

**COUNCIL MEETING
JANUARY 19, 2021**

*NOTE: Due to COVID-19, this meeting was held virtually (via ZOOM),
and was live streamed on the City's website*

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

Roll Call: William Emhiser, John McCurry, Jr., Stephen St. Cyr, Robert Quattrone, Jr., Amy Clearwater, Norman Belanger, Michael Ready, Doris Ortiz, Marc Lessard

Adjustment to the Agenda:

- Move the Update on COVID-19 Vaccine Accessibility to later in the meeting

Consideration of Minutes: **January 7, 2021**

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

Councilor Belanger noted a correction on an amendment made to Order 2021.1; specifically, the 500-foot distancing between marijuana facilities and grandfathering existing facilities. The amendment included “unless the facility changes ownership.”

The minutes have been corrected.

Vote to accept the minutes, as corrected: Unanimous.

Second Readings:

{For a copy of the ordinance amendments and first readings, see the Council Meeting minutes of January 7, 2021}

2021.1) Amendment/Land Development Regulations/Various Articles/Marijuana Establishments Amendments

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

City Manager, James Bennett updated the Council on a couple of items relevant to this ordinance. After consulting with Staff, he recommends that the Council consider establishing a municipal license for marijuana facilities, which could serve to provide more protocols and enforcement authority. Staff will work on licensing language and present to the Council at a future Council Meeting.

In regards to the amendment made during the first reading of this ordinance amendment, Staff agrees with the 500-foot distance between marijuana facilities and feels it makes a lot of sense and would make it easier to identify odor violations.

Motion by Councilor McCurry, seconded by Councilor Lessard to amend the ordinance by removing cultivation, testing and manufacturing marijuana facilities from the I-3 Zone.

Councilor Belanger called a point of order, asking for clarification on what marijuana facilities Councilor McCurry is referring to in his amendment. Councilor McCurry clarified that his intent is not to change existing permitted uses (caregiver retail stores) – only to remove any new uses that are being added in this ordinance amendment, namely, cultivation, testing and manufacturing.

Vote on amendment: 6/3; Councilors St. Cyr, Clearwater and Ortiz opposed.
Councilors Emhiser, McCurry, Quattrone, Belanger, Ready and Lessard in favor.
Amendment carries.

Motion by Councilor Clearwater, seconded by Councilor Belanger to amend the ordinance by removing the provision passed during the first reading regarding the 500-foot distance between marijuana facilities, specifically removing the language that the grandfathering would expire once new ownership had taken over a facility.

Vote on amendment: Unanimous.

Vote on second reading of ordinance, as amended: 8/1; Councilor McCurry opposed.
Councilors Emhiser, St. Cyr, Quattrone, Clearwater, Belanger, Ready, Ortiz and Lessard in favor.
Motion carries.

**2021.2) Amendment/Land Development Regulations/Deletion of Contract Zone #8/
John Conroy at 72 Hill Street and 37 Pool Street**

Motion by Councilor Ready, seconded by Councilor Belanger to grant the second reading of the ordinance amendment.

Vote: 8/1; Councilor Lessard opposed.

Councilors Emhiser, McCurry, St. Cyr, Quattrone, Clearwater, Belanger, Ready and Ortiz in favor.

Second reading carries.

Update: COVID-19 Vaccination Accessibility:

Code Enforcement Officer, Roby Fecteau provided an update on the accessibility of COVID-19 vaccines. He urged folks to go the following website for the most up-to-date information:

www.maine.gov/covid19/vaccines

To date, Phase 1a has provided vaccines to first responders and healthcare facility workers.

Timing for Phase 1a is December through January. Phase 1b will provide vaccines for folks over 70 years old and folks with pre-existing medical conditions. Phase 1b is expected to run from February through March. The current timing estimate puts us in mid-summer before everyone has an opportunity to be vaccinated.

Orders of the Day:

2020.119

IN BOARD OF CITY COUNCIL...DECEMBER 15, 2020

Saco-Lowell Municipal Development and Tax Increment Financing District

WHEREAS, the City is authorized pursuant to Chapter 206 of Title 30-A of the Maine Revised Statutes, as amended, to designate the **Saco-Lowell Municipal Development and Tax Increment Financing District** (the “Saco-Lowell District,” and together with the Rte 111-Mill District, the “Districts”) and the Development Program (the “Saco-Lowell Development Program,” and together with the Rte 111-Mill Development Program, the “Development Programs”) for the Saco-Lowell District; and

WHEREAS, there is a need for economic development in the City of Biddeford, in the surrounding region, and in the State of Maine; and

WHEREAS, there is a need to improve and broaden the tax base of the City of Biddeford; and to improve the general economy of the City of Biddeford and the surrounding region; and

WHEREAS, implementation of the Development Programs will help to improve and broaden the tax base in the City of Biddeford and improve the economy of the City of Biddeford and the region by attracting business development to the Districts; and

WHEREAS, there is a need to implement continued economic development initiatives in the Districts through the Development Programs in accordance with the provision of Chapter 206 of Title 30-A of the Maine Revised Statutes, as amended; and

WHEREAS, it is expected that approval will be obtained from the State of Maine Department of Economic and Community Development (the “Department”), approving the **Tenth Amendment to the Rte 111-Mill Redevelopment Transit-Oriented Municipal Development and Tax Increment Financing District** and the Rte 111-Mill Development Program related thereto and approving the **Saco-Lowell Municipal Development and Tax Increment Financing District** and the Saco-Lowell Development Program related thereto;

ORDERED AS FOLLOWS:

Section 1. The City of Biddeford hereby designates the Saco-Lowell District and adopts the associated Saco-Lowell Development Program for the Saco-Lowell District; such designation and adoption to be pursuant to the following findings, terms, and provisions:

Section 2. The City Council hereby finds and determines that:

- a. At least twenty-five percent (25%), by area, of the real property within the Saco-Lowell District, as hereinafter designated, is suitable for commercial uses; and

- b. The total area of the Saco-Lowell District does not exceed two percent (2%) of the total acreage of the City, and the total area of all existing and proposed development districts within the City (including the Saco-Lowell District) does not exceed five percent (5%) of the total acreage of the City; and
- c. The original assessed value of all existing and proposed tax increment financing districts (including the Saco-Lowell District) does not exceed five percent (5%) of the total value of equalized taxable property within the City as of April 1, 2020; and
- d. The Saco-Lowell District and pursuit of the Saco-Lowell Development Program will make a contribution to the economic growth and well-being of the City of Biddeford and the surrounding region, and will contribute to the betterment of the health, welfare and safety of the inhabitants of the City of Biddeford, including a broadened and improved tax base and economic stimulus, and therefore constitutes a good and valid public purpose. The City has considered all evidence, if any, presented to it with regard to any adverse economic effect on or detriment to any existing business and has found and determined that such adverse economic effect on or detriment to any existing business, if any, is outweighed by the contribution expected to be made through the Saco-Lowell District and Saco-Lowell Development Program.

Section 3. Pursuant to the provisions of 30-A M.R.S.A. § 5227, the percentage of increased assessed value to be retained as captured assessed value in accordance with the Saco-Lowell Development Program is hereby established as set forth in the Saco-Lowell Development Program.

Section 4. The City Manager, or his duly appointed representative, is hereby authorized, empowered and directed to submit the proposed Saco-Lowell Development Program for the Saco-Lowell District to the State of Maine Department of Economic and Community Development for review and approval pursuant to the requirements of 30-A M.R.S.A. § 5226.

Section 5. The foregoing designation of the Saco-Lowell District and adoption of the Saco-Lowell Development Program for the Saco-Lowell District shall automatically become final and shall take full force and effect upon receipt by the City of approval by the State of Maine Department of Economic and Community Development, without requirement of further action by the City, the City Council, or any other party.

Section 6. The City Manager, or his duly appointed representative, is hereby authorized and empowered, at his discretion, from time to time, to make such revisions to the Saco-Lowell District and Saco-Lowell Development Program as the City Manager may deem reasonably necessary or convenient in order to facilitate the process for review and approval of the District by the State of Maine Department of Economic and Community Development, or for any other reason, so long as such revisions are not inconsistent with these resolutions or the basic structure and intent of the Saco-Lowell Development Program.

Section 7. The City Manager, in the name and on behalf of the City, is hereby authorized and directed to enter into a credit enhancement agreement between the City and the developer of the project to be located in the Saco-Lowell District, on terms as described in the Saco-Lowell Development Program and any other negotiated agreements between the City and the Developer.

Motion by Councilor Lessard, seconded by Councilor McCurry to reconsider the Order.
Vote: Unanimous.

Vote on order: 5/4; Councilors McCurry, Ortiz, Ready and Quattrone opposed.
Councilors Emhiser, St. Cyr, Clearwater, Belanger and Lessard in favor.
Motion carries.

2021.8 IN BOARD OF CITY COUNCIL..JANUARY 19, 2021
BE IT ORDERED, that the City Council of the City of Biddeford does hereby ~~advise request~~ that the Planning Board of its endorsement of advise the City Council with regard to the proposed Contract Zone #20 located at 420 Alfred Street (Route 111) and known as the Five Points Shopping Center for a mixed use project that adds 190-unit multi-family units within the commercial center, as outlined in the applicant's letter to the City Planner dated January 13, 2021 and its attached "REQUEST FOR CONSIDERATION AND APPLICATION FOR CONTRACT ZONE PURSUANT TO ARTICLE V, SECTION 9 OF THE ZONING ORDINANCE OF THE CITY OF BIDDEFORD".

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

Motion by Councilor Belanger, seconded by Councilor Clearwater to amend the order by removing "advise the" and replacing with "request that;" and remove "of its endorsement of" and replace with "advise the City Council with regard to..."
Vote on amendment: Unanimous.

Vote on order, as amended: 7/2; Councilors McCurry and Quattrone opposed.
Councilors Emhiser, St. Cyr, Clearwater, Belanger, Ready, Ortiz and Lessard in favor.
Motion carries.

2020.115) Remove from table: Amendment/Land Development Regulations/Art. V – Establishment of Zones/Allowance of Multi-Family Residential Uses in I-3 and B-2 Zones

No motion was made to remove from table.

The ordinance amendment dies.

Committee-of-the-Whole: Discussion of Year 1 Implementation Plan for City's 5-Year Housing Goals & Strategies

Motion by Councilor McCurry, seconded by Councilor Lessard to move into Committee-of-the-Whole.

Vote: Unanimous.

Time: 6:58 p.m.

Councilor Emhiser thanked Staff for working so hard on this Plan and feels this is an excellent approach. He noted that a couple of the goals are too straight-forward; for example, relax zoning is not necessarily an activity and should maybe be adjusted. Also, with the establishment a Housing Development Trust Fund, he feels it needs to be clarified that this is actually more of an evaluation of a process. He feels that using city-owned property for affordable homeownership should be a priority of the Plan (move to Q1 rather than Q3).

Councilor Lessard has been doing a lot of research in an effort to come up with more affordable housing in the City. He mentioned an ordinance that the City of Saco has regarding back lots – where a house can be built behind another house on deep lots that can accommodate it. This may be something that Biddeford should look into establishing.

Councilor Clearwater agrees with a possible house on a back lot ordinance Councilor Lessard spoke about. She also agrees with Councilor Emhiser that the action items need to be looked at and reprioritized, including interconnecting them with the review of the Comp Plan. She suggested shifting the zoning activity to Q2 and shift other items up to a higher priority.

Councilor Belanger feels that there is so much specificity to the projection numbers that they become difficult to grasp. He struggles with setting these numbers as goals and does not feel qualified to set such projections in stone. He finds it difficult to establish targets that seem uninformed.

Councilor Ready supports the goals and strategies as a whole. He does not feel that the City has the staffing to accomplish any of these goals, and that we are setting ourselves up for failure. He does not feel that we have the staff in place right now to support the items already on their plate, never mind giving other major projects to these same staff members.

Councilor St. Cyr struggles with the fact that some of the goals would need funding; and he would need to know what the specifics of the funding would be. Where would the funding come from? Ultimately, he's pretty sure the goals would be funded by the taxpayers. It would be useful to know what the costs are for these goals and strategies.

City Manager, Jim Bennett noted that the real problem is that the affordability of housing in the community is going the wrong way; and if the City does not take some action now, it will only get more difficult in the future.

Councilor McCurry is concerned about putting more items on the Planning Board plate, especially with the review of the Comp Plan already a big item for them. He agrees with Councilor Clearwater that some of the proposed goals and strategies should be considered as part of the Comp Plan.

Councilor Clearwater strongly believes that piecing together zoning changes is not the most efficient way to proceed, and many of the zoning changes really need to be incorporated with the Comp Plan review, even if that means delaying particular zoning changes.

Motion by Councilor McCurry, seconded by Councilor Lessard to move out of Committee-of-the-Whole.
Vote: Unanimous. Time: 7:24 p.m.

2021.9 **IN BOARD OF CITY COUNCIL...JANUARY 19, 2021**
BE IT ORDERED, that the City Council does hereby request the Planning Board to conduct a Public Hearing and make recommendations to the City Council regarding proposed amendments to the bonus density clause to create or preserve affordable rents in the MSRD-2 and other zones.

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

Motion by Councilor Belanger, seconded by Councilor Clearwater to amend the order by removing “and other zones” from the order language.

Vote: 2/7; Councilors Belanger and Clearwater in favor.

Councilors Emhiser, McCurry, St. Cyr, Quattrone, Ready, Ortiz and Lessard opposed.

Amendment fails.

Vote on order: 6/3; Councilors Belanger, Clearwater and McCurry opposed.

Councilors Emhiser, St. Cyr, Quattrone, Ready, Ortiz and Lessard in favor.

Motion carries.

2021.10 **IN BOARD OF CITY COUNCIL...JANUARY 19, 2021**
BE IT ORDERED, that the City Council does hereby request the Planning Board to conduct a Public Hearing and make recommendations regarding additional units per acre when the land required within certain zones is within 90% of the minimum density per unit, provided the rent of the unit is fixed at 80% of median income.

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

Vote: 6/3; Councilors Belanger, Clearwater and McCurry opposed.

