

**COUNCIL MEETING
SEPTEMBER 20, 2016**

Mayor Casavant called the meeting to order at 7:00 p.m.

Roll Call: Michael Swanton, John McCurry, Jr., Stephen St. Cyr, Bob Mills, Rick Laverriere, Michael Ready, Laura Seaver, Marc Lessard

Robert Quattrone, Jr. was excused.

Chief Beaupre offered the following remarks in tribute to Det. Peter Wentworth of the Biddeford Police Department, who recently passed away:

Peter R. Wentworth, Husband, Father, Brother, Uncle, friend, co-worker, and a big part of the Law Enforcement Brotherhood. Loved by many and respected by all.

Pete was born on March 3, 1955 in Somersworth, NH, and graduated from Somersworth High School. He went on to earn a Bachelor of Arts degree in political science from the University of New Hampshire and was certified to teach social studies and history, but his real desire was to attend law school. Since, teaching jobs and money to remain a student were both in short supply after graduation, Pete accepted a temporary appointment as Park Ranger in Washington, D.C. His first fulltime job was as a National Park Law Enforcement Ranger at the Gateway Arch in St. Louis, Missouri. His plans were to work as a ranger or a teacher just long enough to save money to attend law school. However, his new found love for law enforcement altered the path he would follow. Not only did he find his love for law enforcement as a Park Ranger in St. Louis, he found the love of his life there as well. You see, his future wife, Barbara, was also a Law Enforcement Ranger at the Arch.

Pete then spent five years as a patrol deputy sheriff for counties in Missouri and Florida. Pete returned to his New England roots after Barbara fell in love with New England where she accepted a Law Enforcement Ranger position at the Maritime National Park in Salem, MA.

After a short stint as a police officer in his hometown of Somersworth, Pete joined the Portland, Maine Police Department. During his twenty-two years at Portland, he was assigned to the patrol, traffic, detectives, and internal affairs units, retiring in 2008 with the rank of Lieutenant.

He was then hired by Biddeford P.D. in 2008 and after serving a very short time on Patrol, Pete gladly accepted the challenge to serve as a School Resource Officer at the Biddeford Middle School. In 2011 he was assigned to C.I.D. as the Juvenile Officer.

During his 36 year law enforcement career, Pete received numerous awards and commendations from those agencies he served. In May of 2011 he was very fittingly selected as Biddeford's Police Officer of the Year. In addition to the standard and on-going training to retain certification as a Maine law enforcement officer, he completed specialized training in polygraph testing, interviewing and interrogating, forensic child interviewing, and death investigations. He was a state certified and licensed as a polygraph examiner.

Pete and Barb were married for thirty years and had two children. Barbara is currently the Communications Director for the Dover New Hampshire Police Department where she has worked since 1987. Their daughter, Katherine, is a medical student graduate from the University of New England and son, Daniel, is a law student at the University of Maine Law School. Daniel has also served as a summer reserve officer in Old Orchard Beach.

We have received many expressions of gratitude from representatives of outside agencies, members of law enforcement in general, and his co-workers in particular for their having met, associated or working with Pete. Pete would do anything to assist another officer with an investigation, he was always eager to help.

Pete was an optimist, he was positive even when speaking about less than up-lifting events.

Pete was extremely proud of his chosen profession, and was respected by those who crossed his path. It is only fitting, therefore, that September 11th, the day of his passing, is the date that is also honored and remembered by all First Responders. He will be dearly missed. Heroes never die. They live on in the Hearts and Minds of those brave enough to follow in their footsteps; and for us, Pete was a true Hero.

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

➤ Add Executive Session: 1 M.R.S.A. 405(6)(D)..Contract Negotiations

The Chair opened the Public Hearing at 7:06 p.m.

Five people spoke on this issue.

The Chair closed the Public Hearing at 7:19 p.m.

