

**Housing & Economic
Development Committee Meeting**
Tuesday, January 23, 2024 at 5:30 PM



MEMBERS

Councilor Pious Ali, Chair
Councilor Roberto Rodríguez
Councilor Regina Phillips
Councilor Kate Sykes

To submit written public comment on an agenda item, email edd@portlandmaine.gov. Submissions must be received by 12:00 pm the day before the Housing & Economic Development meeting to guarantee their inclusion in the agenda packet. All submissions must include the commenter's name and legal address. To help ensure your comment is submitted for the correct item, please include the name of the agenda item (see below).

REMOTE ACCESS INFORMATION

The Housing & Economic Development Committee will conduct this meeting remotely via Zoom pursuant to the Remote Meeting Policy adopted by the Portland City Council. Allow your computer to install the free Zoom app to get the best meeting experience. If you are not able to attend live either in person or via Zoom, a recording will be available in the [Agenda Center](#) following the meeting.

For public comment via Zoom, you will need to use the "raise your hand" feature. To raise your hand via the telephone, please hit *9. You will be unmuted by the host when it is time for public comment.

Please click the link below to join the webinar:

<https://portlandmaine-gov.zoom.us/j/81287382094?pwd=TUtFQUUp4bkclMGZlYUplckhHMlJIUT09>

Passcode: 129504

Or One tap mobile :

+13092053325,,81287382094# US

+13126266799,,81287382094# US (Chicago)

Or Telephone:

Dial(for higher quality, dial a number based on your current location):

+1 309 205 3325 US

+1 312 626 6799 US (Chicago)

+1 646 931 3860 US

+1 929 205 6099 US (New York)

+1 301 715 8592 US (Washington DC)

+1 305 224 1968 US

+1 507 473 4847 US

+1 564 217 2000 US

+1 669 444 9171 US

+1 669 900 6833 US (San Jose)

+1 689 278 1000 US

+1 719 359 4580 US

+1 253 205 0468 US

+1 253 215 8782 US (Tacoma)

+1 346 248 7799 US (Houston)

+1 360 209 5623 US

+1 386 347 5053 US

Webinar ID: 812 8738 2094

International numbers available: <https://portlandmaine-gov.zoom.us/j/81287382094>

1. **Review and approve Minutes of previous meeting held on November 14, 2023.**
 - a. See attached draft Minutes for review/approval.
2. **Public Comment - City Council meeting held on January 3, 2024, and referral to the Committee for review and vote on a recommendation back to the City Council regarding:**
 - a. Order #92-23/24 - Waiving the Beano/Bingo License Fee for the Veterans of Foreign Wars Post 6859; and,
 - b. Order #92-23/24 - Waiving the Class III and IV with Indoor Entertainment Application fees for the Maine Irish Heritage Center.

See attached Memorandum and Orders from January 3, 2024, City Council packet.
3. **Public Comment - Review and recommendation to the City Council on proposed merger of the Portland Fish Pier Authority and Portland Fish Exchange.**
 - a. See attached Memorandum with plan of merger and proposed Bylaws.
4. **Public Comment - Review and recommendation to the City Council on additional funding for 45 Dougherty Project. NOTE: Pursuant to 1 M.R.S.A. 405(6)(F) and 5 M.R.S.A. 13119—A, the Committee may go into executive session to review proprietary confidential information associated with this item.**
 - a. See attached Memorandum and backup.
5. **Review of 2024 Housing Policies and Goals for the Jill C. Duson Housing Trust Fund Annual Plan and the Affordable Housing Tax Increment Financing Application.**
 - a. See attached Memorandum and backup.
6. **2024 Draft Calendar Year Work Plan for review and discussion.**
 - a. See attached Draft Work Plan.

Next Meeting Date: February 20, 2024

Minutes

Remote Housing and Economic Development Committee

November 14, 2023

NOTE: This meeting was held via Zoom and can be viewed at this link:

<https://www.portlandmaine.gov/602/Agendas-Minutes>

These Minutes provide a record of those in attendance, general discussion taking place, and motions made.

A remote meeting of the Housing and Economic Development Committee (HEDC) of the Portland City Council was held on Tuesday, November 14, 2023, at 5:30 p.m. via Zoom. Present from the Committee were Chair Councilor Pious Ali, and members Councilors Mark Dion and Roberto Rodriguez. Committee member Councilor Regina Phillips joined the meeting as noted herein. Present from the City staff were Housing and Community Development Division Director Mary Davis, Corporation Counsel Michael Goldman, Principal Adm. Officer Lori Paulette, Housing Program Manager Victoria Volent, and Housing and Economic Development Department Director Greg Watson.

Item #1: Review and vote on October 24, 2023 draft meeting Minutes

On motion made by Councilor Rodriguez, seconded by Councilor Dion, the Committee voted 4-0 to accept the Minutes.

Item #2: (Public Comment) Review and recommendation to the City Council of an Affordable Housing Development Subsidy (57 Douglass Street – Dougherty Commons Condo). Note: Pursuant to 1 M.R.S.A. 405(6)(F) and 5 M.R.S.A. 13119—A, the Committee may go into executive session to review proprietary confidential information associated with this subsidy request.

Ms. Volent summarized the project for the Committee noting construction of a two-story, four-unit condominium town house building, and a three-story, 16-unit condominium rowhouse building on City-owned land at 43 and 91 Douglass Street. Maine Cooperative Development Partners (MCDP) submitted a request for \$1.5 Million in subsidy in the form of a loan, with staff recommending this from the Housing Trust Fund, conditioned upon satisfactory review of the items in the funding request memorandum, at 0% interest, and no payment. Upon sale or resale, this investment would be rolled over to the unit purchaser.

Liz Trice with MCDP thanked the Committee for their time and noted that the units would be occupied by households that most need them and are struggling with obtaining home ownership and the process involved. This will be an inclusive process with translating as needed, estimating this will take a year and a half to get to diverse audiences during pre-sale. She also noted that for this inclusiveness, a \$500 deposit level is being recommended versus \$3,000 during the pre-sale.

Councilor Dion questioned City staff if there was flexibility on this pre-sale as Ms. Trice is referring to, and Councilor Chair Ali shared that question.

Councilor Rodriquez questioned the audit requirements as well, that being an audit for 2023 and prior year financial activity.

Ms. Davis noted that the reason for the pre-sale process is that there is currently no financial commitments from other lenders. This type of housing, workforce homeownership versus affordable rental housing, requires a higher level of investment as there are limited financial incentives for workforce homeownership housing. Without financial commitments from other lenders, the City wanted to mitigate the concern of finding buyers for the units who can afford the down payment and monthly costs.

Regarding the audit, Ms. Davis noted that MCDP is a relatively new entity. Normally, the City looks at audited financial statements of other developers to be sure the developer has the means to complete the project. As an alternative, the City could request updated financial documents prior to construction loan closing to re-evaluate.

After discussion, the consensus of the Committee was agreement on amendments for pre-sale and audit.

A motion was then made by Councilor Rodriguez, seconded by Councilor Phillips to amend the conditions for pre-sale and audit and forward this to the City Council for approval.

Chair Councilor Ali opened the meeting for public comment.

Jay Waterman, Director of Real Estate at Portland Housing Authority, appreciated MCDP and working to develop home ownership opportunities, but the subsidy at \$75,000 per unit would set a precedent. The current City investment limit per unit is at \$18,000. This heightened subsidy would run the well dry and he expressed caution to move ahead, noting that PHA is working on applications as well to the City for other projects.

Christian Milneil, on the PHA Board, but speaking on his own behalf agreed with Mr. Waterman and the limited resources the City has, and this is for only a 20-unit project. The subsidy requested would exhaust the Housing Trust Fund for other projects that will come up.

There being no further public comment, Chair Councilor Ali closed the public comment session.

Ms. Davis shared the concerns about the costs per unit subsidy, and she then described her database and process to get to the \$18,000 per unit subsidy that Mr. Waterman had noted previously, and that affordable housing projects have more funding sources than home-

ownership. The City was looking for homeownership at the time of the original RFP in this case.

Mr. Watson noted that this is similar at the state level where there are more sources of funding available for rental projects versus homeownership.

Councilor Phillips questioned if there was a way for the per unit subsidy to go down, and Ms. Davis said that it is possible because not all the financial commitments have been made to date.

The Chair, noting no further questions/discussion asked for a vote on the motion and it passed 4-0.

Item #3: Review of the 2023 Annual Accomplishment Report for the Housing and Economic Development

Mary Davis introduced this communication item to highlight this Committee's accomplishments in the area of real estate, development districts and affordable housing TIF districts, housing, and economic development accomplishments during 2023, with the recommendation to forward the report to the City Council as a communication item.

On motion made by Councilor Rodriguez, seconded by Councilor Phillips, the Committee voted 4-0 to recommend forwarding the *2023 Annual Accomplishments Report of the Housing and Economic Development Committee* to the City Council as a communication.

On a motion made by Councilor Phillips, seconded by Councilor Rodriguez, the Committee voted 4-0 to adjourn the meeting at approximately 6:34 p.m.

Respectively submitted, Lori Paulette and Victoria Volent



MEMORANDUM

TO: Chair and Members of the Housing and Economic Development Committee

FROM: Gregory P. Watson, Director/Housing and Econ. Dev. Department

DATE: January 18, 2024

CC: Jessica Hanscombe, Director/Permitting and Inspections

SUBJECT: **City Council Referral of License Fee Waiver Requests**

I. SUMMARY

At the January 3, 2024, City Council meeting, the City Council voted 9-0 to refer the following Orders to this Committee for review and recommendation back to the City Council:

- Order 92-23/24 Waiving the Beano/Bingo License Fee for the Veterans of Foreign Wars Post 6859, Sponsored by Mark Dion, Mayor; and,
- Order 93-23/24 Waiving the Class III & IV with Indoor Entertainment Application Fees for the Maine Irish Heritage Center – Sponsored by Mark Dion, Mayor.

