

**COUNCIL MEETING
NOVEMBER 8, 2018**

Mayor Casavant called the meeting to order at 6:00 p.m.

Roll Call: Michael Swanton, John McCurry, Jr., Stephen St. Cyr, Robert Quattrone, Jr., Amy Clearwater, Michael Ready, Laura Seaver, Marc Lessard (arrived at 6:05 p.m.)

Norman Belanger was excused.

The Council, and all who were present, recited the Pledge of Allegiance.

Adjustments to the Agenda:

- Add Order 2018.129) Approval/Year 5 – 2017 Consolidated Annual Performance and Evaluation Report (CAPER)
- Add Order 2018.130) Authorization/Enactment of Moratorium on Medical Marijuana Caregiver, Retail Stores, Testing Facilities and Manufacturing/Growing Facilities

Beano/Bingo Application: **St. Louis Alumni Association**

Motion by Councilor Ready, seconded by Councilor McCurry to recommend the issuance of the Beano/Bingo License to St. Louis Alumni Association.

Vote: Unanimous.

Proclamation: **Small Business Saturday**

Mayor Casavant read the Proclamation and declared Saturday, November 24, 2018 as Small Business Saturday in Biddeford.

Presentation: **FY20 Capital Improvement Projects**

A Council Workshop has been scheduled for Tuesday, November 13th for a formal presentation of the FY20 Capital Improvement Projects. The FY20 CIP binders were distributed to the Council.

Consideration of Minutes: **October 16, 2018**

Motion by Councilor Ready, seconded by Councilor Swanton to accept the minutes as printed.

Vote: Unanimous.

Second Reading:

{For a copy of the ordinance amendment and first reading, see the Council Meeting minutes of October 16, 2018}

2018.123) Amendment/Land Development Regulations/Art. V-Establishment of Zones, Table B-Dimensional Requirements/Utility Setbacks in Industrial Zone

Motion by Councilor McCurry, seconded by Councilor Ready to grant the second reading of the ordinance amendment.

Vote: Unanimous.

Orders of the Day:

2018.126 **IN BOARD OF CITY COUNCIL...NOVEMBER 8, 2018**

BE IT ORDERED, that the City Council of the City of Biddeford does hereby authorize the waiver of all building, electrical and plumbing permits fees for the Center of Technology House Building Project.

Motion by Councilor McCurry, seconded by Councilor Ready to grant the order.

Vote: Unanimous.

2018.127 **IN BOARD OF CITY COUNCIL...NOVEMBER 8, 2018**

BE IT ORDERED, that the City Council of the City of Biddeford does hereby set a date, time and location for a **Community Meeting** to be scheduled to have public discussion of the City's Parking Management Plan.

Motion by Councilor Ready, seconded by Councilor McCurry to grant the order.

Motion by Councilor McCurry, seconded by Councilor Clearwater to schedule a Public/Community Meeting on Monday, November 19, 2018 at 6:00pm at the Little Theater at Biddeford High School.
Vote: Unanimous.

2018.128 IN BOARD OF CITY COUNCIL..NOVEMBER 8, 2018

BE IT ORDERED, that the City Council does hereby approve the following budget amendments:

➤ General Fund

- Decrease revenue 24113-40316 – Parking Fines Revenue by \$28,469
- Decrease Expense 21146-60105 – FT Employee Wages by \$27,648
- Decrease Expense 21179-60201 – FICA taxes by \$ 2,115
- Decrease Expense 21179-60217 – RHS by \$ 520
- Decrease Expense 21179-60211 – Health Insurance by \$10,483
- Decrease Expense 21179-60202 – MEPEERS by \$ 2,765
- Decrease Expense 21162-60507 – Parking Lot Signs by \$ 1,375
- Decrease Expense 21162-60462 – Lot Painting by \$ 3,080
- Decrease Expense 21162-60105 – Labor/Mowing/Sweeping by \$ 3,410
- Decrease Expense 21162-60111 – Labor/Winter Maint./OT by \$15,100
- Decrease Expense 21162-60313 – Contract Svcs (Snow) \$ 2,500

