

City of Biddeford

City Council

March 15, 2022 6:00 PM Council Chambers and via Zoom

Please click the link below to join the webinar:

<https://biddeford.zoom.us/j/96272574581>

Or One tap mobile :

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Webinar ID: 962 7257 4581

International numbers available: <https://biddeford.zoom.us/j/96272574581>

1. Zoom Meeting Link

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2. Roll Call

3. Pledge of Allegiance

4. Adjustment(s) to Agenda

4.a. Add: Proclamation for 2022 Week of the Young Child

4.b. Add: Proclamation for Vietnam War Remembrance Day

Proclamations:

2022 Week of the Young Child - April 2nd - 8th

[3-15-2022 Week of the Young Child Proclamation.docx](#)

Vietnam War Remembrance Day - March 29th

[3-15-2022 Proc-Vietnam War Remembrance Day.pdf](#)

5. Presentation:

- 5.a. Proposed FY23 School Department Budget
[3-15-2022 School Dept FY 23 Budget-MEMO.docx](#)

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

6. Consideration of Minutes:

- 6.a. March 1, 2022 Council Meeting Minutes
[3-01-2022 Council Meeting Minutes.docx](#)

7. Second Reading:

- 7.a. 2022.13) Amendment/Land Use Regulations/Art. XV-Historic Preservation Ordinance/Section 5 and Section 14
[3-01-2022 Historic Preservation Ordinance Amendments-ORDER.docx](#)
[3-01-2022 Historic Preservation Ordinance Amendments-PDF.pdf](#)
[3-01-2022 Historic Preservation Ordinance Amendments-MEMO.docx](#)

8. Orders of the Day:

- 8.a. 2022.17) Authorization/Biddeford School Revolving Renovation Fund Financing/Bonds for Health, Safety and Compliance Repairs at School Facilities for June 14, 2022 Municipal Referendum Election
[3-15-2022 School Revolving Renovation Bond-ORDER.DOCX](#)
[3-15-2022 School Revolving Renovations Bond-MEMO.docx](#)
- 8.b. 2022.18) Approval/Use of Grant & Matching Funds for Purchase of Breathing Apparatus Equipment for Fire Department/Bergeron Protective Clothing
[3-15-2022 Breathing Apparatus-Fire Dept-ORDER.doc](#)
[3-15-2022 Breathing Apparatus-Fire Dept-Memo-Backup Docs.pdf](#)
- 8.c. 2022.19) Approval/Fire Consultant
- 8.d. 2022.20) Approval/Extended Paving Contract with Shaw Brothers for City's Paving Program
[3-15-2022 Paving Program Contract-Shaw Brothers-ORDER.doc](#)
[3-15-2022 Paving Program Contract-Shaw Brothers-MEMO.docx](#)
- 8.e. 2022.21) Approval/Easement Deed for Mobile Food Court - Freddy LLC at 64 Alfred Street
[3-15-2022 64 Alfred Street Easement-ORDER.doc](#)
[3-15-2022 64 Alfred Street Easement-MEMO.docx](#)
[3-15-2022 Mobile Food Court-Easement Deed - Freddy LLC.pdf](#)
- 8.f. 2022.22) Authorization/Distribution of Letter Regarding York County Dredge Proposal
[3-15-2022 York County Regional Dredge Support Resolution](#)
[3-15-2022 York County Regional Dredge Support Request-MEMO](#)
[3-15-2022 Draft York County Regional Dredge Purchase Support-LETTER](#)

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

10. City Manager Report

11. Other Business

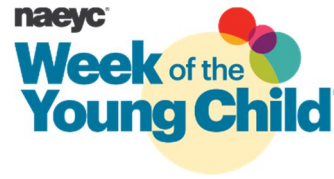
12. Council President Addressing the Council

13. Mayor Addressing the Council

14. Executive Session

- 14.a. 1 MRSA 405(6)(C)...Property Development Issue

15. Adjourn



2022 Week of the Young Child Proclamation

WHEREAS, Biddeford Ready! in conjunction with the Maine Association for the Education of Young Children (MaineAEYC) and National Association for the Education of Young Children (NAEYC), are celebrating the Week of the Young Child™, April 2-8, 2022; and

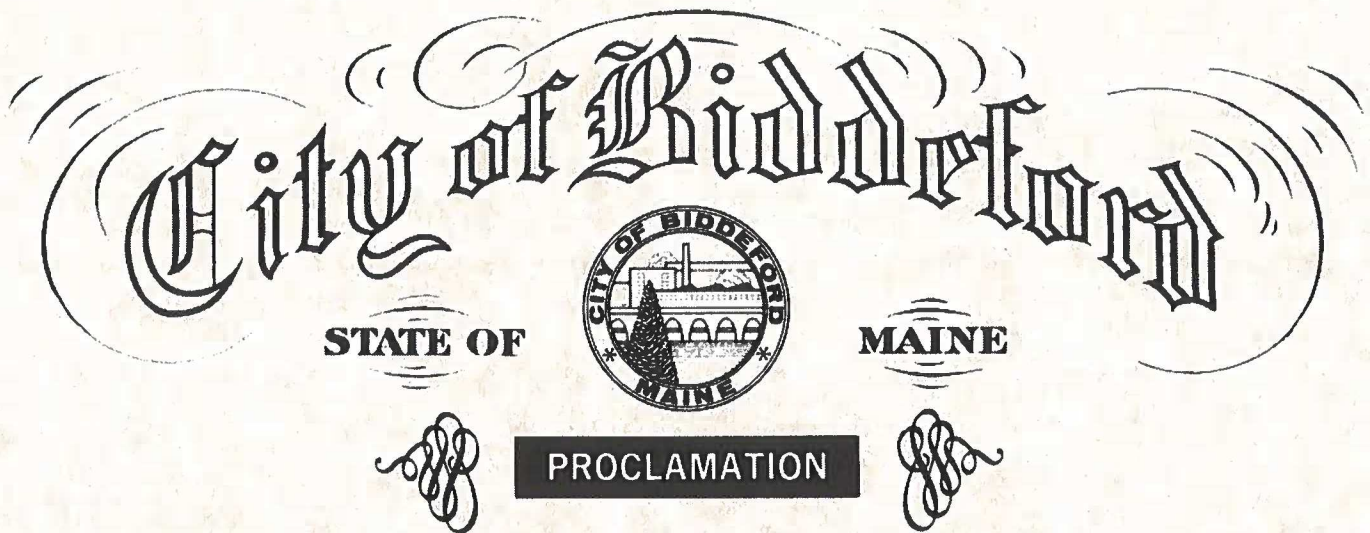
WHEREAS, These groups are committed to the healthy development of all young children through strengthening and building systems of equitable access to high-quality, early childhood education; and

WHEREAS, Children's cognitive, physical, social and emotional, and language and literacy development are built on a foundation of children's positive interactions with adults, peers, and their environment; and

WHEREAS, Access to high-quality child care is a necessity for many families in our community to participate in the workforce; and

WHEREAS, High-quality early childhood programs provide important benefits to children, families, and our state and national economies; and

WHEREAS, We celebrate the Week of the Young Child so that we can continue to recognize and advance the early childhood education profession. And now therefore I, Alan Casavant, Mayor of Biddeford, do hereby proclaim April 2-8, 2022 as the Week of the Young Child™ in Biddeford and encourage all citizens to work to support and invest in early childhood in Biddeford.



Whereas 2019 marked the 50th Anniversary of the United States Military's involvement in the Vietnam War during the year 1969; and

Whereas, 48,000 men and women from the State of Maine served, while an additional 16,000 Mainers were serving worldwide during the Vietnam War Era; and

Whereas, the names of 343 Mainers who laid down their lives are etched on the black granite of the Vietnam Memorial in Washington, D.C. and 12 of our young men are still missing in Southeast Asia; and

Whereas, the State of Maine joins the Nation in recognizing Vietnam Veterans by setting aside March 29th as Vietnam War Remembrance Day; and

Whereas, on this day, we remember and honor those who selflessly served, who gave the ultimate sacrifice, who were wounded and live with those scars daily, and those who are still missing in Southeast Asia; we will never forget you; and

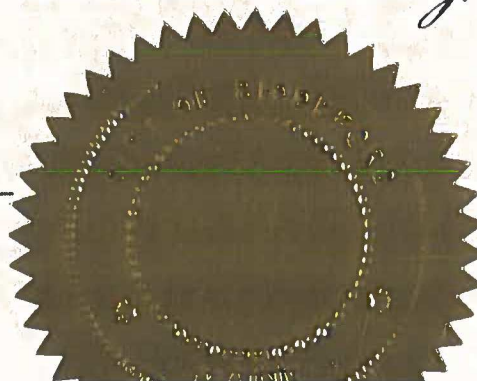
Whereas, we want to convey a hearty Welcome Home and Thank You to those who never heard it and declare that we are very proud of you and your service to your country and the State of Maine; especially those who belong to Biddeford's Vietnam Veterans of America Post 1044.

Now, Therefore, be it resolved that I, Alan Casavant, Mayor of the City of Biddeford, do hereby proclaim March 29th as **VIETNAM WAR REMEMBRANCE DAY** in Biddeford, and I encourage all Biddeford citizens to observe this day with appreciation for the men and women who served our country.

In Witness Whereof, We, the undersigned, have herewith affixed our signatures this 15th day of March 20 22

City Clerk

Mayor



To: Biddeford School Committee
From: Jeremy Ray, Superintendent of Schools
Re: Draft - FY23 School Department Budget
Date: February 9, 2022

The FY23 Biddeford School Department budget was created based on the current grade level configuration with an eye on a return to normalcy while continuing to be cautious with ever-changing pandemic related guidance. As the pandemic has changed education and the needs of students, budget challenges have resulted (e.g. local increase to property valuations, declining student enrollments, inflation, and fluctuating state subsidy. As you are well aware, the school department has been able to pass along limited increases to the taxpayer over the prior ten years. **Still, with the rising valuation of the city, it will become more difficult over time.**

The Maine Department of Education funding formula uses a 3-year average for the land valuation to calculate the state subsidy that a school department receives. The premise of the formula is that municipalities with higher land valuations have the ability to pay more towards rising educational costs. The following chart outlines our valuation history and percentage of state contribution.

Funding Data

	FY 22	FY 23	Difference
PreK-12 Subsidy	\$13,165,796.78	\$12,974,549.47	-\$191,247.31
Regional Center Subsidy	\$81,663.10	\$89,656.51	\$7,993.41
Vocational Subsidy	\$2,865,050.71	\$2,817,062.09	-\$47,988.62
Valuation	\$2,464,266,667.00	\$2,642,466,667.00	\$178,200,000.00
Student Count	2394.5	2333.5	-61
Disadvantaged Rate	54.90%	57.48%	2.58%
Required Local	\$17,890,576.00	\$18,761,513.34	\$870,937.34

Year	Average Valuation	Increase/Decrease from prior year	Local Share %	State Share %
2014	\$2,407,100,000.00		64.3	35.7
2015	\$2,348,925,000.00	-\$58,175,000	65.08	34.92
2016	\$2,316,700,000.00	-\$32,225,000	64.57	35.16
2017	\$2,257,266,667.00	-\$59,433,333	63.77	36.23
2018	\$2,235,800,000.00	-\$21,466,667	59.45	40.55
2019	\$2,244,850,000.00	\$9,050,000	63.84	36.16
2020	\$2,259,466,667.00	\$14,616,667	62.29	37.71
2021	\$2,338,933,333.00	\$79,466,666	61.7	38.3
2022	\$2,464,266,667.00	\$125,333,334	62.69	37.31
2023	\$2,642,466,667.00	\$178,200,000	57.61	42.39
2024	\$2,855,433,333.00	\$212,966,666	59.12	40.88

Budget Development and Increased Employment Costs

The FY 23 budget development creates a situation where based on valuation and student count, the K-12 budget combined with the Vocational Center will receive **\$244,941.00 less** than the prior school year. This is after the school department received \$1,577,130.67 more in state subsidy in the prior school year. As we created the draft budget, we have attempted to level all expenditures in supplies while greatly decreasing technology expenditures and general additional capital expenditures because of the ability to use federal COVID funds.

The following employee and health insurance costs reflect the following changes in the budget:

Item	Increase Cost
Employee Steps and wages	\$1,120,481.00
Health Insurance Increase 10%	\$428,820.00
Total	\$1,549,301.00
Total Increase	\$1,304,36.00
Difference	\$-244,941.00

The core academic and operations portion of the budget including the following reductions and additions/replacement of positions:

- *The budget includes 223K for payment for capital expenditures through the revolving renovations grants. The amount will be part of a ten year payment plan at 0% interest.*
- *We have decreased over 400K of capital expenditures and will use federal COVID (ESSER) funds to complete the building upgrades.*
- *We have increased utilities by approximately 10-15% to cover rising costs(may want to consider increasing additionally).*
- *Supplies and furniture lines will be maintained at the current levels.*
- *Increases substitute teacher pay.*
- *Moved two elementary teacher positions from federal covid funds to local budget.*
- *Removed an unfilled ed tech position at BIS from the budget.*

Federal Funded Position (continuation)

- *Added ESSER English Teacher at BHS (needed for 5 period schedule).*
- *Continued ESSER social work for 8th grade.*
- *Continued ESSER nursing assistant for BHS/COT/8th grade.*

Items for Consideration to be added

- Additional Special Education Teacher and Ed Tech at BHS for the development of the extended eligibility program for ages 18-22.
- 100-150K for capital improvements.

Revenues

REVENUES			
2021-22		2022-23	
		Proposed	Difference
\$1,102,483.00	Carryover (previous year)	\$1,102,483.00	\$0.00
\$341,272.00	Carryover (Long Term Debt Reduction FY20)	\$223,791.00	-\$117,481.00
	Carryover (current COT State Allocation FY19)		\$0.00
\$250,000.00	Carryover (Current MaineCare FY19)	\$250,000.00	\$0.00
\$70,000.00	Tuition (antic. 7 students for 19-20)	\$80,000.00	\$10,000.00
\$ -	Special Ed. Tuition	.	
\$25,136.00	Transportation (Non-Public)	\$25,136.00	\$0.00

\$23,495.00	Other Transportation	\$23,495.00	\$0.00
\$30,000.00	State Agency Clients	\$30,000.00	\$0.00
\$2,000.00	Miscellaneous (BMS Officials)	\$2,000.00	\$0.00
\$ -	Shared Service with Saco	\$100,000.00	\$100,000.00
\$197,328.00	Shared Service with Dayton	\$187,185.00	-\$10,143.00
\$100,000.00	Regional Center (SMAC) Revenue	\$100,000.00	\$0.00
\$54,688.00	COT Sending School Revenue	\$70,000.00	\$15,312.00
\$12,265,797.11	State Allocation (General)	\$12,974,549.47	\$708,752.36
\$81,663.10	State Allocation (Regionalization)	\$89,656.51	\$7,993.41
\$2,865,050.71	State Allocation (CTE)	\$2,817,062.09	-\$47,988.62
\$18,790,575.67	Local Allocation	\$18,761,513.34	-\$29,062.33
\$2,484,573.00	Local Allocation (Local only debt)	\$2,427,070.00	-\$57,503.00
\$1,455,251.41	Additional Local	\$2,179,731.59	\$724,480.18
\$40,139,313.00	Total	\$41,443,673.00	\$1,304,360.00
\$2,464,266,667.00	State Valuation	\$2,642,466,667.00	
\$31,056,372.78	100% EPS Total Allocation	\$31,736,062.81	
7.9	Local Allocation Mill Rate	\$7.10	
11,588,666.11	100% State Share	\$16,080,848.85	
19,467,706.67	100% Local Share (must raise to receive State Allocation-General)	\$18,761,513.34	
100.00%	Percent of State Share	100.00%	
100.00%	Percent of Local Share	100.00%	
State Allocation (General)	708,752.36	5.78%	
State Allocation (Regionalization)	7,993.41	9.79%	
State Allocation (CTE)	-47,988.62	-1.67%	
Total State Allocation	668,757.15	4.40%	

*Local Allocation	-29,062.33	-0.15%	
Additional Local	724,480.18	49.78%	
Total Local	637,914.85	2.81%	
Total Budget	1,304,360.00	3.25%	
State Valuation	178,200,000.00	7.23%	

COUNCIL MEETING

MARCH 1, 2022

NOTE: Due to COVID-19, this meeting was held in-person in the Council Chambers, as well as virtually (via ZOOM),

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

Roll Call: William Emhiser, Scott Whiting, Martin Grohman, Bobby Mills, Amy Clearwater, Norman Belanger, Liam LaFountain, Doris Ortiz and Marc Lessard

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

Adjustment to the Agenda:

- Add Order of the Day 2022.17) Authorization/Additional Funds for Main, Hill, Water Street Intersection Improvements Project

Public Hearing: Liquor License – Fish & Whistle, LLC

The Chair opened the Public Hearing at 6:01 p.m.