City Manager, James Bennett gave a presentation on the recent changes in Biddeford's downtown valuation. There are three major perspectives:

- 1) There have been significant increases in values in the downtown
- 2) The downtown strategy is working from an economic development/valuations perspective
- 3) There has been only one measure of community/economic development, i.e. job creation

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

2016.81 **IN BOARD OF CITY COUNCIL..SEPTEMBER 20, 2016**
BE IT ORDERED, that the City Council of the City of Biddeford hereby adopts the Maine Municipal Association Model Ordinance, General Assistance Appendices (A-D) – *General Assistance Maximums* for the period of October 1, 2016 to September 30, 2017.

Motion by Councilor McCurry, seconded by Councilor Laverriere to grant the order.
Vote: Unanimous.

2016.82 **IN BOARD OF CITY COUNCIL..SEPTEMBER 20, 2016**
BE IT ORDERED, that the City Council of the City of Biddeford does hereby approve and recommend the submittal of the Year 3 – 2015 Consolidated Annual Performance and Evaluation Report (CAPER) to the U.S. Department of Housing and Urban Development.

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

CDBG Coordinator, Linda Waters gave a brief presentation on how CDBG funds were expended in Year 3.

Vote: Unanimous.

2016.83 **IN BOARD OF CITY COUNCIL..SEPTEMBER 20, 2016**
BE IT ORDERED, that the City Council of the City of Biddeford does hereby authorize the City Manager to negotiate and acquire drainage easements over the following identified properties, and/or other properties, as required for the purpose of achieving stormwater separation along Main Street. Costs associated with the negotiations and acquisition shall be funded through the Inflow & Infiltration Wastewater Designated Fund Balance, (Account Code: 22005-60901):

- Map 37, Lot 60 – identified as 54-56 Cutts Street
- Map 37, Lot 41 – identified as 375-377 Main Street

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

Motion by Councilor McCurry, seconded by Councilor Swanton to amend the order by adding, “and/or other properties,” after ‘identified properties.’

Vote: Unanimous.

Vote on order, as amended: Unanimous.

2016.84 **IN BOARD OF CITY COUNCIL..SEPTEMBER 20, 2016**
BE IT ORDAINED, by the City Council of the City of Biddeford that the Code of Ordinances, **Chapter 46, PARKS AND RECREATION, ARTICLE IV, PARKS AND RECREATION FACILITIES** be amended by adding and ~~deleting~~ , to read as follows

Sec. 46-76 General Prohibitions.

The following are prohibited in or on any of the City's public parks and facilities. Park rules and park hours shall be conspicuously posted at all parks and recreational facilities.

- (1) Alcoholic beverages;
- (2) Littering;
- (3) Unleashed dogs;
- (4) Firearms;
- (5) Bows, crossbows or other similar devices;
- (6) Hunting.

Except as specifically authorized elsewhere in this article, all park hours are from dawn to dusk.

NOTE: This ordinance amendment was considered at the Sept. 12, 2016 Policy Committee meeting and was voted unanimously to recommend passage by the City Council as an emergency ordinance due to the fact that hunting season is quickly approaching.

Motion by Councilor Ready, seconded by Councilor Laverriere to grant the first reading of the order.

Vote: Unanimous.

Motion by Councilor McCurry, seconded by Councilor Ready to suspend the rules to allow for the second reading of the ordinance and pass it as an emergency ordinance due to this measure being a safety issue and wanting to have this amendment in place prior to the start of hunting season.

Vote: Unanimous.

Vote on second reading: Unanimous.

2016.85 **IN BOARD OF CITY COUNCIL..SEPTEMBER 20, 2016**
BE IT ORDERED, that the City Council of the City of Biddeford does hereby amend the Code of Ordinances, Appendix A, Rules of the Council – Rule 1: Duties and powers of the Mayor or Presiding Officer, as follows:

- (i) The Mayor shall call regular meetings of the City Council to order at ~~7:00 p.m.~~ **6:00 p.m.** on the first and third Tuesdays of each month, and regular meetings shall adjourn by ~~10:00 p.m.~~ **9:00 p.m.** unless a majority of the Councilors agree to extend the meeting. All regular and special meetings of the Council, including, but not limited to Council workshops and public hearings, will be held in the Council Chambers, unless a majority of the Councilors agree to a different location.