Revenue Total: -\$28,469

Expense Total: -\$68,996

➤ Parking Fund

- Increase revenue 31235-40316 – Parking Fines Revenue by \$28,470
- Increase revenue 31235-TBD – Permit Revenue by \$49,380
- Increase revenue 31235-40639 – Parking Lot Rentals \$38,400
- Increase Expense 31235-60105 – FT Employee Wages by \$43,105
- Increase Expense 31235-60201 – FICA taxes by \$ 3,300
- Increase Expense 31235-60217 – RHS by \$ 520
- Increase Expense 31235-60211 – Health Insurance by \$10,485
- Increase Expense 31235-60202 – MEPEERS by \$ 2,765
- Increase Expense 31235-60310 - Contract Svcs (Snow) \$ 2,500
- Increase Expense 31235-60454 – Ground Improvement by \$28,465
- Increase Expense 31235-TBD – Sinking Fund \$ 5,800

▪ Total Increase in revenue \$116,250

▪ Total Increase in expense \$ 96,940

This amendment is to move the parking enforcement officer to the Parking Fund starting November 1, 2018 and budgeting for one part-time enforcement officer. The movement of the Parking Fines starting November 1 to the Parking Fund. The Lofts current rental amount for the parking lot has been posted to the Parking Fund. The anticipated revenue now appears as a budget item. The new accounts for Permit Revenue (long-term and hourly) are created in accordance with recent order 2018.97 - Adoption of Fees for Municipal Parking Lots.

Motion by Councilor Ready, seconded by Councilor McCurry to grant the order.

Vote: Unanimous

2018.129 IN BOARD OF CITY COUNCIL..NOVEMBER 8, 2018

BE IT ORDERED, that the City Council of the City of Biddeford does hereby approve and recommend the submittal of the Year 5 – 2017 Consolidated Annual Performance and Evaluation Report (CAPER) to the U.S. Department of Housing and Urban Development.

Motion by Councilor McCurry, seconded by Councilor Swanton to grant the order.

Motion by Councilor McCurry, seconded by Councilor Seaver to allow Councilor Ready to abstain from voting due to his active role with one of the agencies who receives CDBG funds.

Vote: Unanimous.

Vote on Order: Unanimous.

MORATORIUM ORDINANCE ON MEDICAL MARIJUNA CAREGIVER RETAIL STORES, TESTING FACILITIES, AND MANUFACTURING/GROWING FACILITIES

WHEREAS, the Maine Medical Use of Marijuana Act (the "Act"), codified in the Maine Revised Statutes in Title 22, Chapter 558-C, authorizes registered caregivers to possess, cultivate, and transfer medical marijuana to qualifying patients, as those terms are defined by 22 M.R.S. §2422; and

WHEREAS, on July 9, 2018 the Maine Legislature enacted as emergency legislation PL 2017, c. 447 (LD 239), An Act to Amend the Maine Medical Marijuana Law, which expressly recognizes municipal home rule authority to regulate registered caregiver operations; and

WHEREAS, on July 9, 2018, the Maine Legislature also enacted PL 2017, c. 452 (LD 1539), An Act to Amend Maine's Medical Marijuana Law ("LD 1539"); and

WHEREAS, LD 1539 includes express authorization for registered caregivers to 1) operate retail stores for the sale of harvested medical marijuana to qualifying patients, 2) conduct marijuana testing for research and development purposes, and 3) manufacture/grow marijuana products and marijuana concentrates for distribution to patients; and

WHEREAS, the unregulated location and operation of medical marijuana retail stores, testing facilities, and manufacturing/growing facilities within the City of Biddeford (the "City") raises legitimate and substantial questions about the impact of such activities on the City, including questions as to compatibility with existing land uses and developments in the City; the sufficiency of municipal infrastructure to accommodate such activity; and the possibility of unlawful sale of medical marijuana and medical marijuana products; and

WHEREAS, as a result of the foregoing issues, the location and operation of medical marijuana retail stores, testing facilities, and manufacturing/growing facilities within the City have potentially serious implications for the health, safety and welfare of the City and its residents; and