II. INTENDED RESULT

The intended result is for the Committee to form a recommendation for these two items back to the City Council.

III. FINANCIAL IMPACT

Order 92 -23/24 requests waiving the bean/bingo license fee for the Veterans of Foreign Wars (VFW) Post 6859 – currently totaling \$104.00, collected annually.

Order 93 – 23/24 requests waiving the Class III and IV (\$906.00) with Indoor Entertainment License (\$500) for the Maine Irish Heritage Center – currently totaling \$1,406, collected annually.

The financial impact with waiving these fees would total \$1,510 for calendar 2024.

IV. STAFF ANALYSIS AND BACKGROUND/RECOMMENDATION

The backup in the City Council packet for these two items was silent for staff analysis and background/recommendation.

V. LIST ATTACHMENTS

- a. Order 92 – 23/24 City Council Backup
- b. Order 93 – 23/24 City Council Backup

MEMORANDUM
City Council Agenda Item

FROM:

DATE: December 15, 2023

SUBJECT: Order 92-23/24 Waiving the Beano/Bingo Licence Fee for the Veterans of Foreign Wars Post 6859 - Sponsored by Mark Dion, Mayor

SPONSOR: The Mayor, City Manager, City Clerk, Corporation Counsel, the Planning Board, or up to three (3) members of the Council shall sponsor any orders or other items. If sponsored by a Council Committee, please include the date the committee met and the results of the vote.

(If sponsored by a Council committee, include the date the committee met and the results of the vote.)

COUNCIL MEETING DATE ACTION IS REQUESTED:

1st Reading

**Final
Action**

Can action be taken at a later date: No If action cannot be taken at a later date, please explain why. Do NOT write yes or no; that will be automatically generated by the checkbox.

Does this item involve a new contract with the City: n/a

PRESENTATION: Please list the presenter(s), type, and length of presentation

I. SUMMARY

II. AGENDA DESCRIPTION

If passed, this order would waive the fee associated with this annual Beano/Bingo license renewal (currently totaling \$104.00, collected annually) for the Veterans of Foreign Wars (VFW) Post 6859, a nonprofit corporation, at 687 Forest Avenue. According to Sec. 15-12.1 of City Code, "The city council may, in its discretion, waive or reduce any fee required of any nonprofit organization where the council determines the purpose of the licensed activity or the funds to be raised by the activity are of direct benefit to the citizens of the city." At the request of the applicant, staff have included a fee waiver for the Council's consideration.

Five affirmative votes are required for passage after public comment.

III. BACKGROUND

Background information that will not appear in the Agenda Description

IV. INTENDED RESULT AND/OR COUNCIL GOAL ADDRESSED

V. FINANCIAL IMPACT

Please indicate whether or not there is a financial impact. Please note that per Council Rule 12, this form must have "a separate fiscal impact statement memo attached if the impact of the item is \$50,000 or more in a given fiscal year. This memo shall include details and information describing the fiscal impact including, but not limited to, projected costs, revenues or savings over a three (3) year period and/or any potential impacts on the City tax levy."

VI. STAFF ANALYSIS AND BACKGROUND

Staff Analysis that will not appear in the Agenda Description.

VII. RECOMMENDATION

VIII. LIST ATTACHMENTS

1. Order Waiving the Fee for the Bingo License for the Veterans of Foreign Wars 1.3.2024
2. VFW Post 6859 Letter requesting waiver of fees 2023

Prepared by:

Date: 12/15/2023

MARK DION (MAYOR)
PIOUS ALI (A/L)
APRIL D. FOURNIER(A/L)
ROBERTO RODRÍGUEZ (A/L)

**CITY OF PORTLAND
IN THE CITY COUNCIL**

ANNA TREVORROW (1)
VICTORIA L. PELLETIER (2)
REGINA L. PHILLIPS (3)
ANNA BULLETT (4)
KATE SYKES (5)

**ORDER WAIVING THE BEANO/BINGO LINCENSE FEE FOR THE
VETERANS OF FOREIGN WARS POST 6859**

WHEREAS, the Veterans of Foreign Wars Post 6859 (“VFW”), a nonprofit corporation located at 687 Forest Avenue, supports veterans who have served in the Armed Services of the United States with advocacy and assistance with benefits claims, community outreach programs, and social events, as well as flag retirement and disposal, honor guard, and veteran's ceremony participation; and

WHEREAS, the VFW supports students with scholarships awarded every year at many public high schools; and

WHEREAS, the VFW holds weekly Bingo games beloved by many Maine residents, raising money to support its mission; and

WHEREAS, the City Council finds that the purpose of the VFW’s Bingo games and the funds to be raised by that licensed activity are of direct benefit to the citizens of the city.

NOW, THEREFORE, BE IT ORDERED, that the VFW’s Beano/Bingo license fee totaling \$104 is hereby waived for the 2024 calendar year.



PORTLAND MAINE VETERANS OF FOREIGN WARS 6859

**687 Forest Ave
Portland, ME 04103**

City of Portland
Licensing Department
389 Congress St #307
Portland, ME 04101

ATTN: Licensing Department

This letter is being sent to 1). Request a bingo/beano city approval letter for the period of FY 2024, specifically on each Monday and 2) Request that the annual fee of \$104.00 be waived pursuant to "City of Portland Licenses and Permits Code of Ordinances Chapter **Sec. 15-12.1. Waiver of fees.** The city council may, in its discretion, waive or reduce any fee required of any nonprofit organization where the council determines that the purpose of the licensed activity or the funds to be raised by the activity are of direct benefit to the citizens of the city."

This is the second year VFW 6859 has offered Bingo to the citizens of Portland. VFW 6859 is a nonprofit charitable organization 501(c)(19) War Veterans Organization. We have an extensive history of supporting charitable organizations (see VFWPortland.org for some of those organizations). Bingo revenue is highly regulated by the State of Maine and all proceeds must support charitable endeavors. VFW members fully staff, coordinate, and manage the weekly bingo events and all individuals that work bingo events at the post are uncompensated volunteers. Further, bingo activities allow citizens of Portland a social setting to spend an evening supporting a charitable organization. Therefore, because the licensed activity has a direct benefit to the citizens of the city it is requested the license fee be waived.

It is requested the city provide a response no later than 15 December 2023 regarding the waiver of fees as the VFW must provide a completed application to the Maine Gambling Commission at least 10 days prior to the Bingo start date. If you require any further information, please contact VFW at the below number.

Thank you,

David A. Bianculli, Post Commander
Deering Memorial Post 6879
687 Forest Ave., Portland, ME
508-799-5297

City of Portland
Permitting & Inspections
389 Congress St
Portland, ME 04101
207 874-8490
Welcome

020202-0003 Lindsay L 11/28/2023 12:44PM

INVOICE

DEERING MEMORIAL POST VFW, INC
2023 Item: INV-00090963

BL Cashier Beano New 104.00

104.00

Subtotal 104.00
Total 104.00

CHECK 104.00
Check Number 859

Change due 0.00

Paid by: DEERING MEMORIAL POST VFW, INC

Thank you for your payment

CUSTOMER COPY
DUPLICATE RECEIPT

FOR OFFICE USE ONLY

Check # _____

Amount \$ _____



Application to Register Beano/Bingo

MGCU - 5000

****The application (to include the house rules) and registration fee must be received by the Gambling Control Unit at least ten business days prior to the Bingo Occasion****

Beano/Bingo: \$5.00 Special Per Game Registration; \$12 Calendar Week (Monday through Sunday); \$36 Calendar Month; \$400 Calendar Year

Make check payable to Treasurer, State of Maine

Return the completed and signed application to:

**Department of Public Safety
Gambling Control Unit
Central Maine Commerce Center
87 State House Station
45 Commerce Drive, Suite 3
Augusta, Maine 04333-0087
(207) 626-3900 – Office
(207) 287-4356 – Fax**

1. Organization Name: Veterans of Foreign Wars Post 6859

Organization Number (NPO or NCO): 2260 Federal Tax ID # (EIN): 01-0309364

Business Address: 687 Forest Ave

City: Portland State: ME Zip Code 04103

Mailing Address: 687 Forest Ave Phone: 2077738745

City: Portland State: ME Zip Code: 04103

2. Current Officers:

David Bianculli, Commander	2 Fernwood Ln	Cape Elizabeth, 04107	5087995297	6/15/2025
NAME & TITLE	ADDRESS	CITY/ZIP	PHONE	DATE TERM EXPIRES

Tim Halpin, Senior Vice Commander	30 Irving Street	Portland, 04103	2076329355	06/15/2025
NAME & TITLE	ADDRESS	CITY/ZIP	PHONE	DATE TERM EXPIRES

Mike Birmingham, Junior Vice Commander	28 Lawn Ave	Portland, 04103	5712497303	6/15/2025
NAME & TITLE	ADDRESS	CITY/ZIP	PHONE	DATE TERM EXPIRES

Joel Demers, Adjutant	47 Brentland Road	Windham, 04062	2076501411	6/15/2025
NAME & TITLE	ADDRESS	CITY/ZIP	PHONE	DATE TERM EXPIRES

3. Location where Beano/Bingo is to be conducted:

Hall and Storage Room	687 Forest Ave	Portland 04103
BUILDING	ADDRESS	CITY/ZIP

4. Person responsible for conduct of Beano/Bingo:

David Bianculli	5087995297
NAME	DAYTIME PHONE & EVENING PHONE

E-Mail Address: dbianculli01@gmail.com

5. Check the day(s) of the week you will be conducting Beano/Bingo:

Mon ☒

Tue ☐

Wed ☐

Thu ☐

Fri ☐

Sat ☐

Sun ☐

6. What time do the doors open? 4pm What time does the game start? 6pm

7. Dates – Please specify the dates of the Bingo Occasion(s). If more space is needed, please attach a separate sheet of paper with this information on it.

