

City of Biddeford

Policy Committee

September 17, 2020 4:30 PM Via ZOOM

Please click the link below to join the webinar:

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- 1. Roll Call**
- 2. Adjustments to the Agenda**
- 3. Acceptance of Minutes**
 - 3.1. Policy Committee Meeting Minutes...June 25, 2020
[6-25-2020 Policy Comm Meeting Minutes.docx](#)
- 4. Discussion/Review**
 - 4.1. Ch. 42, Motor Vehicles & Traffic/Sec. 42-95-Four-way Stop Intersections/Add Main Street, Lincoln & Adams Street
[Four-Way Stop Intersection-Main-Lincoln-Adams Streets.doc](#)
[4 Way Stop at City Square-MEMO.docx](#)
 - 4.2. Ch. 42, Motor Vehicles & Traffic/Sec. 42-96-Three-way Stop Intersections/Add Main Street, and Alfred Street ; and Sec. 42-87-Yield Signs/Delete Alfred Street at Main Street
[Three-Way Stop Intersection-Main-Alfred Streets.doc](#)
[4 Way Stop at City Square-MEMO.docx](#)
 - 4.3. Ch. 2, Administration/Division 12 - Police Advisory Committee/Clarification Amendments
[Police Advisory Committee Language.doc](#)
[9-17-2020 Police Advisory Comm Amendments-MEMO.docx](#)
 - 4.4. Marijuana-Related Zoning Ordinance Referral to Planning Board
[Marijuana White Paper - May 2020.pdf](#)

Other Business:

- 5. Adjourn**

**Policy Committee Meeting
June 25, 2020**

*NOTE: Due to COVID-19, this meeting was held virtually (via ZOOM),
and was live streamed on the City's website*

Committee Chair, Councilor John McCurry, Jr. called the meeting to order at 10:00 a.m.

Roll Call: Councilors John McCurry, Jr., Norman Belanger and Doris Ortiz; Committee Members Renee O'Neil and Nathan Bean

Staff Members present: Carmen Morris, City Clerk, Roger Beaupre, Police Chief, Chief Operating Office, Brian Phinney, Code Enforcement Officer, Roby Fecteau and Planning & Development Director, Mathew Eddy

There were no adjustments to the agenda.

Acceptance of Minutes: **May 21, 2020**

Motion by Councilor Belanger, seconded by Member Bean to accept the minutes as printed.

Vote: Unanimous.

Discussion/Approval: Temporary Outdoor Restaurant and Retail Operation

The Committee discussed the Emergency Ordinance put into place by the City Council on June 2, 2020: ***Curbside Biddeford Temporary Outdoor Restaurant and Retail Operation***. Councilor McCurry explained that there are a couple of issues that have prompted this Policy Committee meeting. One is to consider and make a recommendation on the process of prompting Temporary Outdoor Restaurant and Retail Operation Permit Application to be reviewed by the Policy Committee; and the other is the proposal submitted by Magnus on Water.

Magnus on Water Temporary Outdoor Restaurant and Retail Operation Permit Application:

Motion by Councilor Belanger, seconded by Councilor Ortiz to accept the original plan as proposed by Magnus on Water, which proposes to locate an Airstream in Mechanics Park.

Discussion included concerns about parking the Airstream in Mechanics Park versus parking it on the street. Allowing use of Mechanics Park poses the problem that this space is widely used by the public, and anybody should be allowed to use the park if they want to purchase food and eat there, whether from Magnus on Water or another restaurant. Allowing the Airstream to park on the street not only violates City Ordinances (Sec. 42-57), it also takes up what is already very limited parking in that area.

Motion by Councilor Belanger, seconded by Councilor Ortiz to amend their original motion that the revised proposal submitted by Magnus on Water be accepted, which proposes to locate an Airstream on the street adjacent to the restaurant and cordon off part of Mechanics Park for patrons.

By way of a possible solution, Police Chief Roger Beaupre suggested allowing Magnus on Water to located their Airstream in the slip lane that runs from Water Street to Main Street, or in some vicinity

thereof. Code Enforcement Officer, Roby Fecteau confirmed that the proposal is to leave the Airstream parked rather than move it each day. Also, the owners of Magnus on Water would like to begin with a Thursday through Sunday schedule, with the option to offer additional days as business picks up. Chief Beaupre noted that Magnus on Water will need to file an amendment with the State Bureau of Alcoholic Beverages and Lottery Operations to allow consumption of alcohol in a noncontiguous area.

Councilors Belanger and Ortiz withdrew their motion.

Motion by Councilor Belanger, seconded by Member O'Neil to recommend that City Staff work with Magnus on Water on the best location for the Airstream and the best part of Mechanics Park to cordon off for patrons.

Vote: Unanimous.

Permission to Utilize Public Space for Outdoor Restaurant and Retail Activity:

Motion by Councilor Belanger, seconded by Councilor Ortiz to amend the Emergency Ordinance approved by the City Council on June 2, 2020 that at least three(3) Councilors be in opposition to a *Curbside Biddeford Temporary Outdoor Restaurant and Retail Operation Permit Application* to prompt a Policy Committee review.

Vote: 4/1; Councilor McCurry opposed.

Councilors Belanger and Ortiz, and Members O'Neil and Bean in favor.

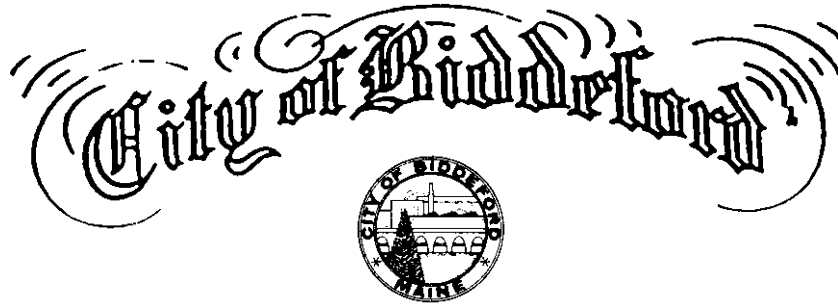
Motion carries.

Councilor McCurry noted that there is a Special Council Meeting scheduled for this evening, and his intention is to include the two items voted on during this meeting be included on tonight's council agenda.

Motion by Councilor Belanger, seconded by Member Bean to adjourn.

Vote: Unanimous.

Time: 10:54 a.m.



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 42-95 Four-way Stop Intersections**, be amended by adding or deleting to read as follows:

Main Street, Lincoln & Adams Street



Policy Committee

Meeting Date: September 17, 2020

Meeting Time: 4:30 p.m.

Agenda Item No:

Item Description: Four-way Stop Intersection (City Square)

Submitted by: Chief Roger P. Beaupre

Supporting Information/Documentation:

From: Greg Tansley:

"There is much discussion here which highlights the need for additional traffic calming and attention to other modes of travel, including bicycles and pedestrians, in the downtown area.

The applicant for Riverdam, DRAFT ROOM, LLC, is required through its (pending approval) Traffic Movement Permit from Maine DOT to implement improvements to 3 intersections downtown. The intersections are Main/Elm, Lincoln/Elm, and Main/Lincoln/Adams.

Regarding Main/Lincoln/Adams, the requirement is that it become an all-way stop. Physical modifications are required at the intersection to make this happen. For example, you should never have an all-way approach on Adams to Main where you have a right-turn lane and a center/through lane. I.e., One lane only on Adams St. coming into Main St. for all movements (the same for Alfred coming into Main and Main coming to Alfred if it were to go all-way stop in the future). Grinding and regarding pavement also needs to happen associated with the layout changes (e.g., the crown of the road should match the painted centerline of the road).

A Maine DOT Traffic Movement Permit, once issued, requires that the improvements be substantially completed within 3 years. In this case, the Planning Board attached a condition of approval that requires them to complete the improvements prior to occupancy (scheduled soon) or that they escrow 150% of the expected costs of those improvements with the City. The latter, the escrow option, is what is being worked on as I type.

We have conceptual designs available and are awaiting final approval of the Traffic Movement Permit from Maine DOT which will include final plans. Unfortunately, due to staff changes at Maine DOT and COVID-19, the permit which should have been approved many months ago got set aside and is still pending, but the concepts for all 3 intersections are agreed to by all parties, including Maine DOT.

Ultimately, to be most effective, in my opinion, the intersection of Main and Alfred should be converted to an all-way stop as well. A redesign of this intersection is needed, because of the existing geometrics/layout and grading of that intersection, which are more automobile-centric, do not benefit pedestrians and bicycles in as much as would be expected in an urban Downtown

environment. This is especially the case given the tremendous activity and growth the Downtown we have seen over the past decade, and especially the past 3-5 years.

That said, the immediate discussion appears to be Main/Lincoln/Adams, and yes it is slated to become an all-way stop. Once the Maine DOT permit is issued, which we expect to be soon, the applicant has stated they will complete the improvements at Main/Lincoln/Adams before the end of September, which means it would go all-way stop by the end of September. It should not go all-way stop, however, until the improvements are completed.

In a separate case, regardless of the applicant, we hold the money to complete the improvements, which in my opinion should be completed this fall at the latest for this intersection in particular.

I have attached the current plans for information. If/when the permit is approved by Maine DOT, assuming no changes, these are the improvements that would be completed.

To be clear, Main and Alfred are not included here. Although not included here, Maine and Alfred should be a priority in addressing the overall system, but an engineer should develop designs before any changes are made to that intersection. Simply converting it to an all-way stop is not a solution, again because of the geometrics/layout involved and grading that may be required similar to Main/Lincoln/Adams.”

Key Terms:

N/A

Executive Summary:

Included in above summary from Greg Tansley

Detailed Review:

DITTO

Funding Source:

City Budget

Staff Recommendation:

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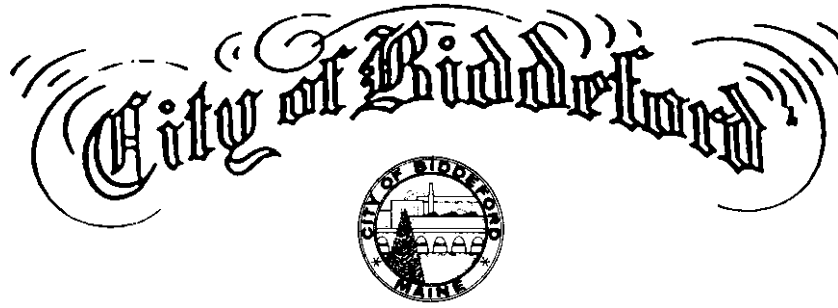
Main Street, Lincoln & Adams Street

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 42-96 Three-way Stop Intersections, be amended by adding or deleting to read as follows:

Main Street, and Alfred Street

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 42-87 Yield Signs, be amended by adding or deleting to read as follows:

~~Alfred Street at Main Street~~



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 42-96 Three-way Stop Intersections**, be amended by adding or deleting to read as follows:

Main Street, and Alfred Street

BE IT FURTHER 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 42-87 Yield Signs**, be amended by adding or deleting to read as follows:

Alfred Street at Main Street



Policy Committee

Meeting Date: September 17, 2020

Meeting Time: 4:30 p.m.

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Submitted by: Chief Roger P. Beaupre

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To be clear, Main and Alfred are not included here. Although not included here, Maine and Alfred should be a priority in addressing the overall system, but an engineer should develop designs before any changes are made to that intersection. Simply converting it to an all-way stop is not a solution, again because of the geometrics/layout involved and grading that may be required similar to Main/Lincoln/Adams.”

Key Terms:

N/A

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Included in above summary from Greg Tansley

Detailed Review:

DITTO

Funding Source:

City Budget

Staff Recommendation:

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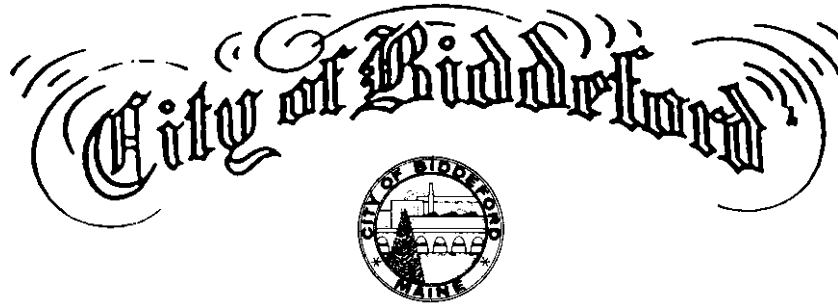
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Main Street, and Alfred Street

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~~Alfred Street at Main Street~~



BE IT ORDAINED, by the City Council of the City of Biddeford that the Code of Ordinances, **Chapter 2, Administration, Article IV BOARDS, COMMITTEES, COMMISSIONS, DIVISION 12 POLICE ADVISORY COMMITTEE Sections 2-230 et seq.** be amended by adding or deleting to read as follows:

Sec. 2-320 Establishment.