WHEREAS, existing ordinances are insufficient to prevent serious public harm that could result from the unregulated development of medical marijuana retail stores, testing facilities, and manufacturing/growing facilities; and

WHEREAS, the City needs time to understand the impact of the amendments to the Act on the City's existing rules and ordinances regarding, among other things, zoning, land use, and fire and life safety requirements; and

WHEREAS, in the judgment of the Biddeford City Council, the foregoing findings and conclusions constitute an emergency within the meaning of 30-A M.R.S. §4356 requiring immediate legislative action; and

WHEREAS, a temporary prohibition on medical marijuana retail stores, testing facilities, and manufacturing/growing facilities is therefore appropriate in order to determine what regulations, if any, are necessary within the City as a result of the amendments to the Act:

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Biddeford, that the following emergency moratorium on medical marijuana caregiver retail stores, testing facilities, and manufacturing/growing facilities be, and hereby is, enacted, and, this Moratorium Ordinance shall take effect, once enacted by the City Council, in accordance with the provisions of the City Charter and Code of Ordinances (the "implementation date"). The moratorium shall remain in effect for one hundred and eighty (180) days from the date of the implementation of this Ordinance, unless extended, repealed, or modified by the City Council, for the express purpose of drafting an amendment or amendments to the City's current Code of Ordinances to protect the public from health and safety risks including, but not limited to, compatibility of medical marijuana caregiver retail stores, testing facilities, and manufacturing/growing facilities with existing and permitted uses in residential, commercial and industrial zoning districts; the correlation of medical marijuana caregiver retail stores, testing facilities, and manufacturing/growing facilities are defined as follows:

Marijuana extraction means the process of extracting marijuana concentrate from harvested marijuana using water, lipids, gases, solvents or other chemicals or chemical processes.

Manufacturing/growing means the production, drying, blending, infusing, compounding or other preparation of marijuana and marijuana products, including the preparation of food, drink, or similar products from marijuana or marijuana products. Manufacturing includes, but is not limited to, marijuana extraction or preparation by means of chemical synthesis.

Medical marijuana manufacturing/growing facility means a facility used for cultivating, processing, and/or storing medical marijuana by one or more medical marijuana caregiver(s) at a location that is not the medical marijuana caregiver's primary year-round residence or his or her patient's primary year-round residence.

Medical marijuana retail store means an establishment having the attributes of a typical retail establishment, such as, but not limited to, signage, regular business hours, accessibility to the public, regular sales to more than five individual qualifying patients in any one week, and sales directly to the consumer of the product. This includes, but is not limited to, an establishment meeting the definition of a retail establishment in Part III (Land Development Regulations), Article II (Definitions) that is used by a registered caregiver to offer harvested medical marijuana or marijuana products for sale to qualifying patients.

Medical marijuana testing facility means an establishment that tests marijuana produced by a registered caregiver. Medical marijuana testing facility does not include a single registered caregiver who solely tests the marijuana legally grown by that care giver for distribution to that caregiver's own patients.

BE IT FURTHER ORDAINED, that notwithstanding the provisions of 1 M.R.S. § 302 or any other law to the contrary, this Ordinance, when enacted, shall govern any proposed medical marijuana caregiver retail stores, testing facilities, and manufacturing/growing facilities for which an application for a building permit, Certificate of Occupancy, site plan or any other required approval has not been submitted to and granted final approval by the Code Enforcement Officer, Planning Board or other City official or board prior to the implementation date of this Ordinance; and

BE IT FURTHER ORDAINED, that no person or organization shall develop or operate medical marijuana caregiver retail stores, testing facilities, and manufacturing/growing facilities within the City on or after the implementation date of this Ordinance without complying with whatever ordinance amendment or amendments the City Council may enact as a result of this Moratorium Ordinance; and