<u>"EVERY Monday</u>	<u>IN 2024"</u>	<u> </u>	<u> </u>	<u> </u>
<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>
<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>
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<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>

8. Does the organization own all the equipment used in operating Beano/Bingo? Yes ☒ No ☐

If "NO", Attach a sheet of paper to this application explaining the circumstances under which the equipment was acquired. Please write your organization name and number on the sheet.

9. Has any current officer of the organization or association ever been convicted of or have any charges currently pending for violating the gambling or lottery laws of the United States or the State of Maine?

Yes ☐ No ☒

If "YES" attach a sheet of paper to this application providing the person's name, address, and date and place of conviction or date and location of pending charge. Please write your organization name and number on the sheet.

10. Does the organization have any delinquent / outstanding Disposition of Funds Reports? Yes ☐ No ☒

If "YES" include all reports with this application. If the reports are not included, this application is considered incomplete.

11. **Fair Association Only:** Attach a list of the names and home addresses of the persons operating or assisting in the registered activity. Please write your organization name and number on the list.

12. The following consent must be completed by the municipal officers of the city or town where the Beano/Bingo will take place unless a separate "Letter of Approval" is attached to this application.

☐ Check here if you have attached a "Letter of Approval." Letters that have an expiration date of greater than five years from the issue date will not be accepted by this office.

Municipal Consent to Register

The undersigned municipal officers of the City/Town of Portland, Maine hereby certify that we consent to the registration by VFW 6859 to operate Beano/Bingo in accordance with the provisions of 17 M.R.S.A. Chapter 13-A and in accordance with the Rules promulgated by the State of Maine, Department of Public Safety, Gambling Control Unit governing the operation of Beano/Bingo.

Name: Zachary Lechev

Date: 11/28/23 Title: Lic & Housing Safety Mgr

Name: _____

Date: _____ Title: _____

Name: _____

Date: _____ Title: _____

Name: _____

Date: _____ Title: _____

13. The applicant agrees to obey Federal, State of Maine laws, and rules governing Beano/Bingo promulgated by the Department of Public Safety, Gambling Control Unit. The applicant warrants the truth of the foregoing statements on penalty of perjury.

Signed: David A. Bianculli

Print Name: David A. Bianculli Title: Commander

Date: 11/22/2023 Age 18 or older: Yes ☒ No ☐

NOTE: Ensure a Copy of the House Rules for Bingo are attached to the application.



PORTLAND MAINE VETERANS OF FOREIGN WARS 6859
687 Forest Ave
ATTN: Bingo Committee
Portland, ME 04103

BINGO HOUSE RULES

- THERE IS NO CHARGE FOR ADMISSIONS
- NO PRIZES FOR ATTENDANCE
- NO ONE UNDER THE AGE OF 16 WILL BE ALLOWED TO PLAY BINGO
- NO NEW ADMISSION TICKETS WILL BE ISSUED AFTER GAME 6
- ADMISSION TICKETS MUST INDICATE NUMBER OF CARDS PURCHASED, COMPLETE NAME AND ADDRESS
- YOU MAY PLAY ONLY THE CARDS YOU PURCHASED
- BINGO NUMBERS DISPLAYED ARE NOT VALID UNTIL CALLED
- THE HOUSE RESERVES THE RIGHT TO LOWER PAYOUTS BASED ON ATTENDANCE
- GAME MUST BE IN PROGRESS TO CALL BINGO

50/50 DRAW

- 50/50 SALES TO BEGIN 1 HOUR PRIOR TO FIRST BINGO GAME AND WILL BE DRAWN PRIOR TO THE FIRST GAME
- MUST BE 18 TO PLAY

PULL TABS

- MUST BE 18 TO PLAY

This division shall not apply to events held: (a) in a class in which instruction in music is given for hire; (b) school-sponsored events under supervision of school authorities; (c) City-sponsored events under the supervision of City authorities.

(Ord. No. 34-95, 7-5-95; Ord. No. 285-19/20, 7-15-2019)

Sec. 4-60. Severability.

The provisions of section 1-14 of this Code shall apply to this division.

(Ord. No. 34-95, 7-5-95)

***Editor's Note**-Pursuant to Council Order No. 63, 06/07 passed 10-16-06, the moratorium issued for late-night entertainment expired on November 20, 2006.

Sec. 4-61. Reserved.
Sec. 4-62. Reserved.
Sec. 4-63. Reserved.
Sec. 4-64. Reserved.
Sec. 4-65. Reserved.
Sec. 4-66. Reserved.
Sec. 4-67. Reserved.
Sec. 4-68. Reserved.
Sec. 4-69. Reserved.
Sec. 4-70. Reserved.

ARTICLE IV. GAMING*

***State law reference(s)**--Beano or Bingo, 17 M.R.S.A. § 301 et seq.

DIVISION 1. GENERALLY

Sec. 4-71. Legislative findings and purpose.

It is the sense of the city council, having the power to consent to the operation or conduct of any beano or game of chance within the city, that such consent should be conditioned and exercised in accordance with the standards set forth in chapter 15, as modified by this article.

(Code 1968, § 909.1; Ord. No. 231-80, 12-22-80)

Sec. 4-72. Definitions.

Terms used in this article shall have their common meaning, except that definitions set forth in chapter 15 or in this section shall apply unless the context clearly indicates that a different meaning is intended.

Beano shall mean and include bingo, any other form of lotto, or any other activity defined as being bingo or beano by the applicable licensing provision of the state for which the consent of the city council is required.

Game of chance shall mean and include any game, contest, scheme, or device other than beano where a person stakes or risks something of value and in which the outcome depends in a material degree upon an element of chance, notwithstanding that skill of the contestant or participant may be a factor therein, or any game of chance, machine, raffle, or otherwise, defined and licensed as such by the applicable licensing provision of the state for which the consent of the city council is required.
(Code 1968, § 909.2; Ord. No. 231.80, 12-22-80)

Cross reference(s)--Definitions and rules of construction generally, § 1-2.

Sec. 4-73. Reserved.
Sec. 4-74. Reserved.
Sec. 4-75. Reserved.
Sec. 4-76. Reserved.
Sec. 4-77. Reserved.
Sec. 4-78. Reserved.
Sec. 4-79. Reserved.
Sec. 4-80. Reserved.

DIVISION 2. LICENSE*

***Cross reference(s)**--Licenses and permits generally, Ch. 15.

Sec. 4-81. Applications and fees.

Applications for a state license to conduct beano or a game of chance shall be deemed sufficient applications for the purpose of chapter 15 if accompanied by the fees prescribed therein. Upon compliance with this article and chapter 15, the Permitting and Inspections Department shall signify the consent of the city council to such application.

(Code 1968, § 909.3; Ord. No. 231-80, 12-22-80; Ord. No. 165-15/16, 3-7-2016; Ord. No. 18-17/18, 8-21-2017)

Sec. 4-82. General provisions to apply.

Except to the extent that this division contains a contrary provision, all provisions of chapter 15 shall be additional to the provisions of this division.

(Code 1968, § 909.4; Ord. No. 231-80, 12-22-80)

ARTICLE V. NUDITY IN LICENSED BUSINESSES

DIVISION 1. GENERALLY

Sec. 4-83. Purpose.

The purpose of this article is to regulate nudity as a form of commercial activity. It has been enacted for purposes of promoting and protecting the general welfare, public safety and public order of the city and its citizens. It is not intended to suppress or inhibit free exchange of ideas or artistic expression.

(Ord. No. 176-92, 3-16-92; Ord. No. 217-95, 4-3-95)

Sec. 4-84. Definitions.

Terms used in this article shall have their common meanings except that the definitions set forth in chapter 15 and/or in this section shall apply unless the context clearly indicates that a different meaning is intended.

Dancer shall mean a person under a licensee's control and dancing on the licensee's premises to entertain patrons, including patrons performing in a licensee-sponsored event.

Nude shall mean:

MARK DION (MAYOR)
PIOUS ALI (A/L)
APRIL D. FOURNIER(A/L)
ROBERTO RODRÍGUEZ (A/L)

**CITY OF PORTLAND
IN THE CITY COUNCIL**

ANNA TREVORROW (1)
VICTORIA L. PELLETIER (2)
REGINA L. PHILLIPS (3)
ANNA BULLETT (4)
KATE SYKES (5)

**ORDER WAIVING THE CLASS III & IV WITH INDOOR ENTERTAINMENT
APPLICATION FEES FOR THE MAINE IRISH HERITAGE CENTER**

WHEREAS, the Maine Irish Heritage Center, a nonprofit corporation located at the corner of Gray and State Streets, promotes and supports Irish culture, presents Irish writers, poets, musicians, offers in-person classes in Irish, and hosts a genealogy DNA research project with archives from the former St. Dominic's Church in which it is located as well as archives of local Irish names, St. Dominic's School records, and city directories for people interested in their Irish and Portland ancestors; and

WHEREAS, the Maine Irish Heritage Center provides a beautiful venue for marriages, other celebrations, meetings, workshops and more; and

WHEREAS, the City Council finds that the purpose of the Maine Irish Heritage and the funds to be raised under activities permitted by the entertainment license are of direct benefit to the citizens of the city;

NOW, THEREFORE, BE IT ORDERED, that the Maine Irish Heritage Center's application fees for the Class III & IV entertainment license totaling \$1,406 is hereby waived for the 2024 calendar year.

