

## COUNCIL MEETING

OCTOBER 4, 2022

*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 6:00 p.m.

**Roll Call:** William Emhiser, Scott Whiting, Martin Grohman, Bobby Mills, Amy Clearwater, Norman Belanger, Liam LaFountain, Doris Ortiz, Marc Lessard

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

Adjustments to the Agenda:

- Add Order of the Day 2022.85

**Presentation: Affordable Housing Task Force Interim Report**

Councilor Doris Ortiz gave the report, referencing the Memo that was provided to the Council, which can be found on the City's website.

**Public Hearing: State Liquor License Application – The Pint and Pawn, LLC**

The Public Hearing was opened at 6:28 p.m.

There were no public comments.

The Chair closed the Public Hearing at 6:28 p.m.

**Consideration of State Liquor License Application: The Pint and Pawn, LLC**

Motion by Councilor Clearwater, seconded by Councilor Lessard to recommend the issuance of a State Liquor License to The Pint and Pawn, LLC.

Vote: Unanimous.

Public Addressing the Council..(3 minute limit per speaker for up to 15 minutes):

One citizen addressed his comments to the Council .

**Consideration of Minutes: September 20, 2022**

Motion by Councilor Grohman, seconded by Councilor Lessard 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 September 20, 2022}

**2022.81) Amendment/Ch. 2, Administration, Section 2-2. Election Wards/Reapportionment of City Wards**

Motion by Councilor Belanger, seconded by Councilor Lessard to grant the second reading of the ordinance amendment.

Vote: 8/1; Councilor Grohman opposed.

Councilors Emhiser, Whiting, Mills, Clearwater, Belanger, LaFountain, Ortiz and Lessard in favor. Motion carries.

**Orders of the Day:**

**2022.83**

**IN BOARD OF CITY COUNCIL..OCTOBER 4, 2022**

**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:

St. Joseph Street Northwest side, beginning at the northwesterly side of the intersection with Elm Street, thence northwesterly for a distance of 152 feet.

NOTE: The Policy Committee considered this item at their September 19, 2022 meeting and voted unanimously to forward to Council for consideration and approval.

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

**2022.84** **IN BOARD OF CITY COUNCIL..OCTOBER 4, 2022**  
**BE IT ORDAINED**, by the City Council of the City of Biddeford that the Code of Ordinances, Chapter 58, Solid Waste, Article I IN GENERAL, **Section 58-7 Regulated Activities and Administration** be amended by adding or ~~deleting~~ to read as follows:

**Sec. 58-7. Regulated activities and administration.**

The accumulation, collection, transportation and disposal of solid waste, both acceptable and unacceptable, generated within the City of Biddeford shall be regulated in the following manner:

- (1) Such City collection will be limited to properties whose primary use is residential in nature.
- (2) The operating hours and general administration of the City transfer station shall be set by the City Council, except for holidays or emergencies where the Director of Public Works would have the authority to set emergency hours.
- (3) When a holiday falls upon the day of collection, or severe weather necessitates cancellation of collection services, recycling services for the residents on that day's route will be collected on the following Saturday. Collection of waste shall be on the next day following the cancellation.
- (4) In the event of two or more collection service cancellations in one week, the Public Works Director shall publish an emergency collection schedule, which may include, but may not be limited to, no collection for one or more routes with collection occurring on the next week's regular schedule. The requirement that all acceptable municipal solid waste fit in the designated municipal solid waste container shall be waived during emergency collection events.
- (5) All grandfathered facilities shall submit a written performance- based recycling plan to the Director of Public Works as identified by the following schedule: **[Added 3-5-2019 by Ord. No. 2019.11]**
  - (1) Grandfathered facilities shall submit a written performance- based recycling plan within 30 days of the effective date of this subsection.
  - (2) A written performance-based recycling plan shall be submitted to the Code Enforcement Office. The method of delivery may include plans submitted via email, fax, regular mail or hand delivery.
  - (3) The Code Enforcement Office shall identify any deficiencies, in writing, along with a due date for a response/corrective action and may request a plan modification upon failure to provide a performance-based demonstration of compliance.
- (6) Residential property owners shall be issued a Recycling Container and are responsible for compliance with the rules and restrictions for its use including the separation of acceptable recyclable materials as defined in this Chapter 58 (the "Recycling Rules"). Violations are subject to the provisions of Section 58-9.