BE IT FURTHER ORDAINED, that during the time this Moratorium Ordinance is in effect, no officer, official, employee, office, administrative board or agency of the City shall accept, process, approve, deny, or in any other way act upon any application for a license, building permit or any other type of land use approval or permit and/or any other permits or licenses related to medical marijuana caregiver retail stores, testing facilities, and manufacturing/growing facilities; and

BE IT FURTHER ORDAINED, that those provisions of the City's current Code of Ordinances that are inconsistent or conflicting with the provisions of this Ordinance, are hereby repealed to the extent that they are applicable for the duration of the moratorium hereby ordained, and as it may be extended as permitted by law, but not otherwise; and

BE IT FURTHER ORDAINED, that if medical marijuana caregiver retail stores, testing facilities, and manufacturing/growing facilities are established in violation of this Ordinance, each day of any continuing violation shall constitute a separate violation of this Ordinance, and the City shall be entitled to all rights available to it in law and equity, including, but not limited to, fines and penalties, injunctive relief, and its reasonable attorney's fees and costs in prosecuting any such violations; and

BE IT FURTHER ORDAINED, that should any section or provision of this Ordinance be declared by any court of competent jurisdiction to be invalid, such a declaration shall not invalidate any other section or provision.

BE IT FURTHER ORDERED, that this moratorium is hereby enacted as an emergency, pursuant to Article III, Section 8 of the City of Biddeford City charter, to make it effective November 5, 2018 in order to protect the public safety and welfare of the City of Biddeford.

Motion by Councilor Ready, seconded by Councilor McCurry to grant the first reading of the moratorium.

Vote: 7/1; Councilor Quattrone opposed.

Councilors Swanton, McCurry, St. Cyr, Clearwater, Ready, Seaver and Lessard in favor.

Motion carries.

Motion by Councilor McCurry, seconded by Councilor Lessard to suspend the rules to waive the second reading and allow for passage of the moratorium as an emergency.

Vote: 7/1; Councilor Quattrone opposed.

Councilors Swanton, McCurry, St. Cyr, Clearwater, Ready, Seaver and Lessard in favor.

Motion carries.

Motion by Councilor McCurry, seconded by Councilor Lessard to pass the order as an emergency moratorium, “to protect the public safety and welfare of the City of Biddeford.”

Vote: 7/1; Councilor Quattrone opposed.

Councilors Swanton, McCurry, St. Cyr, Clearwater, Ready, Seaver and Lessard in favor.

Motion carries.

Appointments:

IN BOARD OF CITY COUNCIL...NOVEMBER 8, 2018

ORDERED, that I, Alan M. Casavant, Mayor of the City of Biddeford, do hereby appoint:

**Amy Clearwater
136 Alfred Street**

to the Tri City Transit, (replacing Victoria Foley), for a term to expire in December 2019.

Motion by Councilor Ready, seconded by Councilor Quattrone to confirm the appointment.

Vote: Unanimous.

IN BOARD OF CITY COUNCIL...NOVEMBER 8, 2018

ORDERED, that I, Alan M. Casavant, Mayor of the City of Biddeford, do hereby appoint:

**Amy Clearwater
136 Alfred Street**

to the *Downtown Committee* as the Downtown Development Commission representative.

Motion by Councilor Ready, seconded by Councilor McCurry to confirm the appointment.

Vote: Unanimous.

IN BOARD OF CITY COUNCIL...NOVEMBER 8, 2018

ORDERED, that I, Alan M. Casavant, Mayor of the City of Biddeford, do hereby appoint:

**Leonhard Brenner
36 Old Pool Road
Ward 1**

to the *Downtown Development Commission*, for a term to expire in December 2021.

Motion by Councilor McCurry, seconded by Councilor Clearwater to confirm the appointment.

Vote: Unanimous.

IN BOARD OF CITY COUNCIL...NOVEMBER 8, 2018

ORDERED, that I, Alan M. Casavant, Mayor of the City of Biddeford, do hereby re-appoint:

Don Furman
20 Elizabeth Road
Voting Member

Sean Tarpey
110 Cleaves Street
Alternate Member

to the Saco River Corridor Commission for a term to expire in December 2021.

Motion by Councilor Clearwater, seconded by Councilor McCurry to confirm the appointment of Don Furman to the Saco River Corridor Commission.

Vote: Unanimous.

Motion by Councilor Ready, seconded by Councilor Swanton to confirm the appointment of Sean Tarpey to the Saco River Corridor Commission.

Vote: Unanimous.

Public Addressing the Council...(5 minute limit per speaker;30 minute total time limit)

Many downtown business owners and others addressed their concerns about the newly enacted downtown parking management plan.

Motion by Councilor Seaver, seconded by Councilor Quattrone to suspend the rules and extend the 30 minute total time limit.

Vote: Unanimous.

City Manager Report:

City Manager, James Bennett updated the Council on a recent Volkswagen settlement.

Other Business:

Councilor McCurry: explained that the City Council sets the Rules of the Council and the Mayor enforces them. The rules are set to keep decorum. He noted that the following meetings are scheduled for discussions on the parking management plan:

- **Downtown Committee** meeting next Thursday, November 15th at 5:30pm in the Council Chambers
- **Public Meeting** Monday, November 19th at 6:00pm at the Little Theater at Biddeford High School. This meeting should be set up for the Council to have back and forth discussion with the public.

He went on to say that while he is not in favor of a parking garage, he is in favor of the kiosks and paid parking in the City-owned parking lots. He further explained that the maintenance of the lots has always been on the backs of the taxpayers – some of whom do not even use the parking lots. To him, it seems only fair that those who do use the parking lots should be responsible for paying for the maintenance.

He is not happy with the recent change by Spectrum, having to switch to a new cable box and having to deal with changes in channels and service. With the amount of franchise fees that the City pays, he feels these changes are troublesome.

Councilor Lessard – assured those who spoke during *Public Addressing the Council* that the Council does hear them and take their comments very seriously. He noted that the Council tries to make the best decisions for the whole City and hopefully for the betterment of the majority of citizens.

He would like the City to do something about getting another exit on the Maine Turnpike. He feels that traffic is consistently getting heavier and will only get worse. He suggested talking with our State Representatives to see what they can do to get this under consideration.

He would like Recycling Facility to be open 7-days a week from Memorial Day to Thanksgiving, which he feels would be worth the additional costs to provide that service to our citizens.

Councilor Clearwater – also assured those who spoke that she is listening and hearing their comments and would like to continue speaking with anyone who would like to communicate their concerns. She did offer assurances that the Council is working very hard and does care deeply about the downtown businesses and their challenges.

Councilor Swanton – announced that Spectrum moved the free cable access channel to Channel 1301. He noted that City meetings can also be accessed and streamed on the City’s website – www.biddefordmaine.org. .

Council President Addressing the Council: Councilor McCurry thanked all who came out tonight and voiced their concerns. He is looking forward to a more in-depth discussion on November 19th.

He thanked all the voters who came out and voted on Tuesday; as well as to the Staff who did a great job putting on and working the election.

He noted that there was a great turnout at the meeting last week regarding the intersection of Water/Main/Hill Streets. The hope is to get the timing of the project moved up.

Finally, he asked the Council, all who were present, to observe a moment of silence for Councilor Belanger’s Mother-in-Law and former City Councilor Ronald Peaker, both of whom recently passed away.

Mayor Addressing the Council – Mayor Casavant explained that the Council is trying to work to find a balance in dealing with parking issues for business owners, downtown business workers, downtown business patrons and folks who live in the downtown. The average age in Biddeford has changed drastically, with it now being 35 years old; meaning the assumption we are an aging community is no longer the case. How the City approaches budgets, parking issues and everything else we do, now has to change and be adjusted. He admitted that the City may have fallen short on communication with the parking management plan, but the public hasn’t been totally involved and addressing their concerns to the Council. He looks forward to a more open discussion and hearing more feedback from the public at the November 19th Public Meeting.

Motion by Councilor McCurry, seconded by Councilor Lessard to adjourn.

Vote: Unanimous.

Time: 7:25 p.m.

Attest by: _____
Carmen J. Morris, City Clerk