There were no public comments.

The Public Hearing was closed at 6:01 p.m.

Consideration of Liquor License: Fish & Whistle, LLC

Motion by Councilor Belanger, seconded by Councilor Emhiser to recommend the issuance of a State Liquor License to **Fish & Whistle, LLC**, located at 299 Main Street.

Vote: Unanimous.

Presentation: Overview of York County Government Purchase of a Regional Dredge

Kevin Roche, President of Save Our Shores, Saco Bay gave the presentation. The funding for a \$1.8 million dredge and support equipment comes from the American Rescue Plan, York County allocation of \$40 million total; qualifying under infrastructure and shoreline tourism recovery. The purchase of the Dredge would be of no cost to the City; with the only ask at this time being a letter of support from the City. Ultimately, the Dredge would be a pay as you go/use it system, with the City of Saco serving as the host community for the Dredge equipment.

The Council will have further discussion on this item at their March 8th Workshop.

Presentation: Proposed FY23 City Government Budget

City Manager James Bennett gave a PowerPoint presentation, starting with the City's economic standing ten years ago compared to the economic standing today. He outlined the major costs that are part of the budget, which include personnel costs, Capital Outlays, funding for Social and Municipal Services, and other costs. He noted that there are new and emerging citizen expectations, which include:

- Climate Change
- Affordable Housing
- Economy, Jobs, Inflation
- Equity & Social Justice
- Public Spaces & Lifestyle Infrastructure
- Public Process & Citizen Engagement

Jim went on to stress the importance of considering ways for the City to become a "Preferred Employer." It is understood that boosting wages is not sustainable, so other initiatives and benefits will need to be considered. We are dealing with an employee-driven market and the City needs to find ways to make itself more desirable as an employer.

He did note that with costs and inflation on the rise, and an expected increase in the budget and tax rate, the City is expected to see an increase in State Revenue Sharing and excise tax is also on target to increase. Overall, the proposed City Government Budget includes a 2.69% increase, which is a \$.49 increase on the tax rate.

Public Addressing the Council..(3 minute limit per speaker for up to 15 minutes):

One citizen addressed his concerns to the Council.

Consideration of Minutes: February 15, 2022

Motion by Councilor Clearwater, seconded by Councilor Lessard to accept the minutes as printed.

Vote: Unanimous.

Orders of the Day:

2022.12

IN BOARD OF CITY COUNCIL..MARCH 1, 2022

BE IT ORDERED, that the City Council of the City of Biddeford does hereby authorize the award of contract for the replacement of the wastewater pump station at Horrigan Court to Gordon Contracting, Inc. of Sangerville, Maine in an amount not to exceed \$4,326,285.00.

BE IT FURTHER ORDERED, that \$450,000.00 be allocated for change orders, inspections and administrative fees.

Funding for this project will be as follows:

- \$3,776,285 from American Rescue Plan Act (ARPA) Funds
- \$1,000,000 from the Dept. of Environmental Protection Grant

NOTE: This item will be considered by the Finance Committee at their March 1, 2022 meeting.

Motion by Councilor Clearwater, seconded by Councilor Lessard to grant the order.

Vote: Unanimous.

2022.17

IN BOARD OF CITY COUNCIL..MARCH 1, 2022

BE IT ORDERED, that the City Council of the City of Biddeford does hereby authorize the expenditure of an additional \$345,012 towards the Hill, Main & Water Street Intersection Improvements Project. (This will bring the total City contribution to this project to \$637,012). Funding for this project will come from the FY22 Operational Surplus and Contingency from prior year funding.

NOTE: The Finance Committee will consider this item at their March 1, 2022 meeting and send their recommendation to the Council.

Motion by Councilor Clearwater, seconded by Councilor Lessard to grant the order.

Vote: Unanimous.

2022.13

IN BOARD OF CITY COUNCIL..MARCH 1, 2022

BE IT ORDAINED by the City Council of Biddeford, Maine to amend the Code of Ordinances of the City of Biddeford as follows:

Part III (Land Development Regulations), Article XV (Historic Preservation Ordinance):

Section 5. Historic districts and historic landmarks designated.

The following described lands, buildings, structures, or areas of the City of Biddeford are designated as historic districts or historic landmarks:

A. Districts:

1. Downtown Historic District, as defined by the MSRD-1 Zone.
2. Mill Area Historic District, as defined by the MSRD-3 Zone, except for those lands within MSRD-3 located northwest of Elm Street. [Amended 8-3-2021 by Ord. No. 2021.72]
3. Mixed Residential Historic District, as defined by the MSRD-2 Zone.

B. Landmarks:

1. All such structures/places, not including districts, identified on the National Register of Historic Places, prior to amendment by Order No. 2021.72.
2. All such structures or properties designated as historically significant by the XV:5 Biddeford Historic Preservation Commission

Section 14. Demolition.

A. An historic landmark, or any building or structure identified as contributing, shall not be demolished or removed and a certificate of appropriateness to do so shall not be issued unless one of the following conditions is met:

1. The building or structure has been identified by the Historic Preservation Commission as noncontributing or incompatible with the MSRD District in which it is located; or [Amended 8-3-2021 by Ord. No. 2021.72]
2. The property owner can demonstrate to the Commission that it cannot be renovated or reconstructed so as to earn an economic return on its value in its present location as determined by a qualified real estate appraiser; or
3. The property owner can demonstrate to the Commission that he/she has offered the property for sale through a real estate broker for at least 180 days and that there has been no bona fide offer to buy the property from any person or entity that is willing to preserve and restore the property.

B. Applicants applying for the demolition or removal of designated historic landmarks or contributing structures or buildings, or important portions and features thereof, shall clearly demonstrate that their application meets one or more of the following demolition or removal criteria before the Commission will approve the application for demolition or removal:

1. The physical condition of the building makes the continued upkeep of the building, or important portions or features thereof, uneconomical; or
2. The building or structure, or important portions and features thereof, has been determined by the Division of Code Enforcement to represent an immediate hazard to the public health or safety, which hazard cannot be abated by reasonable measures.

C. Demolition delay. Before the issuance of a demolition permit by the Code Enforcement Office, a delay period of 90 days shall apply to any building or structure and portion thereof that is: an historic landmark or is designated as contributing.

- ~~1. An historic landmark or is designated as contributing.~~
- ~~2. Listed and eligible for listing on the National Register of Historic Places, but not designated significant locally.~~

D. Demolition delay procedures. At the hearing on an application to relocate or demolish a contributing building in an historic preservation district, or an historic landmark, the Commission may, in the interest of exploring reasonable alternatives, delay issuance of a permit for up to 120 days from the date of the hearing. If, 10 days prior to the expiration of the delay period, the Commission finds that there are still reasonable alternatives to explore, the Commission may continue the delay for an additional period of up to 60 days. The purpose of the delay is to find alternatives to demolition, such as assisting in securing funding to preserve in place the building, structure, or important portions and features thereof; or finding other ways to preserve the building or structure, such as outright purchase of the property, when feasible, or relocation; or proper recordation of buildings, structures and sites, including photography and narrative report; or preservation of historic artifacts.

E. This section shall not apply to any structure which has been ordered demolished by the City Council or the court in accordance with 17 M.R.S.A. §§ 2851 through 2959 and amendments thereto, or to any structure which has been partially destroyed and is determined by the Division of Code Enforcement to represent an immediate hazard to the public health or safety, which hazard cannot be abated by reasonable measures, specified by the Division of Code Enforcement, including securing apertures and/or erecting fences.

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

Vote: Unanimous.

2022.14

IN BOARD OF CITY COUNCIL..MARCH 1, 2022

BE IT ORDERED that the City Council, pursuant to Part III Land Development Regulations, Article XIII, does hereby request the Planning Board to hold a Public Hearing and make recommendations to the City Council regarding a proposed amendment to change Tax Map 17, Lots 16-2 and 16-3 from Industrial-1 (I-1) to Residential (R-1-A).

Motion by Councilor Mills, seconded by Councilor Lessard to grant the order.

Vote: Unanimous.

2022.15

IN BOARD OF CITY COUNCIL...MARCH 1, 2022

BE IT ORDERED, that the City Council of the City of Biddeford does hereby authorize the raising of the Irish Flag on the City Hall flagpole on March 17, 2022 in observance of St. Patrick's Day.

Motion by Councilor Lessard, seconded by Councilor Clearwater to grant the order.

Vote: Unanimous.

2022.16

IN BOARD OF CITY COUNCIL...MARCH 1, 2022

WHEREAS, the City of Biddeford has completed the Community Resilience Partnership's Community Resilience Self-Assessment and List of Community Actions, and held a community workshop on Thursday, February 17, 2022, which prioritized the following action areas:

- Continue to install electric vehicle chargers in public parking areas;
- Adopt a Resolution setting targets and a plan for reducing emissions and advancing clean energy from municipal operations that align with the State's targets. (The Climate Task Force will present to Council a plan for carbon neutrality by 2050 at a future date.);
- Adopt a policy that prioritizes green infrastructure to manage stormwater in developed areas;
- Create a climate change education, outreach, and engagement program focusing on mitigation and adaptation for residents and businesses.

WHEREAS, the City of Biddeford is prepared to demonstrate leadership in reducing energy use and greenhouse gas emissions, and increasing the resilience of people, infrastructure, and businesses;

WHEREAS, achieving these emissions and resilience goals will require communities in Maine to act with urgency to slow the causes of climate change and prepare people, communities, and the environment for climate-related impacts to come;

BE IT RESOLVED, the City of Biddeford commits to participating in the Community Resilience Partnership, which supports community leadership in reducing greenhouse gas emissions and increasing resiliency to extreme weather and climate change impacts;

BE IT FURTHER RESOLVED, the City of Biddeford designates the Biddeford Climate Task Force to coordinate planning, implementation, and monitoring of energy and resilience projects and to be the primary point of contact to the Community Resilience Partnership.

Motion by Councilor Clearwater, seconded by Councilor Belanger to grant the order.

Vote: Unanimous.

Appointments:

IN BOARD OF CITY COUNCIL...MARCH 1, 2022

ORDERED, that I, Alan M. Casavant, Mayor of the City of Biddeford, do hereby appoint the following to the *Ad Hoc Housing Committee*:

Ian Garcia-Grant
117 Cleaves Street, #101
Ward 2

Motion by Councilor Clearwater, seconded by Councilor Lessard to confirm the appointment.

Vote: Unanimous.

IN BOARD OF CITY COUNCIL...MARCH 1, 2022

ORDERED, that I, Alan M. Casavant, Mayor of the City of Biddeford, do hereby appoint:

George Sutherland
5 Ranch Lane
Ward 3

to the *Biddeford Police Advisory Committee*, for a term to expire in December 2026.

Motion by Councilor Clearwater, seconded by Councilor Lessard to confirm the appointment.
Vote: Unanimous.

IN BOARD OF CITY COUNCIL...MARCH 1, 2022

ORDERED, that I, Alan M. Casavant, Mayor of the City of Biddeford, do hereby appoint:

**Patrick Mourmouras
57 Hills Beach Road
Ward 1**

to the *Downtown Development Commission*, for a term to expire in December 2025.

Motion by Councilor Clearwater, seconded by Councilor Lessard to confirm the appointment.
Vote: Unanimous.

IN BOARD OF CITY COUNCIL...MARCH 1, 2022

ORDERED, that I, Alan M. Casavant, Mayor of the City of Biddeford, do hereby re-designate:

**Alexa Plotkin
136 Alfred Street
Ward 5**

from an Associate Member to a Regular Member on the *Planning Board*, for a term to expire in December 2024.

Motion by Councilor Clearwater, seconded by Councilor Lessard to confirm the appointment.
Vote: Unanimous.

IN BOARD OF CITY COUNCIL...MARCH 1, 2022

ORDERED, that I, Alan M. Casavant, Mayor of the City of Biddeford, do hereby appoint:

**Randy Seaver
23 Lamothe Avenue
Ward 7**

to the *Zoning Board of Appeals*, replacing David Flood, for a term to expire in December 2022.

Motion by Councilor Clearwater, seconded by Councilor Lessard to confirm the appointment.
Vote: Unanimous.

IN BOARD OF CITY COUNCIL...MARCH 1, 2022

ORDERED, that I, Alan M. Casavant, Mayor of the City of Biddeford, do hereby appoint the following to the *Diversity, Equity and Inclusion Committee*:

**Liam LaFountain, City Councilor
Irene Brackett
Jacob Hammer
Martha Jacques
Florence Leighton
Andrew Lovley
Anne Morrissey
Bistra Nikiforova
Sydney Wolf**

Motion by Councilor Clearwater, seconded by Councilor Lessard to confirm the appointment.
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:

- He is very pleased to report that with all of the efforts of Code Enforcement Officer Roby Fecteau, and others who were involved, that the FEMA application for the River Wall Repairs is out of Region 1 and is now in Washington, D.C. for review.
- Jim introduced one of the City's newest employees, Timothy Boston, who is working as the Community Outreach and Inclusion Coordinator.
- Jim encouraged the public to make complaints about City Departments directly to his office, rather than publicly to the Council.
- When asked by Councilor Grohman, Jim explained that the proposed housing project to be located on outer Alfred Street is working to put together a Joint Development Agreement, as well as a request for the necessary zone changes. The hope is to have this item on the next Council agenda.

Other Business:

Councilor Ortiz – shared that the first Housing Task Force meeting took place last week and it went really well. All reports and information coming from this Task Force will be on the City's website and she encouraged folks to stay informed about their discussions.

She rode in one of the City plow trucks during the last snowstorm, which she found really fascinating. She encouraged her fellow Councilors to do the same. She was impressed with how much pride the Public Works employees have for the City, even those who don't live in Biddeford.

Councilor Clearwater – will be doing Meals on Wheels ride-along, and is excited for this opportunity.