MAINE IRISH

HERITAGE CENTER

July 28, 2023

Mayor Kate Snyder
City Manager Danielle West
Councilor Anna Trevorow, District 1
Councilor Victoria Pelletier, District 2
Councilor Regina Phillips, District 3

Councilor Andrew Zarro, District 4
Councilor Mark Dion, District 5
Councilor Pious Ali, At-Large
Councilor April Fournier, At-Large
Councilor Roberto Rodriguez, At-Large

City of Portland, Maine
389 Congress Street
Portland, Maine 04101

Subject: *Request to Waive Liquor and Entertainment Permit Fees for the Maine Irish Heritage Center*

To the Honorable Mayor, Members of the Portland City Council, and City Manager,

I hope this letter finds you all well. **I am respectfully requesting the waiver of liquor and entertainment permit fees for the Maine Irish Heritage Center** under the provisions outlined in Sec. 15-12.1 of the city code. Our application is on the docket for the August 14th City Council Meeting.

As a valued nonprofit organization, the Maine Irish Heritage Center plays a pivotal role in preserving and promoting Irish heritage and culture in our community, enriching the lives of countless citizens, and providing a community center supporting other greater-Portland area nonprofits and civic organizations.

The Maine Irish Heritage Center has been a beacon of Irish culture and tradition in Portland for over 20 years. Before that, our iconic home was the Irish American heart of Portland, where St. Dominic's parish flourished for almost 200 years. Today, it stands tall as the westernmost landmark in Portland's skyline. It is a cherished space for events, activities, and educational programs that celebrate the history and contributions of the Irish community to our great city and a welcoming space for all immigrant communities. Throughout its existence, our dedicated volunteers have worked tirelessly to enhance our city's cultural diversity and foster a sense of unity among its residents.

The Center's commitment to the citizens of Portland is undeniable. Our events and activities are open to all, transcending age, ethnicity, and socioeconomic status, providing an inclusive space for all community members to come together and participate. By doing this, we strengthen the social fabric of our city and promote understanding and mutual respect among our diverse population.

Corner of Gray & State Street • PO Box 7588 • Portland, ME 04112-7588
207-780-0118 • maineirish@maineirish.com • www.maineirish.com

MAINE IRISH

HERITAGE CENTER

I want to bring attention to the charitable efforts of the Maine Irish Heritage Center. This organization has tirelessly organized numerous fundraisers, community projects, and charity events to assist those in need, support local causes, and positively impact the lives of our fellow citizens.

By way of an example, right now, we are producing a citywide film festival to honor John and Francis Ford, proud Irish American brothers from Portland who influenced filmmaking on the world stage (attached). We have brought together Portland Downtown, Creative Portland, Portland Media Center, Portland Museum of Art, and the State Theatre to share our John and Francis Ford Collection with as much of the community as possible. To make the festival events more accessible, we are hosting a free outdoor public screening of THE QUIET MAN in Monument Square on Saturday evening, August 20th. We are also soliciting donations of tickets for Opening Night at the State Theatre to share with residents of nonprofit independent and assisted living facilities like our neighbors at 75 State Street so they can enjoy a free nostalgic evening out.

The waived liquor and entertainment permit fees will enable the Center to allocate more resources towards these charitable and meaningful endeavors, magnifying their positive effects on the Portland community and beyond.

The spirit of Sec. 15-12.1 empowers the city council to waive fees for nonprofit organizations benefitting the citizens of Portland. The Maine Irish Heritage Center unquestionably meets the criteria for such consideration. The cultural, social, and philanthropic activities organized by the Center have a direct and profound effect on the well-being and enrichment of our community, aligning perfectly with the intent of the section mentioned above.

Sec. 15-12.1 emphasizes the city's recognition of nonprofit organizations' value to our community and their unique needs when organizing events and fundraisers.

In conclusion, I implore the Portland City Council and City Manager to seriously consider this request to waive the liquor and entertainment permit fees for the Maine Irish Heritage Center. Our receipt for payment made in advance is attached.

Doing so will not only strengthen the Center's ability to continue its invaluable work in preserving Irish heritage and promoting cultural understanding but also signify the city's unwavering commitment to supporting nonprofit organizations that have a direct, positive impact on our citizens' lives.

Thank you for your time, consideration, and commitment to fostering a vibrant and caring community. Please get in touch with me if you require further information or have any questions regarding this request.

Sincerely,



Jean Haney
Board Member
Maine Irish Heritage Center

INVOICE

CITY OF PORTLAND
LICENSING & REGISTRATION
389 Congress Street
Portland, Maine 04101
(207) 756-8131



INVOICE NUMBER	INVOICE DATE	INVOICE DUE DATE	INVOICE STATUS	INVOICE DESCRIPTION
INV-00085968	07/21/2023	08/20/2023	Due	NONE

REFERENCE NUMBER	FEE NAME	TOTAL
LL-005559-2023	Class III & IV	\$906.00
	Health Inspection New	\$150.00
	Indoor Entertainment	\$500.00
	Legal Advertisement Deposit	\$100.00
	New Application Fee	\$45.00
	SBI Background Check New	\$84.00
Maine Irish Heritage Center - 34 Gray St Portland, ME 04102		SUB TOTAL \$1,785.00

TOTAL **\$1,785.00**

BILLING CONTACT

MAINE IRISH HERITAGE CENTER
Po Box 7588
Portland, Me 04112

Make checks payable to the City of Portland, ATTN: Licensing & Registration, 389 Congress Street, Portland, ME 04101

City of Portland
Permitting & Inspections
389 Congress St
Portland, ME 04101
207 874-8490
Welcome

018819-0004 Alyssa W. 07/21/2023 11:41AM

INVOICE

MAINE IRISH HERITAGE CENTER	
LL-005559-2023	
2023	Item: INV-00085968
Class III & IV	906.00
New Application Fee	45.00
SBI Background Check	
New	84.00
Legal Advertisement	
Deposit	100.00
BL Cashier Health	
Inspection New	150.00
Indoor Entertainment	500.00

	1,785.00
Subtotal	1,785.00
Total	1,785.00
CHECK	1,785.00
Check Number 003538	

Change due	0.00

Paid by: MAINE IRISH HERITAGE CENTER

Thank you for your payment

City of Portland COPY
DUPLICATE RECEIPT

TICKETS ON SALE NOW!

JOHN AND FRANCIS FORD

FILM FESTIVAL

AUGUST 18 - 20

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THEATRE



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FRIDAY AUG 18

Opening Night Reception for All Access Pass Holders and Friends of the Ford Festival at 5 PM. Doors open for general admission at 6 PM.

SCREENINGS

WHEN THE TABLES TURNED (1911)
WAGON MASTER (1950)



Winner of Portland Media Center's Silent Film Contest awarded!

SATURDAY AUG 19 / SUNDAY AUG 20

2-DAY Symposium with screenings, panel discussions, and Q&A with Joseph McBride, Kathy Fuller-Seeley, Scout Tafoya, Gerald Peary, Jonathan Cavallero, and Kevin Stoehr.

KEYNOTE ADDRESS: *Joseph McBride - Film historian and John Ford biographer.*

SCREENINGS

SAT: 7 WOMEN (1966) and *THE CRAVING* (1913)
SUN: MY DARLING CLEMENTINE (1946) and *THE TAKING* (2021)



FESTIVAL
TICKETS & INFO

SATURDAY NIGHT
FREE OUTDOOR SCREENING IN MONUMENT SQUARE!

THE Quiet Man

SUNDAY AUG 20

Midcoast Matinee at the historic Lincoln Theater in Damariscotta with experts Joseph McBride and Kathy Fuller-Seeley.

SCREENINGS

THE POST TELEGRAPHER (1912)
THE MAN WHO SHOT LIBERTY VALANCE (1962)

FUNDRAISER TO BENEFIT
MAINE IRISH
HERITAGE CENTER
PO BOX 7588, PORTLAND, ME 04112-7588



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MEMORANDUM

To: Portland City Council

From: Bernstein Shur

Date: 1/3/24

Re: Maine's Legislative Process

Maine's part-time Legislature is composed of a Senate (35 members) and a House of Representatives (151 members); members of both Houses are elected for two-year terms and are limited to four consecutive terms.

The Legislature meets annually in regular session. The first regular session convenes on the first Wednesday in December after the general election and typically adjourns in June. The current legislature, Maine's 131st Legislature, concluded its first regular session this past July. The second regular session is set to convene January 3 and is scheduled to adjourn the third week in April.

During the first regular session of the Legislature, there are no formal limitations on the bills that may be introduced prior to cloture. The Second Regular Session of the Legislature is limited by the Constitution to budgetary matters, the Governor's legislation, legislation of an emergency nature approved by the Legislative Council, legislation submitted pursuant to authorized studies, and legislation submitted by direct initiative petition of the electors.

Virtually all bills that are put forward are reviewed, analyzed and discussed by one or more legislative committees before they are considered on their merits by the full Legislature. Bills are referred to committees by both houses, receive a public hearing, are worked on in committee work sessions, and are given a recommendation, or "report," by the committee to the whole Legislature.

The public hearing, presided over by a committee chair, allows legislative sponsors to explain the purpose of the bill and citizens, state officials and lobbyists to tell committee members their views on a bill. The City of Portland will often submit written testimony or testify in-person at public hearings on legislation pertaining to the City at the request of the City Council's Legislative Committee.

After a public hearing, legislative committees hold work sessions to allow committee members to discuss bills thoroughly and vote on the committee's recommendation, or report, to the Legislature. The

committee works with the legislative analyst to draft amendments or review amendments proposed by others. Some bills require several work sessions.

