

**COUNCIL MEETING
SEPTEMBER 3, 2019**

Mayor Casavant called the meeting to order at 6:00 p.m.

Roll Call: Michael Swanton, John McCurry, Jr., Stephen St. Cyr, Robert Quattrone, Jr., Amy Clearwater, Norman Belanger, Michael Ready, Laura Seaver, Marc Lessard

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

There were no adjustments to the agenda.

Update: Heart of Biddeford and Engine – Upcoming Events

Delilah Poupore, Heart of Biddeford Director and Tammy Ackerman, Engine Director gave an update on upcoming events which are sponsored and organized by Heart of Biddeford and Engine, including Fringe Fest and River Jam coming up on September 20th and 21st, respectively. Fringe Fest is the official kick-off of River Jam and takes place Friday night right on Main Street, between Washington and Alfred Streets. River Jam will take place on Saturday at Mechanics Park and will include a 5K Race, a Dash to the Sea kayak race, a Makers Market, 5 different bands throughout the day, food trucks and more.

Delilah and Tammy then expounded on the benefits that both Heart of Biddeford and Engine offer to the City, our citizens and visitors. Both organizations focus on community building and sponsoring and organizing events for people of ages.

Consideration of Minutes: August 20, 2019

Motion by Councilor McCurry, seconded by Councilor Clearwater 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 August 20, 2019}

**2019.90) Amendment/Land Development Regulations/Art. XIV-Shoreland Zoning/
Sec. 15. Land Use Standards/Essential Services**

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

Motion by Councilor Swanton, seconded by Councilor Quattrone to table the ordinance amendment, and direct Staff to work on a more specific definition of “*Essential Services*” in the Land Development Regulations, Article II-Definitions.

Vote: 3/6; Councilors Swanton, Lessard and Quattrone in favor.

Councilors McCurry, St. Cyr, Clearwater, Belanger, Ready and Seaver opposed.

Amendment fails.

Vote: 7/2; Councilors Swanton and Quattrone opposed.

Councilors McCurry, St. Cyr, Clearwater, Belanger, Ready, Seaver and Lessard in favor.

Motion carries.

Orders of the Day:

2019.54

IN BOARD OF CITY COUNCIL...JUNE 4, 2019

BE IT ORDERED, that the City Council of the City of Biddeford does hereby authorize the City Manager to execute the necessary documents to transfer the land and building at Map 55, Lot 51 (Hills Beach Fire Station) to the Hills Beach Association or other legal entity created by the Association for said purpose. Said documents shall include the requirement that the property cannot be transferred to any other entity without consent of the City of Biddeford and that the land and building shall revert back to the City should the Hills Beach Association **or the legal entity created by the Hills Beach Association for said purpose** cease to exist.

Motion by Councilor Belanger, seconded by Councilor Ready to remove the order from the table.

Vote: 8/1; Councilor McCurry opposed.

Councilors Swanton, St. Cyr, Quattrone, Clearwater, Belanger, Ready, Seaver and Lessard in favor.

Motion carries.

Motion by Councilor Seaver, seconded by Councilor Lessard to table the order.

Vote: 4/5; Councilors Seaver, Lessard, Quattrone and McCurry in favor.

Councilors Swanton, St. Cyr, Clearwater, Belanger and Ready opposed.

Motion to table fails.

Motion by Councilor Clearwater, seconded by Councilor Ready to amend the order by specifying what “said purpose” is, as stated in the first sentence; namely, ***a Community Center and/or Community Meeting Space, which also shall be available to all Biddeford residents for twice the rate paid by members of the Hills Beach Association for such rentals.***

Vote: 6/3; Councilors McCurry, Quattrone and Lessard opposed.

Councilors Swanton, St. Cyr, Clearwater, Belanger, Ready and Seaver in favor.

Amendment carries.

Vote on order, as amended: 4/5; Councilors Belanger, Clearwater, Swanton and Ready in favor.

Councilors McCurry, St. Cyr, Quattrone, Seaver and Lessard opposed.

Vote on Order fails.

