

ETHAN K. STRIMLING (MAYOR)
BELINDA S. RAY (1)
SPENCER THIBODEAU (2)
BRIAN E. BATSON (3)
JUSTIN COSTA (4)

KIMBERLY COOK (5)
JILL C. DUSON (A/L)
PIOUS ALI (A/L)
NICHOLAS M. MAVODONES, JR. (A/L)

NOVEMBER 5, 2018 CITY COUNCIL AGENDA

The Portland City Council will hold a regular City Council Meeting at 5:30 PM in City Council Chambers, City Hall. The Honorable Ethan K. Strimling, will preside.

PLEDGE OF ALLEGIANCE:

ROLL CALL:

ANNOUNCEMENTS:

RECOGNITIONS:

Arts in the Chamber, Dance Artist Riley Watts

PRESENTATIONS:

State of the Schools Address - Anna Trevorrow, Portland Board of Education
Chair

ANNUAL MEETING:

SPECIAL MEETING:

Special Meeting of the Corporator of the Portland Fish Exchange - Sponsored by Mayor Ethan K. Strimling.

A special meeting of the Corporator of the Portland Fish Exchange will be held by the City Council on November 5, 2018, at 5:30 p.m. in City Council Chambers, to appoint members to the Portland Fish Exchange.

Order 88-18/19 Appointing Members to the Portland Fish Exchange - Sponsored by the Legislative/Nominating Committee, Councilor Pious Ali, Chair.

The Legislative/Nominating Committee met on September 13, 2018 and voted 2-0 (Councilor Cook absent) to forward this item to the City Council with a recommendation for passage.

The Nominating Committee is making the following recommendations for appointments to the Portland Fish Exchange:

Avis Leavitt	Fish Exchange Class A
Nick Alfiero	Fish Exchange Class B
Thomas Valleau	Fish Exchange Class C

Five affirmative votes are required for passage after public comment.

APPROVAL OF MINUTES OF PREVIOUS MEETING:

October 15, 2018 Draft Regular City Council Meeting Minutes

PROCLAMATIONS:

APPOINTMENTS:

CONSENT ITEMS:

Order 89-18/19 Declaring November 11, 2018 Veterans Day Parade Festival - Sponsored by Jon P. Jennings, City Manager

This order authorizes the Veterans Day Parade to be held on November 11, 2018 from 10:30 a.m. to 12:00 p.m. The parade begins at Longfellow Square and ends at City Hall Plaza with a wreath-laying ceremony and speeches.

Street closures are included in the agenda backup.

Five affirmative votes are required for passage after public comment.

Order 90-18/19 Declaring June 22, 2019 the Shipyard Old Port Half Marathon and 5K Festival - Sponsored by Jon P. Jennings, City Manager.

This order declares June 22, 2019, the Shipyard Old Port Half Marathon and 5K Festival. The race will start at 7:00 a.m. with after-party events in the streets from 8:30 a.m. until 12:30 p.m. This is the 9th year the race has been held. The start and finish line for the race is on Fore Street between Union and Market. After race events will be held on Wharf, Moulton, Exchange, and Dana Streets from 8:30 a.m. to 12:30 p.m. The race route and street closures are included in the agenda backup.

As part of the after-party events, two beer gardens will be setup and open from 8:30 a.m. to 12:30 p.m.

Five affirmative votes are required for passage after public comment.

Order 91-18/19 Declaring the Portland Downtown Light Up Your Holidays Festival 2018 - Sponsored by Jon P. Jennings City Manager.

This order declares Portland Downtown Light Up Your Holidays festival to be held Fridays, November 23, 30, December 7, 14, 2018; Saturdays, November 24, December 1, 8, 15, 2018; and Sundays, November 25, December 2, 9, 16, 2018; and Thursday, December 6, 2018. Friday, November 23, is the Monument Square Tree Lighting, and Thursday, December 6, is Merry Madness.

Further details about these events and closures of downtown parks, squares, and streets are included in the agenda backup.

Five affirmative votes are required for passage of the Consent Calendar.

LICENSES:

Order 92-18/19 Granting Municipal Officers' Approval of TSNR Inc. dba Bonobo Wood Fire Pizza. Application for a Class I FSE with Outdoor Dining on Public Property at 46 Pine Street -Sponsored by Michael Russell, Director of Permitting and Inspections Department.

Application was filed on 10/15/2018. New City and State applications. The owners currently operate a Class III & IV with Outdoor Dining on Public Property at this location.

Five affirmative votes are required for passage after public comment.

Order 93-18/19 Granting Municipal Officers' Approval of The Sustainability Lab dba Fork Food Lab. Application for a Class III & IV at 72 Parris Street - Sponsored by Michael Russell, Director of Permitting and Inspections Department.

Application was filed on 10/15/2018. New City and State applications. This is a change of ownership of an existing business.