She noticed that the Planning Board agenda this week was much thicker than usual because it included a lot more information, which informed folks about who the applicant is, the location being considered, which items would allow for public comment, etc. She would like to see Council agendas follow the same kind of format.

Council President Addressing the Council: Councilor Belanger will follow up on Councilor Clearwater's above request.

He thanked City Manager Jim Bennett and all who were involved in preparing the budget. He anticipates a lot of work to be done by the Budget Committee/Council.

Mayor Addressing the Council: Mayor Casavant touched on a point made during the Budget Presentation that our employees are valuable and the City needs to support ways to retain those employees who are invested and dedicated to the community.

He is proud that three chefs in Biddeford have been nominated for the James Beard Award. Nominees include Bowman Brown from *Elda*, Ben Jackson from *Magnus on Water* and new to Biddeford, Pastry Chef Katherine Hamm of *Fish & Whistle*. He noted that this just goes to show the improvements in our community, as well as the desirability to live and work here.

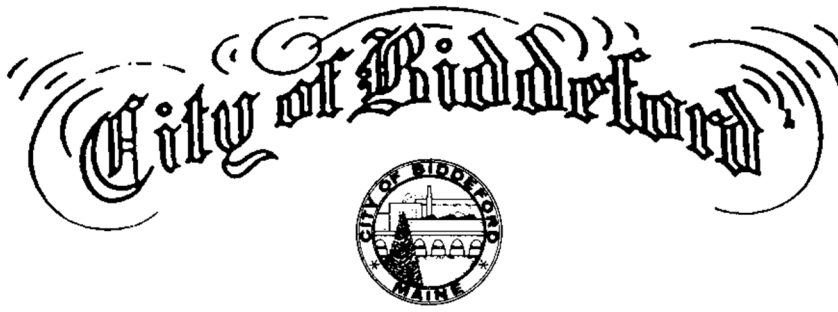
He reminded the Council, as they start the budget review process, that many items and policies are inter-connected and will need to be deliberated as considerations are made.

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

Vote: Unanimous.

Time: 8:04 p.m.

Attest by: _____
Carmen J. Morris, City Clerk



2022.13

IN BOARD OF CITY COUNCIL..MARCH 1, 2022

BE IT ORDAINED by the City Council of Biddeford, Maine to amend the Code of Ordinances of the City of Biddeford as follows:

Part III (Land Development Regulations), Article XV (Historic Preservation Ordinance):
(see attached)

March 1, 2022

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

Vote: Unanimous.

Article XV

HISTORIC PRESERVATION ORDINANCE

Section 1. Authority.

This ordinance is adopted by the municipal officers of the City of Biddeford, Maine, pursuant to the authority granted under 30-A M.R.S.A. § 3001 and § 3007.

Section 2. Purpose and intent.

- A. Purpose. The purpose of this ordinance is to promote the educational, cultural, economic and general welfare of the City of Biddeford by providing a legal framework within which the residents of the City can protect the historic and architectural heritage of historically significant areas, landmarks and sites while accepting compatible new construction.
- B. Intent. The intent of this ordinance is to create a legal mechanism to further the above-mentioned purpose and to:
 - 1. Protect, preserve and enhance the outward appearance and architectural features of structures within designated historic districts and of designated historic landmarks.
 - 2. Protect and enhance neighborhood character.
 - 3. Enhance the economic welfare of the City by stabilizing and improving the values of structures and properties within designated historic districts.
 - 4. Protect and enhance the attractiveness of the City to its home buyers, home owners, residents, tourists, visitors, businesses and shoppers.
 - 5. Foster civic pride in the City's history and development patterns as represented in such designated historic districts and landmarks.
 - 6. Apply design standards in a reasonable and flexible manner to prevent the unnecessary loss of the community's historical features and to ensure compatible construction and rehabilitation in historic districts while not stifling change and development or forcing modern recreations of historic styles.
 - 7. Prevent the demolition or removal of significant historic buildings or structures within designated historic districts or of designated historic landmarks.
 - 8. Preserve, protect and enhance the essential character of designated historic districts by protecting relationships of groups of buildings and structures.
 - 9. Accept new buildings and structures in designated historic districts, which are designed and built in a manner which is compatible with the character of the district.
 - 10. Encourage the use of environmentally sustainable practices in building

construction and renovations, while supporting the purpose of this ordinance being historic preservation. **[Amended 8-3-2021 by Ord. No. 2021.72]**

Section 3. Definitions.

As used in this article, the following terms shall have the meanings indicated:

ALTERATION — Any act or process requiring a building permit and any other act or process not requiring a building permit but specifically listed in this article as a reviewable action, including, without limitation, the repair, reconstruction, demolition or relocation of any structure or object or any part of a structure or object.

ALTERED — The word altered includes "rebuilt," "reconstructed," "rehabilitated," "restored," "removed" and "demolished."

APPLICANT — A person who submits an application for issuance of a certificate of appropriateness.

APPLICATION — A form submitted for approval of alteration, construction, demolition or removal that requires issuance of a certificate of appropriateness.

APPROPRIATE — Refers to those changes in historic properties, landmarks, buildings, structures or sites within historic overlay zones, or sites or landmarks, which are not incongruous with what is historically and architecturally significant as determined by the Commission or its designee.

APPROVAL AUTHORITY — Either the Commission or its designee as provided for in Section 8 of this ordinance. **[Amended 8-3-2021 by Ord. No. 2021.72]**

ARCHAEOLOGICAL RESOURCE — An archaeological site or bounded geographical location containing the physical evidence of previous human occupation, including but not limited to structures, artifacts, graphics (paintings or drawings) and discarded material, including plants or animals. **[Added 8-3-2021 by Ord. No. 2021.72]**

CERTIFICATE OF APPROPRIATENESS — A certificate issued by the Commission or its designee evidencing approval of specific plans for alteration of a structure or construction on a site in accordance with this article.

CERTIFICATE OF ECONOMIC HARDSHIP — A certificate issued by the Commission or its designee evidencing a hardship variance approved by the Board of Appeals in accordance with Section 13E of this ordinance. **[Amended 8-3-2021 by Ord. No. 2021.72]**

CERTIFICATE OF NONAPPLICABILITY — A certificate issued by the Commission or its designee evidencing a determination that specific plans for alteration of a structure or construction on a site do not require approval under this article.

COMMISSION — The Commission acting as the Historic Preservation Commission established in Section 8 of this ordinance. **[Amended 8-3-2021 by Ord. No. 2021.72]**

CONSTRUCTION — The adding to a structure by an addition, or the erection or placement of any new structure on a lot or property.

CONTRIBUTING — A classification applied to a site, structure or object within an historic district signifying that it contributes generally to the qualities that give the historic district cultural, historic, architectural or archeological significance as embodied in the criteria for designating an historic district, but without being itself a landmark. See

Section 19 of this ordinance.[**Amended 8-3-2021 by Ord. No. 2021.72¹**]

DEMOLITION —

- A. Any act or process that partially or totally destroys a structure or object.
- B. The razing of a building or a structure or the removal of any exterior architectural feature or structure or object.

DEPARTMENT — The Planning and Development Department.[**Amended 8-3-2021 by Ord. No. 2021.72**]

EXTERIOR ARCHITECTURAL FEATURE — The parts, elements, and general arrangement of the exterior of a building or structure, including but not limited to:[**Amended 8-3-2021 by Ord. No. 2021.72**]

- A. The kind, type, and texture of the building materials;
- B. The type and style of elements, including, but not limited to, windows, doors, lights, dormers, roofs, gable cornices, porches, and decorative trim;
- C. Signs; and
- D. Fencing.

HISTORIC (adj.) — Important in or contributing to history.[**Amended 8-3-2021 by Ord. No. 2021.72**]

HISTORIC DISTRICT — Any place or area which includes or encompasses such historic landmarks, buildings, signs, appurtenances, structures or objects as may be designated within this ordinance in Section 5 as appropriate for historic preservation.

HISTORIC LANDMARK — Any improvement, building or structure of particular historic or architectural significance to the City relating to its heritage or cultural, social, economic or political history or which exemplifies historic personages or important events in local, state or national history, as may be designated in accordance with this article. An historic landmark does not necessarily need to be located within an historic district.[**Amended 8-3-2021 by Ord. No. 2021.72²**]

MAJOR REPAIR — Any exterior alteration that does not qualify as a minor repair.[**Added 8-3-2021 by Ord. No. 2021.72**]

MASSING — The perception of the general shape and form as well as size of a building.[**Added 8-3-2021 by Ord. No. 2021.72**]

MINOR REPAIR — Exterior alterations that do not change materials, form, style, or overall appearance, and are only necessary to correct deficiencies resulting from normal wear and tear.[**Added 8-3-2021 by Ord. No. 2021.72**]

NONCONTRIBUTING STRUCTURE — Any structure which is neither a contributing structure within a district nor a landmark and is not identified as contributing in Section 19 of this ordinance.[**Amended 8-3-2021 by Ord. No. 2021.72**]

1. Editor's Note: This ordinance also repealed the former definition of "contributing structure," which immediately followed this definition.

2. Editor's Note: This ordinance also repealed the former definitions of "historic significance" and "landmark," which immediately followed this definition.

OBJECT — A material thing of functionality, aesthetic, cultural, or scientific value that may be, by nature or design, movable yet related to a specific setting or environment. The term "object" is used to distinguish from buildings and structures those constructions that are primarily artistic in nature or are relatively small in scale and simply constructed.**[Amended 8-3-2021 by Ord. No. 2021.72]**

ORDINARY MAINTENANCE — Acts of maintenance or repair which do not include a change in the design, material or outer appearance of a structure, including, without limitation, repainting, replacement of materials or windows of the same scale, texture and color, and landscaping other than within an historic landscape district.

OWNER — The person or persons holding record title to the building, site or property; provided, however, the last previous tax roll in the records of the City Assessor's office may be relied upon as showing record ownership in the absence of substantial evidence to the contrary.

PROPERTY — Land and improvements identified as a separate lot for purposes of subdivision, site plan, or zoning regulation.

RELOCATION — Any removal or relocation of a structure on its site or to another site.

RESTORATION — Any act which returns a structure or a feature of a structure to a prior state of historic significance.

RHYTHM — Characterized by the regular recurrence of strong and weak elements.

SCALE — The size or apparent size of an object seen in relation to other objects, people, or its environment or format.**[Added 8-3-2021 by Ord. No. 2021.72]**

Section 4. Applicability. [Amended 8-3-2021 by Ord. No. 2021.72]

This ordinance shall apply to exterior alterations of buildings, structures, and exterior architectural features, as identified in Section 10A, either located within a designated historic district or designated as an historic landmark in Section 5 of this ordinance.

Section 5. Historic districts and historic landmarks designated.

The following described lands, buildings, structures, or areas of the City of Biddeford are designated as historic districts or historic landmarks:

A. Districts:

1. Downtown Historic District, as defined by the MSRD-1 Zone.
2. Mill Area Historic District, as defined by the MSRD-3 Zone, except for those lands within MSRD-3 located northwest of Elm Street. **[Amended 8-3-2021 by Ord. No. 2021.72]**
3. Mixed Residential Historic District, as defined by the MSRD-2 Zone.

B. Landmarks:

1. All such structures/places, not including districts, identified on the National Register of Historic Places, prior to amendment by Order No. 2021.72.
- 1.2. All such structures or properties designated as historically significant by the

Section 6. Eligibility for historic designation. [Added 8-3-2021 by Ord. No. 2021.72³]

The historic districts, historic sites, and historic landmarks established in accordance with this article shall have one or more of the following characteristics:

- A. History of Biddeford. Structures, buildings or sites at which events have occurred that contribute to and are identified with or significantly represent or exemplify the broad cultural, political, economic, military, or social history of Biddeford or the nation, including sites or buildings at which visitors may gain insight or see examples of particular items or of larger patterns in the North American heritage.
- B. Persons. Structures, buildings, or sites associated with important historic persons.
- C. Architecture. Structures or structural remains and sites embodying examples of architectural types or specimens valuable for study of a period, style or method of building construction, of community organization and living; landscaping; a single notable structure; or a site representing the work of a master builder, master designer, architect or landscape architect.
- D. Visual continuity. Structures or buildings contributing to the visual continuity of the historic district.
- E. National Register. Those sites or areas listed on or eligible for listing on the National Register of Historic Places or as a National Historic Landmark.

Section 7. Establishment of historic sites, landmarks, and new historic districts; expansion of existing historic districts. [Added 8-3-2021 by Ord. No. 2021.72⁴]

- A. Amendment process. Any person, including acting members of the Historic Preservation Commission, seeking to add or expand historic districts, sites, or landmarks shall request the amendment in writing to the Commission. Any proposal by the Council or Planning Board shall be referred to the Commission for comment before Council action. After receiving the Commission's recommendation concerning the request, the City Manager shall place the matter on the agenda of the City Council. Any applications or designation of buildings, structures, sites and districts shall be in writing.
- B. Application requirements. Applications shall be in writing and shall include the following, as appropriate:
 - 1. For individual properties, a letter of consent from the property owner.
 - 2. A concise description of the physical elements, qualities, architectural style, period and historical significance represented by the building, structure or site, including a consideration of scale, materials, workmanship and spatial qualities, as relevant.
 - 3. A concise statement of how the building, structure or site meets the review criteria of this article.

3. Editor's Note: This ordinance also renumbered former Sections 6 through 17 as Sections 8 through 19, respectively.

4. Editor's Note: This ordinance also renumbered former Sections 6 through 17 as Sections 8 through 19, respectively.

4. Exterior photographs of the building or structure, and/or a site map, illustrating significant details. In addition, the Commission may request photographs of interior features of particular historic significance. These interior photographs may be provided by the applicant on a voluntary basis and are not required submissions.
 - a. A concise statement of the physical elements which justify making this area an historic district and a description of building types and architectural styles and periods represented.
 - b. An explanation of the proposed boundaries of the district.
 - c. Details on the structures that do not contribute to the significance of the district.
 - d. A map showing the location of all district structures.
- C. Studies and recommendations. Before making its recommendation concerning the proposed establishment or expansion of an historic district, historic site or historic landmark, the Commission may conduct studies and research on the proposal. The Commission shall make a report to the City Manager on every request received within six months. Drafts of the report shall also be mailed to the Maine Historic Preservation Commission for review.
- D. Public hearing. Prior to making a recommendation concerning the proposed establishment or expansion of an historic district, historic site, or historic landmark, the Commission shall hold a public hearing on the request, after due notice is provided at least seven days prior to the hearing in a newspaper of general local circulation. Written notice of the proposal shall be given to the applicant, owners of all property to be included within the proposed designation and property within a 200-foot radius of the property under consideration.
- E. Final report. Not later than 30 days after the public hearing, the Commission shall submit a final report to the City Council with the Commission's recommendation.
- F. Action by the City Council. After receipt of the Commission's recommendations, as provided above, the City Council shall consider said proposed designation and approve or disapprove the request. Within 20 days after the designation of any historic district, historic site or historic landmark, the owner of each property so designated shall be given written notice.
- G. From the time of nomination until the Historic Preservation Board acts upon such nomination, a site, structure, object or area nominated but not yet designated as a landmark or district shall be subject to all of the provisions of Section 12 governing demolition, to the same extent as if designated. Upon final action of the Historic Preservation Board recommending designation, the site, structure, object, or area nominated shall be subject to all of the protections of this article until a final decision on designation by the City Council becomes effective. If the City Council rejects designation or fails to designate a property, that property shall no longer be subject to the provisions of Section 14 of this article.
- H. Applicability of this section. All land, buildings or structures within an historic

district are subject to the requirements of this article after a district has been designated by the City Council. All historic sites and landmarks are subject to the requirements of this article after they have been so designated by the City Council.