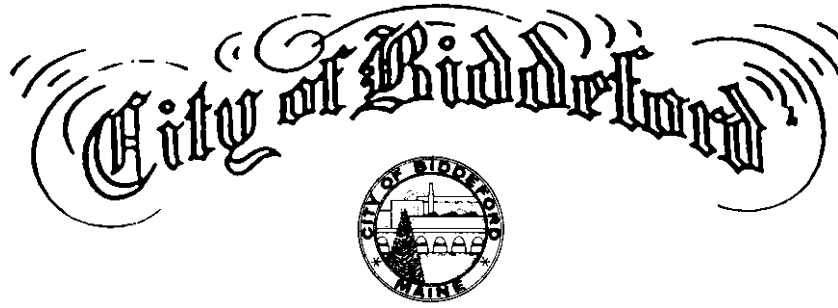
There is hereby created and established the Biddeford Police Advisory Committee, herein after BPAC, comprised of five members and a member of the Biddeford Police Department to serve as an ex officio member. All members shall be citizens and reside within the corporate limits of the City of Biddeford, with the exception of the ex officio member who may reside outside of the City. In appointing members to the BPAC, the Mayor and City Council shall seek to appoint members from a cross section of all citizens, taking into consideration the person's expertise, background and other relevant experiences. The BPAC is established under the authority of the Biddeford City Council and shall serve under the directive of the City Council.

Sec. 2-321 Purpose; responsibilities.

(a) The purpose of the Committee is to provide an organized forum for two-way communication between the Biddeford Police Department and the community.

(b) Responsibilities shall include:

(1) ~~Where~~ When appropriate, make recommendations to ~~the City Council and~~ Police Department on ~~substantive issues~~ matters, with a goal of improved enhancing police-community relations services. ~~For the purpose of this article, "substantive" issues are defined as matters of major or practical importance to all concerned. It~~ These recommendations shall not include personnel matters issues involving individual members or officers of the Police Department, or matters that deal with ~~daily~~ police operational enforcement and implementation strategies.



(2) Assist in identifying potential Police Department community partnerships ~~to~~ that focus on address public safety ~~related issues~~ matters within the community.

(3) Identify community resources and support for public safety activities ~~(such as parking and traffic); and give input to the City Council and the Police Department regarding perceived effectiveness.~~

(4) Receive information and comments from citizens at the Committee's open and public meeting forum regarding public safety issues.

(5) Make reports to the ~~City Council~~ Police Chief at such times as may be requested by the ~~City Council~~ Police Chief or as the BPAC determines is necessary.

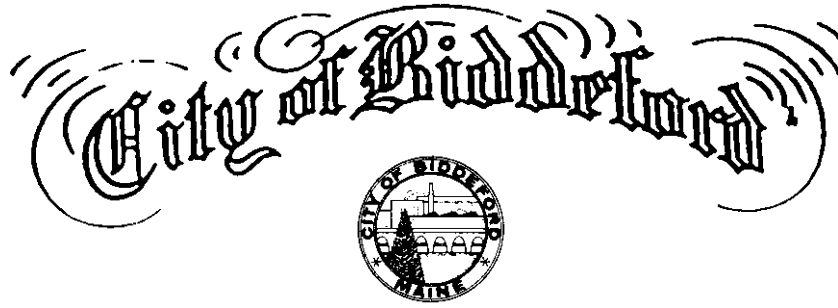
Sec. 2-322 Membership.

Members shall be appointed by the Mayor and confirmed by a majority of the City Council for staggered three-year terms. All subsequent appointments, except to fill a vacancy, shall be for three-year terms. A vacancy is created upon the death or written resignation to the BPAC Chair, or upon the vote of the City Council to remove a member. Members of the Committee shall serve without pay and at the discretion of the City Council. The Biddeford Police Chief, or his designee, shall serve as the administrator, advisor and ex officio member, and shall provide assistance to the BPAC.

Sec. 2-323 Organization of Committee.

(a) The Mayor shall appoint a Chair and a Vice Chair. The Chair shall serve a two-year term. A quorum shall consist of three members. The Chair shall be counted in determining a quorum and shall have one vote.

(b) The Vice Chair shall serve a two-year term. The Vice Chair shall serve as Chair upon the death or resignation of the Chair, or upon the office of the Chair becoming vacant. The Vice Chair shall discharge the powers of the office of the Chair at any meeting at



which the Chair is absent. The Vice Chair shall be counted in determining a quorum and shall have one vote.

(c) The ex officio member of the BPAC is a nonvoting member and shall serve in an advisory capacity.

(d) The duties of a secretary responsible for recording meeting minutes shall be rotated sequentially among the Committee's membership for each meeting. The Chair shall be excluded from this responsibility. A roster for secretarial duties shall be established by the Committee.

(e) A quorum consisting of three members shall be necessary to take any BPAC action authorized or required by this article. An issue shall carry by a majority of those voting.

