

**SPECIAL COUNCIL MEETING
SEPTEMBER 21, 2021**

Mayor Casavant called the meeting to order at 5:30 p.m.

Roll Call: John McCurry, Jr., Stephen St. Cyr, Ashanti Williams, Amy Clearwater, Norman Belanger, Michael Ready, Doris Ortiz

William Emhiser and Marc Lessard were excused.

Executive Session: 1 MRSA 405(6)(E)...Legal Consultation

Motion by Councilor McCurry, seconded by Councilor Belanger to move into Executive Session.

Vote: Unanimous.

Time: 5:30 p.m.

Motion by Councilor McCurry, seconded by Councilor Clearwater to move out of Executive Session.

Vote: Unanimous.

Time: 5:52 p.m.

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

Vote: Unanimous.

Time: 5:52 p.m.

**COUNCIL MEETING
SEPTEMBER 21, 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 6:00 p.m.

Roll Call: John McCurry, Jr., Stephen St. Cyr, Ashanti Williams, Amy Clearwater, Norman Belanger, Michael Ready, Doris Ortiz

William Emhiser and Marc Lessard were excused.

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

Adjustments to the Agenda:

- Remove Presentation: Update on Status of Downtown Easements
- Remove Order 2021.97

Public Hearing: Saxon Partners Municipal Development and Tax Increment Financing (TIF) District

The Public Hearing was opened at 6:01 p.m.

Sterling Roop, a resident from Ward 7, commented that the Order talks about affordable housing, and the City is giving the Developer a tax credit, yet the project is going to have rental rates or free market rate housing in this development. He does not see where the affordable component is in this TIF; or where there is subsidized housing or assistance to those who are in desperate need for housing. He noted that time and again, the City has talked about the housing crisis in the community and it seems like the City could be doing more to push for truly affordable housing with this development and with this TIF.

The Public Hearing was closed at 6:03 p.m.

Public Hearing: Sharkey's Arcade – 12 Lincoln Street

The Public Hearing was opened at 6:03 p.m.

The owner of Sharkey's Arcade, Paul Picard, explained his business concept.

The Public Hearing was closed at 6:05 p.m.

Consideration of Liquor License: Sharkey's Arcade

Motion by Councilor McCurry, seconded by Councilor Clearwater to recommend the issuance of the State Liquor License to Sharkey's Arcade.

Vote: Unanimous.

Consideration of Minutes: **September 7, 2021**

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

Orders of the Day:

2021.96

**CITY OF BIDDEFORD CITY COUNCIL ORDER
Saxon Partners Municipal Development and Tax Increment Financing District**

WHEREAS, the City is authorized pursuant to Chapter 206 of Title 30-A of the Maine Revised Statutes, as amended, to designate the **Saxon Partners Municipal Development and Tax Increment Financing District** (the “District,”) and the Development Program (the “Development Program,” for the District; and

WHEREAS, there is a need for economic development in the City of Biddeford, in the surrounding region, and in the State of Maine; and

WHEREAS, there is a need to improve and broaden the tax base of the City of Biddeford; and to improve the general economy of the City of Biddeford and the surrounding region; and

WHEREAS, implementation of the Development Program will help to improve and broaden the tax base in the City of Biddeford and improve the economy of the City of Biddeford and the region by attracting business development to the District; and

WHEREAS, there is a need to implement continued economic development initiatives in the District through the Development Program in accordance with the provision of Chapter 206 of Title 30-A of the Maine Revised Statutes, as amended; and

WHEREAS, it is expected that approval will be obtained from the State of Maine Department of Economic and Community Development (the “Department”), approving the **Saxon Partners Municipal Development and Tax Increment Financing District** and the Development Program related thereto;

ORDERED AS FOLLOWS:

Section 1. The City of Biddeford hereby designates the District and adopts the associated Development Program for the District; such designation and adoption to be pursuant to the following findings, terms, and provisions:

Section 2. The City Council hereby finds and determines that:

- a. At least twenty-five percent (25%), by area, of the real property within the District, as hereinafter designated, is suitable for commercial uses; and
- b. The total area of the District does not exceed two percent (2%) of the total acreage of the City, and the total area of all existing and proposed development districts within the City (including the District) does not exceed five percent (5%) of the total acreage of the City; and
- c. The original assessed value of all existing and proposed tax increment financing districts (including the District) does not exceed five percent (5%) of the total value of equalized taxable property within the City as of April 1, 2021; and
- d. The District and pursuit of the Development Program will make a contribution to the economic growth and well-being of the City of Biddeford and the surrounding region, and will contribute to the betterment of the health, welfare and safety of the inhabitants of the City of Biddeford, including a broadened and improved tax base and economic stimulus, and therefore constitutes a good and valid public purpose. The City has considered all evidence, if any, presented to it with regard to any adverse economic effect on or detriment to any existing business and has found and determined that such adverse economic effect on or detriment to any existing business, if any, is outweighed by the contribution expected to be made through the District and Development Program.

Section 3. Pursuant to the provisions of 30-A M.R.S.A. § 5227, the percentage of increased assessed value to be retained as captured assessed value in accordance with the Development Program is hereby established as set forth in the Development Program.