Section 8. Historic Preservation Commission membership; meetings.

A. Membership.

1. The Board shall consist of seven members, five voting members and two associate members, each a resident of the City of Biddeford. Each member shall be nominated by the Mayor, confirmed by the City Council, for a three year-term. The Mayor shall have the discretion of appointing members and associate members to the Commission with terms expiring after two years but less than three years for the purpose of staggering appointments throughout a calendar year.
2. Associate members may be made voting members of the Board upon the retirement or no appointment of a voting member. Associate members are expected to participate in all hearings and discussions. They shall vote only if the Chair appoints an associate to act in place of a regular member who is absent or has been disqualified because of conflict of interest.
3. When there is a permanent vacancy, the Mayor shall nominate, with confirmation by the City Council, a new member to serve for the remainder of the unexpired term. Vacancies shall be filled within 60 days. **[Amended 8-3-2021 by Ord. No. 2021.72]**
4. No serving municipal officer or official of the City of Biddeford shall serve as a member or associate member of the Board.

B. Member qualifications.

1. All members of the Commission shall be residents of the City of Biddeford.
2. Appointments shall be made on the basis of demonstrated interest, knowledge, ability, experience and desire to promote historic preservation in the City of Biddeford. To the extent possible, members should have a background in architecture, historic preservation, planning, engineering, building construction, or a combination thereof.
3. Ideally a member of the Biddeford Historical Society would be a member, as well as a resident of one of the Historic Districts designated by this ordinance.

C. Removal of an Historic Preservation Commission member.

1. Members of the Commission may be removed for cause by the City Council. Cause may include, but not necessarily be limited to, the following reasons:
 - a. A member is no longer a resident of the City of Biddeford;
 - b. A member is absent from meetings without good cause; or
 - c. A member conducts himself/herself in a manner that is inconsistent with the official position of the Historic Preservation Commission, such as

consistently having conflicts of interest or displaying unprofessional behavior toward applicants, City employees, or members of the public.

2. Removal action may be initiated by the Mayor or the City Council; however, any member proposed for removal shall be given written notice and shall have an opportunity to be heard prior to final action.

D. Commission officers.

1. The Commission shall elect from its voting membership a Chair, Vice Chair, and Secretary. Each officer shall be elected each January and shall serve a term of one year.
2. Elected officers shall be responsible for the following:
 - a. The Chair shall preside at all meetings and shall be responsible for the scheduling of special meetings of the Commission as needed. The Chair shall vote only in case of a tie.
 - b. In the event the Chair is absent or has been recused due to conflict of interest, the Vice Chair shall act as the Chair.
 - c. Secretary: ensures that the records of meetings are accurate and available for the Commission's review and reference.

E. Staff. The Commission shall be staffed by the Planning Department.

F. Meetings.

1. The Commission shall conduct monthly meetings. Meetings shall convene on the second Wednesday of each month, unless prior arrangement and announcement has been made by the Commission.
2. In coordination with the Planning Department, the Chair may call special meetings and workshops as needed.
3. All meetings of the Commission shall be open to the public. All meeting agendas shall be posted at the same location in City Hall as Planning Board agendas no less than seven days prior to the hearing. Materials and records of the meetings shall be maintained and available for public inspection in the Planning Department. **[Amended 3-5-2019 by Ord. No. 2019.14]**
4. The Commission shall adopt Roberts Rules of Order and may adopt rules of procedure for the conduct of its business not inconsistent with this article. The Commission shall allow for public comment at all meetings on all applications, with a reasonable amount of time provided to all who wish to speak. In cases where there are applications and a number of those present wish to speak, the Commission may by motion establish a time limit for public comment.
5. Commission meetings shall be called to order when a quorum of the voting members is present. For this purpose a quorum shall be three voting members. When a regular member of the Commission is unable to serve because of conflict of interest, incapacity, absence or lack of confirmed appointment to

fill a permanent vacancy, an associate member shall be designated to vote by the Chairman.

6. The Commission shall issue a written decision, appropriately signed by the Chairman, on matters when determined by the Commission to be necessary. The decisions shall include:
 - a. A statement of findings and conclusions.
 - b. Any conditional actions and the timetable for completion.
- G. Conflicts. Any questions raised by any interested party of whether a particular issue involves a conflict of interest sufficient to disqualify a member from voting shall be decided by a majority of the members present except the member who is being challenged.

Section 9. Responsibilities.

The Historic Preservation Commission shall have the following responsibilities:

- A. Issue certificates of appropriateness for eligible activities identified in Section 10 of this ordinance. **[Amended 8-3-2021 by Ord. No. 2021.72]**
- B. Conduct or administer an ongoing survey to identify historically and architecturally significant areas, sites, structures, and landmarks.
- C. Make recommendations for designation of landmarks or new or expanded districts to the Planning Board.
- D. Advise the City Council, Planning Board, and City Departments, as necessary, regarding the protection of historic landmarks and districts.
- E. Review and make recommendations regarding all national register proposals for properties and districts within the City.
- F. Assist in the development of relevant sections of the City's Comprehensive Plan pertaining to historic resources and historic preservation.
- G. Educate and inform the citizens and property owners in Biddeford concerning the historic and architectural heritage of the City.
- H. To engage in other activities in furtherance of the purposes of this ordinance.
- I. Provide an annual report of Commission activities to the Maine Historic Preservation Commission. **[Added 8-3-2021 by Ord. No. 2021.72]**
- J. Attend at least one informational or educational meeting, when available, sponsored by the Maine Historic Preservation Commission, pertaining to the work and functions of the Commission or to historic preservation. **[Added 8-3-2021 by Ord. No. 2021.72]**
- K. Establish written guidelines for the preservation of designated local landmarks and historic districts in decisions on requests for permits for new construction, alterations, demolition, relocation, additions, or other actions affecting listed

landmarks and buildings within historic districts. **[Added 8-3-2021 by Ord. No. 2021.72]**

Section 10. Certificate of appropriateness required.

- A. Historic Preservation Commission review. The Historic Preservation Commission shall protect historic districts and historic landmarks by the issuance of certificates of appropriateness for certain activities in historic districts and involving historic landmarks. Certificates of appropriateness from the Commission are required for:
1. Any change to the exterior appearance or to an exterior architectural feature of any building or structure in an historic district that requires a building permit or a sign permit from the Code Enforcement Office and for any change to the exterior appearance or to an exterior architectural feature of an historic landmark that requires either a building permit or a sign permit from the Code Enforcement Office; **[Amended 8-3-2021 by Ord. No. 2021.72]**
 2. New construction of a principal or accessory building or structure visible from a public street where such a building or structure will be located in an historic district;
 3. Demolition of an historic landmark or a building or exterior architectural feature in an historic district; **[Amended 8-3-2021 by Ord. No. 2021.72]**
 4. Moving of an historic landmark or any building in an historic district; and/or
 5. Any change, except for minor repair, in siding materials, roofing materials, door and window sash and integral decorative elements, such as, but not limited to, cornices, brackets, window architraves, doorway pediments, railings, balusters, columns, cupolas, and cresting roof decorations. **[Amended 8-3-2021 by Ord. No. 2021.72]**
 6. Improvement projects and objects on contributing properties, such as lighting, sidewalks, raised walkways, handicapped access ramps, paving, or curbing, located beyond the right-of-way of any public street or way, but visible from the street, and located within an historic district or affecting any historic site or landmark. **[Added 8-3-2021 by Ord. No. 2021.72]**
- B. Subcommittee review. In order to process certificates of appropriateness more efficiently, applications for minor alterations, temporary alterations, and the installation or alteration of any exterior sign shall be reviewed by a subcommittee consisting of the City Planner and the Chair of the Historic Preservation Commission, or their respective designees, rather than the Historic Preservation Commission, as follows:
1. The subcommittee shall review the application under the standards of Section 13 and approve the application, approve it with modifications or deny it within 10 working days of receiving a complete application. **[Amended 8-3-2021 by Ord. No. 2021.72]**
 2. No public hearings, meeting agenda postings, or abutter notices are required for applications reviewed under this section.

3. If the subcommittee has not acted on an application within 10 working days the applicant may seek approval from the Commission instead. Inaction by the subcommittee under this section does not constitute approval or disapproval of the plan.
 4. If the applicant is not satisfied with the determination of the subcommittee, the applicant shall be permitted to have the entire application reviewed by the Commission. The subcommittee can, for any reason, forward any application received under these provisions to the Commission for review.
 5. For purposes of this section only, "temporary" is defined as either a one-time occurrence that does not exceed 30 days or as an annual occurrence that does not exceed one thirty-day period each year.
 6. The City Planner or Commission Chair shall report back to the Commission at the next meeting of the Commission any decisions made by the subcommittee since the last meeting.
 7. "Minor alterations" are defined as incidental changes or additions to a building or site features which will neither result in substantial changes to any significant historic features nor obscure such features. In no event shall any change be deemed minor when, in the determination of the subcommittee, such change shall alter the historic character of the building or site.
- C. When a certificate of appropriateness is required in any historic district or for any historic landmark, no building or sign permit shall be issued by the Code Enforcement Office until a corresponding certificate of appropriateness has been issued by the authorities described above.

Section 11. Application for certificate of appropriateness.

- A. Applications for certificates of appropriateness can be obtained either in the Code Enforcement Office or the Planning and Development Department. **[Amended 8-3-2021 by Ord. No. 2021.72]**
- B. Completed applications shall be submitted to the Biddeford Planning Department, which shall date and time stamp said applications upon receipt. Completed applications are due 14 days prior to the Commission's regularly scheduled meetings, which are the second Wednesday of every month.
- C. The Commission shall review and make a decision on all complete applications within 35 days of submission. If after 35 days no decision has been made, the certificate of appropriateness shall be deemed as approved.
- D. Applications shall be on a form developed by the Planning Department, and all applications shall include the following:
 1. The applicant's name and address and his or her interest in the property;
 2. The owner's name and address, if different from the applicant's;
 3. If applicable, the contractor's and/or architect's name and address;

4. The address or location of the subject property;
 5. The existing use and zoning of the property;
 6. A brief description of the proposed activity for which a certificate of appropriateness is sought.
- E. The applicant may wish to also provide, or the Planning Department may also request, on behalf of the Commission, additional information to better enable the Commission to reach a timely decision on an application under review, which may include:
1. Drawings (i.e., exterior elevations) and/or plans to better illustrate the proposed activity for which the certificate is being applied for;
 2. Samples of materials proposed for use in the activity;
 3. Photographs of other recently completed projects by the applicant in a similar fashion to which the certificate is being applied for; and
 4. Photographs of the building involved as well as adjacent buildings.

Section 12. Hearings and action on applications for certificates of appropriateness.

- A. Hearing required. Where applications under Section 10A are reviewed by the Commission, the Commission shall conduct a public hearing prior to rendering a decision. **[Amended 8-3-2021 by Ord. No. 2021.72]**
- B. Notice requirements.
1. Notice requirements for all items scheduled for a public hearing shall include posting the meeting agenda at the same location in City Hall as Planning Board agendas are posted no less than seven days prior to the hearing; and
 2. Notice via United States Postal Service shall also be sent to the applicant, owner, and all property owners within 100 feet of the subject property no less than seven days prior; and⁵
- C. Hearing and notice not required. Where applications are reviewed under Section 10B, no public hearing or notice is required. If the applicant requests a public hearing, the application shall be forwarded to the Commission, which shall then review and make a decision regarding a certificate of appropriateness for said application under its normal procedure of review. **[Amended 8-3-2021 by Ord. No. 2021.72]**
- D. Approval. If the approval authority determines that the proposed activity is appropriate, it shall approve the certificate of appropriateness and forward it to the Planning Department, which shall subsequently forward it to the Code Enforcement Office for the issuance of necessary permits.

5. Editor's Note: Former Subsection 3, regarding newspaper announcements, which immediately followed, was repealed 3-5-2019 by Ord. No. 2019-14.

- E. Disapproval. If the approval authority determines that the proposed activity is not appropriate, it shall make findings as to why it is not appropriate and shall forward said decision to the Planning Department, which shall notify the applicant of said determination and provide, as applicable, guidance regarding the opportunity to resubmit the application with revisions or to appeal the determination as outlined in Section 17 of this ordinance. **[Amended 8-3-2021 by Ord. No. 2021.72]**

Section 13. Evaluation standards for certificate of appropriateness.

A. Reconstruction and alterations.

1. A building or structure classified as an historic landmark or located within an historic district, or any part thereof, or any appurtenance related to such structures, including but not limited to walls, fences, light fixtures, steps, paving and signs, shall not be reconstructed or altered unless a certificate of appropriateness has been issued for such activity. No certificate of appropriateness for a structure or building identified as contributing to the district shall be issued unless the proposed activity is found to preserve or enhance a building's or structure's historical or architectural character. No certificate of appropriateness shall be issued for a noncontributing structure or building unless the proposed activity is complementary to the historic character of surrounding structures and buildings and meets the intent of this ordinance.
2. The standards and requirements in the United States Secretary of the Interior's Standards of Rehabilitation as well as the following factors shall be considered when reviewing applications for reconstruction or alteration of buildings or structures subject to review under this ordinance:
 - a. Every reasonable effort shall be made to use a property for its historic purpose and in a way which will require minimum alteration to the structure and its environment;
 - b. Rehabilitation work shall not destroy the distinguishing qualities nor character of the structure and its environment. The removal or alteration of any historic material or architectural features should be avoided;
 - c. Deteriorated architectural features should be repaired rather than replaced, wherever possible. In the event that replacement is necessary, the new material should match the material being replaced in composition, design, texture and other visual qualities. Repair or replacement of missing architectural features should be based on physical or pictorial evidence rather than on conjectural designs or the availability of different architectural features from other buildings;
 - d. Distinctive stylistic features or examples of skilled craftsmanship which characterize historic structures and often predate the mass production of building materials shall be treated with sensitivity;
 - e. Changes which may have taken place in the course of time are evidence of the history and development of the structure and its environment, and these changes shall be recognized and respected;

- f. All structures shall be recognized as products of their own time. Alterations to create an earlier appearance shall be discouraged;
 - g. Contemporary design for additions to existing structures shall be encouraged if such design is compatible with the size, scale, material and character of the neighborhood, the structure or its environment; and
 - h. Wherever possible, new additions or alterations to structures shall be done in such a manner that if they were to be removed in the future the essential form and integrity of the original structure would be unimpaired.
- B. Demolition or removal: See Section 14 of this ordinance. **[Amended 8-3-2021 by Ord. No. 2021.72]**
- C. Construction of new buildings or structures. The construction of a new building or structure within an historic district shall be generally of such a design, form, proportion, mass, configuration, building material, texture, color and location on a lot as will be compatible with buildings, structures and open spaces where it is visually related and in keeping with the area. The following factors shall be considered:
 - 1. Height. The height of proposed buildings shall be compatible with adjacent buildings;
 - 2. Proportion of building's front facade. The relationship of the width of the building to the height of the front elevation shall be visually compatible with buildings, structures and open spaces where it is visually related;
 - 3. Proportion of openings within the facade. The relationship of the width of the windows to the height of windows and doors in a building shall be visually compatible with that of windows and doors of buildings to which the building is visually related;
 - 4. Rhythm of solids to voids in front facades. The relationship of solids to voids in the front facade of a building shall be visually compatible with that of the buildings to which it is visually related;
 - 5. Rhythm of spacing of buildings on streets. The relationship of the building to the open space between it and adjoining buildings shall be visually compatible with that prevailing in the area to which it is visually related;
 - 6. Rhythm of entrance and/or porch projection. The relationship of entrances and porch projections to sidewalks of a building shall be visually compatible with that of buildings to which it is visually related;
 - 7. Relationship of materials and textures. The relationship of the materials and textures of the facade of a building shall be visually compatible with that of the predominant materials used in the buildings to which it is visually related;
 - 8. Roof shapes. The roof shape of a building shall be visually compatible with that of the buildings to which it is visually related;
 - 9. Scale of building. The size of the building and the building mass of a building

in relation to open spaces, the windows, door openings, porches and balconies shall be visually compatible with those characteristics of buildings and spaces to which it is visually related; and

10. Directional expression of front elevation. A building shall be visually compatible with the building, squares and places to which it is visually related in its directional character, whether this shall be vertical character, horizontal character or nondirectional character.
- D. Signs. Signs shall be reviewed based on the standards contained in Article VI (Performance Standards), Section 59 (Signs). When a certificate of appropriateness is required for a new or altered sign, the following factors shall be considered:
1. See Article VI (Performance Standards), Section 59 (Signs).
 2. Sign size should be contextually compatible with the building or storefront facade. Signs should be placed so as to not obscure architectural details related to the building.
 3. Sign placement should respect adjacent signs and structures.
- E. Exceptional circumstances.
1. The approval authority may issue a certificate of hardship in lieu of a certificate of appropriateness where the standards otherwise set forth in this section are not met but where the approval authority determines that failure to issue a certificate would result in undue hardship to the owner of the property. Before the approval authority may issue a certificate under this subsection, the records must show the following:
 - a. The property cannot yield a reasonable economic return or the owner cannot make any reasonable use of the property;
 - b. The plight of the owner is due to exceptional or unique circumstances and not due to the general applicability of this ordinance; and
 - c. The conditions or circumstances which constitute the hardship were not caused or created by the property owner after this ordinance became applicable to that property.
 2. For the purposes of Subsection E1a, "reasonable economic return" shall not be construed to mean a maximum return, and "any reasonable use" shall not be construed to mean the highest and best use.

Section 14. Demolition.

- A. An historic landmark, or any building or structure identified as contributing, shall not be demolished or removed and a certificate of appropriateness to do so shall not be issued unless one of the following conditions is met:
1. The building or structure has been identified by the Historic Preservation Commission as noncontributing or incompatible with the MSRD District in which it is located; or **[Amended 8-3-2021 by Ord. No. 2021.72]**

2. The property owner can demonstrate to the Commission that it cannot be renovated or reconstructed so as to earn an economic return on its value in its present location as determined by a qualified real estate appraiser; or
 3. The property owner can demonstrate to the Commission that he/she has offered the property for sale through a real estate broker for at least 180 days and that there has been no bona fide offer to buy the property from any person or entity that is willing to preserve and restore the property.
- B. Applicants applying for the demolition or removal of designated historic landmarks or contributing structures or buildings, or important portions and features thereof, shall clearly demonstrate that their application meets one or more of the following demolition or removal criteria before the Commission will approve the application for demolition or removal:
1. The physical condition of the building makes the continued upkeep of the building, or important portions or features thereof, uneconomical; or
 2. The building or structure, or important portions and features thereof, has been determined by the Division of Code Enforcement to represent an immediate hazard to the public health or safety, which hazard cannot be abated by reasonable measures.
- C. Demolition delay. Before the issuance of a demolition permit by the Code Enforcement Office, a delay period of 90 days shall apply to any building or structure and portion thereof that is: an historic landmark or is designated as contributing.
- ~~1. An historic landmark or is designated as contributing.~~
- ~~2. Listed and eligible for listing on the National Register of Historic Places, but not designated significant locally.~~
- D. Demolition delay procedures. At the hearing on an application to relocate or demolish a contributing building in an historic preservation district, or an historic landmark, the Commission may, in the interest of exploring reasonable alternatives, delay issuance of a permit for up to 120 days from the date of the hearing. If, 10 days prior to the expiration of the delay period, the Commission finds that there are still reasonable alternatives to explore, the Commission may continue the delay for an additional period of up to 60 days. The purpose of the delay is to find alternatives to demolition, such as assisting in securing funding to preserve in place the building, structure, or important portions and features thereof; or finding other ways to preserve the building or structure, such as outright purchase of the property, when feasible, or relocation; or proper recordation of buildings, structures and sites, including photography and narrative report; or preservation of historic artifacts.
- E. This section shall not apply to any structure which has been ordered demolished by the City Council or the court in accordance with 17 M.R.S.A. §§ 2851 through 2959 and amendments thereto, or to any structure which has been partially destroyed and is determined by the Division of Code Enforcement to represent an immediate hazard to the public health or safety, which hazard cannot be abated by reasonable measures, specified by the Division of Code Enforcement, including securing apertures and/or erecting fences.

Section 15. Exceptions to requirement for certificate of appropriateness.

A certificate of appropriateness is not required and the City Planner shall issue a certificate of nonapplicability for the following:

- A. Where a certificate of hardship has been issued within the previous 12 months.
- B. Where the activity involves ordinary maintenance, or the repair of exterior features of an historic landmark or of a building or structure in an historic district is permitted, so long as it does not alter the design, materials, or outer appearance thereof.
- C. The construction, reconstruction, alteration, restoration or demolition of any feature which the Code Enforcement Office has certified as required to maintain public safety because of an unsafe or dangerous condition.
- D. Where the activity involves emergency repairs of a temporary nature.
- E. Where the activity proposed results in exterior alterations not readily visible at pedestrian heights, when viewed at any height between four and six feet from any open space or street.

Section 16. Certificate validity.

All certificates of appropriateness, nonapplicability, and hardship shall be valid for no more than 12 months from the date of issuance.

Section 17. Appeals.

Appeals of the issuance of any certificate under this ordinance or denial of any certificate under this ordinance may be appealed within 30 days of such a decision as follows:

- A. Appeals of decisions made by the Commission shall be to the Zoning Board of Appeals.
- B. Appeals of any decision made by the City Planner and Chair of the Commission under Section 10B of this ordinance shall be to the Historic Preservation Commission. Appeals of this nature shall be appellate reviews by the Commission and not de novo. **[Amended 8-3-2021 by Ord. No. 2021.72]**

Section 18. Enforcement.

Enforcement of this ordinance shall be as per Part III (Land Development Regulations), Article VIII (Administration, Enforcement, and Penalties).

**Section 19. Structures or buildings identified as historically contributing.
[Amended 8-3-2021 by Ord. No. 2021.72]**

Parcels comprising "contributing" structures or buildings are contained in the "Official Listing of Historically Contributing Buildings or Structures" which has been certified by the Mayor and attested by the City Clerk together with the date of adoption of this ordinance. Identified parcels/structures/buildings may only be added to the list through a zoning amendment that approves such an amended list. Parcels/structures/buildings

may be removed from the list upon recommendation by the Historic Preservation Commission and approval of the Planning Board, at which time it shall be recertified by the Mayor and re-attested by the City Clerk.



City Council

Meeting Date: March 1, 2022

Meeting Time: 6:00 pm

Agenda Item No: 2022.13

Item Description: Historic Preservation Commission Ordinance Revision

Submitted by: Brad Favreau, Planning and Development

Supporting Information/Documentation:

Article XV Historic Preservation Ordinance Legislative Edits

Key Terms:

N/A

Executive Summary:

The City's Application for Certified Local Government status has been approved by the Maine Historic Preservation Commission, however; the National Park Service's review of our application has found an additional revision necessary for clarification prior to Federal approval of our application.

Detailed Review:

In August 2021, the Biddeford City Council approved revisions to the Historic Preservation Commission that were necessary for the City to apply for Certified Local Government (CLG) status with the Maine Historic Preservation Commission and the National Park Service of the Department of the Interior (NPS). This status allows a higher level of preservation due to greater grant opportunities available to CLG communities. With this status, the Biddeford Historic Preservation Commission will be better able to preserve and protect Biddeford's historic assets. The City applied for (CLG) status in December 2021. This application was reviewed by the Maine Historic Preservation Commission and found to be in order. In January 2022 the City was notified by State officials that the NPS requested an additional clarification to the Ordinance before approval can be granted. Our Ordinance, prior to these proposed amendment, did not allow for jurisdiction by the Commission over properties designated as historically significant locally, outside the existing historic districts, and not on the National Register. For example, if the Commission designated a building in Biddeford Pool as historically significant, because it is not in the historic district, and because it is not on the National Register, the commission would have no oversight on this property. This amendment applies to Section 5. The NPS has also required the removal of one line regarding demolition delay as it relates to properties on the National Register of Historic Places. The NPS does not place demolition delay restrictions, at the federal level, on properties listed on the National Register. It will not allow a CLG to impose such restrictions unless such a property is designated with historic significance at the local level. This amendment applies to Section 14. With these clarifications, the NPS is expected to grant Biddeford CLG status, and the City will be eligible for 2022 grant announcements. A CLG grant application, due to the Maine Historic preservation Commission will directly follow notice of approval.

Funding Source:

N/A

Staff Recommendation:

The Biddeford Planning Board approved these revisions on February 16, 2022. Staff recommends this Ordinance revision in order for CLG status to be awarded to our community.

Order Authorizing \$3,872,635 City of Biddeford School Revolving Renovation Fund Financing, including \$1,641,610 in Loan Forgiveness and \$2,231,025 in Bonds, for Windows and Health, Safety, and Compliance Repairs at School Facilities

2022.17 **IN BOARD OF CITY COUNCIL...MARCH 15, 2022**
BE IT ORDERED, by the City Council of Biddeford as follows:

Whereas, pursuant to sections 5953-E and 6006-F of Title 30-A of the Maine Revised Statutes, on January 31, 2022, the Maine Department of Education approved School Revolving Renovation Fund loans for the following windows and health, safety, and compliance repair projects (the “Projects”):

<u>School</u>	<u>Project</u>	<u>Loan Amount</u>
Biddeford Primary School	ADA, Security, Windows	\$1,449,454
Biddeford Intermediate School	Security, Windows	\$ 480,290
Biddeford Regional Center of Technology	ADA, Air Quality, Asbestos Windows	<u>\$1,942,891</u> \$3,872,635

Whereas, of the total loan principal amount of up to \$3,872,635, the sum of up to \$1,641,610 (42.39%) will be forgiven and the sum of up to \$2,231,025 (57.61%) will be payable at 0% interest in ten (10) equal annual installments; and

Whereas, the Council desires to authorize the execution and delivery of a loan agreement in principal amount of \$3,872,635 and the issuance, sale, and delivery of general obligation bonds of the City in principal amount of \$2,231,025 to finance the Projects;

Now therefore, be it ordered, by the City Council of the City of Biddeford as follows:

Section 1. Loan Authorized. That pursuant to Maine law, including sections 5953-E, 6006-F, and 5772 of Title 30-A of the Maine Revised Statutes, Article XI, Section 6 and Article XII, Section 7(a) of the Charter of the City of Biddeford, a Maine Department of Education School Revolving Renovation Fund Project Eligibility Certificate dated January 31, 2022, as amended, and all other authority thereto enabling, the Treasurer and the Mayor of the City of Biddeford are authorized in the name of and on behalf of the City to execute and deliver a Loan Agreement between the Maine Municipal Bond Bank (the “Bond Bank”) and the City to effect a loan from the Bond Bank to finance the Projects in the principal amount of \$3,872,635, but of which amount \$1,641,610 of principal is forgiven by the Bond Bank (the “Loan Agreement”); and that the Loan Agreement be in such form as the Treasurer and Mayor may approve, the execution and delivery thereof to be conclusive evidence of such approval;

Section 2. Bond Authorized. That pursuant to Maine law, including sections 5953-E, 6006-F, and 5772 of Title 30-A of the Maine Revised Statutes, Article XI, Section 6 and Article XII, Section 7(a) of the Charter of the City of Biddeford, and other applicable law, the Treasurer and Mayor of the City be authorized to borrow in the name and on behalf of the City the sum of up to \$2,231,025 from the Bond Bank to finance the Projects; that in connection therewith, the Treasurer and the Mayor be authorized to issue general obligation securities (bonds or notes) of the City in an original principal amount of up to \$2,231,025, payable

WITH NO INTEREST in ten (10) equal annual installments of principal, and to execute and deliver such general obligation bonds or notes in registered form under the seal of the City, signed by the Treasurer, countersigned by the Mayor, and attested by the City Clerk (the “Bond”); that the signatures on the Bond may be facsimile signatures, provided that at least the signature of the Treasurer or the Mayor be a manual signature; and that the Bond be in such form and include such terms not inconsistent herewith as the Treasurer and Mayor may approve, the execution and delivery thereof to be conclusive evidence of such approval.

Section 3. That the Mayor, Treasurer, City Clerk, and other appropriate officials of the City of Biddeford, acting singly, are authorized to execute and deliver on behalf of the City such other documents and certificates as may be required in connection with the Loan Agreement and the Bond, including execution and delivery of an Assignment of monies transferred by the State of Maine to pay for Project costs and such other instruments, documents, certificates and agreements, and to take or cause to be taken such further actions for and on behalf of the City, as may be necessary, convenient, or appropriate to accomplish the Projects and to effect the transactions contemplated herein and by the documents referenced herein, and that the City Clerk be authorized to attest to the foregoing and attach the City’s seal to any of the foregoing.

Section 4. That if the Treasurer, Mayor, or City Clerk are for any reason unavailable to approve and execute the Loan Agreement, the Bond, or any associated documents, the person or persons then acting in any such capacity, whether as an assistant, a deputy, as the “acting” official, or otherwise, are each individually authorized to act for such official with the same force and effect as if such official has herself or himself performed such act.

Section 5. That if any of the officers or officials of the City who have signed or sealed the Loan Agreement or Bond shall cease to be such officers or officials before the Loan Agreement or Bond so signed and sealed shall have actually been authenticated or delivered by the City, such Loan Agreement or Bond nevertheless may be authenticated, issued, and delivered with the same force and effect as though the person or persons who signed or sealed such Loan Agreement or Bond had not ceased to be such officer or official; and also any such Loan Agreement or Bond may be signed and sealed on behalf of the City by those persons who, at the actual date of the execution of such Loan Agreement or Bond, shall be the proper officers and officials of the City, although at the nominal date of such Loan Agreement or Bond, any such person shall not have been such officer or official.

Section 6. That during the term of the Loan Agreement and Bond, all authority granted pursuant to this Order shall be, remain, and continue in full force and effect without the necessity of any further action of the City Council.

Section 7. That the sum of \$3,872,675 is hereby appropriated to finance costs of the Projects, such amount to be raised by the execution and delivery of the Loan Agreement and the issuance and sale of the Bond.

