

**COUNCIL MEETING
APRIL 17, 2018**

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., Victoria Foley, Norman Belanger, Michael Ready, Laura Seaver, Marc Lessard

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

Adjustments to the Agenda:

- Add Order 2018.38 – Approval/Asset Forfeiture Funds/Police Department Contribution to a Criminal Case
- Remove Order 2018.37 – City Hall Reorganization/Renovations

Consideration of Minutes: **April 3, 2018**

Motion by Councilor McCurry, seconded by Councilor Foley to accept the minutes as printed.

Vote: Unanimous.

Orders of the Day:

2018.33

IN BOARD OF CITY COUNCIL....APRIL 17, 2018

BE IT ORDERED, that the City Manager be authorized to purchase one (1) 2018 Volvo Excavator as per bid of April 6, 2018 (the “Equipment”) from Chadwick-Baross (the “Vendor”) and may pay the Vendor an amount not to exceed \$157,000.00 (before discounts valued at \$19,600.00) 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 \$157,000.00;
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 \$157,000.00, (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.

NOTE: The Finance Committee will review this item at their April 17, 2018 meeting.

Motion by Councilor Ready, seconded by Councilor Foley to grant the order.

Vote: Unanimous.

2018.34

IN BOARD OF CITY COUNCIL....APRIL 17, 2018

BE IT ORDERED, that the City Manager be authorized to purchase one (1) 2018 Morbark M15R wood chipper (the “Equipment”) from Nortrax Equipment (the “Vendor”) and may pay the Vendor an amount not to exceed \$75,066.00 (before discounts valued at \$10,500.00) 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 \$75,066.00;
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 \$75,066.00, (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.

NOTE: The Finance Committee will review this item at their April 17, 2018 meeting.

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

Vote: Unanimous.

2018.35

IN BOARD OF CITY COUNCIL..APRIL 17, 2018

BE IT ORDAINED, by the City Council of the City of Biddeford that the Code of Ordinances, Chapter 62, Streets, Sidewalks and Other Public Places, **Section 62-57. Displaying merchandise, goods, wares; standards for table and chairs, and the service and consumption of alcoholic beverages** is amended by adding or ~~deleting~~ to read as follows:

Sec. 62-57. Displaying merchandise, goods, wares; standards for tables and chairs, and the service and consumption of alcoholic beverages.

- (a) No person engaged in the sale of goods, wares or merchandise shall deposit, pile, place or display for purposes of sale any such goods, wares or merchandise upon or above any public sidewalk, public space, or public way without first receiving a permit from the City Clerk's office. Permits shall be free-of-charge for use of space that is contiguous to a licensed establishment; and \$1,000.00 for use of space that is non-contiguous to a licensed establishment; and shall only be valid from May 1 to October 31 within any calendar year; and shall only be issued by the City Clerk's office for such displays within the MSRD-1 Zone, as depicted on the official Zoning Map of the City, once the Code Enforcement Office has determined that the performance standards in Subsection (c) are met.
- (b) Notwithstanding any other provision herein, in order to sponsor a more leisurely and pleasant commercial atmosphere in the downtown area, the City Clerk's office may issue permits for the setting of tables and chairs associated with established restaurants or other holders of valid City Council issued victualer licenses in the MSRD-1 Zone, as depicted on the official Zoning Map of the City, upon or above any public sidewalk, public space, or public way. Such permits shall be free-of-charge for use of space that is contiguous to a licensed establishment; and \$1,000.00 for use of space that is non-contiguous to a licensed establishment; and shall only be valid from May 1 to October 31 within any calendar year; and shall only be issued once the Code Enforcement Office has determined that the performance standards in Subsection (c) are met.
- (c) Performance standards:

(1) Except where (4) below applies, the following standards must be ~~are~~ maintained:

- a. The goods, wares, other merchandise, tables, and chairs are located in front of the specific establishment; ~~and~~

- b. Are portable; ~~and~~
- c. Are removed from the sidewalk at the end of the specific operating hours of the establishment; ~~and~~
- d. That an adequate pedestrian travelway, such travelway being at least 48 inches between the outside edge of the goods, wares, other merchandise, tables and chairs, any required barriers, and the outer edge of the curb, is maintained; and
- e. That there is no hindrance or hazard to pedestrian safety or movement, or the opening of vehicle doors; ~~and~~

(2) There are adequate provisions to collect and remove any and all waste or litter associated with or resulting from, the use or display of said goods, wares, other merchandise, tables and chairs so that there is no accumulation of wastes and litter on said sidewalk.

(3) The City Council may permit the service to, and the consumption of alcoholic beverages by a patron of a restaurant that has been licensed by the state for the sale and consumption of alcoholic beverages, and that the licensed area has been extended to include part of the sidewalk or other public way. When a license has been so approved and issued, all of the conditions under Subsections (1) and (2) above shall be adhered to. Additionally, the licensee shall comply with the provisions under 28-A M.R.S.A. § 1051(3), which limits the service and consumption of liquor to areas that are clearly defined and approved in the application process by the bureau of alcoholic beverages as appropriate for the consumption of liquor. Outside areas must be controlled by barriers and by signs prohibiting consumption beyond the barriers.

(4) The City Council may permit the service to, and the consumption of alcoholic beverages by a patron of a restaurant that has been licensed by the state for the sale and consumption of alcoholic beverages, and that the licensed area has been extended to include part of the sidewalk or other public way that is noncontiguous to the premises so licensed. When a license has been so approved and issued, all of the conditions under Subsection (2) above shall be adhered to. Additionally, the licensee shall comply with the provisions under 28-A M.R.S.A. § 1051(3) and § 1051(9), which limits the service and consumption of liquor to areas that are clearly defined and approved in the application process by the bureau of alcoholic beverages as appropriate for the consumption of liquor. Outside areas must be controlled by barriers and by signs prohibiting consumption beyond the barriers. Further, the following performance standards must be maintained:

- a. That an adequate pedestrian travelway, such travelway being at least 60 inches wide, be maintained for pedestrian access between the outside edge of tables and chairs and any required barriers and that such a travel way complies with the Americans with Disabilities Act;
- b. That there is no hindrance or hazard to pedestrian safety or movement, or the opening of vehicle doors;
- c. The building in which the permitted restaurant operates shares a common boundary line with a public sidewalk;
- d. The outdoor seating area is located within twenty (20) feet of the entrance fronting the permitted restaurant;
- e. An outdoor seating area that directly abuts a street travel way, such as when located in a parking space, must have a physical barrier along the street side of the area;
- f. An outdoor seating area located within a street adjacent to a curb shall be elevated on a platform so that it is flush with the top of curb;
- g. No outside seating area located on a sidewalk may be located so it is any closer than two (2) feet from the face of the curb;
- h. The outdoor seating area is not located closer than twenty (20) feet to any crosswalk or street intersection and no closer than five (5) feet to any driveway;
- i. The operation of the outdoor seating area for the restaurant be related to the sale of food or drink from the permitted restaurant;
- j. Access to the outdoor seating area by patrons and staff shall be maintained such that is complies with the Americans with Disabilities Act;
- k. An outdoor seating area must not block a fire hydrant or impede drainage to

stormwater facilities;

- l. Outdoor seating furniture may remain in the outdoor seating area when the restaurant is closed so long as it is adequately locked down and secured;
- m. A continuous barrier of not less than 3 feet in height shall be installed and must start from the ground, and shall be in compliance with standards and rules set forth by Maine Bureau of Alcoholic Beverages;
- n. Tabletop signage is limited to menus and must not exceed four (4) square feet in area;
- o. Signage must be posted in the outside seating area that states, “No Alcohol Beyond This Point”; and
- p. Lighting may not be affixed to any City infrastructure, including but not limited to, street lights, trees, and signs, without the express permission of the City of Biddeford Public Works Department.

~~(5)(4)~~ ____ The code enforcement office shall enforce these provisions and shall take actions to correct any problems that result from the issuance of permits under this section. Such action shall include revocation of any permit issued under these provisions.

For the purposes of this section, "restaurant" shall have the following definition: Any public place kept, used maintained, advertised, and held out to the public as a place where meals are served, without sleeping accommodations, such space being provided with adequate and sanitary kitchen and dining room equipment and capacity and having employed therein a sufficient number and kind of employees to prepare, cook, and serve suitable food for its guests. Provided further that no restaurant licensed as such shall sell alcoholic beverages later than one hour after the time food service has ended or 11 p.m., whichever is earlier ~~except during the hours when meals are available.~~

Unless further action is taken by the City Council, the provisions pertaining to non-contiguous outside seating areas contained in Section 62-57 of this Chapter shall expire on November 1, 2018.

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

Vote: 6/3; Councilors Lessard, Seaver and Ready opposed.

Councilors Swanton, McCurry, St. Cyr, Quattrone, Foley and Belanger in favor. Motion carries.

2018.36

IN BOARD OF CITY COUNCIL...APRIL 17, 2018

BE IT ORDERED, that the City Manager be authorized to sign a contract with Bailey Sign, Inc. of Westbrook, Maine for the final design, fabrication, and installation of wayfinding signage for the Robert G. Dodge Business Park, Alfred Road Business Park, Biddeford Industrial Park, and Airport Industrial Park (s), with a total proposed cost of \$84,215.00, with funding to be provided from the Industrial Park Fund.

NOTE: The Finance Committee will review this item at their April 17, 2018 meeting.

Motion by Councilor Ready, seconded by Councilor Foley to grant the order.

Vote: 8/1; Councilor McCurry opposed.

Councilors Swanton, St. Cyr, Quattrone, Foley, Belanger, Ready, Seaver and Lessard in favor. Motion carries.

2018.38

BOARD OF CITY COUNCIL....APRIL 17, 2018

BE IT ORDERED, that the Biddeford City Council does hereby grant approval pursuant with Title 15 M.R.S.A. §5824(3) & §5822(4)(A) to the transfer of \$3,741.55.00 in U.S. Currency, or any portion thereof, on the grounds that the City of Biddeford Police Department did make a substantial contribution to the investigation of this or related criminal case.CR-18-70. These funds shall be transferred to the City of Biddeford, Asset Forfeiture Account 3119-40576.

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

Vote: Unanimous.

Public Addressing the Council..(5 minute limit per speaker; 30 minute total time limit):

One citizen addressed his comments to the Council.

City Manager Report:

City Manager, James Bennett had the following comments:

- 1) The State Legislature has passed some version of what the marijuana laws will be in the State. Staff is now working internally to best deal with the implications of the law and will bring recommendations to the Council for approval.
- 2) Jim expressed how incredibly impressed he was with the Staff who handled the aftermath of the apartment building fire that happened on April 2nd, and the assistance offered to the displaced tenants. Many employees ended up volunteering their time to assist with the collection and organization of the overwhelming amount of donations that were received.

Other Business:

Councilor Quattrone: asked the City Manager how the marijuana moratorium that is currently in effect will conflict, if at all, with the newly approved State laws. Jim explained that the City should have something in the Code of Ordinances prior to when the State law goes into effect.

Councilor Swanton: announced that residents of Biddeford can dispose of acceptable debris (wood wastes cut into 3 foot pieces) in 1 cubic yard quantities free of charge beginning Tuesday, April 24, 2018 until Saturday, May 5, 2018.

He also announced that Saturday, April 28th is Earth Day, and from 10:00am to 2:00pm, the Police Department will be at the Recycling Center to do drug take back. All regular recycling activities will also be available.

Councilor Foley: announced that this coming Saturday, April 21st there will be a clean-up organized at Clifford Park starting at 8:30am.

Councilor Lessard: reminded his fellow Councilors that tomorrow evening, April 18th is the York County Budget Committee meeting and he urged them to attend and do what it takes to keep a seat on this Committee.

Councilor President Addressing the Council: Councilor McCurry shared that a Community Garden has been planned for Mission Hill.

Mayor Addressing the Council: Mayor Casavant noted that the Finance Committee, at its meeting earlier this evening, had a tie vote on the City Hall Reorganization/Renovations item; and it is his intention is to work with Staff on this item and bring it back to the Finance Committee and City Council for a decision.

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

Vote: Unanimous.

Time: 6:30 p.m.

Attest by: _____
Carmen J. Morris, City Clerk