(f) Notice of any expired terms and/or vacancies shall be given to the public. The Mayor shall nominate and the City Council shall confirm all appointments to fill expired terms and/or vacancies. The City Council may remove any member for misconduct or nonperformance of duty.

(g) The BPAC may adopt and amend from time to time rules to govern the conduct of its administrative business, consistent with the provisions of this division.

Sec. 2-324 Meetings.

(a) Meetings of the Biddeford Police Advisory Committee shall be at the call of the Chair, and established by the BPAC. Meetings shall be held at the Biddeford City Hall or at a suitable municipal public location. Prior notice of any change in meeting date, time or place shall be provided to all members, the public, and the administrative staff 48 hours in advance of said meeting.

(b) All regularly scheduled and special meetings shall have an agenda approved by the Chair.



Policy Committee

Meeting Date: September 17, 2020

Meeting Time: 4:30 p.m.

Agenda Item No: [match agenda item #]

Item Description: Police Advisory Committee

Submitted by: Roger P. Beaupre, Chief

Supporting Information/Documentation:

[List all supporting documentation and historical references as applicable]

Key Terms:

[List key terms with definitions if introducing new topics. "N/A" if not applicable]

Executive Summary:

Under Revision of the City Charter in 2016, ARTICLE VI as enacted on November 8, 2016 mandates that the City Council create an ordinance to establish a Police Advisory Committee. The Charter change did not identify any specific functionality, purpose or structure under which this committee would serve, leaving the City Council to enact whatever it deems appropriate.

Under Ordinance No. 2016-119, the City Council at that time enacted the following governing language.

Sec. 2-320 Establishment.

There is hereby created and established the Biddeford Police Advisory Committee, herein after BPAC, comprised of five members and a member of the Biddeford Police Department to serve as an ex officio member. All members shall be citizens and reside within the corporate limits of the City of Biddeford, with the exception of the ex officio member who may reside outside of the City. In appointing members to the BPAC, the Mayor and City Council shall seek to appoint members from a cross section of all citizens. The BPAC is established under the authority of the Biddeford City Council and shall serve under the directive of the City Council.

Sec. 2-321 Purpose; responsibilities.

(a) The purpose of the Committee is to provide an organized forum for two-way communication between the Biddeford Police Department and the community.

(b) Responsibilities shall include:

(1) Where appropriate, make recommendations to the City Council and Police Department on substantive issues, with the goal of improved police services. For the purpose of this article, "substantive" issues are defined as matters of major or practical importance to all concerned. It shall not include personnel issues involving individual members or officers of the Police Department, or daily police operational enforcement and implementation.

(2) Assist in identifying potential Police Department community partnerships to address public safety related issues within the community.

(3) Identify community resources and support for public safety activities (such as parking and traffic); and give input to the City Council and the Police Department regarding perceived effectiveness.

(4) Receive information and comments from citizens at the Committee's open and public meeting forum regarding public safety issues.

(5) Make reports to the City Council at such times as may be requested by the City Council or as the BPAC determines is necessary.

Sec. 2-322 Membership.

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(c) The ex officio member of the BPAC is a nonvoting member and shall serve in an advisory capacity.

(d) The duties of a secretary responsible for recording meeting minutes shall be rotated sequentially among the Committee's membership for each meeting. The Chair shall be excluded from this responsibility. A roster for secretarial duties shall be established by the Committee.

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(g) The BPAC may adopt and amend from time to time rules to govern the conduct of its administrative business, consistent with the provisions of this division.

Sec. 2-324 Meetings.

(a) Meetings of the Biddeford Police Advisory Committee shall be established by the BPAC. Meetings shall be held at the Biddeford City Hall or at a suitable municipal public location. Prior notice of any change in meeting date, time or place shall be provided to all members, the public, and the administrative staff 48 hours in advance of said meeting.

(b) All regularly scheduled and special meetings shall have an agenda approved by the Chair.

Since its inception, the BPAC has never had a full complement of members, nor have the appointed Chairs ever called for, or organized a meeting. Shortly after the BPAC was established by ordinance, the Department undertook steps to achieve national accreditation, which it did in July of 2018. The accreditation status has made it necessary to change, not only the nomenclature of this committee, but in its direction and purpose. Given the current climate, the committee would serve a better function as a link between the Police Department and the community to provide communication and understanding.

What is the Police Advisory Committee?

As its title implies, the PAC is an advisory committee and not a review board or commission. While this may seem to be a subtle difference, there is in fact a significant difference.

