

**City of Biddeford
City Council
June 20, 2023 6:00 PM Council Chambers & Zoom**

Status: In-Person and via Zoom; Council Chambers; 6:00 p.m.

1. Roll Call - all present

Chairman Belanger

Councilor Lessard

Councilor Ortiz

Councilor Emhiser

Councilor Whiting – present via Zoom

Councilor Grohman

Councilor Mills

Councilor Schlaver – present via Zoom

Councilor LaFountain

2. Pledge of Allegiance

3. Adjustment(s) to Agenda

The Juneteenth Proclamation and the Committee of the Whole discussion were discussed at the Council Workshop on June 13, 2023.

4. Proclamation:

4.a. Juneteenth Proclamation

The Mayor read the proclamation at the Council Workshop on June 13, 2023.

5. Presentation:

5.a. Community Development Block Grant Program Compliance Update

City of Biddeford HUD Director Gail Wilkerson, gave an overview of the program, discussed previous compliance issues and the vision for the future.

6. Public Hearing

6.a. CDBG Plan - Community Development Block Grants

Public Hearing began at 6:23 pm

1 Citizen commented on the plans and suggested a wish list of projects that could fit future funding. Also look at the income limits compared to local housing voucher amounts.

Public Hearing closed at 6:26 pm

7. Public Addressing the Council...(3 minute limit per speaker for up to a total of 15 minutes)

A member of the Saco Pathfinders Snowmobile Club spoke about the work they do on the Biddeford area trails and requested funding from the snowmobile license fees.

8. Consideration of Minutes: - June 6, 2023

8.a. City Council Meeting Minutes June 6, 2023

Motion: Councilor Belanger

Second: Councilor Lessard
Vote: Unanimous in favor. Motion passes.

9. Second Reading:

9.a. 2023.60) Amendment/Part III Land Development Regulations, Article VI - Performance Standards

Motion: Councilor Grohman

Second: Councilor Lessard

Vote: Unanimous in favor. Motion passes.

9.b. 2023.61) Amendment/Part II, Chapter 34 – Environmental, Article VI - Post-Construction Stormwater Discharge

Motion: Councilor Grohman

Second: Councilor Lessard

Vote: Unanimous in favor. Motion passes.

9.c. 2023.62) Amendment/Part II, Chapter 70 – Utilities, Sec. 70-31 – Enforcement of Article; Violations and Penalties

Motion: Councilor Mills

Second: Councilor Lessard

Vote: Unanimous in favor. Motion passes.

9.d. 2023.67) Amendment/Code of Ordinances, Chapter 22 Businesses, Article II Licenses and Permits Generally, Sec 22-11 Fees - Cannabis Business License Fees

Motion: Councilor Mills

Second: Councilor Lessard

Public Comment – asked about Grow Facility License fees for facilities under 10,000 square feet.

Councilor Grohman – would like to check into that.

Councilor Belanger – motion to amend it to:

Cannabis Grow Facility License (Facility Size)

Grow facility Up to 10,000 square feet of floor area = \$1,000.00

Grow facility between 10,001 to 20,000 square feet of floor area = \$2,000.00

Grow facility between 20,001 to 30,000 square feet of floor area = \$3,000.00

Grow facility between 30,001 to 40,000 square feet of floor area = \$4,000.00

Each additional 10,000 square feet of floor area or less = an additional \$1,000.00

Second: Councilor Mills

Vote: Unanimous in favor. Motion passes.

Vote on Ordinance as amended: 8 yeas – Councilors Belanger, Ortiz, Emhiser, Whiting, Grohman, Mills, Schlaver, and LaFountain. 1 nay – Councilor Lessard; Motion passes.

10. Orders of the Day:

10.a. 2023.70) Approval/University of New England Dimensional Standards

Motion: Councilor Mills

Second: Councilor Lessard

Vote: Unanimous in favor. Motion passes.

10.b 2023.71) CDBG Year 5 Action Plan - Amendment 3

Motion: Councilor Mills

Second: Councilor Lessard

Councilor Mills – this is exciting to see the future projects for the funding. A lot of hard work.

