program(s) is to attend meetings but not serve as a CAC member.

If you do want to serve as a member and access CDBG program(s), these items are required:

1. A disclosure of the nature of the conflict (*we will type up a general description, which can be altered to fit the situation if needed*)
2. Making this disclosure public and describing how the public disclosure was made
 - a. Publish in paper
 - b. Put into CAC meeting notes

- c. Other, as determined necessary
- 3. An opinion of the recipient's attorney that state and local law are not being violated (*we are determining how best to do this*)

Additional notes: In writing to HUD, we will make specific mention of 24 CFR §570.611(d)(2)(iii), one of the factors in HUD's determination, which notes, "the person affected is a member of a group or class of low- or moderate-income persons intended to be the beneficiaries of the assisted activity, and the exception will permit such person to receive generally the same interests or benefits as are being made available or provided to the group or class."

Because our Citizens Participation Plan explicitly calls for participation from LMI residents, this particular factor is relevant. In addition, we will note that application opportunities are always open to the public and that the member will not receive advance notice or application preference and that the member will recuse themselves from voting on their own application. If applicable, we will note how the member is a vital member of the CAC (e.g. factors like knowledge, commitment, location, etc).

The next two pages contain the Conflict of Interest code, with relevant information and notes in bold.

§570.611 Conflict of interest.

(a) Applicability. (1) In the procurement of supplies, equipment, construction, and services by recipients and by subrecipients, the conflict of interest provisions in 2 CFR 200.317 and 200.318 shall apply.

(2) In all cases not governed by 2 CFR 200.317 and 200.318, the provisions of this section shall apply. Such cases include the acquisition and disposition of real property and the provision of assistance by the recipient or by its subrecipients to individuals, businesses, and other private entities under eligible activities that authorize such assistance (e.g., rehabilitation, preservation, and other improvements of private properties or facilities pursuant to §570.202; or grants, loans, and other assistance to businesses, individuals, and other private entities pursuant to §570.203, 570.204, 570.455, or 570.703(i)).

(b) Conflicts prohibited. The general rule is that no persons described in paragraph (c) of this section who exercise or have exercised any functions or responsibilities with respect to CDBG activities assisted under this part, or who are in a position to participate in a decisionmaking process or gain inside information with regard to such activities, may obtain a financial interest or benefit from a CDBG-assisted activity, or have a financial interest in any contract, subcontract, or agreement with respect to a CDBG-assisted activity, or with respect to the proceeds of the CDBG-assisted activity, either for themselves or those with whom they have business or immediate family ties, during their tenure or for one year thereafter. For the UDAG [Urban Development Action Grant] program, the above restrictions shall apply to all activities that are a part of the UDAG project, and shall cover any such financial interest or benefit during, or at any time after, such person's tenure.

(c) Persons covered. The conflict of interest provisions of paragraph (b) of this section apply to any person who is an employee, agent, consultant, officer, or elected official or appointed official of the recipient, or of any designated public agencies, or of subrecipients that are receiving funds under this part.

(d) Exceptions. Upon the written request of the recipient, HUD may grant an exception to the provisions of paragraph (b) of this section on a case-by-case basis when it has satisfactorily met the threshold requirements of (d)(1) of this section, taking into account the cumulative effects of paragraph (d)(2) of this section.

(1) Threshold requirements. HUD will consider an exception only after the recipient has provided the following documentation:

(i) A disclosure of the nature of the conflict, accompanied by an assurance that there has been public disclosure of the conflict and a description of how the public disclosure was made; and (published in paper, put into meeting notes – where else?)

(ii) An opinion of the recipient's attorney that the interest for which the exception is sought would not violate State or local law. (Note: not sure how to achieve this one. Is this something the city's legal department could assist with?)