**Sec. 58-9. Penalties.**

~~Penalties associated with enforcement shall be waived for a period of three months following the effective date of this chapter to allow for education and awareness.~~

- (1) Any person who violates any portion of this chapter shall be subject to penalties and enforcement as authorized under the provisions of City of Biddeford Ordinance, Sec. 1-12, General penalty for violation of Code; continuing violations. **[Amended 3-5-2019 by Ord. No.2019.11]**
- (2) In no event does this section limit the City's ability to address a nuisance or

take other action for equitable relief.

- (3) Any grandfathered facility that generates two documented violations of Sec. 58-32, Mandatory separation, within any twelve- month period, shall result in the loss of City curbside trash collection and recycling services. **[Added 3-5-2019 by Ord. No. 2019.11]**
- (4) Any unacceptable material placed in the City issued recycling bin for curbside pickup as set forth in the Recycling Rules shall subject the resident to the loss of their recycling privileges subject to the enforcement process set forth in Section 58-10.

#### **Sec. 58-10. Enforcement.**

This chapter shall be enforced by the Public Works Department, authorized commercial hauler, and Code Enforcement Office as further described below.

- (1) Any unacceptable material placed in the City issued recycling bin for curbside pickup as set forth in the Recycling Rules shall be subject to the following cumulative enforcement provisions:

(a) Upon the 1<sup>st</sup> offense within any twelve consecutive month period, the issued recycling container will be removed from the curb and placed on the offender's property. A notice will be placed on the container that outlines the violation, along with a contact number of a Public Works staff member. A member of Department of Public Works will attempt to contact the building owner to arrange for delivery of a brochure that outlines and explains the proper recycling rules. Staff will also advise the property owner of the consequences of further violations.

(b) Upon the 2<sup>nd</sup> offense within twelve months of the first offense, the recycling tote will be pulled away from the curb and placed back on the offender's property. A tag will be placed on the container that outlines the violation as a second offense. This will also serve as a warning of the potential loss of curbside services if a third infraction occurs within a period of one year.

(c) Upon the 3<sup>rd</sup> offense within twelve months of the second offense the resident shall lose recycling curbside service. Codes Department will be notified to allow enforcement action. Contact will be made to the building owner explaining that they have lost all curbside recycling privileges. City staff will explain other options. If there is a loss of recycling service and privileges, as a result of non-compliance with the Recycling Rules the resident who has loss such privileges will be required to lease a larger solid waste bin as described in Section 58-35 to replace both the recycling and the solid waste receptacles and pay the fee set forth in Section 58-35. Such penalty shall be resident specific, and if the resident at said location changes either due to a change in the tenant or a change in the owner/resident of such property, the new resident shall return the larger solid waste receptacle and be provided with receptacles as set forth in Section 58-35.

~~Sunset provision. Penalties associated with enforcement shall be waived for a period of three months following the date of this chapter to allow for education and awareness except as identified in Sec. 58-7(5).~~ **[Amended 3-5-2019 by Ord. No. 2019.11]**

- (2) Upon observation of failure to place only acceptable municipal solid waste in the designated solid waste container ~~or to place only acceptable recyclable materials in the designated recycling container~~, the receptacle will not be collected and a warning notice shall be placed on the appropriate designated container by the Public Works Department or City-authorized commercial hauler.
  - a. The address, date, and nature of the nonconformance shall be forwarded to the Director of Public Works and the Code Enforcement Officer.
  - b. The Director of Public Works and Code Enforcement Officer shall document and review each nonconformance and determine the appropriate enforcement action.