Councilor Emhiser – this is a budget for real property. Is the spend down realistic to get done in the next 9 months?

Mayor Casavant – timeliness is important, we do not want to go back to noncompliance in this program.

City Manager Bennett – This needs significant movement in the next 60 days to see what can be realistically done with the spend down and what can be ready for the next year. Need to find projects that can get the property, HUD approval, and an approved developer in place.

Councilor Ortiz – Can we acquire property this year and work on the compliance next year?

Biddeford HUD Director Wilkerson – yes that can happen but the concern is finding developers willing to work with HUD requirements.

Councilor Belanger – What happens if we don't pass it now or make amendments? Should we table it for another month, not waste staff time now only to amend in 30 days?

Director Wilkerson – We have near shovel ready projects in the downtown area that could be funded with the CDBG and then gather more public input as described in the Citizen Participation Plan and plan for more housing units next year.

City Manager Bennett – The Council has previously said what it wants to do. The staff will work to make that happen but it is important to get compliance right. Soon the Council will have an opportunity to review the entire program including the results from the consultant.

Councilors Emhiser and LaFountain asked questions about the RFP process, can it be approved quickly by Council and HUD? Can part of the \$500,000 be carried over to next year?

Director Wilkerson – Yes the timeline is feasible; \$876,000 needs to be spent by April 2024 and we can carry over \$586,000.

City Manager Bennett – A reminder that with the spending limits the RFP would come to Council for approval. As a backup we can spend some of the money on the sidewalks in the mill district, these are ready to go; we can also do much of the ADA compliance projects now and use that amount from the next 5 year plan on the property projects. We could also look at the food pantry and other similar projects.

Councilor Lessard asked the City Manager to clarify his recommendations on this motion. If an amendment is required, he asked Director Wilkerson to write it tonight and they will come back to it.

City Manager Bennett – his preference is to pass it and then try to achieve the goals, they will come back with the results of the RFP or other specific recommendations. Another option is to amend it to accommodate public infrastructure and ADA compliance.

Councilor LaFountain – it is important to stay in compliance and focus on housing.

Councilor Emhiser – the RFP, HUD approval process will provide valuable information, is in favor of the order as written without an amendment.

Councilor Schlaver – agrees with Councilor Emhiser. Also recommends to speak with Biddeford Housing to see if they have any projects that would fit.

Councilors Belanger and Lessard– expressed support for the plan but concerns with the timeline.

Vote: 7 yeas – Councilors Ortiz, Emhiser, Whiting, Grohman, Mills, Schlaver, and LaFountain. 2 nays – Councilors Belanger and Lessard. Motion passes.

10.c. 2023.72) CDBG Year 6 Action Plan

Motion: Councilor Mills

Second: Councilor Belanger

Councilor Belanger: - how is this different from the first plan?

Director Wilkerson - it provides an additional \$250,000 for affordable housing, the rest of the initiatives are the same.

Vote: 7 yeas – Councilors Ortiz, Emhiser, Whiting, Grohman, Mills, Schlaver, and LaFountain. 2 nays – Councilors Belanger and Lessard. Motion passes.

10.d 2023.73) CDBG Citizen Participation Plan

Motion: Councilor Belanger

Second: Councilor Mills

Vote: 8 yeas- Councilors Belanger, Ortiz, Emhiser, Grohman, Whiting, Mills, Schlaver and LaFountain. Councilor Lessard was absent for this vote.

Motion passes.

10.e. 2023.25) (A) Amendment/Inclusionary Zoning Ordinance

Motion: Councilor Mills

Second: Councilor LaFountain

Councilor Grohman – very good work by the Policy Committee, Planning Director Mitchell. He can see the effort to adjust to market conditions. Have to find the sweet spot to keep projects moving forward. One comment on the language, references to Medium Income should be Median Income.

Councilor Lessard -provided several hypothetical developments to verify the language and the percentage of affordable units in a project.

Councilor Belanger – the Policy Committee tried hard to make this reasonable, there were several that disagreed so they decided to bring it to the entire Council for discussion. There is a balance between the housing goal and how it gets paid for.