Section 8. That pursuant to Section 2528(5) of Title 30-A of the Maine Revised Statutes and Article XII, Section 7 of the City Charter, the following question, accompanied by the recommendations of the City Council, the Budget Committee, and the School Committee, shall be

submitted to the voters of the City of Biddeford for consideration at a referendum vote to be held on June 14, 2022:

Shall the Mayor and the Treasurer of the City of Biddeford be authorized to borrow, on behalf of the City, a sum not to exceed \$3,872,635 through the State of Maine's zero interest rate/loan forgiveness School Revolving Renovation Fund (SRRF) Program for windows and health, safety, and compliance repairs at Biddeford Primary School, Biddeford Intermediate School, and the Biddeford Regional Center of Technology (the "Project")?

SRRF Program Funding. The Project costs (up to \$3,872,635) have been approved for funding through the State's SRRF Program. Of this amount, the City will receive 42.39% (up to \$1,641,610) as a loan that will be forgiven, and 57.61% (up to \$2,231,025) as a loan that the City will repay at zero interest (0%) over a term of ten (10) years.

The City Council recommends the adoption of this question – Voted - -.

The Budget Committee recommends the adoption of this question – Voted - -.

The School Committee recommends the adoption of this question – Voted - -.

Section 9. That said referendum question be accompanied by a signed financial statement of the Treasurer substantially in form as set forth below:

CITY OF BIDDEFORD FINANCIAL STATEMENT

1. Total City Indebtedness

Bonds outstanding and unpaid	\$ 33,520,000
Bonds authorized and unissued	\$ 17,500,000
Bond to be issued if this Question is approved	\$ 2,231,025
Total:	\$ 53,251,025

2. Estimated Costs and Impacts of Bond

At an estimated interest rate of zero percent (0%), for a 10-year term, the estimated total costs of this bond issue will be:

Principal	\$ 2,231,025
Interest	\$ - 0 -
Total Principal & Interest to be Paid at Maturity	\$ 2,231,025
Projected effect on mil rate:	\$ 0.084
Total length of term:	Ten (10) years

3. Validity

The validity of the Bond and of the voters' ratification of the Bond may not be affected by any errors in the above Estimated Costs of Bond. If the actual amount of the total debt service for the bond issue varies from the estimate,

the ratification by the electors is nevertheless conclusive and the validity of the bond issue is not affected by reason of the variance.

James Bennett, Treasurer
City of Biddeford

A true copy as adopted by a majority of the Biddeford City Council, attest:

Carmen J. Morris
Biddeford City Clerk

To: Biddeford School Committee
From: Jeremy Ray, Superintendent of Schools
Date: February 2, 2022
Re: Revolving Renovation Grant Awards

The Maine Department of Education's School Revolving Renovation Fund (SRRF) provides funding assistance to school administrative units (SAUs) to ensure that students have a safe, healthy and appropriate learning environment. The SRRF offers funding where SAUs have identified needs in the areas of health and safety, building systems, energy and water conservation, and learning space upgrades.

The SRRF has the following priorities:

- Priority 1: Health, safety, and compliance issues including roof structural upgrades; improvements to indoor air quality; compliance with the Americans with Disabilities Act; hazardous material abatement or removal; and other health, safety, and compliance issues
- Priority 2: Repairs and improvements not related to health, safety and compliance limited to repairs and improvements to school building structures, windows, doors and water supply or waste disposal systems.
- Priority 3: Repairs and improvements related to energy and water conservation
- Priority 4: Upgrades of learning spaces
- Priority 5: Other projects

The SRRF is funded through the Maine Municipal Bond Bank. It is a State and local partnership with each providing a portion of a project's funding.

The fund provides loans to SAUs to finance project expenditures. A portion of each loan is considered a grant and is forgiven. The forgiveness rate ranges from 30 percent to 70 percent and is based on the percentage of State subsidy paid to the local SAU. The remaining balance of the loan is paid back over either five or 10 years at a 0 percent interest rate. The loan repayments revolve back into the SRRF and are then used to fund other approved projects.

Jeremy Ray, Superintendent
Christopher Indorf, Assistant Superintendent

Terry Gauvin, Business Manager
Jen Normand, Director of Special Education

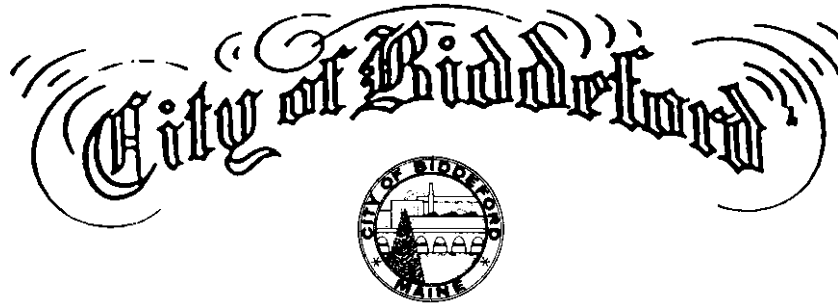
The maximum loan that can be provided is capped at \$1 million per priority, per school building within any five-year period.

The Biddeford School Department has been approved for the following projects funded by the State of Maine at a 42.39%. The Biddeford Community would be responsible for 57.61% of the cost paid over 10 years at 0 percent interest.

Project	Cost	State Grant	Balance
COT - ADA Bathrooms	\$499,504.00	\$211,739.75	\$287,764.25
COT - IAQ - Air Quality	\$361,212.00	\$153,117.77	\$208,094.23
COT - Asbestos Removal	\$82,175.00	\$34,833.98	\$47,341.02
COT - Windows Replacement	\$1,000,000.00	\$423,900.00	\$576,100.00
BIS - Door Security	\$42,000.00	\$17,803.80	\$24,196.20
BIS - Window Replacement	\$438,290.00	\$185,791.13	\$252,498.87
BPS - ADA Toilet Upgrade	\$624,653.00	\$264,790.41	\$359,862.59
BPS - Door Security	\$49,900.00	\$21,152.61	\$28,747.39
BPS - Window Replacement	\$774,701.00	\$328,395.75	\$446,305.25
Total	\$3,872,435.00	\$1,641,525.20	\$2,230,909.80
10 Year Zero Interest Loan Payment			\$223,090.98

In order to move forward with these projects, the board and citizens will have to take the following actions:

- School Committee - approve the projects at the board level and allocate the funds to the FY23 budget
- City Council - approve the school budget prior to the local referendum
- Public - Vote on the ballot questions in the June election (separate vote from the school budget approval)



2022.18

IN BOARD OF CITY COUNCIL..MARCH 15, 2022

BE IT ORDERED, that the City Council of the City of Biddeford does hereby authorize the purchase of Self-Contained Breathing Apparatus Equipment from Bergeron Protective Clothing in an amount not to exceed \$313,835.00. Funding for this equipment will, in large part, be covered by a FEMA Grant in the amount of \$285,304.55; and \$28,530.45 will come from the City's Grant Matching Reserve Account (22001-92111-11602).

NOTE: This item will be considered by the Finance Committee at their March 15, 2022 meeting and recommendation will be forwarded to the Council.



Finance/Council

Meeting Date: 3/15/22
Meeting Time: 1700/1830

Agenda Item No:
Item Description: Fire Department SCBA (Self Contained Breathing Apparatus) Grant

Submitted by: Chief Scott Gagne

Supporting Information/Documentation:

- 1) SCBA Grant Award
- 2) Bid RFP
- 3) Bid results

Key Terms:

N/A

Executive Summary:

Requesting authorization to purchase Self Contained Breathing Apparatus with grant funding received from FEMA with a 10% match.

Detailed Review:

We are requesting authorization to replace our current self-contained breathing apparatus that no longer meeting current specifications set by the National Fire Protection Associations. These SCBA Packs are 18 years old. This project would replace our 45 SCBA packs and out Rapid Intervention Escape Packs that are used if firefighters run out of air in a hazardous environment.

Funding Source:

The total price of the replacement project is \$313,835.00. We have received a FEMA grant in the amount of \$285,304.55 with a 10% project cost match that comes to a cost of \$28,530.45. This matching cost amount would come from the grant funding line established in the City's operation budget (2200192111 project 11602). This match goes back into the project cost to reach the total requested dollars.

Staff Recommendation:

Staff recommends that we purchase the SCBA equipment from Bergeron Protective Clothing. They were the lowest bidder. If you look at the bidding explanation sheet, Harrison Shrader has the lowest price. The issue is that this is a SCBA that does work with our current air bottles according to the NFPA Standard. This is a different SCBA then we currently use. This

would mean that at least 90 air bottles would also need to be purchased at around \$800 each, making this a higher bidder.

Also as you can see with the attached documentation, Bergeron Protective Clothing is not taking our old SCBA packs in trade. It is not recommended by FEMA that we sell this equipment because it no longer meets the new standard. We ask that you allow us to see what options there may be for us to get rid of this equipment.



**CITY OF BIDDEFORD
FIRE DEPARTMENT**

152 Alfred Street
Biddeford, Maine 04005
Tel: 207-282-6632
Fax: 207-283-8243

Chief Scott R. Gagne
Assistant Chief Edward B. Dexter
Deputy Chief Kevin D. Duross

February 18, 2022

RE: 2022 Biddeford Fire Department Self-Contained Breathing Apparatus

On Friday, February 18, 2022 at 1030, Self-Contained Breathing Apparatus bids were opened. Three (3) bids were received and three (3) bids opened.

Present:

Ed Pollard, Northeast Emergency Apparatus
Willie Burk, Harrison Shrader Enterprises
Edward Dexter, Biddeford Fire Department
Kevin Duross, Biddeford Fire Department

Bidders:

1. Harrison Shrader Enterprises (HSE)
Bid Amount - \$ 256,968.00
 - Does not include cylinders. Department cylinders are not compatible with the SCBA in the bid.
 - \$ 7,280 for trade/credit of existing SCBA, Face pieces and HUDs.
2. Northeast Emergency Apparatus
Bid Amount - \$ 363,548.00
 - Includes all items requested within the bid. No exceptions.
 - Includes quick connect and adapters for our current cylinders.
 - \$ 5,000.00 for trade/credit of existing SCBA, Face pieces and HUDs.
3. Bergeron Protective Clothing
Bid Amount - \$ 263,887.00
 - Includes threaded connection
 - Does not include Transfill
 - Price includes only one (1) RIT pack

**SPECIFICATIONS AND BID FORMS
FOR**

SELF-CONTAINED BREATHING APPARATUS

**BIDDEFORD FIRE DEPARTMENT
152 ALFRED STREET
BIDDEFORD, MAINE 04005
(207) 282-6632
Fax (207) 283-8243**

BIDDEFORD FIRE DEPARTMENT
Request for Proposals

Self-Contained Breathing Apparatus

The Biddeford Fire Department has been awarded an Assistance to Firefighters Grant (AFG) from the Federal Emergency Management Agency (FEMA). This grant will provide Self-Contained Breathing Apparatus (SCBA) and related components to the Biddeford Fire Department to meet the NFPA 1981 Standard on Open-Circuit Self-Contained Breathing Apparatus (SCBA), 2019 Edition.

As a part of the grant package, we are requesting proposals for the equipment.

CLOSING DATE:

Proposals will be received until 10:30 am on Friday, February 18, 2022 at the Biddeford Fire Department, 152 Alfred Street, Biddeford, ME. 04005. At this time and location, the proposals will be publicly opened.

Any proposals received after the above-scheduled date and time may NOT be considered.

INSTRUCTIONS:

Proposals are to be submitted, ONE (1) ORIGINAL and THREE (3) COPIES, in a sealed envelope/box and clearly marked as **Request for Proposal for Self-Contained Breathing Apparatus** on the outside of the packaging, including any outer packaging (UPS, FedEx, USPS, etc.)

Proposals must be delivered to:

Biddeford Fire Department
Attn: Deputy Chief Kevin Duross - RFP for Self-Contained Breathing Apparatus
152 Alfred Street
Biddeford, ME. 04005

TAXES:

The City of Biddeford is exempt from all State and Federal taxes. Do not include these amounts in your proposal.

EQUIPMENT and SPECIFICATIONS

The City of Biddeford seeks to purchase Self-Contained Breathing Apparatus (SCBA with a system pressure of 4500 psi, harness with chest strap, adjustable lumbar support, electronic voice amplifier, transfill hose, buddy-breather and face piece. We will not need cylinders as the FY budget supports a SCBA cylinder replacement plan. If the packs include a quick connect feature, please include the cost for quick connect adapters for our current cylinders. Cylinders are MSA 45-minute, 4500 PSIG Lightweight Carbon Fiber.

Additionally, the City of Biddeford seeks to purchase spare batteries, multi-bank chargers, whip adapters for our SCBA fill station and adapters for our aerial bucket. RIT packs to include a 60 minute cylinder and RIT bag shall be included.

These apparatus, without modification, shall meet all requirements of the NFPA 1981 Standard on Open-Circuit Self-Contained Breathing Apparatus (SCBA), 2019 Edition and shall be certified to the NIOSH Chemical, Biological, Radiological and Nuclear (CBRN) standard.

ADDITIONAL TERMS and CONDITIONS

All bids shall be submitted on the bid form provided herewith. Bidders shall attach to the bid form a detailed description of the items proposed, including specification, standard features, optional equipment, and warranties. Any exception(s) to the bid specification shall be listed on the provided bid form in the area provided for exception(s). Bidders shall quote prices that include shipping charges. No proposal may be withdrawn within sixty (60) days after date of opening thereof.

Biddeford Fire Department will select the bidder that best meets the needs of the Fire Department. In evaluating bids, the Fire Department will consider the price, quality, warranty, specific features of the equipment proposed, the bidder's location, equipment servicing ability and the time of delivery. The Fire Department reserves the right to reject any or all bids, to wave informalities in the bidding process, and to negotiate specific terms of the bid. Biddeford Fire Department will issue a purchase order to the successful bidder to indicate the award of the contract to furnish the SCBA. Questions regarding this bid should be addressed to Deputy Chief Kevin Duross at 207-282-6632.

Training:

The successful bidder agrees to provide, at its own expense, a factory-trained instructor to complete an in-service training consisting of SCBA operation and maintenance.

Warranty:

The bidder shall list any/all warranties that cover, at a minimum, protection against defects in materials or workmanship and electronic components.

Service:

The proposal shall include a statement regarding the ability to service all equipment and shall have the ability to conduct repairs, flow tests on site at the Biddeford Fire Department or with no cost for pickup.

Trade Allowance:

The bidder shall provide trade-in allowance and/or credit of existing SCBA inventory. This shall be completed in the attached Trade in Form. The Biddeford Fire Department solely reserves the right to exercise or to not exercise this option in full or in part. The total bid price shall not include trade-in allowance and/or credit.

Trade in Equipment:

- (45) MSA Firehawk M7 SCBA Harnesses
- (74) MSA Ultra-Elite Firehawk Full Face Mask
- (65) MSA FireHawk M7 Heads Up Display (HUD)

BID FORM

Self-Contained Breathing Apparatus

QTY	Description	Make/Model	Unit Cost	Total
45	- SCBA with system pressure of 4500 psi - Harness with chest strap - Adjustable lumbar support - Electronic voice amplifier - Transfill hose - Buddy-breather - Full Face piece			
22	Spare Battery			
4	Multi-Bank Charger			
2	Whip Adapter (for SCBA Fill Station)			
2	Adapter (for Aerial Bucket Operations)			
4	- RIT Pack - 60-Minute Cylinder - RIT Bag			
If additional costs, please include price here and provide a separate sheet with details.				
			Total	

Total Bid Price:	
-------------------------	--

All bids must bear the handwritten signature of an officer or authorized employee of the company bidding.

