

City of Biddeford
City Council
June 06, 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

Councilor Grohman

Councilor Mills

Councilor Schlaver

Councilor LaFountain

2. Pledge of Allegiance

3. Adjustment(s) to Agenda: none

4. Proclamation:

4.a. Pride Month Proclamation- Diversity, Equity and Inclusion Committee

Mayor Casavant read the proclamation

5. Presentation:

5.a. JFK School Building Replacement Update-Superintendent Jeremy Ray

Superintendent Ray presented information about the condition of the JFK school and a proposal to add a new wing to the Primary School. He presented several funding scenarios and a timeline for a bond.

Councilor Mills – questions on some of the budget items, furniture and contingency lines.

Superintendent Ray – these are estimates for planning, furniture depends on the space configurations; contingency is in case costs increase, will not spend it if we don't need it.

Councilor Grohman – questions on the annual costs to keep JFK school open and the demographic trends for the schools.

Superintendent Ray – there are certain fixed costs that are easy to predict. There is a legal process to close a school and turn the property over to the City. Council should think about future plans for that building. Demographics – the population has changed over the past ten years and the new wing will allow for different configurations.

Councilor Emhiser – Is \$450,000 realistic in closing savings? Will the new infrastructure handle the influx of the new students?

Superintendent Ray – the operational costs for oil, electricity, plowing, telephones, food service all contribute to that number, there are other savings that will be added in. The total number of students will be similar to years past when more grade levels were at the Primary school.

Councilor Lessard – this was a great presentation, the Council needs to seriously consider this plan and the bigger picture with other city needs. The Council should have a workshop very soon to discuss this.

Councilor Schlaver – what is the condition of the Primary school?

Superintendent Ray – have been able to use grant money for many upgrades to the doors, windows, and bathrooms. The roof, floors, paint are in good condition. The proposed addition would add a more accessible elevator. It would also allow them to configure some cooler rooms for summer programs in a more efficient way.

City Manager Bennett – if the Council is going to proceed with the bond they will need to decide at either of the remaining June and July meetings to follow the timeline for two readings and public hearings.

Councilor LaFountain – what will the impact be to the mil rate in year one?

City Manager Bennett - it would be 7-8 cents per mil; estimated total \$30.

Superintendent Ray – these are high numbers from the bond advisors.

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

Citizen concern regarding night safety in the downtown area and several examples of concerns. Acting Police Chief Fisk was present and they were able to speak in person.

7. Consideration of Minutes:

7.a. Consideration of Minutes for City Council Meeting, May 16, 2023

Motion: Councilor Grohman

Second: Councilor Belanger

Vote: Unanimous

8. Second Reading:

8.a. 2023.58 Comprehensive Plan

Motion: Councilor Belanger

Second: Councilor Lessard

Public Comment – would like to see the Unhoused issues addressed in the goals section. Also to encourage public engagement.

Councilor Lessard - expressed concerns with growth areas.

Mayor Casavant – this is a living document that the Council can adjust with time.

Planning Director Mitchell – noted that the Land Use Map is the foundation for growth. The only change made for growth from the existing plan from 1997 was in the Coastal Growth Area.

City Manager Bennett – the Council is free to make amendments to the plan at any time in the future. There are ways to open up growth areas with specific goals.

Councilor Belanger – stick with what we have and deal with it using zoning laws. The Council will prioritize the implementation at the next workshop.

Motion to amend the history section by Councilor LaFountain as follows:

“The City of Biddeford would like to acknowledge the land and water that it occupies and abuts, which were the ancestral fishing, hunting, and agricultural grounds of the Abenaki and Wabanaki people for thousands of years. We recognize that we are on indigenous land and acknowledge the uncomfortable truths of settler colonialism, which led to the forced removal of Indigenous peoples from this place.

The harm from the physical and cultural genocide of Indigenous peoples here and throughout Maine, including Biddeford, continues and is felt by members of the Wabanaki Confederacy who live here today. As a simple way of acknowledging the truth, we extend our respect and gratitude to the many Indigenous peoples and their ancestors whose rich histories and vibrant communities include the Abenaki, Maliseet, Micmac, Passamaquoddy, and Penobscot Nations.