Councilor Ortiz – there is a housing crisis, this ordinance will not solve it but it will be part of the solution. Does not agree with the change from 80% AMI to 100% AMI; she gave statistics of what those rates were for the past few years. She also wants it to address potential short term rentals that could come out of this. Keep the goal of affordable housing.

Councilor Mills – had questions about the reference to the Affordable Housing Trust Fund.

Councilor Belanger – the trust fund has a separate ordinance, this is just to refer to where the \$100,000 would be sent.

City Manager Bennett – the vote tonight would be to send this to the Planning Board, they will have a public hearing, and then it will come back to the Council for 2 readings. There are several opportunities for the Council to amend, this proposal is not the end. He will check the required response time from the Planning Board to the Council and what happens when they don't respond in time.

Councilor LaFountain – would like to see it back to 80% AMI, look at the salaries of those who work in the community. Taxpayers already pay for larger infrastructure that attracts development.

Councilor Belanger – send it to the Planning Board and let them work it out.

Councilor Ortiz – proposed an amendment to change 100% AMI to 80% AMI and a clause for all new Condominiums to be included in the IZ unless their by-laws prohibit short term stays.

Council Lessard – point of order – asked Councilor Ortiz to break it into 2 separate amendments.

Councilor Ortiz – Motion to amend the Inclusionary Zoning Ordinance to change from 100% AMI to 80% AMI.

Second: Councilor Mills

Councilor Schlaver – the Policy Committee had a vigorous debate on the percentage and chose 100% as a developer incentive.

Councilor Emhiser – is against the amendment, wants it to go through the process. The Council will have several chances to amend before it is final.

Councilor Lessard – would like the incentive to allow developers to add units at the affordable rate, not reduce.

Vote on the amendment: 4 yeas – Councilors Ortiz, LaFountain, Mills and Whiting; 5 nays – Councilors Belanger, Lessard, Emhiser, Grohman, and Schlaver. Amendment fails.

Councilor Ortiz – motion to amend the Inclusionary Zoning Ordinance to require all new condominium developments to be included in the Inclusionary Zone unless their by-laws state that short term rentals are prohibited.

Second – Councilor Mills

Councilor Lessard – does not favor this amendment, it will lock the buyer into this situation forever and they may experience changes in circumstances later in life. He mentioned another scenario with owners who live here for six months and then rent the property to help cover costs.

Councilor Schlaver – asked for a definition of short term rental.

Councilor Ortiz – is referring to Airbnb scenarios.

Councilor Belanger – questions whether new condos are being built, this amendment discourages the wrong thing.

Councilor Grohman – this is a significant policy issue, it should go to the Planning Board first.

Vote on the amendment: 3 yeas – Councilors Ortiz, Mills and LaFountain; 6 nays – Councilors Belanger, Lessard, Emhiser, Whiting, Grohman, and Schlaver. Amendment fails.

Vote on the original order 2023.25 (A): 7 yeas – Councilors Ortiz, Emhiser, Whiting, Grohman, Mills, Schlaver and LaFountain; 2 nays – Councilors Lessard and Belanger. Motion passes.

2023.25 (B) Inclusionary Zoning Emergency Order

Motion: Councilor Mills

Second: Councilor Belanger

Vote: 8 yeas - Councilors Belanger, Lessard, Ortiz, Emhiser, Whiting, Grohman, Mills, and LaFountain; 1 nay – Councilor Schlaver. Motion passes.

10.f. 2023.74) Approval/DPW Heating System

Motion: Councilor Belanger

Second: Councilor Lessard

Public Works Director Demers spoke about the age of the existing system.

Councilor Belanger commented that this was discussed in the Finance Committee, the bids were reviewed and they agree with this order.

Vote: Unanimous in favor. Motion passes.

10.g 2023.75) Approval/GPS Field Lining System

Motion: Councilor Mills

Second: Councilor Lessard

Councilor Belanger commented that this was discussed by the Finance Committee, the machine is an additional cost but will save labor.

Vote: Unanimous in favor. Motion passes.

10.h 2023.76) Approval/Pricing Orange Overflow Bags

Motion: Councilor Mills

Second: Councilor Lessard

Councilor Grohman - asked about the price increase of the bags and the rental bins.