This bid is submitted by:

Printed name: _____

Business name: _____

Business Location: _____

Business phone: _____

Signed _____ Date _____

SERVICE and MAINTENANCE FORM

Self-Contained Breathing Apparatus

Description	Ability to Provide YES/NO	Cost	Total
Annual Onsite Flow Testing for SCBA and Facepieces			
Regular, Timely Service and Repair - Please attach pricing schedule			
		Total	

By signing below the bidder agrees to guarantee these prices for a period of at least twelve (12) months from the equipment delivery date. Bids shall be completed with descriptive literature to allow comparison of bids.

Printed name: _____

Signature: _____

TRADE IN FORM

Self-Contained Breathing Apparatus

All allowances and/or credit shall be in whole dollar amounts. If there is no allowance and/or credit, enter \$0.00 under Trade In Allowance and/or Credit. This form shall be included in your bid.

QTY	Description	Trade In Allowance and/or Credit
45	MSA Firehawk M7 SCBA Harnesses (2007 Edition or Older NFPA 1981 Standard)	
74	MSA Ultra-Elite Firehawk Full Face mask	
65	MSA FireHawk M7 Heads Up Display (HUD)	
Total Allowance and/or Credit		

By signing below, the bidder agrees to a guaranteed trade and/or credit for a period of twelve (12) months from the equipment delivery date.

Printed name: _____

Signature: _____

EXCEPTIONS FORM

Self-Contained Breathing Apparatus

1. _____

2. _____

3. _____

4. _____

5. _____

6. _____

7. _____

8. _____

9. _____

10. _____

Award Letter

U.S. Department of Homeland Security
Washington, D.C. 20472

Effective date: 08/02/2021



Scott Gagne
BIDDEFORD, CITY OF
152 ALFRED ST
BIDDEFORD, ME 04005

EMW-2020-FG-16456

Dear Scott Gagne,

Congratulations on behalf of the Department of Homeland Security. Your application submitted for the Fiscal Year (FY) 2020 Assistance to Firefighters Grant (AFG) Grant funding opportunity has been approved in the amount of \$285,304.55 in Federal funding. As a condition of this grant, you are required to contribute non-Federal funds equal to or greater than 10.0% of the Federal funds awarded, or \$28,530.45 for a total approved budget of \$313,835.00. Please see the FY 2020 AFG Notice of Funding Opportunity for information on how to meet this cost share requirement.

Before you request and receive any of the Federal funds awarded to you, you must establish acceptance of the award through the FEMA Grants Outcomes (FEMA GO) system. By accepting this award, you acknowledge that the terms of the following documents are incorporated into the terms of your award:

- Summary Award Memo - included in this document
- Agreement Articles - included in this document
- Obligating Document - included in this document
- 2020 AFG Notice of Funding Opportunity (NOFO) - incorporated by reference

Please make sure you read, understand, and maintain a copy of these documents in your official file for this award.

Sincerely,

Christopher Logan
Acting Assistant Administrator
Grant Programs Directorate

Summary Award Memo

Program: Fiscal Year 2020 Assistance to Firefighters Grant

Recipient: BIDDEFORD, CITY OF

DUNS number: 940878358

Award number: EMW-2020-FG-16456

Summary description of award

The purpose of the Assistance to Firefighters Grant program is to protect the health and safety of the public and firefighting personnel against fire and fire-related hazards. After careful consideration, FEMA has determined that the recipient's project or projects submitted as part of the recipient's application and detailed in the project narrative as well as the request details section of the application - including budget information - was consistent with the Assistance to Firefighters Grant Program's purpose and was worthy of award.

Except as otherwise approved as noted in this award, the information you provided in your application for FY 2020 Fiscal Year (FY) 2020 Assistance to Firefighters Grants funding is incorporated into the terms and conditions of this award. This includes any documents submitted as part of the application.

Amount awarded table

The amount of the award is detailed in the attached Obligating Document for Award.

The following are the budgeted estimates for object classes for this award (including Federal share plus your cost share, if applicable):

Object Class	Total
Personnel	\$0.00
Fringe benefits	\$0.00
Travel	\$0.00
Equipment	\$302,515.00
Supplies	\$11,320.00
Contractual	\$0.00
Construction	\$0.00
Other	\$0.00
Indirect charges	\$0.00
Federal	\$285,304.55
Non-federal	\$28,530.45
Total	\$313,835.00
Program Income	\$0.00

Approved scope of work

After review of your application, FEMA has approved the below scope of work. Justifications are provided for any differences between the scope of work in the original application and the approved scope of work under this award. You must submit scope or budget revision requests for FEMA's prior approval, via an amendment request, as appropriate per 2 C.F.R. § 200.308 and the FY2020 AFG NOFO.

Approved request details:

Personal Protective Equipment (PPE)

SCBA: SCBA Unit includes: Harness/Backpack, Face Piece and 2 cylinders

DESCRIPTION

This cost is for our request to fund a basic SCBA with a system pressure of 4500 psi, harness with chest strap, adjustable lumbar support, electric voice amplifier, transfill hose, buddy breather and facepiece. We will not need the cylinders funded as our department has been budgeting cylinder replacement as part of a SCBA cylinder replacement plan.

	QUANTITY	UNIT PRICE	TOTAL	BUDGET CLASS
Cost 1	45	\$6,367.00	\$286,515.00	Equipment

Additional funding

DESCRIPTION

This additional funding request is for the cost of (22) spare batteries, (4) multi-bank battery chargers, (2) whip adapters for our SCBA fill station and (2) adapters for aerial bucket operations.

	QUANTITY	UNIT PRICE	TOTAL	BUDGET CLASS
Cost 1	1	\$11,320.00	\$11,320.00	Supplies

CHANGE FROM APPLICATION

Budget class from Equipment to Supplies

JUSTIFICATION

The Budget Class for these items is changed to Supplies.

Equipment

RIT Pack/Cylinder

DESCRIPTION

This funding request is for the cost of 4 RIT packs to include a 60 minute cylinder and RIT bag. Our RIT packs will be placed on our 4 primary response apparatus that will respond to mutual aid agencies.

	QUANTITY	UNIT PRICE	TOTAL	BUDGET CLASS
Cost 1	4	\$4,000.00	\$16,000.00	Equipment

CHANGE FROM APPLICATION

Price from \$5,312.00 to \$4,000.00

JUSTIFICATION

This reduction is because the cost you requested for RIT PACKS exceeds the average price range calculated from market research and prior awards for the same item.

Agreement Articles

Program: Fiscal Year 2020 Assistance to Firefighters Grant

Recipient: BIDDEFORD, CITY OF

DUNS number: 940878358

Award number: EMW-2020-FG-16456

Table of contents

Duross, Kevin

From: Parr, David <David.Parr@fema.dhs.gov>
Sent: Tuesday, August 17, 2021 3:52 PM
To: Duross, Kevin
Subject: RE: Meeting

Chief:

Our advice with regards to Procurement is to follow your local city purchasing policy if there is one in place. If the local policy would allow you to sole source to MSA that would be acceptable to FEMA

Let me know if you have other questions.

DLP

David L. Parr
Regional Fire Program Specialist | DHS/FEMA Region 1
Office: (617) 956-7631 | Mobile: (202) 510-8990
David.parr@fema.dhs.gov

 **Federal Emergency Management Agency**
fema.gov



FEMA

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From: Duross, Kevin <kevin.duross@biddefordmaine.org>
Sent: Tuesday, August 17, 2021 3:36 PM
To: Parr, David <David.Parr@fema.dhs.gov>
Subject: Meeting

Hi Chief,

I plan to attend Thursday's meeting as I had to miss today's meeting. One question I wanted to ask so I can get out an RFP, was whether or not I could sole source MSA as we will not be purchasing cylinders.

Thank you,

Kevin



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Duross, Kevin

From: FEMA GO <no-reply@fema.dhs.gov>
ent: Friday, August 13, 2021 7:02 AM
To: Gagne, Scott
Cc: Duross, Kevin; Gagne, Scott
Subject: Award Notification (Application Number: EMW-2020-FG-16456)

Dear Scott,

Congratulations! Your grant application submitted under the Grant Programs Directorate's Fiscal Year (FY) 2020 Assistance to Firefighters Grants has been approved for award.

Please use the FEMA GO system at <https://go.fema.gov> to accept or decline your award. Please note that you will have thirty (30) days from the date of this award notification to either accept or decline the award, and that the award must be accepted or declined by an Authorized Organization Representative (AOR) within the FEMA GO system. Instructions for registering within the system and becoming an AOR are available at <https://www.fema.gov/gmm-training-resources>.

Once you are in the system and made an AOR for your organization, your home page will be the first screen you see. You will see a section entitled My Grants. In this section, please select the award acceptance link for EMW-2020-FG-16456 under Fiscal Year (FY) 2020 Assistance to Firefighters Grants. View your award package and indicate your acceptance or declination of award. If you wish to accept your grant, you should do so immediately. When you have finished, we recommend printing your award package for your records.

If you have questions on using the FEMA GO system, please reach out to the FEMA Enterprise Service Desk (1-877-585-3242). For programmatic questions about your grant, please reach out to the AFG Helpdesk (firegrants@fema.dhs.gov / 1-866-274-0960).

All recipients are required to comply with FEMA EHP Policy Guidance. This EHP Policy Guidance can be found in [FEMA Policy \(FP\) 108-023-1, Environmental Planning and Historic Preservation Policy Guidance](#).

Sincerely,

Grants Management Branch

Assistance to Firefighters Grants

Department of Homeland Security / FEMA

Duross, Kevin

From: Parr, David <David.Parr@fema.dhs.gov>
Sent: Friday, August 27, 2021 2:53 PM
To: Duross, Kevin
Subject: RE: replacing Equipment

Chief:

FEMA has no interest in the SCBA that you will be replacing. You can trade it in towards the new SCBA. We prefer that you do not sell / give it to another department since it doesn't meet current NFPA standards.

DLP

David L. Parr
Regional Fire Program Specialist | DHS/FEMA Region 1
Office: (617) 956-7631 | Mobile: (202) 510-8990
David.parr@fema.dhs.gov

Federal Emergency Management Agency
[fema.gov](https://www.fema.gov)



FEMA

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From: Duross, Kevin <kevin.duross@biddefordmaine.org>
Sent: Friday, August 27, 2021 2:41 PM
To: Parr, David <David.Parr@fema.dhs.gov>
Subject: replacing Equipment

Hi Chief,

When we receive our new SCBA and put them into service, will we be able to use our current packs as a trade-in or can we sell them? Or will something else need to be done as a part of the grant?

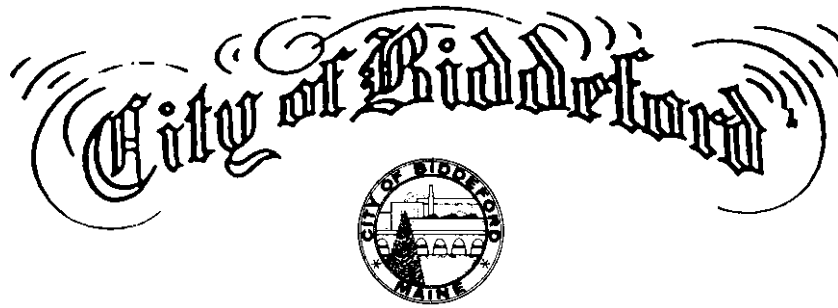
Thank you,

Kevin



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2022.20

IN BOARD OF CITY COUNCIL..MARCH 15, 2022

BE IT ORDERED, that the City Council of the City of Biddeford does hereby award a contract extension with Shaw Brothers for the City's Paving Program; contract to be extended through July 1, 2023.



Finance Committee – City Council

Meeting Date: 3/15/22

Meeting Time: 5:00 PM/6:00 PM

Agenda Item No: 2022.20

Item Description: Approval extended paving contract with Shaw Brothers Inc. for City's paving program.

Submitted by: Jeff Demers - Public Works Director/Waste Water

Supporting Information/Documentation:

N/A

Executive Summary:

Approval to extend Shaw Brothers paving contract through July 1, 2023 per updated pricing in memo supplied by the Public Works Director to the City council dated March 10, 2022.

Detailed Review:

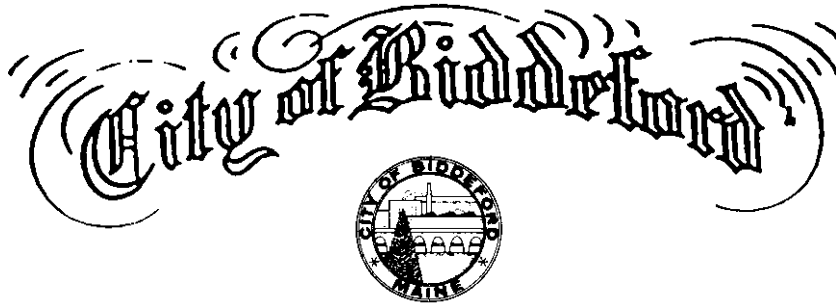
With the unstable pricing of petroleum based products. I am requesting that the City Finance committee and City council consider locking in the pricing proposed by Shaw Brothers Inc. in my memo supplied to the council on 3/10/2022. This extension would run to July 1, 2023.

Funding Source:

Paving funds are available in the reserves and future bond proceeds.

Staff Recommendation:

Locking in resurfacing pavement pricing with Shaw Brothers Inc. through July 1, 2023



2022.21

IN BOARD OF CITY COUNCIL..MARCH 15, 2022

BE IT ORDERED, that the City Council of the City of Biddeford does hereby authorize the City Manager, or his designee, to execute an Easement Deed in the form attached hereto between the City of Biddeford and Freddy, LLC granting a non-exclusive vehicular easement to provide access to 64 Alfred Street.



Biddeford City Council

Meeting Date: March 15, 2022

Meeting Time: 6:00

Agenda Item No: 2022.21

Item Description: Parking Space Easements-Access Mobile Food Court at 64 Alfred Street

Submitted by: Mathew Eddy

Supporting Information/Documentation:

Easement drafted by the City Attorney

Key Terms:

Mobile food service operations are defined as a subset of restaurants, with further clarifications under the Performance Standards of Article VI, Section 56 of the Land Use Regulations. Changes in the ordinance were made in and can be found through the following documents in October 5, 2021 documents : [10-05-2021 Mobile Food Vendor Courts - ORDER-PDF.pdf \(legistarweb-production.s3.amazonaws.com\)](https://legistarweb-production.s3.amazonaws.com/10-05-2021%20Mobile%20Food%20Vendor%20Courts%20-%20ORDER-PDF.pdf)

Executive Summary:

This request is to grant easement access over two parking spaces (final location subject to Planning Board approval) currently marked 2 hour parking (free) on the Franklin Street extension that runs between Louis's pizza and Pool/Jefferson Street.

Detailed Review:

Steven Liautaud proposes the development of a "Food Court" at 64 Alfred Street, at the corner of Pool and Alfred. The property has been purchased and the Site Plan Review approval process begun. During Site Plan Approval, he will establish access to the site that will be tied to the internal circulation program. Access from Alfred or Jefferson is not available/recommended because of the intersection alignments and necessary curb cuts required. Access from City property via the parking lot is the only option.