2019.96

IN BOARD OF CITY COUNCIL...SEPTEMBER 3, 2019

BE IT ORDERED, that the City Manager be authorized to purchase a Roll-off truck as per bid on August 23, 2019 (the “Equipment”) from Freightliner of Maine (the “Vendor”) and may pay the Vendor an amount not to exceed \$191,665.00 (before discounts valued at \$90,000.00) for the Equipment as follows:

1. The City of Biddeford expects to incur debt to reimburse expenditures to pay the cost of the Equipment;
2. The City of Biddeford reasonably expects that the maximum principal amount of the debt, including for reimbursement purposes, is \$191,665.00
3. The City Manager, on behalf of the City of Biddeford, is authorized to enter into a lease purchase, loan or other financing agreement for the Equipment provided that (a) the principal amount of such agreement will not exceed \$191,665.00 (b) the term of such agreement will not exceed one hundred and twenty (120) months and (c) any obligation of the City of Biddeford to make lease or loan payments pursuant to such agreement is subject to annual appropriation by the City Council of the City of Biddeford;
4. The City Manager is authorized to advance money from the General Fund of the City for payment of the costs of the Equipment; and
5. The City Manager, on behalf of the City of Biddeford, is authorized to negotiate, enter into, execute, deliver and cause to be performed, and to approve, any and all agreements, instruments, certificates and other documents, and to grant security interests in the Equipment, upon such terms, conditions, limitations and undertakings, which the City Manager determines are necessary and proper for the acquisition and financing of the Equipment, provided that any lease purchase, loan or other financing agreement will be countersigned by both the Mayor and the Treasurer of the City of Biddeford. Without limiting the foregoing, the City Manager, on behalf of the City of Biddeford, in connection with the acquisition of the Equipment, is authorized to sell, transfer, trade in or otherwise dispose of any equipment, which the City Manager determines is no longer useful to the City of Biddeford.

BE IT FURTHER RESOLVED that the City Council of the City of Biddeford authorizes the Finance Director to use lease proceeds from the trade-in amount of \$90,000 to pay-off the lease on the traded in roll-off truck held by Suntrust in the amount of approximately \$62,385.56, with the exact amount to be determined at the time of pay-off to account for daily interest accruals.

NOTE: The Finance Committee will review this item on September 3, 2019 and vote to recommend it to City Council for approval. The purchase of this truck is included in the FY20 CIP budget line 21204-60303 as a lease.

Motion by Councilor McCurry, seconded by Councilor Clearwater to grant the order.
Vote: 8/1; Councilor Swanton opposed.
Councilors McCurry, St. Cyr, Quattrone, Clearwater, Belanger, Ready, Seaver and Lessard in favor.
Motion carries.

2019.97 **IN BOARD OF CITY COUNCIL..SEPTEMBER 3, 2019**
BE IT ORDAINED by the City Council of Biddeford, Maine to amend the Code of Ordinances of the City of Biddeford as follows:

WHEREAS, the City Council currently is evaluating whether to construct a municipal parking facility in Downtown Biddeford; and

WHEREAS, the City Council recently authorized the hiring of a Parking Consultant to review and make recommendations specific to the overall parking program; and

WHEREAS, the City Council anticipates that after further discussion and deliberation, the City Council will determine whether to construct a municipal parking garage; and

WHEREAS, the City Council needs more time to review the parking reduction (waiver) provisions as they relate to the potential development of a municipal parking facility and the overall parking program; and

WHEREAS, an emergency amendment to Section 49 of the Performance Standards of the Biddeford Land Use Ordinance is necessary to manage the potential impact and/or overburdening of the reduction (waiver) of parking requirements on public parking while a decision is made regarding a public parking facility; and

WHEREAS, it is anticipated that a decision regarding a public parking facility and the impact of parking reductions (waivers) on public parking may take up to one hundred eighty (180) days from the enactment of the amendments to this Ordinance;

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Biddeford, that the following amendments to the City of Biddeford's off street parking requirements be and hereby are enacted. The amendments to this Ordinance shall remain in effect for one hundred and eighty (180) days or until repealed by the City Council whichever occurs first. Should any section or provision of this Ordinance as amended be declared by any Court of competent jurisdiction to be invalid, such a declaration shall not invalidate any other section or provision.