Five affirmative votes are required for passage after public comment.

Order 94-18/19 Granting Municipal Officers' Approval of Ely Brothers Inc. dba Locally Sauced. Application for a Class I FSE at 4 Thompson's Point - Sponsored by Michael Russell, Director of Permitting and Inspections Department.

Ely Brothers Inc. dba Locally Sauced. Application for a Class I FSE at 4 Thompson's Point.

Application was filed on 10/15/2018. New City and State applications. The owners currently operate a FSE with Prep out of this location.

Five affirmative votes are required for passage after public comment.

Order 95-18/19 Granting Municipal Officers' Approval of Harry and Maries LLC dba Shays Grill Pub. Application for a Class I FSE at 18 Monument Square - Sponsored by Michael Russell, Director of Permitting and Inspections Department.

Harry and Maries LLC dba Shays Grill Pub. Application for a Class I FSE at 18 Monument Square.

Application was filed on 10/5/2018. New City and State applications. New owners of an existing business.

Five affirmative votes are required for passage after public comment.

COMMUNICATIONS

Com 6-18/19 Re: Order 225-17/18, Order Referring a Proposal to Increase Short Term Rental Registration Fees to the Housing Committee - Sponsored by the Housing Committee, Councilor Jill C. Duson, Chair

On May 21, 2018, the City Council approved a referral order to the Housing Committee on a proposal to increase fees for registering short term rental units to \$500.00 for the 1st unit, \$1,000 for the 2nd unit; \$2,000 for the 3rd unit, \$3,000 for the 4th unit and \$5,000 for the 5th unit, increasing revenues by \$250,000 in the Permitting and Inspections Department account 100-25-03, and allocating those revenues to the Housing Trust Fund.

At its October 24, 2018 meeting, the Housing Committee voted unanimously (3-0) to not recommend approval by the City Council of the proposed fee increases. By this communication, the Housing Committee has provided its final recommendation to the City Council required by the referral order.

As a communication, this item requires no public comment or formal Council action.

RESOLUTIONS:

Resolve 3-18/19 Resolution Condemning Hate Crimes and Discrimination - Sponsored by Councilor Belinda Ray, Councilor Spencer Thibodeau, Councilor Justin Costa, Councilor Kimberly Cook, Councilor Jill C. Duson, Councilor Pious Ali, Councilor Nicholas M. Mavodones, Jr., Councilor Brian Batson, and Mayor Ethan K. Strimling.

With this Resolution, the Portland City Council condemns all hate crimes and discrimination against immigrants, Jews, Muslims, African-Americans, and other groups and recommits to protecting all of its citizens and families no matter their ethnicity, race, faith, sexual orientation or gender. The Portland City Council and Mayor are proud to stand with all Americans, regardless of their ethnicity or religion, and to stand against those who preach hate and incite violence.

Five affirmative votes are required for passage after public comment.

UNFINISHED BUSINESS:

Order 67-18/19 Amendment to Portland City Code Chapter 6 Re: Short Term Rentals – Sponsored by the Housing Committee, Councilor Jill C. Duson, Chair.

On July 31, 2018 the Housing Committee voted unanimously (2-0, Cook absent) to forward this item to the City Council with a recommendation for passage. On September 17, 2018, the Council voted to postpone this item until November 5, 2018 to allow the Housing Committee to complete additional work on the short term rental ordinance.

If passed, this item would make changes to an individual's right to renew short term rental registrations and how registrations subject to the 300 cap on certain types of registrations are allocated off the wait list.

The Housing Committee has completed its work with regard to additional changes to the short term rental ordinance and has submitted an additional item for the Council's consideration, which will receive a first read at this meeting. Both the Housing Committee and staff recommend that this item be postponed until November 19, 2018 when it can be taken up at the same time as the additional Housing Committee amendment to short term rental ordinance.

ORDERS:

Order 96-18/19 Approving Purchase and Sale Agreement with Waterstone Properties Group, Inc. - Sponsored by the Economic Development Committee, Councilor Justin Costa, Chair.

The Economic Development met on October 16, 2018, and voted unanimously (3-0) to forward this item to the City Council with a recommendation for passage.

The City has determined that the 4.82 acre vacant parcel, located in Portland between the Maine Turnpike and the proposed large scale mixed use project in Westbrook, is not needed for municipal use and should be sold. The interested buyer for this property is the Westbrook mixed-use project developer Waterstone Properties Group, Inc.

The subject site is not a legal conforming parcel to develop because it lacks street frontage, and there is no access to public utilities. Additionally, the site is encumbered by 1.81 acres of wetlands and two CMP easements (including 1.48 acres), which prohibit erecting or maintaining structures of any kind.