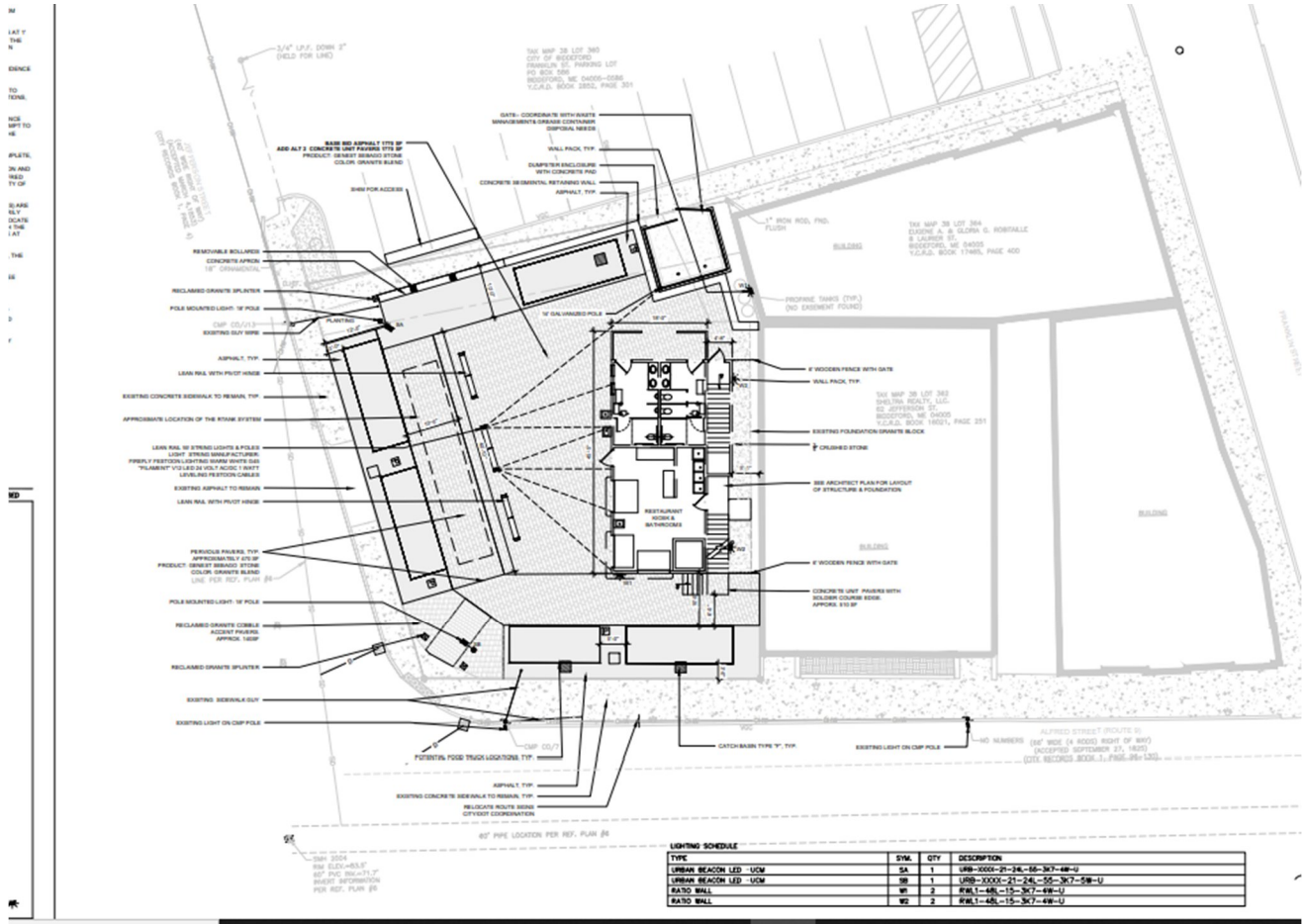
The property has been vacant since a fire destroyed the property. It has been difficult to develop, because of layout and location, as well as the backfill used to fill the foundation. We have mostly discussed proposals for parking, but its configuration and access limits that potential. With activity on the corner, it will create and fill what is otherwise a dead space.

The food court industry is growing in Maine. The opportunity to change over food cart operators daily will provide a mixture of food options for the community. The food court may provide a unique attraction to the downtown food industry and fuel the City's further redevelopment. During previous policy discussions, the Food court was supported by downtown businesses.

Funding Source: N/A

Staff Recommendation: Recommend consideration

Present Concept Plan



EASEMENT DEED

KNOW ALL PERSONS BY THESE PRESENTS, that the **CITY OF BIDDEFORD**, a body politic and corporate with a mailing address of 205 Main Street, Biddeford, Maine (“Grantor”), for good and valuable consideration, hereby grants and conveys to **FREDDY LLC**, a Maine limited liability company with a mailing address of P.O. Box 1127, Kennebunk, Maine 04043 (“Grantee”), the following easement (the “Easement”) over a portion of Grantor’s property being a public parking lot located adjacent to Grantee’s property located at 64 Alfred Street, Biddeford, Maine (“Grantor’s Land”):

A non-exclusive easement and right of way, in common with Grantor and others, for ingress and egress, by vehicular and pedestrian means over two adjacent parking spaces to be designated by Grantor at its sole option on the west side of Grantor’s public parking lot and adjacent to Grantee’s property (the “Easement Area”). The Easement is for the benefit of and shall run with and be appurtenant to the property of Grantee located at 64 Alfred Street, Biddeford, Maine, which is more particularly described in a deed to Freddy LLC dated October 29, 2021 and recorded in the York County Registry of Deeds in Book 18853, Page 355 (“Grantee’s Land”).

The rights and easements granted hereby are for the purpose of passing and repassing on foot and with vehicles at any and all times for the purpose of ingress and egress as may be necessary and convenient to allow food and service trucks access to Grantee’s Land for the operation of a food truck court.

Grantee shall also have the right to pass and repass over the Easement Area with such machinery and equipment as may be reasonably necessary for the purposes described herein.

The Easement burdens Grantor’s land and benefits Grantee’s Land and shall run with the land and shall benefit and be binding upon, as the case may be, the successors and assigns of the parties hereto, provided however, that this Easement shall terminate in all respects if Grantee, its successors or assigns, cease to operate a food truck court on Grantee’s Land.

As consideration for the Easement, Grantee agrees that it shall indemnify, defend and hold Grantor harmless from any and all claims, damages, costs, liabilities and expenses (including attorneys’ fees) arising from Grantee, or its employees, contractors, invitees, successors and/or assigns use of the Easement. This indemnification provision shall include but not be limited to the obligation to pay all costs, including reasonable attorneys’ fees, associated with the defense of any such claims or related to the enforcement of this indemnity provision.

IN WITNESS WHEREOF, the City of Biddeford has caused this Easement Deed to be executed by James A. Bennett, City Manager, thereunto duly authorized, this _____ day of _____, 2022.

CITY OF BIDDEFORD

Witness

By: James A. Bennett, Its City Manager

STATE OF MAINE
COUNTY OF YORK

_____, 2022

Then personally appeared the above-named James A. Bennett as City Manager of the City of Biddeford and acknowledged the foregoing instrument to be his own free act and deed and the free act and deed of the City of Biddeford.

Before me,

Notary Public/Attorney-at-Law

FREDDY LLC

Witness

By: Steven J. Liautaud, Its Manager

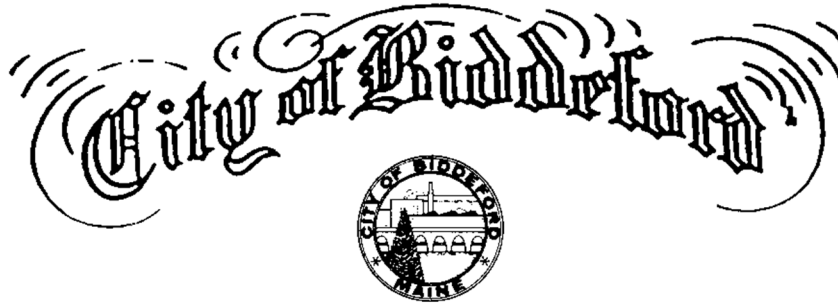
STATE OF MAINE
COUNTY OF YORK

_____, 2022

Then personally appeared the above-named Steven J. Liautaud, Manager of Freddy LLC and acknowledged the foregoing instrument to be his free act and deed and the free act and deed of Freddy LLC.

Before me,

Notary Public/Attorney-at-Law



2022.22

IN BOARD OF CITY COUNCIL..MARCH 15, 2022

WHEREAS, York County has received American Rescue Plan Act (ARPA) funding;
and

WHEREAS, there is a proposal to use a portion of the York County ARPA funds to purchase a regional hydraulic dredge for use by communities within York County, and

WHEREAS, access to a regional dredge may be of benefit to the City of Biddeford and other communities within York County, and

WHEREAS, the City of Biddeford has been asked to provide a letter in support of the purchase of a regional dredge, and

WHEREAS, the Biddeford City Council does not have sufficient information to form an opinion on the benefits and sustainability of such a purchase, and

WHEREAS, York County Commissioners have until December 31, 2024 to expend ARPA funds, and

WHEREAS, a detailed project proposal would assist the City of Biddeford in making a determination in support of the benefits and sustainability of the purchase of a regional hydraulic dredge for the benefit of the City of Biddeford and York County Communities;

NOW THEREFORE BE IT RESOLVED that the Biddeford City Council express the need for more information from the York County Commissioners in the form of a letter recommending the development of a detailed project proposal in the form referenced in the draft *York County Regional Dredge Purchase Support Request Letter*, dated March 15, 2022 as may be amended.



City Council

Meeting Date: March 15, 2022

Meeting Time: 6:00 pm

Agenda Item No: 8.f.

Item Description: 2022.22) Authorization/Distribution of Letter Regarding York County Dredge Proposal

Submitted by: Brian S. Phinney, COO

Supporting Information/Documentation:

Draft York County Regional Dredge Purchase Support Request Letter

Key Terms:

N/A

Executive Summary:

As a follow-up to the Council Workshop of March 8, a draft response to the request for letters in support of the purchase of a regional dredge has been prepared for consideration.

Detailed Review:

Southern Maine Regional Planning and Development Corporation (SMPDC) partnered with Woods Hole Group and received a Shore Harbor Planning Grant. The grant explored how and if a regionally owned, operated and managed hydraulic dredge would be a cost effective and efficient means of meeting southern Maine's dredging needs. SMPDC's 2018 feasibility report estimated the total cost to purchase dredging and ancillary equipment at \$3.2 Million and an additional \$681,000 annually to cover personnel and ancillary costs. The report outlines the pros and cons of such an endeavor and lists a series actions needed to fully vet the regional dredge concept before investment. It is important for Council to review and consider the Findings and Recommendation section located on pages 57 through 61 to fully understand the limitations of the existing study and the broad assumptions that were used to determine feasibility.

Based on the current level of beach erosion, Biddeford's beaches may benefit from the creation of a beach replenishment program that can be serviced by a Regional Dredge. However, there are many points to consider as outlined in the staff white paper provided at the March 8th Council Workshop, which have been paraphrased below:

1. USACE is technically and financially responsible for maintaining the jetties, ice breakers, breakwaters and federal navigation projects in our community. This work is currently done at minimal cost to the communities. If one or more communities take on private dredging, they must cover the cost.

2. USACE is required by law to take the “least cost option” and to deposit suitable beach material in the location that has the greatest need. If Biddeford wishes to utilize and dredge spoils the City has the option to pay for the additional cost.
3. It would be helpful to understand how Regional Dredge projects will be selected, prioritized, managed, paid for and what each community’s technical and financial responsibilities will be to the Regional Dredge program over the short and long term.
4. What is USACE’s position on supporting a Regional Dredge program? Is there an agreement with USACE on how projects will be prioritized or funded outside of their annual Work Plan request to Congress?
5. How will Biddeford and Saco work together to ensure fair and equitable sharing of the sand in the Saco River between the two communities?
6. It would be helpful to understand the Benefit Cost Analysis of the proposed Regional Dredge.

Additionally, staffing is an open question.

The packet includes a draft letter for consideration generally outlining the open questions. The letter also includes a recommendation for preparation of a detailed project proposal for consideration by the York County communities as a next step. The County has until December 31, 2024 to spend ARPA funds. Taking the time to prepare a project proposal in order to facilitate an informed decision seems reasonable.

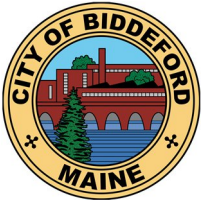
The letter currently lists the municipal officers as signatories. This can certainly be changed should the Council wish to authorize the city manager to sign or the mayor or any other combination.

Funding Source:

N/A

Staff Recommendation:

Staff does not recommend issuing a letter of support unless and until a project proposal is available that clearly defines the capabilities, roles, responsibilities, staffing, and financial plan for the dredge to ensure such a purchase would truly benefit York County and be sustainable.



City of Biddeford
P.O. Box 586
205 Main Street
Biddeford, ME 04005
Phone (207) 284-9313

March 15, 2021

York County Commissioners
c/o Mr. Gregory Zinser, County Manager
York County Government Building
45 Kennebunk Road
Alfred, Maine 04002

RE: Purchase of Regional Dredge Equipment

Dear Commissioners,

The Municipal Officers of the City of Biddeford have been asked to provide a letter of support for the purchasing a dedicated York County IMS 5012 Versi-Dredge using York County's American Rescue Plan Act (ARPA) funds. While the concept is intriguing we do not have enough information at this time to issue a recommendation. In order to evaluate this proposal for endorsement we recommend preparing a detailed project proposal for consideration as a next step.

First, we recommend creation of a detailed project proposal defining the expected capabilities of the equipment as well as defining roles, responsibilities, and the long-term financial plan for operation and maintenance of the equipment prior to making the actual purchase. There are a number of questions that remain unanswered and such a document would go a long way in ensuring that purchasing dedicated dredge equipment is not only right for York County but is also sustainable. There is also sufficient time to prepare a project proposal as the statutory provisions associated with the ARPA program allow for expenditures through December 31, 2024. Taking 3-6 months to prepare the proposal and working through questions would still leave ample time for a purchase.

Second, it should be noted that the recent dredging performed in the Saco River under the oversight of the Army Corp of Engineers specifically prioritized the use of mechanical dredge equipment over hydraulic dredge equipment due to riverbed geology. It is therefore currently unclear the extent to which the City of Biddeford may be able to use hydraulic dredge equipment in other than a limited or site-specific capacity. There may be other communities facing the same uncertainty. The importance of answering the capability and applicability questions alone cannot be over emphasized. The issue of staffing and maintenance are also concerns that have not been addressed in any significant detail.

Finally, based on documentation submitted to the City and information provided during the March 8th Council Workshop, it is our understanding that the purchase of the dredge equipment would enable regional users to perform local dredging projects on a pay-per-use basis and would not otherwise require an initial or ongoing financial commitment from the City of Biddeford. Additionally, the obligations of the Army Corp of Engineers to maintain current shipping channels would not be relieved or lessened by the purchase and availability of a regional dredge.

Thank you for considering our recommendations.

Municipal Officers
City of Biddeford
