

**SPECIAL COUNCIL MEETING
OCTOBER 5, 2021**

Mayor Casavant called the meeting to order at 5:00 p.m.

Roll Call: William Emhiser, John McCurry, Jr., Stephen St. Cyr, Ashanti Williams, Amy Clearwater, Norman Belanger, Michael Ready, Marc Lessard

Doris Ortiz was excused.

Executive Session:

- **1 MRSA 405(6)(D)...Labor Contract Negotiations**
- **1 MRSA 405(6)(A)...Personnel Matter**

Motion by Councilor McCurry, seconded by Councilor Ready to move into Executive Session.
Vote: Unanimous. Time: 5:00 p.m.

Motion by Councilor McCurry, seconded by Councilor Clearwater to move out of Executive Session.
Vote: Unanimous. Time: 6:11 p.m.

Motion by Councilor McCurry, seconded by Councilor Clearwater to adjourn.
Vote: Unanimous. Time: 6:11 p.m.

**COUNCIL MEETING
OCTOBER 5, 2021**

NOTE: Due to COVID-19, this meeting was held in-person in the Council Chambers, as well as virtually (via ZOOM),

Mayor Casavant called the meeting to order at 6:18 p.m.

Roll Call: William Emhiser, John McCurry, Jr., Stephen St. Cyr, Ashanti Williams, Amy Clearwater, Norman Belanger, Michael Ready, Marc Lessard

Doris Ortiz was excused.

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

There were no adjustments to the agenda.

Presentation: GIS Update

GIS System Manager Greg Copeland gave a presentation on the different features of the City's GIS System – from various mapping programs to the ability for citizens to see who their Councilors are and even view a Sample Ballot, when available.

Consideration of Minutes: **September 21, 2021**

Motion by Councilor McCurry, seconded by Councilor Clearwater to accept the minutes as printed.
Vote: Unanimous.

Orders of the Day:

2021.99 **IN BOARD OF CITY COUNCIL...OCTOBER 5, 2021**
BE IT ORDAINED, by the City Council of the City of Biddeford that the Code of Ordinances, Chapter 42, Motor Vehicles and Traffic, Article IV Specific Street Regulations, **Section 42-90 No Parking**, be amended by adding or deleting to read as follows:

Main Street, even-numbered side, beginning at a point of the perpendicular sight line with the northeast corner of the intersection with Foss Street, thence westerly to Laconia Street, No Parking.

NOTE: The Policy Committee considered this ordinance amendment at their September 27, 2021 meeting and voted unanimously to recommend passage by the Council.

Motion by Councilor McCurry, seconded by Councilor Lessard to grant the first reading of the ordinance amendment.
Vote: Unanimous.

Motion by Councilor McCurry, seconded by Councilor Lessard to suspend the rules to consider this as an emergency ordinance and allow for an immediate second reading and effective date due to safety issues.
Vote: Unanimous.

Motion by Councilor McCurry, seconded by Councilor Lessard to grant the second reading of the ordinance amendment.
Vote: Unanimous.

2021.100 **IN BOARD OF CITY COUNCIL..OCTOBER 5, 2021**
BE IT ORDERED, that the City Council of the City of Biddeford does hereby ~~advise~~ **request** the Planning Board ~~of its endorsement of~~ **review** the concept of a new Contract Zone for BVH Biddeford, LLC, as outlined in the letter from Barrett Made Architecture + Construction dated September 24, 2021, to allow “public and private schools” at 420 Alfred Street (5 Points Shopping Center) and per Biddeford Code of Ordinances, Part III (Land Development Regulations), Article V (Establishment of Zones), Section 9.F.2, the City Council advises the applicant to continue with the Contract Zoning process.

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

Motion by Councilor Belanger, seconded by Councilor Lessard to amend the order by changing the word “advise” to **request**; and by changing the words “of its endorsement of” to **review**.
Vote: Unanimous.

Vote on order, as amended: 7/1; Councilor McCurry opposed.
Councilors Emhiser, St. Cyr, Williams, Clearwater, Belanger, Ready and Lessard in favor.
Motion carries.

2021.101 **IN BOARD OF CITY COUNCIL..OCTOBER 5, 2021**
BE IT ORDAINED by the City Council of Biddeford, Maine to amend the Code of Ordinances of the City of Biddeford as follows:

Part III (Land Development Regulations) Article XIII (Amendments), § 3 (Contract and Conditional Zoning) is amended as follows:

Contract Zone #20 Southern Maine Affordable Housing/Adams Point (Tax Map 38, Lot 296).