Section 4. The City Manager, or his duly appointed representative, is hereby authorized, empowered and directed to submit the proposed Development Program for the District to the State of Maine Department of Economic and Community Development for review and approval pursuant to the requirements of 30-A M.R.S.A. § 5226.

Section 5. The foregoing designation of the District and adoption of the Development Program for the District shall automatically become final and shall take full force and effect upon receipt by the City of approval by the State of Maine Department of Economic and Community Development, without requirement of further action by the City, the City Council, or any other party.

Section 6. The City Manager, or his duly appointed representative, is hereby authorized and empowered, at his discretion, from time to time, to make such revisions to the District and Development Program as the City Manager may deem reasonably necessary or convenient in order to facilitate the process for review and approval of the District by the State of Maine Department of Economic and Community Development, or for any other reason, so long as such revisions are not inconsistent with these resolutions or the basic structure and intent of the Development Program.

Section 7. The City Manager, in the name and on behalf of the City, is hereby authorized and directed to enter into a credit enhancement agreement between the City and the developer of the project to be located in the District, in substantially the form as presented to the City Council in conjunction with this Order and on terms as described in the Development Program and any other negotiated agreements between the City and the Developer.

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

Councilor McCurry is glad that this item is before the Council for consideration because when the City approved the Credit Enhancement Agreement with Saxon Partners, he had voted against it, and at that time, had brought up the idea of putting the project in a TIF District so that at least it would be sheltered and the taxpayers wouldn't have to get a CEA and pick up the full value on the tax dollars. He checked with City Attorney, Keith Jacques and the City's Chief Operating Officer, Brian Phinney to clarify that if more than the planned-for ten acres gets developed, any future development can also be added to the TIF District.

Councilor McCurry provided an answer to Mr. Roop's comments during the Public Hearing, that the Credit Enhancement Agreement was already approved and this TIF is just cleaning things up so that the City will not have to put this project entirely on the tax rolls.

Councilor Belanger noted that the City is only TIFing 35% of the increase in value. The remaining 65% of the increase in value is not going to be part of the TIF District; therefore, will not be sheltered for purposes of the supplements the City gets from the State both in Revenue Sharing and for the Schools. He confirmed that the 65% is going to be General Fund money. Planning and Development Director Mathew Eddy confirmed this to be the case. Councilor Belanger asked if there is a reason why the City is not sheltering that 65%. Mr. Eddy explained that at the guidance of the City Council, the thought was that the Council did not want to put too much into the sheltering. The District was developed to cover just the costs that Saxon needed to cover their debt. A Joint Development Agreement is associated with this project to create a housing project, do the Thatcher Brook connection and also do a senior housing project with Developer Mike Eon. Mr. Eddy went on to say that it is possible that the Developer will come back to the Council to ask to extend the TIF for that future development because it will most likely be a low-income housing tax credit project with Maine Housing Authority.

Councilor Belanger again confirmed that 35% is being TIFed and 65% is not TIFed, which means it will be part of the General Fund and there will not be any restrictions on the way the money can be spent; and also, will be added to our tax rolls for purposes of Revenue Sharing and money coming to the City from the State for the Schools. He asked if this can be changed by the City somewhere along the way. Mr. Eddy answered that the TIF can certainly be amended at some point.

Councilor Belanger questioned a provision on page 30 that talks about putting in a Sinking Fund Account. The provision states that it is not intended that the City will set up a Sinking Fund Account at this time, but of the TIF money, we could be setting aside enough money to pay the TIF and also a Sinking Fund Account. The way it is currently structured, there would be no money available for a Sinking Fund Account. Mr. Eddy confirmed that this is correct. Councilor Belanger went on to say that the City has no obligation that would require us to set up a Sinking Fund Account, and no infrastructure requirements on our part. Further, if there were any requirements in the future, it would come back to the City Council for consideration and approval.

Lastly, Councilor Belanger questioned a provision on page 57, Art. III, Sec. 3.1(B) where it talks about what happens in the unlikely event that taxes are not paid and they remain unpaid for some period of time. When the City does get paid, the money gets applied first to the amount of the original assessed value, and second, should constitute payment of property taxes with respect to increase value to be applied first to the full of the net payment amount to the City of the year in

concern in accordance with the Table on Schedule 2.3(A). The Table indicates an amount in the column for the first 5 years, but because we are not TIFing the remaining portion, the column for 6 – 20 years indicates N/A – not applicable. He is unsure as to how this will work. If the City is to get paid in accordance with this Table, but the Table indicates “not applicable,” it seems like the Table needs to be modified to say that 65% is applied, or put the 65% in the Table.

Vote on Order: 6/1; Councilor Ready opposed.

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

(Councilors Emhiser and Lessard were absent)

Motion carries.