Work sessions are open to the public and, at the invitation of the committee, department representatives, lobbyists and others may address the committee about bills being considered, suggest compromises or amendments, and answer questions. The committee may also ask its legislative analyst to research and explain certain details of the bill.

The committee's decisions on bills and amendments are expressed by votes on motions made during a work session; the final action is called a "committee report." The report a bill receives is often the most important influence on its passage or defeat. Several types of unanimous and divided reports on a bill are possible.

Once a bill is reported out by a committee, it is returned to the house in which it originated. To be enacted, bills must pass through at least four steps on the floor of both the House and Senate: first reading, second reading, engrossment and enactment.

After a bill has been enacted by the Legislature, it is sent to the Governor, who has 10 days (not counting Sundays) to exercise one of three options. The Governor may sign the bill, veto the bill, or allow it to become law without signature. A bill becomes law 90 days after the end of the legislative session in which it was passed.



MEMO

To: Chair Ali and Members of the Housing and Economic Development Committee
From: Bill Needelman, Waterfront Coordinator
RE: Recommendation to Merge the Boards of Directors for the Portland Fish Exchange and the Portland Fish Pier Authority
Date: January 18, 2024

CC: Greg Watson, HEDD Director
Michael Goldman, Corporation Counsel
Brendan O'Connell, Finance Director, PFFA Treasurer

Introduction:

The HEDC is requested to review and recommend a potential merger of the Portland Fish Pier Authority with the Portland Fish Exchange. The merger has been recommended by the Boards of Directors of both entities.

Background:

Since the opening of the Portland Fish Pier in the mid 1980's, the City of Portland has been a significant participant in the Maine seafood industry – concentrating on *groundfish*. Groundfish are commercially important bottom dwelling finfish such as cod, haddock, pollock, flounders, and other species that are harvested by trawling or gillnetting.

The Portland Fish Pier (Fish Pier) is a City-owned industrial facility and subdivision that provides berthing to fishing vessels and land lease lots to private and public fishing related businesses.

The Portland Fish Exchange (PFE) is an independent City-owned all display auction for Maine seafood, concentrating on service to groundfish harvesters (sellers) and processors/distributors (buyers) located on the Fish Pier. The PFE handles as much as 90% of Maine's groundfish harvest, in addition to other species important to lobster bait. The PFE has recently expanded service to the Bluefin tuna fishery and aquaculture, as well as warehousing and distribution for imported seafood.

Currently, each entity operates as a quasi-municipal not-for-profit owned by the City of Portland, each with an independent board of directors. However, financial constraints in the fishing industry have resulted in budgetary dependency between the entities, with Fish Pier ground lease, berthing, and parking revenues becoming increasingly important for the financial stability of the PFE. Likewise, management at the PFE has gone through an extended period of flux, with 5 general managers leaving the organization in as many years.

Merger between the entities has been discussed as a potential for years – as a means to secure financial and management stability for the services provided.

Merger Process:

Following a strategic planning process during 2020-2021, both Boards of Directors voted in late 2022 to create a Governance Subcommittee of the Boards to explore potential merger of the entities. The committee was chaired by PFE board member and Secretary, John Arnold, and included members from both boards as well as interested fisheries industry representatives. Over the course of 2023, the committee met multiple times in advertised public meetings to discuss issues related to potential merger, included future board structure, bylaws, and the future of the PFE.

The Fish Pier Board of directors allocated funds to hire legal counsel from Burstein Shur to guide the process. Attorney, Fredrick Lipp provided a draft “plan of merger” for consideration by the committee and both boards.

The Governance Subcommittee voted unanimously on October 18, 2023 to recommend the merger and recommended draft bylaws for the merged entity.

The Portland Fish Pier Authority Board voted 4-1 to recommend the merger on October 25, 2023 and the PFE Board voted 5-1 to recommend the merger on November 9, 2023.

Intended Result:

The intent of the merger of the Fish Pier with the PFE is to stabilize the budget and management for the City’s fishing interests. Continuity of service to the industry is key – both the seafood auction/warehousing function of the PFE and the land lord/property management function of the Fish Pier. The PFE will continue to do business as the *Portland Fish Exchange*, with no apparent changes to its customers or employees. The Fish Pier tenants will likewise see no outward changes to day to day management of the pier.

The primary change to the entities will be in budgeting. Currently, the PFE runs at a structural budget deficit in order to adequately serve the fishing interests which rely on the facility. The Fish Pier, however, generates a modest profit, a portion of which has within recent memory returned back to the PFE to cover deficits. Merging the entities will also merge the finances, resulting in a rational budget, better fiscal accountability, and improved transparency to the fishing industry and the City Council.

The merged entity, proposed to retain the name Portland Fish Pier Authority, is anticipated to continue operating at a profit.

Financial Impact:

Both entities currently operate independently from the City budget and the merger will have no impact on City finances.

Recommendation:

Based on the positive votes of both Boards of Directors, staff recommends approval of the merger of the Portland Fish Pier Authority and the Portland Fish Exchange.

Attachments:

- Draft Plan of Merger
- Draft Bylaws

Agenda 6: Draft Plan of Merger
Recommended by Vote of the Governance Subcommittee, 10-18-23
Recommended by Vote of the Portland Fish Pier Authority, 10-25-23
Recommended as amended by Vote of the Portland Fish Exchange, 11-9-23
Subject to clarification editing

AGREEMENT AND PLAN OF MERGER

This Agreement and Plan of Merger (“**Plan of Merger**”) is made and entered into this ____ day of _____, 2023 (“**Effective Date**”), by and between the Portland Fish Pier Authority (“**Pier Authority**” or “**Surviving Corporation**”), a Maine nonprofit corporation, and the Portland Fish Exchange (“**Fish Exchange**” or “**Merged Corporation**”), a Maine nonprofit corporation (the Pier Authority and Fish Exchange collectively as the “**Constituent Entities**”).

RECITALS

WHEREAS, the Pier Authority is a nonprofit corporation organized and existing under the laws of the State of Maine, including with its purpose as stated in its Articles of Incorporation to operate: “for the purposes of managing and marketing the premises known as the Portland Fish Pier for the benefit of the fishing and fishery-related business enterprises and the citizens of the City of Portland;”

WHEREAS, the Fish Exchange is a nonprofit corporation organized and existing under the laws of the State of Maine, including with its purpose as stated in its Articles of Incorporation to operate as: “a local development corporation exclusively for the purpose of fostering, encouraging and assisting the physical location, settlement or resettlement of fishing and fishery-related business enterprises in the City of Portland;”

WHEREAS, the Board of Directors for each Constituent Entity has considered the importance of continuing to advance the purposes of each corporation, including through the effectiveness and efficiencies of adopting this Plan of Merger, and have adopted this Plan of Merger pursuant to Title 13-B M.R.S.A. Section 901(2) [and by _____ vote pursuant to Title 13-B M.R.S.A. Section 606];

WHEREAS, the Pier Authority and the Fish Exchange have each provided a “Notice of Special Meeting of Corporator” (collectively “**Notice**”) pursuant to the Bylaws of each corporation regarding this Plan of Merger, including posting the Notice in a conspicuous place at the principal office of each corporation, and with the Boards of Directors and members of the public entitled to attend, to ask questions, and to state their views;

WHEREAS, the sole member and corporator of the Constituent Entities is the City of Portland (“**Corporator**”) and pursuant to the Articles of Incorporation for each of the Pier Authority and the Fish Exchange, the Corporator “shall have the sole and exclusive right to vote” to authorize a merger;

WHEREAS, following the Merger, the Articles of Incorporation and the purposes of the the Surviving Corporation will continue, including such that the Portland Fish Pier will be operated as a public fish pier for the purpose of landing or processing shellfish, finfish or other natural products of the sea or for other activities directly related to the purpose of landing or

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Subject to clarification editing

processing shellfish, finfish or natural products of the sea, including fueling, loading or selling such products;

WHEREAS, the Portland Fish Exchange has served the Maine ground fish industry for more than 40 years, it is the intent of the merger that the Portland Fish Exchange will continue to exist as an operational unit of the merged entity providing groundfish auction services;

WHEREAS, the Portland Fish Pier Authority and the Portland Fish Exchange each deem it advisable and in the best interests of each entity to merge the Portland Fish Exchange with and into the Portland Fish Pier Authority in accordance with the Maine Nonprofit Corporation Act and upon the terms and conditions set forth in this Plan of Merger, with the Portland Fish Pier Authority as the Surviving Corporation (the “**Merger**”).

NOW THEREFORE, in consideration of the mutual covenants, agreements and provisions hereinafter contained, the Constituent Entities hereby prescribe the terms and conditions of the Merger and mode for carrying the same into effect as follows:

AGREEMENT

ARTICLE I
THE MERGER

1.1 **Merger.** On the Effective Date (as defined in Section 1.2), the Portland Fish Exchange shall be merged with and into the Portland Fish Pier Authority and the separate existence of the Portland Fish Exchange shall cease **as a corporate entity**. The Portland Fish Pier Authority shall be the surviving organization (the “**Surviving Corporation**”) in the Merger and shall survive as a Maine nonprofit corporation. **The Portland Fish Exchange shall continue to function as an operational unit of the surviving corporation.**

1.2 **Effective Date.** The Merger shall become effective upon the date specified in the Certificate of Merger to be filed with the Secretary of the State, State of Maine (the “**Effective Date**”).

1.3 **Articles of Incorporation of the Surviving Corporation.** The governing instruments of the the Portland Fish Pier Authority on file with the Secretary of State of the State of Maine (the “**Articles**”), as in effect on the Effective Date, shall continue in full force and effect as the Articles of the Surviving Corporation. The Surviving Corporation shall be governed by the laws of the State of Maine.