BE IT FURTHER ORDAINED by the City Council of Biddeford, Maine that Contract Zone #20, as recommended by the Planning Board on September 29, 2021, be adopted, and that said Contract Zone be considered an amendment to the Zoning Ordinance and the Official Zoning Map of the City of Biddeford,

BE IT ORDERED that the City Manager be authorized to sign and execute an Agreement between the City of Biddeford and Southern Maine Affordable Housing to establish said Contract Zone #20.

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

Motion by Councilor Lessard, seconded by Councilor McCurry to amend language in the *Findings of Facts and Recommendations of the Planning Board* to change from .75 parking spaces to one parking space per unit.
Vote: 1/7; Councilor Lessard in favor.
Councilors Emhiser, McCurry, St. Cyr, Williams, Clearwater, Belanger and Ready opposed.
Amendment fails.

Vote on ordinance amendment: Unanimous.

BE IT ORDAINED by the City Council of Biddeford, Maine to amend the Code of Ordinances of the City of Biddeford as follows:

Sec. 22-17 Purpose.

The purpose of Sections 22-17 through 22-21.2 is to regulate mobile food vending on property owned or under the control of the City of Biddeford and mobile food vending on private property in order to create a desirable situation where mobile food apparatuses may conduct business.

Sec. 22-18 Definitions.

As used in this chapter, unless the context otherwise indicates, the following terms shall have the following meanings.

EDIBLE GOODS

May include, but are not limited to:

- (1) Prepackaged food, including, but not limited to, candy, beverages, chips, popsicles and ice cream.
- (2) Prepared food, including, but not limited to, hot dogs, desserts, sandwiches and pizza.
- (3) On-site prepared food, including, but not limited to, shaved ice, sandwiches and tacos.

MOBILE FOOD VENDOR

Any business which sells edible goods from a nonstationary location within the City. The terms shall include, but not be limited to:

- (1) **MOBILE FOOD TRUCK**— A self-contained motorized unit selling items defined as "edible goods."
- (2) **CONCESSION TRAILER**— A vending unit which is pulled by a motorized unit and has no power to move on its own.

MOBILE FOOD VENDOR COURT

A collection of mobile food vendors in a common outdoor plaza or site providing a common area for self-serve dining. Mobile Food Vendor Courts are also subject to Article 56 (Restaurants) of the Zoning Ordinance and Planning Board Site Plan Review.

NONREFRIGERATED

Edible goods that are not required to be kept at a temperature below 41° F.

Sec. 22-19 Application and permit.

- (a) **Permit.** Every mobile food vendor shall have a permit issued by the City to conduct business in the City.
- (b) **Application.** Every mobile food vendor shall apply for a permit on a form promulgated by the City. Each vending unit requires a separate permit. Applications for permits meeting the requirements for mobile vendors shall be processed within 10 business days.
- (c) **Mobile food vendor application form.** A complete application shall require the following information from the applicant to be considered:
 - (1) Name of applicant, as well as physical street address, mailing address, telephone number(s), and e-mail address.
 - (2) Legal name of business or entity.
 - (3) Signed permission form, or provide notarized affidavit from the private property owner granting permission for unit placement.
 - (4) Name, phone number and driver's license number of business owner and all employees operating within the mobile food vendor unit.
 - (5) Proposed itinerary with route, vending locations and times.
 - (6) Contact name and phone number for mobile food vending unit while in route.
 - (7) Description of product being sold.
 - (8) Site plan where the mobile food vending unit will be located on the property.
 - (9) Valid and current vehicle/trailer registration of mobile food unit.

Sec. 22-20 Permit regulations.

- (a) The application fee for a mobile food vendor permit shall be \$200. Each mobile food vendor unit shall be permitted separately.
- (b) Mobile food vendor permits shall expire on December 31 of each year.
- (c) Mobile food vendors shall provide, at their expense, and keep in force during the term of their contract, with a responsible insurance company or companies authorized to do business in the state, commercial general liability insurance in the amount of at least \$1,000,000. The mobile food vendor shall deliver certificates of such insurance to the City at the time of application.
- (d) Mobile food vendors shall provide proof of a State of Maine health certificate at the time of application.

- (e) Upon renewal the applicant shall pay the renewal fee of \$200 and update any changes in the permitting documentation upon permit renewal. The applicant must submit the application and the renewal fee within 30 days before expiration of the permit or must reapply as a new applicant.
- (f) The City Manager is authorized to make reasonable rules and regulations, not inconsistent with this section, governing the design, construction and location of pushcarts or food trucks.
- (g) Display of permit. Every permit, including those from the City, shall be displayed at all times in a conspicuous place where they can be read by the general public on the mobile food vendor's truck or concession trailer.

Sec. 22-21.1 Prohibited conduct.

- (a) Distance regulations:
 - (1) No mobile food vendor shall conduct business within any single-family residential or agricultural zoning district unless otherwise approved in writing by the Code Enforcement Officer.
 - (2) A mobile food vendor ~~r~~ may not be located within 100 feet of the primary entrance of an open and operating fixed-location food service or eating establishment; or within 40 feet from another mobile food vendor- except in the following:
 - During City sponsored or other community events; or
 - Within a mobile food vendor court consistent with the Article VI (Performance Standards), Section 56 (Restaurants) of the Zoning Ordinance.
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 - ~~(3) — A mobile food vendor shall not be located within 40 feet from another mobile food vendor except during City-sponsored or other community events.~~
- (b) A mobile food vendor, except when located in a mobile food vendor court, shall not conduct sales at a stationary location:
 - (1) For a duration exceeding 60 minutes on any public street or public streets adjacent to public parks and recreational facilities, next to fire lanes and no-parking designated areas. Mobile vendors parking on public streets may not move to a new location without prior approval from the City.
 - (2) In congested areas where the operation impedes vehicular or pedestrian traffic.
 - (3) Between the hours of 1:00 a.m. and 6:00 a.m.
- (c) Offenses and regulations.
 - (1) It shall be unlawful for any individual as the agent or employee of another regulated under this section to sell edible goods in the City unless its principal or employer has received a permit under this section.
 - (2) A permit issued under this section is not transferable.
 - (3) It shall be unlawful for an individual to sell edible goods while displaying a valid permit issued by the City in the name of another individual, organization, or entity.
 - (4) It shall be unlawful for any individual, directly or through an agent or employee, to sell goods within the corporate limits of the City after the expiration of the permit issued by the City under this section.
 - (5) It shall be unlawful for an individual, directly or through an agent or employee, to misrepresent on the permit affidavit any acts that are regulated under this section.
 - (6) It shall be unlawful for any individual, directly or through his agents or employees, to represent that the issuance of a permit by the City constitutes the City's endorsement or approval of the product for sale.

Sec. 22-21.2 Mobile food vendor requirements.

The following regulations shall apply to mobile food vendors:

- (1) Each unit shall be equipped with a portable trash receptacle and shall be responsible for proper disposal of solid waste and wastewater in the sanitation facility legally accessed by the food service establishment. All disturbed areas must be cleaned following each stop to a minimum 20 feet of the sales location.
- (2) Mobile food vendors may not have a drive-through.
- (3) Continuous music or repetitive sounds shall not project from the mobile unit.
- (4) A five-foot clear space shall be maintained around the mobile food vending unit.
- (5) All mobile units shall have a gray water holding tank.

(6) The mobile unit will be subject to inspection upon permit application through the Code Enforcement Department, the Health Department and the Fire Department, and may be subject to random inspection and upon reissuance of the permit.

(7) No sales are allowed within public park facilities while park concession units are operating. Mobile units operating in public parks and on streets adjacent to public parks or recreational facilities require approval by the City's Recreation Director.

Land Development Regulations, Article VI, Section 56 Restaurants.

1. a. The following provisions address restaurants, whether year-round or seasonal, seat down or takeout, building or mobile. Subsections A through E refer to nonmobile food service operations.
- b. For the purposes of this section, the term “restaurants” shall be divided into ~~three~~four categories:
 - (1) Establishments in permanent buildings;
 - (2) Establishments in mobile units, either towed or self-propelled, preparing and serving food products on a particular site; and
 - (3) Establishments in mobile units, either towed or self-propelled, serving prepared food products, and travelling to selected locations on a daily basis, and remaining on-site for limited time periods, i.e., during lunch breaks, etc. Such units are often referred to as catering services or food services.
 - (4) Establishments in mobile food units located in mobile food vendor courts and permitted in the MSRD1 and MSRD-3 Districts.

A. The application for a permit shall state the maximum seating capacity of the restaurant. Any expansion or enlargement over the stated capacity shall require a new permit, and shall comply with setbacks, square footage, and all other requirements of this ordinance.