Commissions and boards typically are independent, empowered bodies made up of members who possess relevant competencies to conduct some form of a review process as their core purpose. Committees typically are groups of people who are brought together to accomplish a finite task or have an on-going purpose. Committees generally have no authority, operate as an internal body, and make suggestions and recommendations to an operational entity or others.

The City of Biddeford PAC is a committee with the purpose of (as written in Section 2-321(a))... to provide an organized forum for two-way communication between the Biddeford Police Department and the community. As such, committee members typically would not have any relevant experiences or competencies in law enforcement or public safety. The objective of the member selection is to create a committee made up of a cross section of the community (and not comprised of individuals with law enforcement experience or knowledge. The competency members need is the ability to articulate their perspectives and viewpoints as residents of the community. The committee may provide critical community input for decisions but it does not participate in the decision-making related to operations, policies, etc.

Staff Recommendation:

That there be additional discussion and further development of committee purpose, structure and functionality. As a starting or reference point, we can start with the following recommended changes:

DIVISION 12 POLICE ADVISORY COMMITTEE

Sec. 2-320 Establishment.

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(c) The ex officio member of the BPAC is a nonvoting member and shall serve in an advisory capacity.

(d) The duties of a secretary responsible for recording meeting minutes shall be rotated sequentially among the Committee's membership for each meeting. The Chair shall be excluded from this responsibility. A roster for secretarial duties shall be established by the Committee.

(e) A quorum consisting of three members shall be necessary to take any BPAC action authorized or required by this article. An issue shall carry by a majority of those voting.

(f) Notice of any expired terms and/or vacancies shall be given to the public. The Mayor shall nominate and the City Council shall confirm all appointments to fill expired terms and/or vacancies. The City Council may remove any member for misconduct or nonperformance of duty.

(g) The BPAC may adopt and amend from time to time rules to govern the conduct of its administrative business, consistent with the provisions of this division.

Sec. 2-324 Meetings.

(a) Meetings of the Biddeford Police Advisory Committee shall be at the call of the Chair, and established by the BPAC. Meetings shall be held at the Biddeford City Hall or at a suitable municipal public location. Prior notice of any change in meeting date, time or place shall be provided to all members, the public, and the administrative staff 48 hours in advance of said meeting.

(b) All regularly scheduled and special meetings shall have an agenda approved by the Chair.



City Council-Policy Committee

Meeting Date: May 5, 2020

Meeting Time: 6:00 p

Agenda Item No: Discussion Item

Item Description: Marijuana zoning Ordinance Referral to Planning Board

Submitted by: Mathew Eddy; Director, Planning and Development

Supporting Information/Documentation:

- **February 11 Meeting with City Council**
https://docs.google.com/gview?url=https%3A%2F%2Fgranicus_production_attachments.s3.amazonaws.com%2Fbiddeford%2F42ba50743da7b037969ef4ffdaae44310.pdf&embedded=true
- **April 18, 2019 Email from Roby Fecteau**
https://legistarweb-production.s3.amazonaws.com/uploads/attachment/pdf/375160/6-11-2019_Workshop-Marijuana-Fecteau_Email-April_2019.pdf
- **June 11, 2019 – Council Workshop – 1.2 Adult Use Marijuana: State Rule Changes**
(timestamp 1:16:00) https://biddeford.granicus.com/MediaPlayer.php?view_id=1&clip_id=551

Key Terms:

See above memo, which provides ordinance definitions and some previous discussion.
Please note that we are not addressing personally homegrown marijuana or in-home caregivers in this review.

State Definitions/locations of import:

- Attachment 1: Odor Control Draft Proposal from Codes Enforcement
- Marijuana Legalization Act (or Adult Use Marijuana Law) 28-B M.R.S. Ch. 1
 - 18-691 C.M.R. ch. 1 – Adult Use Marijuana Program Rule
<https://legislature.maine.gov/statutes/28-B/title28-Bch1sec0.html>
- Maine Medical Use of Marijuana Act 22 M.R.S. Ch. 558-C
 - 18-691 C.M.R. ch. 2 - Maine Medical Use of Marijuana Program Rule
<https://www.mainelegislature.org/legis/statutes/22/title22ch558-Csec0.html>
- Industrial hemp 7 M.R.S. Section 2231
<https://legislature.maine.gov/statutes/7/title7sec2231.html>
- Marijuana Manufacturing: 18-691 C.M.R. ch. 4 - Marijuana Manufacturing Facilities
<https://www.maine.gov/dafs/omp/medical-use/rules-statutes/18-691-C.M.R.-ch.-4>
- Adult use statute: <https://www.maine.gov/dafs/omp/adult-use/rules-statutes/18-691-C.M.R.-ch.-1>

Executive Summary:

As a result of the February 11 workshop, staff were asked to develop some short term recommendations for changes to the zoning ordinance regarding permitting recreation marijuana grow facilities in the existing zones where medical marijuana is presently permitted (as a conditional use). Additionally, there is a need to modify our definitions to reflect the changes in state law so that our ordinance breaks down by “processing and testing”. These are activities presently underway within our existing ordinance, in the I2 and I3 zones.

Staff was also asked to address the issue of odor, an issue experienced in at least two facilities within our business parks.

We recommend that the changes suggested below be forwarded to the Planning Board for their review, public hearing, and recommendation:

- Amend Medical Marijuana Dispensary definition to reflect state statute (i.e. the not-for-profit status); continue to permit as a conditional use in the I3 district;
- Amend the Medical Marijuana Growing Facility definition by using the state definition for Cultivation Facility; amend the Table of Land Use accordingly while maintaining the conditional use requirement for approval. This would permit both recreation and medical grow facilities in the I2 and I3 districts;
- Amend the Medical Marijuana Land Use definition to Marijuana Land Uses reflecting state statute change and the four activities listed above;
- Amend the definitions for Marijuana, Medical Marijuana, and Medical Marijuana Caregiver to be consistent with state statute;
- Amend the Medical Marijuana Home Production definition and reconsider its permission as an accessory use in “any” home; and,
- Amend Section 77. Medical Marijuana, by replacing F by addressing odor concerns with the following:

(1) All marijuana land uses shall be conducted indoors. Said uses are not permitted to conduct outdoor sales or services of any kind. Any common areas, including, but not limited to storage areas and building facilities, shared with another marijuana establishment and/or medical marijuana establishment must be clearly identified as such on the site plan or conditional use application.

(2) Odor management. For all Marijuana Land Uses, the odor of marijuana must not be detected offsite, i.e., must not be detected at premises that are not under the custody or control of the establishment. To prevent and control marijuana odors, an odor control plan shall be submitted as part of the site plan application describing the odor(s) originating or anticipated to originate at the premises and the control technologies to be used to prevent such odor(s) from leaving the premises. The odor control plan shall, at a minimum, include the following: (a) A facility floor plan that identifies the locations of all odor-emitting activities and sources. The plan shall also identify the location of doors, windows, vents, HVAC systems, odor control systems and other relevant information. (b) A list of specific odor-emitting

activities and sources, and a description of the processes that will take place at the facility, including, but not limited to, vegetative flowering, processing and storage. (c) For each odor-emitting activity or source, a description of the administrative procedures as well as the engineering processes, technologies, and equipment the facility will use.

(i) Administrative controls shall include, at a minimum: management practices to isolate odor activities and sources, use of standard operating procedures, employee training, regular equipment inspections and maintenance of inspection logs.

(ii) Engineering controls shall include, at a minimum, building design features; use of equipment and technology to address each specific odor-emitting activity or source; a systems and equipment maintenance and replacement schedule; and evidence that proposed equipment and technology are sufficiently capable and appropriately sized consistent with marijuana industry best practices for control technologies designed to effectively mitigate odors.

Marijuana land uses must implement appropriate ventilation and filtration systems to satisfy the odor standard contained herein. While the City does not mandate any particular equipment specifications with regard to filtration, all marijuana establishments and medical marijuana establishments are strongly encouraged to adopt best management practices with regard to implementing state-of-the-art technologies in mitigating marijuana odor, such as air scrubbers and charcoal filtration systems.

(3) Noxious gases and fumes. Marijuana Cultivating, testing, and processing facilities, in accordance with this ordinance shall include appropriate ventilation systems to mitigate noxious gases or other fumes used or created as part of the production. Gases or fumes shall not extend beyond any boundary line.

(4) Sufficient measures and means of preventing smoke, debris, dust, fluids and other substances from exiting a marijuana land use must be provided at all times.

(5) All marijuana land use establishments shall have in place an operational plan for proper disposal of marijuana and related byproducts in a safe, sanitary and secure manner and in accordance with all applicable federal, state and local laws and regulations. Dumpsters and trash containers must not be overflowing, and the surrounding area kept free of litter and trash. All dumpsters and containers are to be screened from public view. All trash receptacles on the premises used to discard adult use marijuana products must have a metal cover or lid that is locked at all times when the receptacle is unattended and security cameras must be installed to record activities in the area of such trash receptacles.