1.4 **Bylaws of the Surviving Corporation.** The Bylaws of the Portland Fish Pier Authority as they shall exist on the Effective Date shall be and remain the Bylaws of the Surviving Corporation until the same shall be altered, amended or repealed as therein provided.

Agenda 6: Draft Plan of Merger
Recommended by Vote of the Governance Subcommittee, 10-18-23
Recommended by Vote of the Portland Fish Pier Authority, 10-25-23
Recommended as amended by Vote of the Portland Fish Exchange, 11-9-23
Subject to clarification editing

1.5 Directors and Officers; Amendment of Articles to Increase Directors. The Directors and officers of the Portland Fish Pier Authority in office as of the Effective Date of the Merger shall continue as the Directors and officers of the Surviving Corporation, to hold office, subject to the applicable provisions of the Articles and Bylaws of the Surviving Corporation and the Maine Nonprofit Corporation Act, until their successors are elected. Concurrent with the Merger, the Articles of Incorporation of the Portland Fish Pier Authority will be amended to increase the number of Directors from ~~five (5)~~ seven (7) to eleven (11), including in anticipation of transitioning some of the Directors of the Portland Fish Exchange to the Surviving Corporation.

1.6 Adoption of Assumed Name. Concurrent with the Effective Date, the Surviving Corporation shall be entitled to operate in name both as the “Portland Fish Pier Authority” and under the assumed name of the “Portland Fish Exchange” and the Surviving Corporation shall make appropriate filings with the State of Maine Secretary of State to effect the same.

1.7 Effects of the Merger. Upon the Effective Date, all property, rights, leases, subleases, accounts, privileges, franchises, patents, trademarks, licenses, registrations, and other assets of every kind and description of the Portland Fish Exchange shall be transferred to, vested in, and devolved upon the Surviving Corporation without further assignment, act or deed and all property, rights and every other interest of the Constituent Entities shall be the property of the Surviving Corporation. All rights of creditors of the Portland Fish Exchange and all liens upon any property of the Portland Fish Exchange shall be preserved unimpaired and all debts, liabilities and duties of the Portland Fish Exchange [(except for employee-related matters as shall be coordinated as set forth in Section 1.8 below)] shall attach to the Surviving Corporation and may be enforced against it to the same extent as if said debts, liabilities and duties had been incurred or contracted by it. From time to time after the Effective Date, and upon the written request of the Surviving Corporation, the last President and Secretary of the Portland Fish Exchange may, in the name of Portland Fish Exchange, execute, deliver, or cause to be executed and delivered, all such agreements, deeds, and instruments to the Surviving Corporation and to take or cause to be taken such further or other action as the Surviving Corporation may deem necessary or desirable in order to vest in the Surviving Corporation the rights in, title to, or other disposition of any property of the Portland Fish Exchange acquired or to be acquired by reason of or as a result of the Merger.

1.8 Transition of Employees. [Concurrent with the Effective Date, the Surviving Corporation shall make reasonable efforts to transition and hire the employees of the Portland Fish Exchange.]

ARTICLE II
FINAL TAX FILING OF THE MERGED CORPORATION

Agenda 6: Draft Plan of Merger
Recommended by Vote of the Governance Subcommittee, 10-18-23
Recommended by Vote of the Portland Fish Pier Authority, 10-25-23
Recommended as amended by Vote of the Portland Fish Exchange, 11-9-23
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2.1 Tax Filing. With recognition that both the Surviving Corporation and the Merged Corporation are nonprofit corporations with tax-exempt status from the Internal Revenue Service under Section 501(c)(3) of the Internal Revenue Code, following the Merger the Portland Fish Exchange shall file a final income tax return evidencing its termination as a separate entity.

ARTICLE III
ABANDONMENT

3.1 Termination. At any time before the Effective Date of the Merger, this Agreement may be terminated and the Merger may be abandoned by either the Portland Fish Pier Authority or the Portland Fish Exchange, or both, including pursuant to Title 13-B M.R.S.A. Section 903(4).

ARTICLE IV
AMENDMENT

4.1 Amendment. The Agreement may not be amended at any time prior to the date that the requisite Articles of Merger are filed in the office of the Secretary of State, State of Maine.

ARTICLE V
GENERAL PROVISIONS

5.1 Governing Law. This Agreement and Plan of Merger and the legal relationships between the parties shall be governed by and construed in accordance with the laws of the State of Maine.

5.2 Further Assurances. The Constituent Entities each agree to execute and deliver such other documents, certificates, agreements and other writings and to take such other actions as may be necessary or desirable in order to consummate or implement the transactions contemplated by this Agreement.

[Signature page follows.]

Agenda 6: Draft Plan of Merger
Recommended by Vote of the Governance Subcommittee, 10-18-23
Recommended by Vote of the Portland Fish Pier Authority, 10-25-23
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Subject to clarification editing

[Signature Page – Agreement and Plan of Merger]

IN WITNESS WHEREOF, the parties to this Plan of Merger, based on the approval and authority as represented through resolutions adopted by their Boards of Directors, have caused their officers to sign and to evidence their agreement below.

PORTLAND FISH EXCHANGE,
a Maine nonprofit corporation

By: _____
Name:
Title: President

PORTLAND FISH PIER AUTHORITY,
a Maine nonprofit corporation

By: _____
Name:
Title: President

Article I
BYLAWS
OF
PORTLAND FISH PIER AUTHORITY

~~Article I~~ **ARTICLE I**
NAME, PURPOSE, AND MISSION

1.1 Name. The name of the corporation is the Portland Fish Pier Authority (the “Corporation”).

1.2 Purpose and Mission. The Corporation is organized and shall at all times be operated exclusively for charitable purposes within the meaning of Section 501(c)(3) of the Internal Revenue Code of 1986, as amended (or the corresponding provision of any future United States Internal Revenue Law) (the “Code”). Within these restrictions, the Corporation is organized as consistent with the Code and to advance the following mission (“Mission”):

On behalf of the City of Portland (“City”) as Corporator, and as formed by the City’s municipal officers as a local development corporation, the Corporation provides management oversight and fiduciary stewardship for the premises known as the Portland Fish Pier (“Fish Pier”) as an anchor facility for the City’s Fish Pier-related economy. The Corporation promotes: the landing, auctioning, and distribution of groundfish and other Fish Pier products at the Corporation’s Portland Fish Exchange site (e.g. including operating the Fish Pier for the purpose of landing or processing shellfish, finfish or other natural products of the sea or for other activities directly related to the purpose of landing or processing shellfish, finfish or natural products of the sea including fueling, loading or selling these products); maintaining and upkeep of the marine infrastructure and landside facilities of the Fish Pier; and meeting the lease requirements and landlord responsibilities for Fish Pier tenants. Additionally, the Corporation provides a forum and discussion platform for the seafood industry, City government, and the public to better understand and promote the sustainable harvest and use of marine resources as a current and future economic engine for the City, Casco Bay, and the State of Maine.

1.3 Non-Discrimination. All affairs of the Corporation shall be conducted without discrimination as to race, creed, sex, age, color, ethnicity, national origin, marital status, religion, sexual orientation, disability, or veteran status.

1.4 Principal Office. The principal office for the conduct of activities of the Corporation shall be located at the premises owned by the Corporation at #6 Portland Fish Pier, Portland, Maine or at such other location as designated by the Corporation.

1.5 Corporate Seal. The seal of the Corporation shall be circular in form and shall bear the words “Portland Fish Pier Authority,” the word “Maine,” and the year of the Corporation’s incorporation. The form of such seal may be altered from time to time by the Board of Directors.

~~Article III~~ARTICLE II AUTHORITY AND MEETINGS OF CORPORATOR

2.1 Annual Meeting. The Annual Meeting of the Corporator shall be held in City Council Chambers, City Hall, Portland, Maine, on the ***third Monday of April*** in each year. The meeting shall be noticed according to the public meeting rules of the Corporator and posted prominently at the Office of the Clerk of the City of Portland and in the office of the Corporation, in both cases not less than ten (10) days before the date fixed for the meeting. The Board of Directors and members of the public shall be entitled and encouraged to attend the Annual Meeting and shall be entitled, subject to the direction of the chairperson of the meeting, to ask questions and state their views.

2.2 Special Meetings. Special meetings of the Corporator may be called by the President or by the Board of Directors or by the Corporator to be held at such time and place as shall be fixed in the call of the meeting. If no such place is fixed, the special meeting shall be held at the principal office of the Corporator. Notice of special meetings shall be given in the same manner as the notice of the Annual Meeting, and the Board of Directors and members of the public shall have the same right to attend and to ask questions and state their views as in the case of the Annual Meeting.

2.3 Proxies. The Corporator may vote at any Annual or Special meeting of the Corporator by proxy or proxies executed in writing by the Corporator as authorized by its City Council. The Corporator may, but is not required to, appoint any one or more, or all, of its City Councilors as its proxy agents to represent it at any Annual or Special Meeting of the Corporator.

2.4 Action of the Members in Writing Without a Meeting. Notwithstanding any other provision of these Bylaws, any action required or permitted by law or otherwise to be taken at a meeting of the Corporator may be taken without a meeting if a written consent, setting forth the action so taken, is signed by the Corporator by authority of its City Council and is filed with the Secretary of the Corporation as part of the corporate records. Such written consent shall have the same effect as a unanimous vote by the Corporator and may be stated as such in any certificate or document required or permitted to be filed with the Secretary of State, and in any certificate or document prepared or certified by any officer of the Corporation for any purpose.