Part III (Land Development Regulations), Article VI (Performance Standards), Section 49 (Off-street parking and loading) be amended as follows:

A. General.

11. Main Street Revitalization Districts and W-2 Zone parking requirements—General. (None of A1-A10 of this section applies to MSRD Zones or the W-2 Zone, and any requirement under Article VI (Performance Standards), Section 49 (Offstreet parking and loading) may be waived by the Planning Board upon request of an applicant. The applicant must demonstrate that the waiver request is necessary due to existing conditions, ~~and~~ would serve a useful purpose, and satisfies the criteria in Section C.3(k) of this Article).

C. Parking lot design criteria (not applicable to single-family dwellings and duplexes).

3. Parking.

- (k) Parking spaces shall be provided to conform to the number required in the following schedule. Where a proposed use does not fall clearly into one of the listed activities, the Board shall determine the activity, which most closely resembles the proposed use, and the proposed use shall comply with the parking standards of that category.

- (1) The Planning Board may reduce (waive) the off-street requirements of proposals for non-residential uses in the MSRD Zones and the W-2 Zone:

- a. Where legal on-street parking is located within 1,000 feet of a nonresidential use and the Board determines that this parking will be available to meet some or all of the parking demand.
- b. Where publicly supplied off-street parking is located within 500 feet of a nonresidential use and the Board determines that this parking will be safe, convenient, and available to meet some or all of the parking demand.
- c. Where it is clearly demonstrated that the parking demand will be lower than that established by this section and that the reduction will not detract from neighborhood property values, inconvenience the public, or increase congestion on adjacent streets.
- d. For the reuse or redevelopment of a parcel if the Planning Board determines that the new use will not significantly increase the demand for parking compared to the former use.
- e. If the Planning Board determines that the demand for parking will be less than the standard because some customers/users will walk or take alternative transportation to the site.

In these cases, the owner of the property seeking the reduction or his/her representative shall be responsible for providing documentation to the Planning Board substantiating the reduced parking demand or alternative supply.

- (2) The Planning Board may reduce (waive) the off-street requirements of proposals for new or expanded residential uses in the MSRD Zones and the W-2 Zone provided that any such reductions or waivers are then approved by the City Council.

- a. ~~A proposed project secures municipal or private parking in existing or future facilities where the applicant can demonstrate a contractual agreement is in place for a minimum of one (1) year to meet the parking requirements. This purchase can be transferred within existing or future parking lots.~~
- b. ~~Pay to the City of Biddeford a parking modification fee at a rate to be determined by the City Council to be used to improve parking or related facilities in Downtown Biddeford.~~
- c. ~~A mix of both a. and b. acceptable to the Planning Board.~~
- d. ~~In any case, the failure to pay for or cancellation of leased space will void any prior approvals unless the owner, or assignee, can demonstrate an alternative parking source or a reduction in said demand. Any project receiving a waiver in the requirement to provide off-street (on-site) parking shall be required to annually no later than January 15 of any calendar year provide evidence that the required parking remains secured in accordance with this Ordinance and the Planning Board approval.~~

- (3) In applying or modifying the parking standards for any proposed use, the Planning Board shall consider:

- a. No portion of any lot which is used to satisfy the front yard requirements of this ordinance shall be used for parking for any commercial or industrial use.
- b. Parking spaces shall be sufficient to accommodate the nonresidential use during a typical week.
- c. The likelihood of people walking or bicycling to the proposed use and the number of bicycle racks proposed. The Board shall consider any plan by the applicant to make the site more appealing for pedestrians and bicyclists.
- d. The size of the structure and the site.
- e. The environmental, scenic, or historic sensitivity of the site (including applicable limitations on impermeable surfaces). In cases where sufficient area for parking cannot be created on the site without disturbance to these resource values, the board may require a reduction in the size of the structure so that the available parking will be sufficient.
- f. The availability of on-street parking.

- g. Availability of off-site off-street parking that is open to the public, owner or controlled by the applicant, or available on a shared unit basis. Availability of accessible satellite parking shall also be considered.
 - h. Accessibility to public transit facilities such as public bus stations or routes, or scheduled bus services to the site.
 - i. Other standards used in generally accepted traffic engineering and planning manuals.
- (3) Parking requirements for residential and related uses. These requirements may be waived for applications that involve dwelling units with less than 1,000 square feet of floor area, senior citizen housing, single bedroom dwelling units, efficiency dwelling units and studio apartments. These requirements may also be waived if the applicant can demonstrate that all required parking can be accommodated through mixed use development, shared parking or other situations deemed acceptable. Any such waivers must also satisfy the criteria in Section C.3.(k)(2) of this Article.

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

Motion by Councilor Belanger, seconded by Councilor Clearwater to table the ordinance amendment.

Vote: 6/3; Councilors Lessard, McCurry and Quattrone opposed.

Councilors Swanton, St. Cyr, Clearwater, Belanger, Ready and Seaver in favor.

Motion to table carries.

Motion by Councilor Belanger, seconded by Councilor Clearwater to implement a 120-day moratorium on parking waivers in the MSRD Zones and the W-2 Zone; and ask that the Planning Board set a fee schedule for waivers and penalties.

Motion was withdrawn.

Motion by Councilor Belanger, seconded by Councilor Clearwater to remove the ordinance amendment from the table.

Vote: Unanimous.

Motion by Councilor Belanger, seconded by Councilor Clearwater to amend the ordinance amendment by eliminating on page 3, subparagraphs a through d of subsection (2) and adding at the end of subsection (2) after the words “provided that” the following: “any such reductions or waivers are then approved by the City Council.”.

Vote: Unanimous.

Vote on ordinance amendment, as amended: 8/1; Councilor Quattrone opposed.

Councilors Swanton, McCurry, St. Cyr, Clearwater, Belanger, Ready, Seaver and Lessard in favor. Motion carries.

Motion by Councilor McCurry, seconded by Councilor Clearwater to suspend the rules to allow for an immediate second reading and the emergency passage of this ordinance amendment, with the reason being that the City is no longer giving away parking.

Vote: Unanimous.

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

Vote: Unanimous.

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

City Manager Report:

City Manager, James Bennett, had the following items:

- (1) The State recently informed the City that we would be receiving \$4,848.98, which is our share of FEMA declaration for the Halloween 2017 wind storm.
- (2) The City has entered into an Agreement with the Turnpike Authority where they will take over ownership of the traffic lights at the Turnpike exit, as well as be able to interact with five of the traffic lights on Route 111. The reason for this take over of ownership is to

improve the traffic issues on the Route 111 corridor, especially during peak hours; and to ultimately address the traffic backup on the Turnpike until the Turnpike Authority can develop another exit access to assist in alleviating traffic congestion.

- (3) Biddeford was one of the first communities to join in a nationally litigation against the Opioid companies. The firm that we are working with has kept the City updated and it appears that the litigation is going favorably for the communities.
- (4) The spreadsheet that had been provided during last week's Council Workshop on the parking garage has been corrected. Specifically, the ten year net difference in projected property tax revenue estimated to come back to the City had originally been mid-coded on the spreadsheet. If the garage is built, \$40 million in revenue is expected, with no property tax exposure.

Other Business:

Councilor Lessard: stated that he expects the Hills Beach Association request may very well come back before the Council and he asked the City Manager to obtain "opinions of value" to determine the actual value of the property where the Hills Beach Volunteer Fire Department building is located.

Councilor Swanton: announced that Saturday, Sept. 14th between 8:00am and noon, the Recycling Facility will be closed due to Biddeford hosting Hazardous Waste Day.

Councilor Clearwater: announced that on Wednesday, Sept. 11th, she is hosting the 2nd Annual Plogging event in the City. She asked that all interested folks meet at Banded Brewing at 6:00pm. From there, "Ploggers" will run/walk through the downtown picking up trash and debris.

She has been contacted by a few constituents about the crosswalks throughout the downtown; and she agrees that the crosswalks need to be made more noticeable to passing traffic.

Council President Addressing the Council: Councilor McCurry agrees with Councilor Lessard's request for property value information for the Hills Beach Volunteer Fire Department building.

He commended the Biddeford Middle School students who participated in a day of service and worked to clean up the downtown.

Mayor Addressing the Council: Mayor Casavant agrees with Councilor Clearwater that the crosswalks need to be more clearly marked, and he will touch base with the Police Chief about what can be done.

He congratulated Roger Chretien on his recent retirement from the barber shop he has owned and operated for many years in downtown Biddeford.

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

Vote: Unanimous.

Time: 8:09 p.m.

Attest by: _____
Carmen J. Morris, City Clerk