Funding Source:

N/A

Staff Recommendation:

Staff recommends moving these proposals to the Planning Board for their consideration and report back to City Council. A suggested Council order reads as follows:

IN BOARD OF CITY COUNCIL May 5, 2020 BE IT ORDERED, that the City Council of the City of Biddeford does hereby refer to the Planning Board for their review, holding a public hearing, and recommendation back to the City Council, proposed changes in the zoning ordinance having to do with Marijuana and consistency with state statute.

Attachment 1: Codes Enforcement Office Odor Control Proposal:

Area of activities; control of odors and emissions; sealed walls; disposal plan.

(1) All activities of marijuana establishments and medical marijuana establishments, including, without limitation, cultivating, growing, processing, displaying, selling and storage, shall be conducted indoors. Marijuana establishments and medical marijuana establishments are not permitted to conduct outdoor sales or services of any kind. Any common areas, including, but not limited to storage areas and building facilities, shared with another marijuana establishment and/or medical marijuana establishment must be clearly identified as such on the site plan application.

(2) Odor management. For all marijuana establishments and medical marijuana establishments, the odor of marijuana must not be detected offsite, i.e., must not be detected at premises that are not under the custody or control of the establishment. To prevent and control marijuana odors, an odor control plan shall be submitted as part of the site plan application describing the odor(s) originating or anticipated to originate at the premises and the control technologies to be used to prevent such odor(s) from leaving the premises. The odor control plan shall, at a minimum, include the following: (a) A facility floor plan that identifies the locations of all odor-emitting activities and sources. The plan shall also identify the location of doors, windows, vents, HVAC systems, odor control systems and other relevant information. (b) A list of specific odor-emitting activities and sources, and a description of the processes that will take place at the facility, including, but not limited to, vegetative flowering, processing and storage. (c) For each odor-emitting activity or source, a description of the administrative procedures as well as the engineering processes, technologies, and equipment the facility will use.

(i) Administrative controls shall include, at a minimum: management practices to isolate odor activities and sources, use of standard operating procedures, employee training, regular equipment inspections and maintenance of inspection logs.

(ii) Engineering controls shall include, at a minimum, building design features; use of equipment and technology to address each specific odor-emitting activity or source; a systems and equipment maintenance and replacement schedule; and evidence that proposed equipment and technology are sufficiently capable and appropriately sized consistent with marijuana industry best practices for control technologies designed to effectively mitigate odors.

Marijuana cultivation facilities and medical marijuana cultivation facilities must implement appropriate ventilation and filtration systems to satisfy the odor standard contained herein. Marijuana stores, medical marijuana retail stores, marijuana product manufacturing facilities, medical marijuana product manufacturing facilities, marijuana testing facilities, and medical marijuana testing facilities are not required to install filtration equipment on the licensed premises but must satisfy the same odor standard contained herein. While the City does not mandate any particular equipment specifications with regard to filtration, all marijuana establishments and medical marijuana establishments are strongly encouraged to adopt best management practices with regard to implementing state-of-the-art technologies in mitigating marijuana odor, such as air scrubbers and charcoal filtration systems.

(3) Noxious gases and fumes. Marijuana product manufacturing facilities, medical marijuana product manufacturing facilities, marijuana testing facilities, and medical marijuana testing facilities shall include appropriate ventilation systems to mitigate noxious gases or other fumes used or created as part of the production. Gases or fumes shall not extend beyond any boundary line.

(4) Sufficient measures and means of preventing smoke, debris, dust, fluids and other substances from exiting a marijuana establishment or medical marijuana establishment must be provided at all times.

(5) All marijuana establishments and medical marijuana establishments shall have in place an operational plan for proper disposal of marijuana and related byproducts in a safe, sanitary and secure manner and in accordance with all applicable federal, state and local laws and regulations. Dumpsters and trash containers must not be overflowing, and the surrounding area must be kept free of litter and trash. All dumpsters and containers shall be screened from public view. All trash receptacles on the premises used to discard adult use marijuana products must have a metal cover or lid that is locked at all times when the receptacle is unattended and security cameras must be installed to record activities in the area of such trash receptacles

General penalty for violation of Code; continuing violations.

Whenever in this Code or in any ordinance of the City any act is prohibited or is made or declared to be unlawful or a misdemeanor, or whenever in such Code or ordinance the doing of any act is required or the failure to do any act is declared to be unlawful, where no specific penalty is provided therefor, the violation of any such provision of this Code or any ordinance shall be punished by a fine of not more than \$2,500 for each occurrence. All fines shall be recovered on complaint to the use of the City