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

Vote: 7/1; Councilor Swanton opposed.

Councilors McCurry, St. Cyr, Mills, Laverriere, Ready, Seaver and Lessard in favor.

Motion carries.

2016.86 **IN BOARD OF CITY COUNCIL...SEPTEMBER 20, 2016**
WHEREAS, the City of Biddeford's Land Use Regulations set forth certain land use regulations applicable to the location, development and regulation of medical marijuana dispensaries and growing facilities within the City; and

WHEREAS, the City Council is concerned that the current Land Use Regulations do not adequately protect the public interest; and

WHEREAS, the City Council wishes to continue to amend its Land Use Regulations to include additional regulations and standards applicable to such use to insure the protection of the public interest;

The City Council hereby implements a thirty-five (35) day extension, which will go to November 9, 2016, to the previously enacted six (6) month moratorium on the establishment of any new medical marijuana dispensaries and/or growing facilities within the City to provide adequate time for new Land Use Regulations to take effect once adopted by the City Council.

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

Motion by Councilor Laverriere, seconded by Councilor McCurry to amend the moratorium to extend it until the end of the year. This will allow the Council to take appropriate action after the results are known of the November 8, 2016 State Referendum question regarding the legalization of marijuana.

Vote: 5/3; Councilors Seaver, Mills and Swanton opposed.
Councilors McCurry, St. Cyr, Laverriere, Ready and Lessard in favor.
Motion carries.

Vote on moratorium, as amended: 5/3; Councilors Seaver, Mills and Swanton opposed.
Councilors McCurry, St. Cyr, Laverriere, Ready and Lessard in favor.
Motion carries.

2016.87 **IN BOARD OF CITY COUNCIL..SEPTEMBER 20, 2016**
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 V (Establishment of Zones), Table A (Table of Land Uses):

Retain “Medical Marijuana Dispensaries” as a Conditional Use (C) in the I-3 Zone ONLY (remove as a Conditional Use in the B2 Zone and M Zone). Delete reference to footnote 24. Retain reference to footnote 23.

Add “Medical Marijuana Growing Facilities” as a Conditional Use (C) in the I-1 and I-2 Zones ONLY. Add reference to footnote 23.

	Article VI Section ¹	I-1	I-2	I-3
Medical Marijuana Dispensaries				C 23, 24
<u>Medical Marijuana Growing Facilities</u>		<u>C</u> <u>23</u>	<u>C</u> <u>23</u>	

Part III (Land Development Regulations), Article II (Definitions):

AGRICULTURE - The production, keeping or maintenance for sale or lease of plants and/or animals, including but not limited to, forages and sod crops; grains and seed crops; dairy animals and dairy products; poultry and poultry products; livestock, fruits and vegetables; and ornamental and greenhouse products. Agriculture does not include forest management, ~~or~~ timber harvesting activities, or the growing of medical marijuana by medical marijuana dispensaries, caregivers, or patients.

COMMERCIAL GARDENING - Any land area in which plants, vegetables, flowers and similar materials are grown for sale. Commercial Gardening does not include the growing of medical marijuana by medical marijuana dispensaries, caregivers, or patients.

COMMERCIAL GREENHOUSE - Any structure in which plants, vegetables, flowers and similar materials are grown for sale. Commercial Greenhouse does not include the growing of medical marijuana by medical marijuana dispensaries, caregivers, or patients.

MARIJUANA - As defined in State Administrative Rules (10-144 CMR Chapter 122), §1.17, “Marijuana.”

MEDICAL MARIJUANA - Marijuana that is acquired, possessed, cultivated, manufactured, used, delivered, transferred or transported to treat or alleviate a qualifying patient’s debilitating medical condition or symptoms associated with the qualifying patient’s debilitating medical condition.

MEDICAL MARIJUANA CAREGIVER - A person, licensed hospice provider or licensed nursing facility that is designated by a qualifying patient to assist the qualifying patient with the medical use of marijuana in accordance with state law. A person who is a medical marijuana caregiver must be at least 21 years of age and may not have been convicted of a disqualifying drug offense.