B. Any restaurant located within 500 feet of an existing public sewer line shall connect with the sewer system at the expense of the owners. When subsurface sewage disposal is proposed, completed soil evaluation forms (HHE-200) shall be submitted. All proposed subsurface disposal systems shall meet the requirements of the Maine State Plumbing Code.

C. All parking and loading facilities shall be located to side or rear of the building, and shall be screened from abutting residential lots. Screening shall be comprised of a continuous landscaped area not less than eight feet in width, containing evergreen shrubs, trees, fences, walls, berms, or any combination, forming a visual barrier not less than six feet in height. In the Rural Farm Zone, the parking and loading facilities shall also be screened from all public roadways.

D. (Reserved)

E. Storage and disposal of refuse, fuel, and other potentially hazardous materials shall be so conducted as to create no health hazard, rodent harborage, insect breeding areas, accident or fire hazards, or air pollution. Areas where such activities occur shall be effectively enclosed and screened by safety fences, walls, or any combination thereof.

F. Mobile food service operations shall comply with the State of Maine rules relating to eating and lodging places, as periodically amended, and shall require a victualer's permit from the municipal officers consistent with Section 22-17 to 22-21.2.

- a. Further, mobile food service operations, preparing food on-site, unless permanently connected to public utilities and approved by the Planning Board, shall not be left on-site or displayed, or left in public view, in the location of business during nonbusiness hours, unless otherwise conditioned by the City Council in their specific permit/licensing process.
- b. The Building Inspector shall review mobile food service operations, preparing food on-site, to ensure, as a minimum, the following:
 1. The placement of the vehicle:
 - a. Shall not hinder vehicular traffic or cause traffic congestion; and
 - b. Shall not hinder, or interfere with, pedestrian traffic; and
 - c. Shall not block or otherwise hinder access to or from private property; and
 - d. Shall not adversely impact on abutting properties in regards to:
 - (1) Noise.

- (2) Odor, fumes or smoke.
- (3) Light and glare.

- 2. The operator shall have written permission from the property owner to locate the vehicle on said property.
- 3. The operator shall have available, and under written agreement, at least three off-street parking spaces. In cases where on-street parking is available immediately in front, the operator must have one off-street parking space for any vehicle belonging to an employee working on a given shift.
- 4.
 - a. The operator shall provide at least one fifty-five-gallon covered trash receptacle, or similar sized container, to hold wastes and debris. No paper, food or other wastes shall be allowed to accumulate on-site.
 - b. The waste container shall be emptied at least daily into an approved commercial dumpster (it being emptied by a licensed hauler on a regular basis) or other suitable and approved means of transport away from the site. It shall be the responsibility of the operator to ensure that all wastes are handled and disposed of properly.
- 5. The operator shall ensure that there is an adequate supply of potable water for cleaning equipment and the preparation of foods.
- 6. The operator shall ensure that there is an adequate and safe source of electrical power.
- 7. The operator shall ensure that all storage of food supplies and other business material is within the vehicle or other container secured to the vehicle. No loose material shall be permitted outside of the vehicle.
- 8. There shall be no signs placed on sidewalks or other rights-of-way. No temporary or mobile signs shall be allowed.
- 9. The trailer, or vehicle, being used shall be [registered](#), in good upkeep, and provide a neat appearance.

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

Vote: 7/1; Councilor Lessard opposed.

Councilors Emhiser, McCurry, St. Cyr, Williams, Clearwater, Belanger and Ready in favor.

Motion carries.

2021.103 IN BOARD OF CITY COUNCIL..OCTOBER 5, 2021

BE IT ORDERED, that the City Council of the City of Biddeford does hereby authorize the City Manager to execute the proposed **Public Works Department Supervisory Union Contract** substantially in the form presented to the City.

Motion by Councilor Belanger, seconded by Councilor Clearwater to grant the order.

Vote: 6/2; Councilors McCurry and St. Cyr opposed.

Councilors Emhiser, Williams, Clearwater, Belanger, Ready and Lessard in favor.

Motion carries.

2021.104 IN BOARD OF CITY COUNCIL..OCTOBER 5, 2021

BE IT ORDERED, that the City Council of the City of Biddeford does hereby authorize the City Manager to execute the proposed **Public Works Department Non-Supervisory Union Contract** substantially in the form presented to the City.

Motion by Councilor Belanger, seconded by Councilor Lessard to grant the order.

Vote: 6/2; Councilors McCurry and St. Cyr opposed.

Councilors Emhiser, Williams, Clearwater, Belanger, Ready and Lessard in favor.