We recognize that the broader place we now call Maine is home to the sovereign people of the Wabanaki Confederacy and that we exist on their unceded homelands. We acknowledge that the Wabanaki are the People of the Dawnland and have stewarded this land throughout the generations. We thank them for their strength and resilience in protecting this land and aspire to uphold our responsibilities according to their example.”

Second by Councilor Whiting.

Public Comment on the amendment:

One citizen discussed the history of European settlement of the region.

Councilor Grohman – will support the amendment. It is a key step.

Councilor Lessard – has concerns with the language, would like to see the research on the accuracy.

Councilor Mills – would also like to see concrete information.

Vote on the amendment:

3 nays – Councilors Lessard, Schlaver, and Mills; 6 yeas – Councilors Belanger, Ortiz, Emhiser, Whiting, Grohman and LaFountain.

Amendment passes.

Vote on the Comprehensive Plan:

Unanimous

8.b. Second Reading;

2023.57) Amend/ Ch. 2 – Administration, Art. IV – Boards, Committees, Commissions, Div. 6 – Downtown Development Commission, Sec. 2-254 Functions and Purposes

Motion: Councilor Belanger

Second: Councilor Emhiser

Vote: Unanimous

9. Orders of the Day:

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

Motion: Councilor Belanger

Second: Councilor Lessard

Presentation by City Engineer Chekan

These 3 items 2023.60, 61 and 62 are required by the DEP in the MS4 permit.

Motion: Councilor Belanger

Second: Councilor Lessard

Vote: Unanimous

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

Motion: Councilor Mills

Second: Councilor Lessard

Vote: Unanimous

- 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

- 9.d. 2023.63) Approval/Contract Zone - Devine Capital 588 & 590 Andrews Road Project

Motion: Councilor Mills
Second: Councilor Lessard

Discussion - several questions by Council regarding the location and costs of the sidewalks and the street crossings in the project plan and the cost to the City.

City Manager Bennett – the sidewalks and crosswalks are required by the State traffic permit. The Council can do more on its own. The benefits to the City are greater than the cost. Can take advantage of other work being done this year to do the work more efficiently. The agreement for the City portion came out of much larger negotiations, this is additional work that would not normally be paid for by the developer. The City is the primary beneficiary of the project, the staff believes this is what it would take to get the project done. Staff recommends supporting the project.

Mayor Casavant – consider the inflationary costs of construction, the costs increase as planning time passes. There are times to develop partnerships to get the project completed. There will be long term returns to the City with property taxes.

Councilor Lessard – if we ask the developer to pay the \$400,000 for the work will that stop the project?

Developer Devine – spoke about the total project costs, the fees that will be paid to the City and the additional funds being provided for the Affordable Housing Fund. The margins are very thin and some of Biddeford's fees are significantly higher than other projects he has done in nearby communities. The staff negotiated a very good package for the City. Any additional costs at this point could stop the project.

Councilor Groham – does the plan provide enough parking? Noted the increase in the size of the conservation easement, will there be public access?

Developer Devine – the parking is sufficient; it is a true conservation easement, protected area, not accessible to the public.

Councilor Ortiz – the City needs the housing, this will add 216 units, will add to the tax base. During the review process they gave feedback and the developer listened.

Councilor Shlaver – noted that sidewalks were on the original City plan for that area but have not been built yet. We need housing and more pedestrian access. He will support this.

Councilor Lessard – asked the developer if they will be open to a conversation if the cost of the sidewalks exceeded \$400,000.

Developer Devine – They should not exceed that amount. Is willing to discuss this with the City.

Councilor LaFountain – it makes sense to do it now while other utility work is being done in that area. Will support the project.

Mayor Casavant – this is a great project, great work. These are extraordinary times, it's good to form partnerships to make things happen.

Vote: Unanimous

2023.64) Approval/Conservation Easement - Devine Capital 588 & 590 Andrews Road Project

Motion: Councilor Mills

Second: Councilor Lessard

Councilor Belanger – in support of the easement, has questions about the language allowing renewable energy project development.

Developer Devine – there are no plans for anything, but wanted to add the provision in case there are new technologies in the future.

Councilor Belanger motion to amend clause (ii) to add “*subject to the approval of the City Council.*”

Second: Councilor Lessard

Vote on amendment: Unanimous

Vote on project: Unanimous

9.f. 2023.27) Approval/Award Downtown Cameras - Minuteman

Motion: Councilor Belanger

Second: Councilor Grohman

City Manager – had come to their attention that these had been ordered and installed. He will be sure to have departments follow normal procurement procedures and will notify the Council of any purchases beyond his limits. Discussed how the TIF account works and the types of projects it is used for.

Councilor Belanger – there was discussion in the Finance Committee that this was the process in the past with the former chief; the cameras are here and we need to pay the bill; made it clear that this is not the process for the future. The Acting Police Chief and the City Manager did the right thing by bringing this to our attention.

Acting Police Chief Fisk gave some recent examples of how the cameras helped the department and answered questions on how the cameras were used. There are no additional costs or maintenance contracts.

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

2023.27 passed.

9.g. 2023.65) Approval/FY24 Sewer User Fee Increase

Motion: Councilor Belanger

Second: Councilor Emhiser

Vote: Unanimous

9.h. 2023.66) Authorization/HOB Holiday Lighting Invoice

Motion: Councilor Grohman

Second: Councilor LaFountain

Councilor Belanger – there were budget discussions last year for the Holiday Lighting program. There was confusion between two groups who contributed to the lighting. The work was done and the City benefited. Will need to clarify this in the future.

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

Motion passes.

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

Motion: Councilor Belanger

Second: Councilor Whiting

Public Comment:

2 people commented about the fees and asked questions about charging by square foot versus canopy size. Delivery services coming from outside Biddeford should have the same fees.

Code Enforcement Officer Fecteau – This was reviewed by the Policy Committee. Today we are reviewing chapter 22, Licensing Cannabis Fees. The fees were compared to other municipalities around us.

Councilor Belanger – this was reviewed by the Policy Committee and the fees were vetted.

Council took a short break at 8:34 pm; resumed at 8:40 pm

Councilor Whiting – Clarification if fees are prorated. Also wants clarification on the language of the increasing size fees.

Councilor Mills – how to regulate delivery service? Do businesses get notified about new fees?

Code Enforcement Officer Fecteau – this will be strictly complaint driven. Businesses do not get notified for new fees or fee changes. Prorated language is in section d.

Motion by Councilor Belanger to extend the meeting past 9:00 pm

Second: Councilor Whiting

Vote: 2 nay – Councilors Lessard and Emhiser; 7 yeas – Councilors Belanger, Ortiz, Whiting, Grohman, Mills, Schlaver and LaFountain.

Councilor Schlaver – questions on selling versus growing; only pay the fee if are operating in Biddeford.

Councilor Grohman – make it clearer that these are annual fees.

Motion to amend the fees by Councilor Belanger to make the following changes:

Cannabis Grow Facility License (Facility Size)

Grow facility between 10,001 to 20,000 square feet of floor area = \$1,000.00

Grow facility between 20,001 to 30,000 square feet of floor area = \$2,000.00

Grow facility between 30,001 to 40,000 square feet of floor area = \$3,000.00

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

Cannabis Sales

Each additional 1,000 square feet or less = an additional \$1,000.00.

Delivery Service = \$2,500.00 per establishment doing business in Biddeford.

Second by Councilor Whiting.

Vote on the amendment: Unanimous

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

- 9.j. 2023.68) Amend/Code of Ordinances, Chapter 10, Animals, Article II, DOGS, Sec. 10-13. Running at large on public ways prohibited: restraint required. Requiring Dogs to be on leash in Clifford Park.

Motion: Councilor Belanger

Second: Councilor Lessard

Public Comment: 6 residents commented against the change. There are only a few places in Biddeford for dogs to be off leash, fewer in the summer; most interactions are positive. Request more citizen input and less restrictive measures, also questions

on enforcement. 1 citizen spoke for the restriction, should look at the impact on wildlife.

Councilor Mills – wait for more public input to go forward. Would like information on the complaints.

Councilor Whiting – wants more information on the complaints and police actions, can improve signage at the park, needs a lot more input.

Councilor Lessard – supports the ordinance. Numerous situations involving off leash dogs.

Councilor Belanger – this went before the Policy Committee and the Rec Commission, the decision did not come lightly.

Councilor Ortiz – this is a complicated issue with strong feelings on both sides. Would like to look at the impact on wildlife. Give it more time.

Councilor LaFountain – the Rec Commission was discussing this 3 years ago. The wildlife impact needs to be considered, more data is needed, more public engagement needed. Is opposed to this as written.

Councilor Groham – if this is tabled should it go back to committee or commission?

Mayor Casavant – bring it back to City Council and get some more data.

Councilor Schlaver – post the information at the park, make sure the Rec Commission and ACO are at the meeting if it comes back for discussion.

Councilor Mills – motion to table this to the first meeting in July for a Public Hearing.

Councilor LaFountain – second

Vote: 3 nay – Councilors Belanger, Emhiser, and Lessard; 6 yeas – Councilors Ortiz, Whiting, Groham, Mills, Schlaver, and LaFountain.

Motion to Table passes.

9.k. 2023.69) Approval/Smith Street Right-of-Way Easement Agreement for Joint Access and Development Agreement for Plan East LLC and Saco-Lowell LLC

Motion: Councilor Emhiser

Second: Councilor Lessard

City Director of Planning Mitchell - this is an easement for a paper street to build 14 new units at no expense by the City. The developer was patient and went through the Planning Board and Historic District review process. There sight walk pins are still visible.

Council had questions on the street direction, parking and plowing. The City is not responsible for plowing, there will be no left hand turn.
Vote: Unanimous

10. Public Addressing the Council..(5 minute limit per speaker)

1 Citizen comments: thanking the Council.

11. City Manager Report

The Council Workshop on Tuesday, 6-13-23, it will provide an opportunity to prioritize the implementation of the Comprehensive Plan. Information will be shared regarding the Safe Streets Federal Grant and an update on the Elm Street work.

12. Other Business

Councilor Mills – mentioned an email about Land Use at the airport. He asked about public input at committee meetings. It is allowed.

Councilor LaFountain – School Budget Referendum vote is Tuesday 6-13-23.

Councilor Schlaver – the Youth Full Maine community food distribution will be at Rotary Park on Tuesday, June 27th from 5- 7 pm.

Councilor Grohman – there was a great discussion today with Biddeford and Saco leadership about the bridge project.

13. Council President Addressing the Council

The Policy Meeting on Monday 6-12-23 at 6:30 pm will discuss Inclusionary Zoning

14. Mayor Addressing the Council

15. Executive Session

15.a. Executive Session - 1 MRS 405 (6) (c) Real Estate Matter

Motion: Councilor Mills

Second: Councilor Belanger

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

15.b Executive Session 1 MRS 405 (6) (a) Personnel Matter

Motion to end the Executive Sessions at 10:55 pm: Councilor Emhiser

Second: Councilor Belanger

Vote: Unanimous

16. Adjourn

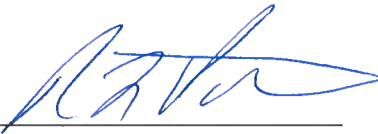
Motion: Councilor Belanger

Second: Councilor Emhiser

Vote: Unanimous

Adjourned at 10:55 pm.

Attest by:

A handwritten signature in blue ink, appearing to read 'R. Patterson', is written over a horizontal line.

Robin Patterson, City Clerk