2.5 Authority; Sole Voting Member; Voting Rights of the Corporator. The City as Corporator shall be the sole voting member of the Corporation and shall act by and through the

City Council in all matters relating to the Corporation. The Corporator shall have the sole and exclusive right to vote on all matters which by law require action of voting members, including, but not limited to the following:

- a) To appoint the Board of Directors, with the sole exception being the ex-officio board members referenced in Section 3.5
- b) To amend the Articles of Incorporation of the Corporation or to authorize a merger, consolidation or dissolution of the Corporation, or to authorize the sale or substantially all of the assets of the Corporation.

~~Article IV~~ARTICLE III BOARD OF DIRECTORS

3.1 General Powers. The business, property and affairs of the Corporation shall be conducted and managed by its Board of Directors, except as otherwise provided in the City Code, the Corporation's Articles of Incorporation, or these Bylaws. The Board of Directors may by general resolution delegate to committees and officers of the Corporation such powers as it sees fit and in a manner consistent with the Bylaws.

3.2 Duties. Every Director in exercising his or her powers and discharging his or her duties shall: (a) act honestly and in good faith with a view to the best interests of the Corporation; and (b) exercise the care, diligence, and skill that a reasonably prudent person would exercise in comparable circumstances.

3.3 Number; Eligibility; Powers and Duties. The number of Directors constituting the Board of Directors shall be eleven (11). All Directors shall be residents of the State of Maine. With the exception of Class D and Class E Directors, all Directors need not be residents of the City of Portland. The Board of Directors shall have the powers and duties set forth in the Articles of Incorporation, these Bylaws and the Corporation's Rules and Regulations.

3.4 Classes of Directors. The Board of Directors shall be divided into classes as follows:

- a) There shall be two (2) **Class A Directors** who will be either: 1) an individual engaged primarily in the business of fishing or harvesting of groundfish, either for their own account or as a partner or employee, and whose vessel is home ported in the State of Maine. ~~No person will be eligible to be appointed or continue to serve as a Class A Director unless they or the organization they represent have sold product at the Portland Fish Exchange auction during the 12 months immediately preceding their appointment and continue to conduct regular business at the Portland Fish Exchange in each of the years of their service as Director.~~
- ~~a) — or~~ 2) a registered Seller Representative in good standing with the Portland Fish Exchange, ~~or~~ 3) a NOAA, Northeast Multispecies Fishery Sector Manager representing vessels currently transacting business at the Portland Fish Exchange. ~~No person will be~~

eligible to be appointed or continue to serve as a Class A Director unless they or the organization they represent have sold product at the Portland Fish Exchange auction during the 12 months immediately preceding their appointment and continue to conduct regular business at the Portland Fish Exchange in each of the years of their service as Director.

b) There shall be two (2) **Class B Directors** who will be individuals engaged primarily in the business of processing or purchasing groundfish or groundfish products either for their own account or as partners or employees of others. No person will be eligible to be appointed or continue to serve as a Class B Director unless they or the organization they represent have bought product at the Portland Fish Exchange auction during the 12 months immediately preceding their appointment and continue to conduct regular business at the Portland Fish Exchange in each of the years of their service as Director.

c) There shall be two (2) **Class C Directors** representing the seafood industry of the State of Maine, at least one (1) of whom shall be actively engaged in the Maine Lobster industry and at least one (1) of whom shall be actively engaged in the Maine Aquaculture industry.

d) There shall be one (1) **Class D Director** representing the public at large and who shall be a resident of the City of Portland.

e) There shall be one (1) **Class E Director** who shall be a sitting member of the Portland City Council.

3.5 Ex-Officio Members of the Board of Directors. There shall be three (3) individuals who shall be deemed ex-officio members of the Board of Directors by virtue of their holding the positions of:

a) City Manager of the City of Portland

In the event that the City Manager shall decline or is precluded from serving, the City Manager may assign from their staff a representative to serve in their stead.

b) Commissioner of the Maine Department of Marine Resources

In the event that the Commissioner of the Department of Marine Resources shall decline or is precluded from serving, the Commissioner may assign from their staff a representative to serve in their stead.

c) Commissioner of the Maine Department of Transportation

In the event that the Commissioner of the Department of Transportation shall decline or is precluded from serving, the Commissioner may assign from their staff a representative to serve in their stead.

3.6 Application of Bylaws to Ex-Officio Directors. The provisions of these Bylaws contained in Section 3.8 regarding term of office, Section 3.7 regarding nomination of directors and Section 3.10 regarding vacancies shall not apply to said ex-officio members. Each ex-officio member may be a member of the Board of Directors so long as he or she continues to serve in the office by virtue of which he or she was appointed; and shall enjoy all the rights, privileges and responsibilities of all other members of the Board of Directors. The Board of Directors may take action by unanimous consent only with the consent of said ex-officio members. Ex-officio members shall be entitled to the same indemnification rights available to all Directors under the applicable law and these Bylaws.

3.7 Nomination of Directors. With the exception of ex-officio members, all members of the Board of Directors shall be nominated by the City of Portland Mayor and approved by the Corporator at the Annual meeting or any Special meeting of the Corporator.

3.8 Term of Office. Each director shall serve for a term of three (3) years or until their successor is appointed and qualified. Directors shall be appointed prior to the Annual meeting of the Board. No Director may serve more than three (3) consecutive terms.

Notwithstanding provisions of Sections 3.4(a) and 3.4(b), qualification requirements for Class A and Class B Directors to conduct regular business at the Portland Fish Exchange shall not apply to Board Members whose term has expired and are serving pending appointment of their successor.

3.9 Voting. Each director shall be entitled to one (1) vote.

3.10 Vacancies. Vacancies occurring in the Board of Directors for any reason shall be filled for the unexpired term by the Corporator by appointment of an individual qualifying and eligible for such position.

3.11 Resignations. Any director may resign his or her office by delivering a written resignation to the President, such resignation to be effective upon the date or reasonable condition stated therein.

3.12 Removal of Directors. At a Special Meeting of the Board of Directors called expressly for that purpose, any individual director may be removed with or without cause, by a vote of two-thirds (2/3) of the entirety of the members currently serving on the Board. Cause for removal may include but is not limited to failure to meet qualifications requirements described in this Article III, a recurring practice of missing Board meetings, or any other action or behavior of a Board member which in the opinion of the Board reflects poorly on the Board, the Corporation, or the Corporator.

3.13 Annual Meeting; Regular Meetings. The Annual Meeting of the Board of Directors shall be held during the first meeting of the Board's calendar year. Regular meetings of the Board of Directors shall be held at such places and on such dates and times as shall be fixed from time to time by the Board of Directors. The Board of Directors may authorize the President to fix the exact date, time and place of each regular meeting.

3.14 Special Meetings. Special meetings of the Board of Directors may be called by the President or by the Secretary and must be called by either of them on the written request of any three (3) members of the Board.

3.15 Notice of Meetings. Notice of all Directors' meetings, except as herein otherwise provided, shall be given by mailing the same at least five (5) days before the meeting, or by sending notice by e-mail or facsimile transmission at least one (1) day before the meeting to the usual business or residence address of the Director. Any Director may waive notice of any meeting. The attendance of any Director at any meeting shall constitute a waiver of notice of such meeting, except where a Director attends a meeting for the express purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened. Neither the business to be transacted at, nor the purpose of, any meeting of the Board need be specified in the notice or waiver of notice of such meeting, unless specifically required by law or these Bylaws.

3.16 Quorum; Voting. At all meetings of the Board of Directors six (6) of the Directors shall be necessary and sufficient to constitute a quorum for the transaction of business, and the act of a majority of the Directors present at any meeting at which there is a quorum shall be the act of the Board of Directors. If at any meeting there is less than a quorum present, a majority of those present may adjourn the meeting from time to time without further notice to any absent Director. Each Director shall be entitled to one (1) vote. A Director may not vote or act by proxy at any meeting of the Board of Directors.

3.17 Action by Directors Without a Meeting. Any action required or permitted to be taken at any meeting of the Board of Directors or of any committee thereof may be taken without a meeting, if a written consent to such action is signed by all members of the Board or of such committee, as the case may be, and such written consent is filed with the minutes of the proceedings of the Board or committee. For purposes of this Section 3.17, "written" includes a communication that is transmitted and/or received by electronic means, including but not limited to by electronic mail, and "signed" includes an electronic signature, as defined in 10 M.R.S.A. §9402.

3.18 Telephone and Electronic Meetings. Members of the Board of Directors or a committee of the Board may participate in a meeting by means of a conference telephone or electronic communications equipment (e.g. Zoom; Microsoft Teams) if all persons participating in the meeting can hear each other at the same time. Participation in a meeting by these means constitutes presence in person at the meeting.

3.19 Compensation. Directors shall not receive compensation for their services as such, although the reasonable expenses of Directors for attendance at Board meetings may be paid or reimbursed by the Corporation by action of the Board of Directors. Directors shall not be disqualified from receiving reasonable compensation for services rendered to or for the benefit of the Corporation in any other capacity.

3.20 Indemnification. This Corporation shall in all cases indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, or administrative, by reason of the fact that he or she is or was a director, officer, employee or agent of this corporation, against expenses, including attorneys' fees, judgments, fines and amounts paid in settlement actually and reasonably incurred by them in connection with such action, suit or proceeding to the maximum extent permitted by law, including, without limitation, 13-B M.R.S.A. § 714 and acts additional thereto and supplementary thereof, to which reference is made.