1. Nonconformance notices corrected prior to the next scheduled collection date shall be closed with no further action except as otherwise identified in Sec. 58-9. **[Amended 3-5-2019 by Ord. No. 2019.11]**
  2. Failure to correct a nonconformance notice prior to the next scheduled collection date or two or more consecutive nonconformance events in any twelve-month period shall warrant direct contact with the property owner and responsible party to document education and outreach, except as otherwise identified in Sec. 58-9. **[Amended 3-5-2019 by Ord. No. 2019.11]**
  3. Nonconformance notices issued after contact and education shall be subject to penalties as per Section 58-9. **[Added 3-5-2019 by Ord. No. 2019.11]**
  4. Enforcement for the performance-based recycling plan requirement and performance-based demonstration of compliances shall commence relative to the applicable timelines specified in Sec. 58-7. **[Added 3-5-2019 by Ord. No. 2019.11]**
- (3) Upon determination by the Code Enforcement Officer that a violation of this chapter exists or has occurred, the Code Enforcement Officer shall give written notice of the violation to the violator, which notice shall specify the section violated, the nature of the violation, and a reasonable time period to cure the violation.
- (4) If a waste hauler is found to be unlicensed, penalties and enforcement shall be in accordance with Section 58-9.

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

Motion by Councilor Lessard, seconded by Councilor Mills to amend the ordinances language to state that the blue containers will be for solid waste/trash; and the green containers will be for recycling.

Vote: 1/8; Councilor Lessard in favor.

Councilors Emhiser, Whiting, Grohman, Mills, Clearwater, Belanger, LaFountain and Ortiz opposed.

Amendment fails.

Vote on ordinance, as written: 8/1; Councilor Lessard opposed.

Councilors Emhiser, Whiting, Grohman, Mills, Clearwater, Belanger, LaFountain and Ortiz in favor.

1<sup>st</sup> Reading carries.

**2022.85**

**IN BOARD OF CITY COUNCIL...OCTOBER 4, 2022**

***A Resolution of the Biddeford City Council***

**WHEREAS**, the Biddeford City Council has adopted the Climate Action Plan and is working towards adopting climate action items to improve coastal resiliency in the wake of changing weather patterns; and

**WHEREAS**, The City of Biddeford intends to include coastal resiliency action items in Biddeford's Climate Action Plan; and

**WHEREAS**, the Hills Beach and Biddeford Pool communities are experiencing significant erosion impacts from coastal storms at an increased frequency; and

**WHEREAS**, the south side jetty at the mouth of the Saco River is in poor condition and requires immediate attention and maintenance by USACE; and

**WHEREAS**, the north side jetty at the mouth of the Saco River received significant resources

from state and federal agencies to study its impact on Camp Ellis’s erosion challenges; and

**WHEREAS**, the south side jetty has not received similar federal attention or study to determine its impact on the Hills Beach and Biddeford Pool communities; and

**WHEREAS**, the Biddeford City Council only has access to limited federal studies and believes utilizing the results of private studies alone to define the south jetty impacts and coastal erosion mitigation plans without peer review is not an appropriate basis for decision-making; and

**WHEREAS**, the sharing of pertinent information identified in existing and future studies within a consolidated assessment report may provide the City Council and assigned committees as well as property owners with key information needed to make informed municipal and homeowner-level coastal resilience decisions to reduce erosion impacts; and

**WHEREAS**, USACE has the obligation and technical and financial resources to coordinate such activities needed to fully restore the south side jetty;

**NOW THEREFORE, BE IT RESOLVED**, that the Biddeford City Council resolves to support a south jetty study and repair project and address the impacts of climate change at Hills Beach and Biddeford Pool through the following ~~seven~~ eight actions:

1. Consider the results of public and private studies to define erosion mitigation plans; and
2. Evaluate and consider providing support to the Hills Beach and Biddeford Pool communities with staff resources needed to shepherd this project through to completion; and
3. Consider participating in Biddeford Coastal Preservation’s Coastal Process Analysis and Adaptation Alternatives study as a stakeholder with local financial resources to help cost share the study at a future date once the scope and funding level is known; and
4. Serve as a clearing house to share pertinent information such studies may provide to the public so that property owners may make informed coastal resilience decisions to reduce erosion impacts on their properties; and
5. Include appropriate coastal resiliency action items in Biddeford’s Climate Action Plan; and
6. Immediately request USACE to survey and outline a maintenance plan and schedule to fully restore the south side jetty; and
7. Immediately request USACE to initiate and fund a study of the potential erosion impacts of the south side jetty on the Hills Beach and Biddeford Pool communities; and
8. Request USACE consider the results of available and appropriate public and private Hills Beach and Biddeford Pool surveys and studies in its study of the potential erosion impacts of the south side jetty to create a central report on erosion mitigation options for the study area.

Motion by Councilor Clearwater, seconded by Councilor Whiting to accept the Resolution.

Motion by Councilor Belanger, seconded by Councilor Clearwater to change the seven actions to eight actions.

Vote: Unanimous.

Vote on Resolution, as amended: Unanimous.

Public Addressing the Council...(5 minute limit per speaker; 30 minute total time limit):  
There were no comments from the public.

*City Manager Report:*

Chief Operating Officer Brian Phinney announced that the City was awarded a second Lead Abatement Grant in the amount of \$3.5 million, to be given in January 2023 and to be used over a 4-year period. One change with this second Grant is that it includes a stipulation with zero owner contribution for the use of the funds.

*Other Business:*

Councilor Lessard: spoke about a possible future global recession by the end of next year; and he urged Councilors to keep this in mind as the next fiscal year’s budget is considered.

Councilor LaFountain: thanked the Public Works and Recreation Departments for all their work in maintaining the City’s parks and with the help of volunteers, the community gardens and dog park.

The Ward 7 Meeting was held at TJ’s Pizza last week and had a good turnout and robust discussion about a few of the streets in that Ward. He thanked Greg Mitchell, Tim Boston and Abigail Smallwood for their help in organizing the Ward Meetings.

Councilor Grohman: announced that October 12<sup>th</sup> is National Bike & Walk to School Day; and Biddeford will be observing this by biking from Shevenell Park to Biddeford Middle School on that day, starting at 8:10 a.m. and picking up students along the way.

*Mayor Addressing the Council:* Mayor Casavant read the following Proclamation:

**Whereas,** The Mayor and City Council do hereby congratulate Carmen J. Bernier on her well- deserved retirement as City Clerk from the City of Biddeford after 28 years of dedicated public service, and

**Whereas,** Carmen Bernier has demonstrated herself to be a consummate professional and invaluable public servant of the City of Biddeford for the last 28 years; and

**Whereas,** Carmen started her career as the Office Manager in the Office of the City Clerk where she proved her knowledge, skill and commitment to the community from May of 1994 to November of 1997; and

**Whereas,** as a result of her unwavering dedication and proven acumen she was then appointed to the position of City Clerk for the City of Biddeford in November of 2007 where she has continued to capably served for the last 15 years;

**Whereas;** the Mayor and City Councilors recognize the importance of the work Carmen has done to ensure that the integrity of the democratic process has been preserved during her tenure in all elections for the benefit of the residents of the City of Biddeford, the State of Maine and the United States of America; and

**Now Therefore Be It Resolved;** that the Mayor and City Councilors extend their deepest gratitude to Carmen for fulfilling her duties as City Clerk with diligence and grace and for her many contributions towards the betterment of the community and for setting the standard high for future City Clerks during the course of her work over the past 28 years; and

**Be It Further Resolved;** that a copy of this resolution be placed in the City record and a copy be given to Carmen J. Bernier.

Retiring City Clerk Carmen Bernier was given a beautiful bouquet of flowers, a box of chocolates and many accolades from the Mayor and City Councilors.

Motion by Councilor Belanger, seconded by Councilor Clearwater to adjourn.

Vote: Unanimous.

Time: 7:28 p.m.

Attest by: \_\_\_\_\_  
Carmen J. Bernier, City Clerk