MEDICAL MARIJUANA LAND USES - Any of 3 types of land uses, defined herein, that cover the full range of options for lawful cultivating, processing, storing and distributing medical marijuana.

MEDICAL MARIJUANA HOME PRODUCTION - Cultivating, processing and/or storing of medical marijuana by a qualifying patient at their own residence or a medical marijuana caregiver at their own primary year-round residence for use by a qualifying patient. This use shall be considered an accessory land use.

MEDICAL MARIJUANA GROWING FACILITY - A facility used for cultivating, processing, and/or storing medical marijuana by one or more medical marijuana caregiver(s) at a location which is not the medical marijuana caregiver’s primary year-round residence or their patient’s primary year- round residence. This shall be considered a commercial land use.

MEDICAL MARIJUANA DISPENSARY - A not-for-profit entity registered pursuant to state law that acquires, possesses, cultivates, manufactures, delivers, transfers, transports, sells, supplies or dispenses marijuana, paraphernalia or related supplies and educational materials to qualifying patients and the primary caregivers of those patients. Note that a dispensary may be either a single facility, or it may be divided into two separate but related facilities where growing is done at only one of the facilities. This shall be considered a commercial land use.

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

Motion by Councilor Swanton, seconded by Councilor Lessard to amend the ordinance amendment by accepting only the change to the Table A, and disregarding the rest of the proposed language.

Motion by Councilor Laverriere, seconded by Councilor Mills to table the ordinance amendment until December 31, 2016.

Vote: 4/4; Councilors Seaver, Ready, Swanton and McCurry opposed.

Councilors St. Cyr, Mills, Laverriere and Lessard in favor.

Mayor Casavant voted in favor of tabling to break the tie.

Motion to table carries.

2016.88 **IN BOARD OF CITY COUNCIL..SEPTEMBER 20, 2016**
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 VI (Performance Standards):

Section 77. Medical Marijuana

Before submission of a Conditional Use Application, the applicant must demonstrate their authorization to cultivate, process and store medical marijuana pursuant to the Maine Use of Medical Marijuana Program.

As an accessory use, Medical Marijuana Home Production shall be allowed in any qualifying patient’s residence or any medical marijuana caregiver’s primary year-round residence in every base zone and overlay zone, without any requirement for land use permitting.

No Medical Marijuana Dispensary or Medical Marijuana Growing Facility shall be closer than 250 linear feet, measured in a straight line from the Dispensary or Facility building entrance, to

the nearest point on the boundary of any property which is occupied by a licensed day care facility, school, Town park, Town playground or church.

Before granting an approval, the Planning Board shall ensure the applicant has reviewed their property and building security plans with the Biddeford Police Department and the Police Department finds the security measures are consistent with State requirements.

No signs containing the word “marijuana,” or a graphic/image of any portion of a marijuana plant or otherwise identifying medical marijuana shall be erected, posted or in any way displayed on the outside of a Medical Marijuana Dispensary or a Medical Marijuana Growing Facility.

Interior advertisements, displays of merchandise or signs depicting the activities of a Medical Marijuana Dispensary or a Medical Marijuana Growing Facility shall be screened to prevent public viewing from outside such facility.

No use shall emit offensive, harmful, or noxious odors beyond the property line.

Motion by Councilor McCurry, seconded by Councilor Seaver to table the ordinance amendment until December 31, 2016.

Vote: 7/1; Councilor Swanton opposed.

Councilors McCurry, St. Cyr, Mills, Laverriere, Ready, Seaver and Lessard in favor.

Motion to table carries.

Appointment:

IN BOARD OF CITY COUNCIL..SEPTEMBER 20, 2016

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

Susan Driscoll

as the *Zoning Board of Appeals CHAIR*, for the year 2016.

Motion by Councilor Laverriere, seconded by Councilor Mills to confirm the appointment.

Vote: Unanimous.

City Manager Report:

City Manager, James Bennett gave the following information:

- The Finance Committee has started discussion on the refinancing of City Bonds.
- City Staff will meet with a financial advisor to talk about the City's bond rating.
- At the Oct. 4th Finance Committee and City Council meetings, there will be a consideration to switch to a different Bond Counsel.
- The downtown sidewalk project has begun; and the paving of lower Main Street is now scheduled for the Spring of 2017.
- The City's weekly newsletter, *Biddeford Beat*, now has three editions that have been released and can be accessed on the City's website. Volunteers from the public are asked to provide articles for the newsletter – possibly on the historical aspect of the City.
- Mr. Bennett cautioned the Council that the tabling of the two medical marijuana ordinance amendments until the same time as the expiration of the medical marijuana moratorium may have to be re-looked at.

Other Business:

Councilor McCurry: asked City Clerk, Carmen Morris to explain the absentee ballot request and voting process. She explained that as of the beginning of August, the City Clerk's Office has been accepting absentee ballot requests for the upcoming November 8th State General (Presidential) and Municipal Referendum Election. Ballots are expected to be available for issuance about 30 days prior to Election Day. To date, the City Clerk's Office has received over 700 absentee ballot requests.

There are a number of ways that voters may request an absentee ballot:

- 1) *Complete an absentee ballot application, which can be obtained in the City Clerk's Office. The application can be mailed or dropped off to the City Clerk's Office.*
- 2) *Call the City Clerk's Office at 284-9307 and request an absentee ballot via telephone.*
- 3) *Come into the City Clerk's Office prior to Thursday, November 3rd, 2016 at 7:00 p.m. and vote in the City Clerk's Office.*
- 4) *Go to <http://www.maine.gov/cgi-bin/online/AbsenteeBallot/index.pl> and submit an absentee ballot request electronically.*

The City Clerk's Office will be issuing absentee ballots up to and until 7:00 p.m. on Thursday, November 3rd, 2016. ***No absentee ballots will be issued on Friday, November 4th or Monday, November 7th. All absentee ballots must be returned to the City Clerk's Office no later than Election Day, November 8th at 8:00 p.m.***

The City Clerk's Office will be open extended hours for voter registration and absentee voting on Saturday, October 29th from 8:00 a.m. to noon; and on Thursday, November 3rd until 7:00 p.m. Folks may call the City Clerk's Office at 284-9307 with any questions.

Councilor Ready: announced that the Sept. 17th Household Hazardous Waste Day was very well attended, with over 300 vehicles coming through Public Works. He reminded folks that oil-based paints can be brought to Sherwin Williams anytime, at no cost. Also, fluorescent light bulbs may be brought to Staples, Home Depot or Dupuis Hardware. Citizens do not have to wait until a Hazardous Waste Day to get rid of these items.

Councilor Ready brought up the fact that information on the City's website really needs to be kept up to date and be correct.

Mayor Addressing the Council: Mayor Casavant thanked Carmen Morris, Gerry Matherne and Ray Larose, along with Heart of Biddeford Director, Delilah Poupore for all their help in the organization, planning, set up and clean up of this past Friday's Mayoral Ball. He announced that as part of the Mayoral Ball, he and Mayor Michaud of Saco selected a Citizen of the Year who was recognized for all their work and efforts in making both cities better, and truly displaying a deep sense of community. This year's recipient is Delilah Poupore.

Mayor Casavant also commented that this past Saturday's River Jam event was another success and the bands that played were awesome. This event was volunteer-driven by folks who truly care about the City and want betterment of our community.

On a final note, he assured folks that the trees that have been removed from the Main Street sidewalk will, indeed, be replaced as part of the Main Street Sidewalk Project.

Executive Session:

- **1 M.R.S.A. 405(6)(E)..Consultation with City Attorney – Pending Litigation**
- **1 M.R.S.A. 405(6)(A)..Personnel Issue**
- **1 M.R.S.A. 405(6)(D)..Contract Negotiations**

Motion by Councilor Laverriere, seconded by Councilor Lessard to move into Executive Session.

Vote: Unanimous.

Time: 8:24 p.m.

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

Vote: Unanimous.

Time: 9:10 p.m.

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

Vote: Unanimous.

Time: 9:10 p.m.

Attest by: _____
Carmen J. Morris, City Clerk