Motion carries.

2021.105

IN BOARD OF CITY COUNCIL..OCTOBER 5, 2021

BE IT ORDERED, that the regularly scheduled Council Meeting of November 2, 2021 be postponed to **Thursday, November 4, 2021** due to the State Referendum and Municipal General Election on November 2, 2021.

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

Vote: 7/1; Councilor St. Cyr opposed.

Councilors Emhiser, McCurry, Williams, Clearwater, Belanger, Ready and Lessard in favor.

Motion carries.

Appointments:

IN BOARD OF CITY COUNCIL..OCTOBER 5, 2021

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

**Jenna Driscoll
12 Grenier Avenue
Ward 3**

to the *Project Canopy Committee*, for a term to expire in December 2026.

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

Vote: Unanimous.

IN BOARD OF CITY COUNCIL..OCTOBER 5, 2021

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

**Janice Goodrow
25 Dandelion Way
Ward 3**

to the *Recycling & Waste Management Commission*, for a term to expire in December 2023.

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

Vote: Unanimous.

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

There were no public comments.

City Manager Report:

Chief Operating Office Brian Phinney provided an update on the May Street calming issue: the Police Dept. will be conducting an updated traffic study, and it is expected that it will take about three weeks to get a good sampling of traffic. Staff will review the results of the study and solicit public comments. The hope is to have a proposal before the Council for approval in mid-November.

The Finance Dept. is working through the Berry Dunn Report and will hopefully have a final report by the October 19th Finance and Council Meetings.

A parking garage draft report has been submitted, which provides data on usage. Unfortunately, the data is not broken down in such a way that is useful to the City.

Other Business:

Councilor Lessard: requested that for future processing of agenda items like Union Contracts, that the meeting packets provide the information attached for the item that is being discussed so that the public has the opportunity to review and offer comments.

Councilor Lessard urged folks to order/purchase supplies sooner rather than later since the supply chain in the U.S. is currently under tremendous pressure. He cautioned that supplies may not be available in a few months.

Councilor Ready was pleasantly shocked when he was talking with City Planner Greg Tansley to find out that well over 1000 paper copies of the Comp Plan survey have been returned. He's pleased with the significant response.

Councilor Ready noted that some of the Councilors were able to visit the Lincoln Mill project last week and he was surprised to find out that the developer, Tim Harrington, is encouraging his tenants to use the parking garage. Councilor Ready was under the impression that parking spaces were supposed to be provided as a requirement of the Lincoln Mill project. COO Brian Phinney confirmed that they had to provide X number of parking spaces and the overflow would end up going into the garage. Councilor Ready would like to know how many parking spaces are now available as part of the project.

Council President Addressing the Council: Councilor McCurry announced an upcoming shredding event at the Dept. of Public Works on Saturday, October 9th from 9am to noon.

Councilor McCurry also announced that paving on Main Street from Alfred Street to Hill Street will begin very soon and folks can expect some congestion in that area. The Policy Committee will be discussing the parking in that area at their October 12th meeting, which means that painting of parking spaces in that area of Main Street will be held off until after decisions about parking have been made.

Councilor McCurry asked about the Main-Hill-Water Street project. COO Brian Phinney said that City Manager Jim Bennett will be looking into the status of this project, including the funding issue.

Councilor McCurry brought up the recycling vs. trash issue and asked if Staff is looking at this. COO Brian Phinney confirmed that it is being discussed and will be looking at what the budget implications might be in the FY23 budget. Councilor McCurry would like to see this issue resolved by the end of this November.

Lastly, Councilor McCurry asked for a list of those entities who have a PILOT program with the City and what they are paying.

Mayor Addressing the Council: Mayor Casavant shared that a Biddeford citizen, Robert Provencher recently passed away. Bob was very involved in the community, serving as the President of LaKermesse for many years; as well as a volunteer on various City committees. He will be greatly missed.

Mayor Casavant talked about Governor Mills' visit to Biddeford last week. She toured the new Lincoln Mill project, a few stores on Washington Street, Main Street and Alfred Street, and then visited the Center of Technology at the Biddeford High School. She also had a tour of the Maine Water Plant on South Street.

Lastly, Mayor Casavant reminded folks to be kind; and urged them to remember that there will be shortages of supplies and goods, and that it's not the fault of the workers at the businesses.

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

Vote: Unanimous.

Time: 7:27 p.m.

Attest by: _____
Carmen J. Morris, City Clerk