Public Works Director Demers spoke about the bag increase, a few cents per bag over the past few years. They are only passing on the cost of the bag. They keep monthly records of bag usage and he can provide those numbers to the Council. They have reviewed prices and policies from surrounding communities and will be doing a comprehensive review of the program this coming year. They have also made it easier for citizens to sign up for the bins at the front desk in Public Works.

City Manager Bennett – the City has not gone up on fees in 3 years even though the disposal cost per ton of solid waste has gone up. They will be able to have a more robust discussion of the program after the two new automated trucks are in place.

Councilor Mills – how does this compare to surrounding municipalities?

Public Works Director Demers – this is in line with other communities and many are struggling with overflow issues.

Vote: Unanimous in favor. Motion passes.

10.i. 2023.77) Approval/Mayor's Monarch Pledge

Motion: Councilor Mills

Second: Councilor Lessard

Vote – 7 yeas – Councilors Lessard, Ortiz, Emhiser, Whiting, Grohman, Mills and LaFountain; Councilors Belanger and Schlaver were absent for this vote. Motion passes.

10.j. 2023.78) Approval/Cancellation of July 4, 2023 City Council Meeting

Motion: Councilor Mills

Second: Councilor Grohman

Councilor Lessard – do we need to reschedule?

Mayor Casavant – this is the same order as last year, they will make a judgement call if a second meeting is needed.

Vote: 8 yeas – Councilors Belanger, Ortiz, Emhiser, Whiting, Grohman, Mills, Schlaver and LaFountain; 1 nay – Councilor Lessard. Motion passes.

10.k 2023.79) Resolve/City of Biddeford proceed with School Bonding Referendum Process

Motion: Councilor Mills

Second: Councilor Lessard

Vote: Unanimous in favor. Motion passes.

11. Committee of the Whole

11.a. Committee of the Whole - Safe Streets for All grant update

This was discussed at the Council Workshop on June 13, 2023.

12. Appointments:

12.a. 2023.80) Appointment Patrick Beacham Wastewater Management Commission

Motion: Councilor Belanger

Second: Councilor Mills

Vote: Unanimous in favor. Motion passes.

13. Public Addressing the Council..(5 minute limit per speaker) - None

14. City Manager Report

Thank you to all of the staff and La Kermesse volunteers for a very successful parade and a fantastic weekend. He was very proud.

15. Other Business

15.a. Consideration of new Contract Zone 608 New County Road

Motion: Councilor Belanger

Second: Councilor Mills

The applicant spoke about the project.
Councilors Mills, Emhiser, and LaFountain spoke in support of the project.

Councilor Emhiser would like the Planning Board to develop clear language for the Contract Zone, to reach out to the neighbors, and to hold a public hearing.

Vote: Unanimous in favor. Councilor Schlaver absent for the vote.
Recommendation passes.

Other Business continued:

Councilor Mills – will the Adult Use Cannabis Ordinance be ready for a Policy meeting soon?

CEO Fecteau – no.

Councilor LaFountain – there was a successful Substance Use Disorder Panel last week and he thanked all those who helped.

Councilors Mills and Grohman would like to discuss the Snowmobile request at the next Finance Committee or Council meeting.

16. Council President Addressing the Council - Councilor Belanger did not address the Council.

17. Mayor Addressing the Council - Mayor Casavant did not address the Council.

18. Executive Session

18.a. Executive Session - 1 M.R.S. 405 (6) (a) Personnel Matters

18.b. Executive Session 1 M.R.S. 405 (6)(c) Real Estate Matters

Motion to go into Executive Session: Councilor Belanger

Second: Councilor Mills

Vote: Unanimous in favor, motion passes.

Executive sessions began at 8:49 pm.

Motion to come out of Executive Sessions by Councilor Mills

Second: Councilor Belanger

Vote: Unanimous in favor, motion passes.

Executive sessions ended at 9:45 pm.

19. Adjourn

Motion to adjourn at 9:45 pm by Council Mills

Second: Councilor Belanger

Meeting adjourned at 9:45 pm

Attested by: _____
Robin Patterson, City Clerk