The upland areas, estimated to be 1.53 acres (excluding the no-build CMP easements), are not contiguous, and access to these areas would require crossing wetlands on-site and wetlands located on the adjacent privately owned Westbrook mixed-use project property.

The proposed purchase price is \$11,220, as determined by the City Assessor. It is noted that the property appraisal determined the value of this property to be \$0.

The Buyer agrees to indemnify the City regarding any environmental issues, and the property is sold in an "AS IS WHERE IS" condition.

Five affirmative votes are required for passage after public comment.

Order 97-18/19 Authorizing Lease-Purchase Agreement for Conversion to LED Street Lights- Sponsored by Jon P. Jennings, City Manager.

This item is being submitted on behalf of the Finance Committee.

In October 2017 the City Council unanimously approved an \$8M contract with TEN Connected Solutions in support of the City's goal to convert streetlights to LED. In advance of that approval a two-phase financing proposal for the project was presented to the City Finance Committee. The financing proposal included two \$4M municipal leases, paid entirely from savings generated by the LED conversion. The total cost of the first \$4M lease (approved unanimously by City Council in October 2017) was approximately \$446k annually, significantly less than the overall \$1.065M project savings projections from TEN. As noted in the original financing proposal, a second \$4M municipal lease would be required in FY19 and authorization for this lease must be approved by City Council. The second lease would add an additional \$475-\$525k in annual debt service costs to future City budgets (depending final interest rate) and the combined cost of both municipal leases will be lower than the savings generated by the LED conversion. It is worth noting that the debt service on each municipal lease will end in 2028-2029 but the savings generated from the LED conversion project, approximately \$900-950k in reduced streetlight maintenance annually plus \$100-150k in electricity savings from reduced energy consumption, will continue for decades.

This item must be read on two separate days. This is its first reading.

AMENDMENTS:

Order 98-18/19 Amendment to Portland City Code Chapter 14 Re: Impact Fees - Sponsored by the Planning Board, Sean Dundon, Chair and the Economic Development Committee, Council Justin Costa, Chair.

The Planning Board met on October 9, 2018 and voted unanimously (7-0) to forward this item to the City Council with a recommendation for passage. The Economic Development Committee met on October 16, 2018 and voted unanimously (3-0) to forward this item to the City Council with a recommendation for passage.

In response to a recommendation in the City's recently adopted comprehensive plan, *Portland's Plan*, the Department of Planning & Urban Development, in collaboration with the Department of Public Works and the Department of Parks, Recreation, and Facilities, has developed a draft impact fee ordinance for consideration by the Council. The ordinance was drafted based on the Maine state impact fee statute; guidance from the former Maine State Planning Office; review with Corporation Counsel, the Department of Permitting and Inspections, and Finance; as well as examples from comparable communities both in Maine and nationwide. The ordinance not only establishes a schedule for parks and recreation, transportation, and wastewater impact fees, under which development would pay the cost of infrastructure improvements necessary to accommodate that development, but also addresses issues critical to the administration of impact fees.

A minor edit to Division 30 (Affordable Housing) of the City's land use code to provide a fee reduction for affordable housing is also proposed. The ordinance was unanimously recommended by both the Planning Board and the Economic Development Committee at hearings in mid-October.

This item must be read on two separate days. This is its first reading.

Order 99-18/19 Amendment to Portland City Code Chapter 6 Re: Short Term Rental Registration and Regulation - Sponsored by the Housing Committee, Councilor Jill D. Duson, Chair.

On October 24, 2018, the Housing Committee voted unanimously (3-0) to forward this item to the City Council with a recommendation for passage. This item is the result of several meetings of the Housing Committee, extensive public comment, and substantial deliberation.

The proposed amendment would make significant changes to the short term rental ordinance, including limiting the number of short term rental units that a property manager can manage; requiring additional documentation from owners and tenants who are registering their primary residence; requiring certification that renting a unit as a short term rental is not prohibited by any condo or homeowners' association; requiring that owners disclose the number of nights rented on a short-term basis in the previous year; changing the fee structure for short term rental registrations; specifying certain violations; and providing that violations are grounds for denial of a new or renewal application.

Similar to the order already pending before the Council, this amendment would also include in the 300-unit cap found in Sec. 6-153(b) all units that are not the owner's primary residence, even if the owner lives in the building. However, the amendment would not be passed as an emergency and would not be retroactive, unlike the currently pending proposal.

Finally, the proposed amendment would limit individuals to registering only one short term rental unit in the future. All currently registered units would be allowed to renew, regardless of the changes (grandfathered).

This item must be read on two separate days. This is its first reading.

EXECUTIVE SESSION:

Bargaining Guidance for Communications Pursuant to 1 M.R.S. §405(6)(D) - Sponsored by Jon P. Jennings, City Manager.

6:00 P.M. PUBLIC COMMENT PERIOD ON NON-AGENDA ITEMS: