

**COUNCIL MEETING
JANUARY 3, 2017**

Mayor Casavant called the meeting to order at 6:02 p.m.

Roll Call: Michael Swanton, John McCurry, Jr., Stephen St. Cyr, Robert Quattrone, Jr., Bob Mills, Rick Laverriere, Michael Ready, Laura Seaver, Marc Lessard

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

There were no adjustments to the agenda.

Public Hearing: Liquor License for Uncorked Wine Bar

The Chair opened the public hearing at 6:03 p.m.

There were no public comments.

The public hearing was closed at 6:03 p.m.

Liquor License: Uncorked Wine Bar

Motion by Councilor McCurry, seconded by Councilor Mills to recommend issuance of a State of Maine liquor license to Uncorked Wine Bar.

Vote: Unanimous.

Consideration of Minutes: December 20, 2016

Motion by Councilor Laverriere, seconded by Councilor Swanton to accept the minutes as printed.

Vote: Unanimous.

Second Readings:

{For a copy of the ordinance amendments and first readings, see the council meeting minutes of December 20, 2016}

2016.113) Amendment/Land Development Regulations/Art. VI-Performance Standards/Section 12-Buffers

Motion by Councilor Laverriere, seconded by Councilor Mills to grant the second reading of the ordinance amendment.

Vote: 7/2; Councilors Lessard and Seaver.

Councilors Swanton, McCurry, St. Cyr, Quattrone, Mills, Laverriere and Ready in favor.

Motion carries.

2016.114) Amendment/Land Development Regulations/Art. II-Definitions and Art. VI-Performance Standards/Hotels-Motels-Inns

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

Vote: Unanimous.

2016.118) Amendment/Ch. 2-Administration/Add Sec. 2-326 et al. – Biddeford Fire Advisory Committee (BFAC)

Motion by Councilor Laverriere, seconded by Councilor Mills to grant the second reading of the ordinance amendment.

Vote: Unanimous.

2016.119) Amendment/Ch. 2-Administration/Add Sec. 2-341 et al. – Biddeford Police Advisory Committee (BPAC)

Motion by Councilor McCurry, seconded by Councilor Mills to grant the second reading of the ordinance amendment.

Vote: Unanimous.

2016.121) Approval/Moratorium on Retail Marijuana Stores, Facilities and Social Clubs

Motion by Councilor McCurry, seconded by Councilor Swanton to grant the second reading of the order.

Motion by Councilor Swanton, seconded by Councilor Mills to suspend the rules to allow for public comment on the second reading.

Vote: 4/5; Councilors Lessard, Seaver, Ready, Laverriere and McCurry opposed.

Councilors Swanton, St. Cyr, Quattrone and Mills in favor.

Motion fails.

Vote on second reading: 7/2; Councilors Mills and Quattrone opposed.

Councilors Swanton, McCurry, St. Cyr, Laverriere, Ready, Seaver and Lessard.

Motion carries.

Orders of the Day:

2017.1

IN BOARD OF CITY COUNCIL...JANUARY 3, 2017

BE IT ORDERED, that the City Manager be authorized to purchase one (1) PL Customs ambulance as per bid of November 12, 2015 (the "Equipment") from Sugarloaf Vehicles (the "Vendor") and may pay the Vendor an amount not to exceed \$222,146.00 (before discounts valued at \$5,500.00) for the Equipment as follows:

1. The City of Biddeford expects to incur debt to reimburse expenditures to pay the cost of the Equipment;
2. The City of Biddeford reasonably expects that the maximum principal amount of the debt, including for reimbursement purposes, is \$222,146.00;
3. The City Manager, on behalf of the City of Biddeford, is authorized to enter into a lease purchase, loan or other financing agreement for the Equipment provided that (a) the principal amount of such agreement will not exceed \$222,146.00, (b) the term of such agreement will not exceed one hundred and twenty (120) months and (c) any obligation of the City of Biddeford to make lease or loan payments pursuant to such agreement is subject to annual appropriation by the City Council of the City of Biddeford;
4. The City Manager is authorized to advance money from the General Fund of the City for payment of the costs of the Equipment; and
5. The City Manager, on behalf of the City of Biddeford, is authorized to negotiate, enter into, execute, deliver and cause to be performed, and to approve, any and all agreements, instruments, certificates and other documents, and to grant security interests in the Equipment, upon such terms, conditions, limitations and undertakings, which the City Manager determines are necessary and proper for the acquisition and financing of the Equipment, provided that any lease purchase, loan or other financing agreement will be countersigned by both the Mayor and the Treasurer of the City of Biddeford. Without limiting the foregoing, the City Manager, on behalf of the City of Biddeford, in connection with the acquisition of the Equipment, is authorized to sell, transfer, trade in or otherwise dispose of any equipment, which the City Manager determines is no longer useful to the City of Biddeford.

BE IT FURTHER ORDERED, that the City Manager be authorized to purchase new two-way radios from Dirigo (Vendor) for an amount not to exceed \$4,733.00.

1. The City of Biddeford expects to incur debt to reimburse expenditures to pay the cost of the two-way radios;
2. The City of Biddeford reasonably expects that the maximum principal amount of the debt, including for reimbursement purposes, is \$4,733.00;
3. The City Manager, on behalf of the City of Biddeford, is authorized to enter into a lease purchase, loan or other financing agreement for the two-way radios provided that (a) the principal amount of such agreement will not exceed \$4,733.00, (b) the term of such agreement will not exceed one hundred and twenty (120) months and (c) any obligation of the City of Biddeford to make lease or loan payments pursuant to such agreement is subject to annual appropriation by the City Council of the City of Biddeford;
4. The City Manager is authorized to advance money from the General Fund of the City for payment of the costs of the two-way radios; and
5. The City Manager, on behalf of the City of Biddeford, is authorized to negotiate, enter into, execute, deliver and cause to be performed, and to approve, any and all agreements, instruments, certificates and other documents, and to grant security interests in the Equipment, upon such terms, conditions, limitations and undertakings, which the City Manager determines are necessary

and proper for the acquisition and financing of the Equipment, provided that any lease purchase, loan or other financing agreement will be countersigned by both the Mayor and the Treasurer of the City of Biddeford. Without limiting the foregoing, the City Manager, on behalf of the City of Biddeford, in connection with the acquisition of the Equipment, is authorized to sell, transfer, trade in or otherwise dispose of any equipment, which the City Manager determines is no longer useful to the City of Biddeford.

NOTE: The Finance Committee reviewed these items on December 20, 2016 and voted to recommend them to the City Council for approval. The lease-purchase of these items are included in the FY17 CIP budget, with a down payment of \$30,000.00.

Motion by Councilor Mills, seconded by Councilor Laverriere to grant the order.
Vote: Unanimous.

2017.2 **IN BOARD OF CITY COUNCIL...JANUARY 3, 2017**
BE IT ORDERED, that the City Manager is authorized to execute any and all documents, including, but not limited to, the attached draft Purchase and Sale Contract substantially in form as presented, and to take such further action as may be necessary to sell properties located at 511-515 Elm Street and 384 Hill Street, Biddeford, Maine to Maine Governmental Facility Authority, or its assigns for the sale price of \$810,000.00.

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

2016.87 **IN BOARD OF CITY COUNCIL..SEPTEMBER 20, 2016**
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 V (Establishment of Zones), Table A (Table of Land Uses):

Retain “Medical Marijuana Dispensaries” as a Conditional Use (C) in the I-3 Zone ONLY (remove as a Conditional Use in the B2 Zone and M Zone). Delete reference to footnote 24. Retain reference to footnote 23.

Add “Medical Marijuana Growing Facilities” as a Conditional Use (C) in the I-1 and I-2 Zones ONLY. Add reference to footnote 23.

	Article VI Section ¹	I-1	I-2	I-3
Medical Marijuana Dispensaries				C 23, 24
<u>Medical Marijuana Growing Facilities</u>		<u>C</u> <u>23</u>	<u>C</u> <u>23</u>	

Part III (Land Development Regulations), Article II (Definitions):

AGRICULTURE - The production, keeping or maintenance for sale or lease of plants and/or animals, including but not limited to, forages and sod crops; grains and seed crops; dairy animals and dairy products; poultry and poultry products; livestock, fruits and vegetables; and ornamental and greenhouse products. Agriculture does not include forest management, ~~or~~ timber harvesting activities, or the growing of medical marijuana by medical marijuana dispensaries, caregivers, or patients.

COMMERCIAL GARDENING - Any land area in which plants, vegetables, flowers and similar materials are grown for sale. Commercial Gardening does not include the growing of medical marijuana by medical marijuana dispensaries, caregivers, or patients.

COMMERCIAL GREENHOUSE - Any structure in which plants, vegetables, flowers and similar materials are grown for sale. Commercial Greenhouse does not include the growing of medical marijuana by medical marijuana dispensaries, caregivers, or patients.

MARIJUANA - As defined in State Administrative Rules (10-144 CMR Chapter 122), §1.17, “Marijuana.”

MEDICAL MARIJUANA - Marijuana that is acquired, possessed, cultivated, manufactured, used, delivered, transferred or transported to treat or alleviate a qualifying patient's debilitating medical condition or symptoms associated with the qualifying patient's debilitating medical condition.

MEDICAL MARIJUANA CAREGIVER - A person, licensed hospice provider or licensed nursing facility that is designated by a qualifying patient to assist the qualifying patient with the medical use of marijuana in accordance with state law. A person who is a medical marijuana caregiver must be at least 21 years of age and may not have been convicted of a disqualifying drug offense.

MEDICAL MARIJUANA LAND USES - Any of 3 types of land uses, defined herein, that cover the full range of options for lawful cultivating, processing, storing and distributing medical marijuana.

MEDICAL MARIJUANA HOME PRODUCTION - Cultivating, processing and/or storing of medical marijuana by a qualifying patient at their own residence or a medical marijuana caregiver at their own primary year-round residence for use by a qualifying patient. This use shall be considered an accessory land use.

MEDICAL MARIJUANA GROWING FACILITY - A facility used for cultivating, processing, and/or storing medical marijuana by one or more medical marijuana caregiver(s) at a location which is not the medical marijuana caregiver's primary year-round residence or their patient's primary year-round residence. This shall be considered a commercial land use.

MEDICAL MARIJUANA DISPENSARY - A not-for-profit entity registered pursuant to state law that acquires, possesses, cultivates, manufactures, delivers, transfers, transports, sells, supplies or dispenses marijuana, paraphernalia or related supplies and educational materials to qualifying patients and the primary caregivers of those patients. Note that a dispensary may be either a single facility, or it may be divided into two separate but related facilities where growing is done at only one of the facilities. This shall be considered a commercial land use.

***NOTE:** This is considered "Option #1" from the Planning Board. If the Council chooses to approve this ordinance amendment, Staff is recommending that it be passed as an emergency ordinance due to the fact that the Medical Marijuana Moratorium that is in place expires during the first week of October 2016.*

Motion by Councilor McCurry, seconded by Councilor Swanton to remove the ordinance amendment from the table.

Vote: 6/3; Councilors Lessard, Laverriere and Mills opposed.

Councilors Swanton, McCurry, St. Cyr, Quattrone, Ready and Seaver in favor.

Motion to remove from table carries.

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

Motion by Councilor Ready, seconded by Councilor McCurry to amend the ordinance amendment by ensuring the incorporation of the three items outlined in Economic Development Director, Daniel Stevenson's memo.

Vote: 8/1; Councilor Lessard opposed.

Councilors Swanton, McCurry, St. Cyr, Quattrone, Mills, Laverriere, Ready and Seaver in favor.

Motion to amend carries.

Vote on first reading, as amended: Unanimous.

2016.88

IN BOARD OF CITY COUNCIL..SEPTEMBER 20, 2016

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 VI (Performance Standards):

Section 77. Medical Marijuana

- A. Before submission of a Conditional Use Application, the applicant must demonstrate their authorization to cultivate, process and store medical marijuana pursuant to the Maine Use of Medical Marijuana Program.
- B. As an accessory use, Medical Marijuana Home Production shall be allowed in any qualifying patient's residence or any medical marijuana caregiver's primary year-round residence in every base zone and overlay zone, without any requirement for land use permitting.

- C. No Medical Marijuana Dispensary or Medical Marijuana Growing Facility shall be closer than 250 linear feet, measured in a straight line from the Dispensary or Facility building entrance, to the nearest point on the boundary of any property which is occupied by a licensed day care facility, school, Town park, Town playground or church.
- D. Before granting an approval, the Planning Board shall ensure the applicant has reviewed their property and building security plans with the Biddeford Police Department and the Police Department finds the security measures are consistent with State requirements.
- E. No signs containing the word “marijuana,” or a graphic/image of any portion of a marijuana plant or otherwise identifying medical marijuana shall be erected, posted or in any way displayed on the outside of a Medical Marijuana Dispensary or a Medical Marijuana Growing Facility. Interior advertisements, displays of merchandise or signs depicting the activities of a Medical Marijuana Dispensary or a Medical Marijuana Growing Facility shall be screened to prevent public viewing from outside such facility.
- F. No use shall emit offensive, harmful, or noxious odors beyond the property line.

NOTE: *This is considered “Option #2” from the Planning Board. If the Council chooses to approve this ordinance amendment, Staff is recommending that it be passed as an emergency ordinance due to the fact that the Medical Marijuana Moratorium that is in place expires during the first week of October 2016.*

Motion by Councilor McCurry, seconded by Councilor Quattrone to remove the ordinance amendment from the table.

Vote: 8/1; Councilor Swanton opposed.

Councilors McCurry, St. Cyr, Quattrone, Mills, Laverriere, Ready, Seaver and Lessard in favor. Motion to remove from table carries.

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

Vote: Unanimous.

2017.3

IN BOARD OF CITY COUNCIL..JANUARY 3, 2017

BE IT ORDAINED, by the City Council of the City of Biddeford that does hereby amend the Code of Ordinances by deleting some of the Administrative Sections contained within Ch. 46, Parks and Recreation that relate to the Recreation Commission and other Administrative functionality by moving and re-numbering these pertinent sections to Ch. 2, Administration; and be it further Ordained, that Ch. 46 is re-named City of Biddeford Parks Ordinance.

NOTE: The various proposed amendments are available in the City Clerk’s Office and on the City’s website.

Motion by Councilor Ready, seconded by Councilor McCurry to grant the first reading of the ordinance amendments.

Vote: Unanimous.

2016.92

IN BOARD OF CITY COUNCIL..OCTOBER 4, 2016

BE IT ORDERED, that the City Council of the City of Biddeford does hereby amend the Human Resource Policies, Procedures and Benefits Manual, SICK LEAVE (amendments available in the City Clerk ‘s Office and on the City’s website).

Motion by Councilor Ready, seconded by Councilor McCurry to remove the order from the table.

Vote: 8/1; Councilor Mills opposed.

Councilors Swanton, McCurry, St. Cyr, Quattrone, Laverriere, Ready, Seaver and Lessard in favor. Motion carries.

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

Vote: 7/2; Councilors St. Cyr and McCurry opposed.

Councilors Swanton, Quattrone, Mills, Laverriere, Ready, Seaver and Lessard in favor. Motion carries.

Appointments:

IN BOARD OF CITY COUNCIL...JANUARY 3, 2017
ORDERED, that I, Alan M. Casavant, Mayor of the City of Biddeford, do hereby appoint:

Natalie Kelliher
522 Main Street, Apt. 101
Ward 6

to the *Downtown Development Commission*, replacing Bob Mills, with a term to expire December 2017.

Motion by Councilor Laverriere, seconded by Councilor McCurry to confirm the appointment.
Vote: Unanimous.

IN BOARD OF CITY COUNCIL...JANUARY 3, 2017
ORDERED, that I, Alan M. Casavant, Mayor of the City of Biddeford, do hereby appoint:

Priscilla McGuire
20 Beacon Avenue, Apt. 13
Ward 7

to the *Historic Preservation Commission* with a term to expire December 2019.

Motion by Councilor Mills, seconded by Councilor Laverriere to confirm the appointment.
Vote: Unanimous.

IN BOARD OF CITY COUNCIL...JANUARY 3, 2017
ORDERED, that I, Alan M. Casavant, Mayor of the City of Biddeford, do hereby re-appoint:

Paul Lariviere
517 Pool Street
Ward 1

to the *Shellfish Conservation Committee* with a term to expire December 2019.

Motion by Councilor Ready, seconded by Councilor Mills to confirm the appointment.
Vote: Unanimous.

IN BOARD OF CITY COUNCIL...JANUARY 3, 2017
ORDERED, that I, Alan M. Casavant, Mayor of the City of Biddeford, do hereby re-appoint:

Martin Grohman

as the CHAIR of the *Solid Waste Management Commission* for 2017.

Motion by Councilor Mills, seconded by Councilor Ready to confirm the appointment.
Vote: Unanimous.

City Manager Report:

City Manager, James Bennett had distributed the year-end “Goals Dashboard” prior to the start of this meeting. He shared the following highlights:

- 100% of the goals marked critical were either completed or nearly completed
- 75% of the high priority goals were either completed or nearly completed
- 94% of the medium priority goals were either completed or nearly completed
- 80% of the low priority goals were either completed or nearly completed
- 86% of all goals were either completed or nearly completed

Overall, he is very impressed with the amount of work accomplished in 2016 by the Council, the volunteers on the City’s various committees and City Staff.

In an effort to continue steering the City in a positive direction, he has started another Twitter account, [#365BiddefordMEpositives](#). His goal is to post at least one positive Tweet a day about our community and the goings on in Biddeford.

Other Business:

Councilor Lessard: stated that he has been working with a committee that has been working on the parking garage issue. An RFP has gone out and once proposals are submitted, the committee will begin reviewing them immediately.

Councilor Ready: noted on the “Goals Dashboard” that was prepared by the City Manager, that some of the completed goals have actually been referred to one committee or another. Councilor Ready asked that periodic updates be provided to the Council on further and continued progress of the goals. He would also like to see some of the items come back to the Council for final recommendations and approvals.

Councilor Mills: distributed a Journal Tribune article related to excise tax exemption for military personnel. He would like to see the City adopt an ordinance that would provide this exemption to all military personnel, and not just those who are serving in other States (but keep their vehicles registered in Maine).

Councilor Swanton: asked if the latest section of the River Walk is open yet and if the fence and gate have been installed. The City Manager answered that the fence and gate have been ordered and should be installed in March 2017.

Councilor McCurry: would like to see the issue of snow bans addressed soon. He feels that streets are not being completely cleared of snow due to the fact that folks keep their vehicles parked on the streets during snow events.

Mayor Addressing the Council: Mayor Casavant announced that plans for WinterFest 2017 are underway. This year’s Winter Fest is scheduled for February 3rd, 4th and 5th, and will be held in the downtown this year. Many family oriented events and activities are being planned and organized, from dog sledding to snow sculptures to pony rides. Also, the City Theater has scheduled a couple of shows for that weekend: Friday, Feb. 3d – Piano Men: The Music of Elton & Billy; and Saturday, Feb. 4th – Comedian, Juston McKinney will perform.

Executive Session: 1 MRSA 405(6)(A)..Personnel Issue

Motion by Councilor Laverriere, seconded by Councilor Mills to move into Executive Session.
Vote: Unanimous. Time: 6:46 p.m.

Motion by Councilor Laverriere, seconded by Councilor Seaver to move out of Executive Session.
Vote: Unanimous. Time: 7:20 p.m.

Motion by Councilor Laverriere, seconded by Councilor Mills to adjourn.
Vote: Unanimous. Time: 7:20 p.m.

Attest by: _____
Carmen J. Morris, City Clerk