2021.98

IN BOARD OF CITY COUNCIL...SEPTEMBER 21, 2021

A Resolution of the Biddeford City Council:

WHEREAS, in the Spring of 2021 the COVID-19 Pandemic had seemed to be coming to an end with the advent of vaccines and good vaccination rates, but instead infection rates, and new variants, hospitalizations, and deaths from the COVID-19 virus have been increasing in recent months; and

WHEREAS, in the two (2) weeks between July 14 and July 28, 2021, the rate of COVID-19 infections confirmed by testing have more than doubled in the United States, and those trends continue; and

WHEREAS, on July 1, 2021, in the State of Maine, the average daily case total was 22.1;

WHEREAS, since that time the rate of COVID-19 infections confirmed by testing in the State of Maine has increased at a significant rate to an average number of 67.1 daily cases as of July 27, 2021, for an increase of 203.6 percent, and those trends continue; and

WHEREAS, a majority of the new infections in the United States and the State of Maine involve the Delta variant, a highly contagious SARS-CoV-2 virus strain; and

WHEREAS, the Delta variant has increased transmission, the severity of COVID-19 infections based on hospitalization and case fatality rates, and decreased susceptibility to therapeutic agents; and

WHEREAS, the Delta variant represents 47.6 percent of all sequenced samples collected in July in the State of Maine; and

WHEREAS, as a result of the Delta variant and the increase in COVID-19 infections, the United States Centers for Disease Control and Prevention announced on July 27, 2021, that fully vaccinated individuals should wear masks in indoor public settings in parts of the country that are experiencing a substantial or high transmission of COVID-19; and

WHEREAS, the Maine Center for Disease Control and Prevention similarly announced on July 28, 2021, that masks are recommended to be worn by fully vaccinated individuals in public indoor settings in almost all Maine counties, including York County; and

WHEREAS, the risk of COVID-19 virus transmission from vaccinated individuals to unvaccinated individuals (for example children under 12) remains unknown; and

WHEREAS, the technology infrastructure and processes currently exist to continue to allow remote participation in and public access to City Council, Board, and Committee meetings in accordance with Maine law; and

WHEREAS, the City of Biddeford is committed to continuing to provide opportunities for public engagement which are accessible and safe; and

NOW, THEREFORE, BE IT ORDERED AND DECLARED by the Biddeford City Council that a limited emergency continues to exist within the City of Biddeford; and

BE IT FURTHER ORDERED, that as a result of the declared limited emergency and the existence of an “emergency or urgent issue” as described above, pursuant to 1 M.R.S. section 403-B and the City of Biddeford’s recently adopted Remote Participation Policy, being physically present for meetings in Biddeford City buildings may not be practicable at this time, and therefore allows that all members of the City of Biddeford **City Council** boards, committees, and other groups may

conduct meetings by remote technology/methods only until the limited emergency is terminated without limitations that currently exist with the current policy; and

BE IT FURTHER ORDERED, that in addition, all City of Biddeford’s **City Council**, boards, committees and commissions and other groups may conduct meetings by remote technology and/or methods only until the limited emergency is terminated, subject however, to a public vote by the respective meeting body to remote only meetings; and

BE IT FURTHER ORDERED that this Order is enacted as an Emergency so that it may take effect immediately, with an expiration of December 31, 2021, unless otherwise repealed or extended by the Biddeford City Council.

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

Motion by Councilor Belanger, seconded by Councilor Clearwater to amend the Order by adding “**City Council**” to any provision that says ‘boards, committees, and other groups.’

Vote: Unanimous.

Vote on Declaration, as amended: 6/1; Councilor McCurry opposed.

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

Motion carries.

Public Addressing the Council...(5 minute limit per speaker; 30 minute total time limit):
One citizen addressed his comments to the Council.

City Manager Report:

In the absence of City Manager James Bennett, Chief Operating Officer Brian Phinney shared that through efforts of City Volunteer Holly Culloton, the City will be participating in the ***Yellow Tulip Project***. The mission of this Project is to smash the stigma surrounding mental illness and to build a community of people who realize that hope happens when youth and community leaders work together. Public Works Director Jeff Demers and Recreation Director Carl Walsh will both be working with Ms. Culloton on the plantings of the yellow tulip bulbs in some of the City parks.

Other Business:

Council President Addressing the Council: Councilor McCurry had the following items:

- ✓ Addressed the comments made by Sterling Roop during Public Addressing the Council. With regard to the solar arrays and fencing at the newly constructed Courthouse, these items are a moot point since the solar arrays have been pulled from the plans. Chief Operating Officer Brian Phinney confirmed that the original request for fencing was in direct relationship with the installation of the solar arrays. Since the solar arrays are no longer planned to be installed, the fencing is no longer in consideration either.
- ✓ Asked for an update of the sewer audit at the next Council Meeting.
- ✓ Asked where Staff is at with the May Street calming issue.
- ✓ He gave a shout out to all those City Employees who not only do a great job working for the City, but also volunteer their time in various ways in our community – from assisting with coaching sports teams to serving on City commissions.

Mayor Addressing the Council: Mayor Casavant addressed the issue of irate customers verbally attacking employees of stores, restaurants and other service industries because service may not be quick enough, or food/goods may not be available. He urged citizens to remember that shortage of service and goods/items is not the fault of those who are actually showing up for work, and that we all need to show kindness.

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

Vote: Unanimous.

Time: 6:25 p.m.

Attest by: _____
Carmen J. Morris, City Clerk