(2) Factors to be considered for exceptions. In determining whether to grant a requested exception after the recipient has satisfactorily met the requirements of paragraph (d)(1) of this section, HUD shall conclude that such an exception will serve to further the purposes of the Act and the effective and efficient administration of the recipient's program or project, taking into account the cumulative effect of the following factors, as applicable:

(i) Whether the exception would provide a significant cost benefit or an essential degree of expertise to the program or project that would otherwise not be available; (this likely doesn't apply)

(ii) Whether an opportunity was provided for open competitive bidding or negotiation; (applications to the program would be available to all, would ensure that members apply with everyone else)

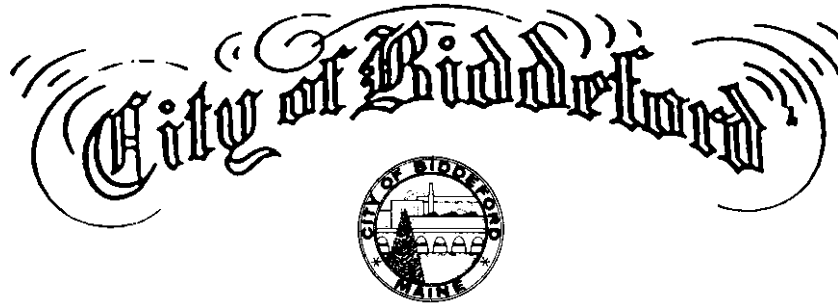
(iii) Whether the person affected is a member of a group or class of low- or moderate-income persons intended to be the beneficiaries of the assisted activity, and the exception will permit such person to receive generally the same interests or benefits as are being made available or provided to the group or class; (this is our best support, particularly because our Citizens Participation Plan explicitly says we should involve LMI people on the CAC)

(iv) Whether the affected person has withdrawn from his or her functions or responsibilities, or the decisionmaking process with respect to the specific assisted activity in question; (recusal from voting on their own application)

(v) Whether the interest or benefit was present before the affected person was in a position as described in paragraph (b) of this section; (I'm not sure what the preference is here)

(vi) Whether undue hardship will result either to the recipient or the person affected when weighed against the public interest served by avoiding the prohibited conflict; and (likely doesn't apply)

(vii) Any other relevant considerations. (again, the most relevant consideration is that our CPP wants us to have LMI people involved and we want to have a clear process for potential members to go through if they want to apply to the program, though we will also make clear that approval is not guaranteed)



2020.84

IN BOARD OF CITY COUNCIL..OCTOBER 6, 2020

BE IT ORDAINED, by the City Council of the City of Biddeford that the Code of Ordinances, **Chapter 2, Administration, Article IV BOARDS, COMMITTEES, COMMISSIONS, DIVISION 12 POLICE ADVISORY COMMITTEE Sections 2-230 et seq.** be amended by adding or deleting to read as follows:

Sec. 2-320Establishment.

There is hereby created and established the Biddeford Police Advisory Committee, herein after BPAC, comprised of five members and a member of the Biddeford Police Department to serve as an ex officio member. All members shall be citizens and reside within the corporate limits of the City of Biddeford, with the exception of the ex officio member who may reside outside of the City. In appointing members to the BPAC, the Mayor and City Council shall seek to appoint members from a cross section of all citizens, taking into consideration the person's expertise, background and other relevant experiences. The BPAC is established under the authority of the Biddeford City Council and shall serve under the directive of the City Council.

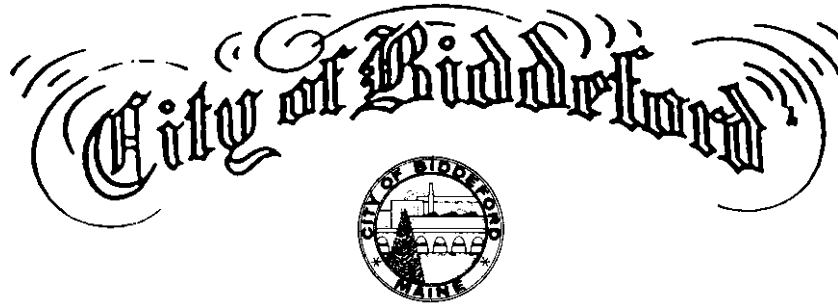
Sec. 2-321Purpose; responsibilities.

(a) The purpose of the Committee is to provide an organized forum for two-way communication between the Biddeford Police Department and the community.

(b) Responsibilities shall include:

(1) ~~Where~~ When appropriate, make recommendations to the City Council and Police Department on ~~substantive issues~~ matters, with a goal of ~~improved~~ enhancing police-community relations services. ~~For the purpose of this article, "substantive" issues are defined as matters of major or practical importance to all concerned. It~~ These recommendations shall not include personnel ~~matters~~ issues involving individual members or officers of the Police Department, or matters that deal with ~~daily~~ police operational enforcement and implementation strategies.

(2) Assist in identifying potential Police Department community partnerships ~~to that~~ focus or address public safety ~~related issues~~ matters within the community.



(3) Identify community resources and support for public safety activities ~~(such as parking and traffic); and give input to the City Council and the Police Department regarding perceived effectiveness.~~

(4) Receive information and comments from citizens at the Committee's open and public meeting forum regarding public safety issues.

(5) Make reports to the ~~City Council~~ Police Chief at such times as may be requested by the ~~City Council~~ Police Chief or as the BPAC determines is necessary. Make reports to the City Council at such times as may be requested by the City Council.

Sec. 2-322Membership.

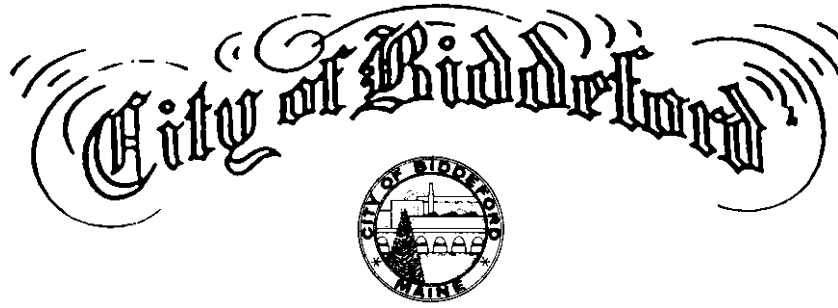
Members shall be appointed by the Mayor and confirmed by a majority of the City Council for staggered three-year terms. All subsequent appointments, except to fill a vacancy, shall be for three-year terms. A vacancy is created upon the death or written resignation to the BPAC Chair, or upon the vote of the City Council to remove a member. Members of the Committee shall serve without pay and at the discretion of the City Council. The Biddeford Police Chief, or his designee, shall serve as the administrator, advisor and ex officio member, and shall provide assistance to the BPAC.

Sec. 2-323Organization of Committee.

(a) The Mayor shall appoint a Chair and a Vice Chair. The Chair shall serve a two-year term. A quorum shall consist of three members. The Chair shall be counted in determining a quorum and shall have one vote.

(b) The Vice Chair shall serve a two-year term. The Vice Chair shall serve as Chair upon the death or resignation of the Chair, or upon the office of the Chair becoming vacant. The Vice Chair shall discharge the powers of the office of the Chair at any meeting at which the Chair is absent. The Vice Chair shall be counted in determining a quorum and shall have one vote.

(c) The ex officio member of the BPAC is a nonvoting member and shall serve in an advisory capacity.



(d) The duties of a secretary responsible for recording meeting minutes shall be rotated sequentially among the Committee's membership for each meeting. The Chair shall be excluded from this responsibility. A roster for secretarial duties shall be established by the Committee.

(e) A quorum consisting of three members shall be necessary to take any BPAC action authorized or required by this article. An issue shall carry by a majority of those voting.

(f) Notice of any expired terms and/or vacancies shall be given to the public. The Mayor shall nominate and the City Council shall confirm all appointments to fill expired terms and/or vacancies. The City Council may remove any member for misconduct or nonperformance of duty.

(g) The BPAC may adopt and amend from time to time rules to govern the conduct of its administrative business, consistent with the provisions of this division.

Sec. 2-324 Meetings.

(a) Meetings of the Biddeford Police Advisory Committee shall be at the call of the Chair, and established by the BPAC. Meetings shall be held at the Biddeford City Hall or at a suitable municipal public location. Prior notice of any change in meeting date, time or place shall be provided to all members, the public, and the administrative staff 48 hours in advance of said meeting.

(b) All regularly scheduled and special meetings shall have an agenda approved by the Chair.

NOTE: The Policy Committee considered this item and voted unanimously to recommend passage by the City Council.

October 6, 2020

Motion by Councilor Clearwater, seconded by Councilor Belanger to grant the first reading of the ordinance amendment.

Motion by Councilor McCurry, seconded by Councilor Lessard to table this item and send back to the Policy Committee for further review and to allow for public input.

Vote: Unanimous.