Councilors Emhiser, St. Cyr, Quattrone, Ready, Ortiz and Lessard in favor.

Motion carries.

2021.11 **IN BOARD OF CITY COUNCIL...JANUARY 19, 2021**
BE IT ORDERED, that the City Council of the City of Biddeford does hereby grant approval for the Biddeford Public Works Department to join and participate in the Southern Maine Public Works Mutual Aid Compact, which includes water and wastewater operations.

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

Vote: Unanimous.

Committee-of-the-Whole: Discussion to Extend Outside Dining for Local Businesses until January 2022

Motion by Councilor Clearwater, seconded by Councilor Belanger to move into Committee-of-the-Whole.

Vote: Unanimous.

Time: 7:49 p.m.

City Manager, Jim Bennett explained that back in June 2020, the Council approved a temporary outdoor restaurant and retail operation. This temporary provision expire in October 2020. Staff is recommending that this provision be extended to January 2022.

Councilor McCurry appreciates that any approved temporary outside seating would be set up in a way so as to not interfere with winter operations.

Councilor Ready asked if there has been any interest from local businesses to set up outside dining. It was indicated that there have not been any applications as of yet.

Councilor Clearwater feels that outside seating and dining is the way a lot of local establishments are going to move their setups toward. Due to the pandemic, outside dining is a great way for businesses to continue operations.

The City Manager recapped that the Council is generally in favor of the extension, and so Staff will put something together for formal approval at a future meeting.

Motion by Councilor Belanger, seconded by Councilor Clearwater to move out of Committee-of-the-Whole.

Vote: Unanimous.

Time: 7:53 p.m.

Appointments:

IN BOARD OF CITY COUNCIL...JANUARY 19, 2021

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

City Manager James Bennett

and

Public Works Director Jeff Demers as an alternate

to the *PACTS Policy Board*.

Motion by Councilor Belanger, seconded by Councilor Clearwater to confirm the appointments.

Vote: Unanimous.

IN BOARD OF CITY COUNCIL...JANUARY 19, 2021

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

**Maya Atlas
92 Granite Street, #2
Ward 3**

to the *Biddeford, Saco & Old Orchard Beach Transit Committee*, for a term to expire in December 2023.

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

Vote: Unanimous.

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

A few citizens addressed their comments to the Council.

City Manager Report:

City Manager, James Bennett had the following items:

- 1) Unfortunately, over the past few weeks, City Departments have experienced the impacts of a few positive COVID cases among employees, including within the Finance Office and Public Works Dept. As a result, Jim has implemented a change in City operations where each Department will now be working in teams – ultimately, using half staff in the office and half staff working from home. For the public that continues to go to the City Clerk and Code Enforcement Offices, this means the likeliness of long wait times. He encouraged folks to use the online services available and avoid coming into City Hall when possible. He expects the reduced on-site staffing to continue for the foreseeable future.
- 2) He explained that when ZOOM meetings are set up in a webinar format, there is no way to share the attendees list with other attendees. Meetings need to be held in a webinar format to avoid ZOOM bombing. Staff is looking into a possible work-around that will give us the ability to share attendee lists with other attendees; as well as upgrading the existing video equipment in an effort to improve the output quality of public ZOOM meetings.

Councilor McCurry asked that since citizens are being asked to use the online services, if there is a way to waive the additional fees for using credit cards. Jim explained that the credit cards fees are not a revenue to the City, but are imposed by the credit card vendor.

Other Business:

Councilor Clearwater:

- Thanked all those who participated in last week's Municipal Family Meeting. She was pleased with the turnout, and to see that on the whole, we all seem to want to be moving in the same direction.
- She is hopeful that the public engagement plan for the Comp Plan goes just as well as the Municipal Family Meeting did and strongly encourages public participation. Along those lines, she suggested figuring out a way to harness the network of those who did participate in the Municipal Family Meeting in an effort to get even more citizens involved.
- She expressed concern that the Planning Board's recommendations on various items are not being translated into the ordinance amendments being sent to the City Council for final action.

Council President Addressing the Council:

- Councilor McCurry clarified a comment that had been made during Public Addressing the Council – that being that he does not have issue with TIFs; however, he does have issue with credit enhancements.
- He asked for an update on the Youth Advisory Council
- He thanked City Manager, Jim Bennett and Communications Coordinator, Danica Lamontagne for putting together a video explanation of tonight's agenda items for the public.

Mayor Addressing the Council: Mayor Casavant gave an update on this year's WinterFest. Due to the pandemic, WinterFest is going to look very different this year in that it will be a week-long event during the week of February school vacation. The main idea for the event are city-wide scavenger hunts, geared to different age groups and demographics.

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

Vote: Unanimous.

Time: 8:18 p.m.

Attest by: _____
Carmen J. Morris, City Clerk