~~Article V~~ARTICLE IV

SUBCOMMITTEES AND ADVISORY COMMITTEES OF THE BOARD

4.1 Subcommittees. The Board of Directors may at their discretion create subcommittees to facilitate the management, oversight, and promotion of the organization. Members of subcommittees shall be appointed by vote of the Board of Directors at each Annual or Special Meeting. Membership on subcommittees of the Board may include non-board members, providing that the experience and expertise of members contributes to the competency of the body and the quality of decision making of the Board of Directors. Non-board membership on any subcommittee may not exceed active Board members in number, and leadership of all subcommittees shall be assigned to active Board members. All actions of subcommittees shall be recommendary to the Board of Directors and no subcommittee or any of its members may act on behalf of the Board. All meetings of subcommittees, including executive sessions, shall be noticed and conducted consistent with the provisions of these Bylaws as described in Article IV, Sections 4 and 5 above.

Subcommittees must have a minimum of two (2) Board members and may include, but are not limited to the following:

- (a) **Operations:** Dedicated to overseeing the management, operation, and promotion of the Corporation's Portland Fish Exchange, and utilization of the other marine infrastructures of the Portland Fish Pier.
- (b) **Real Estate and Facilities:** Dedicated to marketing of Portland Fish Pier assets; overseeing the maintenance and improvement of Portland Fish Pier grounds and infrastructure; and the negotiation and management of Portland Fish Pier ground leases and parking assets.
- (c) **Fisheries:** Dedicated to connecting the operations of the Portland Fish Pier, Portland Fish Exchange, and the local seafood economy with local, regional, state, and

federal agencies, interest groups, and the public on issues relevant to fisheries , current science, seafood industries, seafood marketing, and fisheries regulation.

4.2 Advisory Committee. The Executive Director has the responsibility to seek the opinion and recommendations of leaders in the Maine seafood industry. The Executive Director may at their discretion create an Advisory Committee of local and regional leaders and representatives from the seafood industry to inform day to day and long term decision making on behalf of the organization. The advisory committee shall have no authority to act on behalf of the Board of Directors; but, the advisory committee members, individually or collectively, will be encouraged to participate in such meetings as invited by the Board and to make recommendations on Board actions.

4.3 Meetings; Record of Proceedings. Meetings of committees of the Board of Directors may be called by the respective Chairs thereof or by any two (2) members of the committee. Each committee may prescribe rules and procedures to conduct its meetings. Each committee shall keep regular minutes of its proceedings and shall report the same to the Board of Directors and the President when requested or required.

~~Article VI~~ARTICLE V OFFICERS AND EMPLOYEES

5.1 Executive Officers. The executive officers of the Corporation shall be a President, Vice President, Secretary, and Treasurer and such other officers and assistant officers with such powers and duties not inconsistent with these Bylaws as may be appointed and determined by the Board of Directors. The Board of Directors may also appoint one or more Assistant Secretaries and Assistant Treasurers. A Director may be elected an officer.

5.2 Election and Term of Office. The Officers shall be elected for a term of one (1) year to serve until the next annual meeting of the Board of Directors or until their successors are duly chosen and qualified. Officers may succeed themselves for any period of years.

5.3 Resignation, Removal; Vacancies. Any officer may resign at any time by giving written notice to the President or to the Board of Directors, and may be removed from office by the vote of the Directors at any time, in accordance with applicable law, whenever in the Board's judgment the best interests of the Corporation will be served thereby. In case any office of the Corporation becomes vacant by death, resignation, retirement, disqualification or any other cause, the Board of Directors by majority action may select an officer to fill such vacancy.

5.4 President. The President shall be the principal executive officer of the Corporation. All officers, agents and Executive Director of the Corporation shall report and be responsible to the President.

5.5 Secretary. The Secretary shall attend all meetings of the Corporator and the Board of Directors and keep minutes of all meetings of the Corporator and the Board of Directors in a book or books kept for that purpose. The Secretary shall perform such other duties

as may be prescribed by the Board of Directors or the President, under whose supervision the Secretary shall be. The Secretary, and any Assistant Secretaries, shall have authority to affix the corporate seal to any instrument which requires it, and when so affixed, it may be attested by the Secretary or by any Assistant Secretary.

5.6 Treasurer. The Treasurer shall be the chief financial officer of the corporation and shall have the responsibility for all corporate funds and securities and shall maintain full and accurate accounts of receipts and disbursements in a book or books kept for that purpose. The Treasurer shall perform such other duties as may be prescribed by the Board of Directors or the President, under whose supervision the Treasurer shall be. The Treasurer may delegate any of his or her duties to the Executive Director or to the staff of the Corporator.

5.7 Other Officers. The Board of Directors may elect or appoint one or more Vice-Presidents and such other officers and assistant officers as they may deem necessary, who shall have such authority and perform such duties as from time to time may be prescribed by the President or by the Board of Directors.

5.8 Executive Director and Staff. The Board shall hire an Executive Director to have superintendence of the business activities of the Corporation, and shall have such other powers and duties as may be set forth in the rules and regulations of the Portland Fish Pier Authority. The Executive Director shall be selected by the Board of Directors, which shall fix the compensation of the Executive Director. The Executive Director as such shall not be an officer of the corporation or a member of the Board of Directors.

At the Board of Director's discretion, the Board may select an individual, corporation or partnership to undertake the responsibilities of the Executive Director.

Employees of the Corporation shall be appointed and supervised by, and shall serve at the pleasure of, the Executive Director.

Staff of the Corporator may assist the Executive Director and or assume some or all of the duties thereof, with the consent of the Board of Directors.

5.9 Removal of the Executive Director. The Executive Director may be removed with or without cause, by a vote of the Board of Directors.

~~Article V~~ARTICLE VI CORPORATE ASSETS AND EARNINGS

6.1 Investments. The Corporation shall have the right to retain all or any part of any securities or property acquired by it in whatever manner, and to invest and reinvest any funds held by it, according to the judgment of the Board of Directors, **without being restricted to the class of investments which a director is or may hereafter be permitted by law to make or any similar restriction**; provided, however, that no action shall be taken by or on behalf of the Corporation if such action would result in the denial or loss of the tax exemption under Section

501(c)(3) or any other section of the Code and applicable Regulations relating thereto as they now exist or as they may hereafter be amended.

NOTE to Legal: Clarify intent of highlighted text above.

6.2 Inurement Prohibition; Interest in Contracts. No part of the net earnings of the Corporation shall inure to the benefit of or be distributed to any director, employee or other person who or that is not exempt from federal taxation under Section 501(c)(3) of the Code, and no such person or persons shall be entitled to share in the distribution of any of the corporate assets upon the dissolution of the Corporation.

By a vote of the Board of Directors, any director, officer, employee, committee member, or agent of the Corporation may be interested directly or indirectly in any contract relating to the operation of the Corporation, and may freely make contracts, enter transactions or otherwise act on behalf of the Corporation notwithstanding that such person may also be acting for himself or herself or for a third party in so doing; provided, however, that any such contract or transaction shall be at arm's length and be in compliance with the requirements of this Section 6.2.

No director may vote on any matter in which the director has a direct or indirect pecuniary interest as defined in 30-A MRS 2605(4). Directors shall also attempt to avoid the appearance of a conflict of interest in any matter by disclosure or by abstention pursuant to 30-A MRS 2605(6).

6.3 Exempt Activities. Notwithstanding any other provision of these Bylaws, no member, Director, officer, employee or representative of this Corporation shall take any action or carry on any activity by or on behalf of the Corporation not permitted to be taken or carried on by an organization exempt under Section 501(c)(3) of the Code.

Article VII **ARTICLE VII** **INDEMNIFICATION AND INSURANCE**

7.1 Indemnification. The Corporation shall in all cases indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative by reason of the fact that he or she is or was a director, officer, employee or agent of this corporation, against expenses, including attorneys' fees, judgments, fines and amounts paid in settlement actually and reasonably incurred by them in connection with such action, suit or proceeding to the maximum extent permitted by law, including, without limitation, 13-B M.R.S.A. § 714 and acts additional thereto and supplementary thereof, to which reference is made.

Note to Legal: Clarify if needed. Section appears redundant to Section 3.20

7.2 Insurance. The Corporation may, but is not required, upon the vote of the Board of Directors, purchase and maintain insurance on behalf of any person who is or was a Director, officer, employee or agent of the Corporation, or who is or was serving at the request of the Corporation as a Director, director, officer, employee or agent of another corporation,

partnership, joint venture, trust or other enterprise, against any liability asserted against him or her and incurred by him or her in any such capacity, or arising out of his or her status as such, whether or not the Corporation would have the power to indemnify him or her against such liability under the provisions of this Article VII.

7.3 Certain Limitations on Indemnification. In no case shall the Corporation indemnify or reimburse any person for any taxes on such individual under Chapter 42 of the Code, or under the comparable or corresponding provisions of any future United States internal revenue laws.

7.4 Indemnification from Other Sources. The Corporation's obligation, if any, to indemnify any person who was or is serving at its request as a trustee, director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise shall be reduced by any amount such person may collect as indemnification from such other corporation, partnership, joint venture, trust or other enterprise.

~~Article IX~~ARTICLE VIII MISCELLANEOUS

8.1 Fiscal Year. The fiscal year of the Corporation shall be as determined by the Board of Directors and evidenced by resolution filed with the corporate records.

8.2 Records and Reports. The Corporation shall keep correct and complete books and records of account and of its transactions and minutes of the proceedings of its Board of Directors and of any committee. The President or the Secretary of the Corporation shall prepare or cause to be prepared annually a full and correct statement of the affairs of the Corporation, including a balance sheet and a financial statement of operations for the preceding fiscal year, which shall be submitted at the Annual Meeting of the Board of Directors and filed within twenty (20) days thereafter at the principal office of the Corporation.

~~Article X~~ARTICLE IX AMENDMENTS

These Bylaws may be amended at any meeting of the Board of Directors, provided that a written notice setting forth the proposed amendments shall be sent to each director and each member of an Advisory Committee (should one be assigned) and no less than five (5) days before the date of such meeting. A two-thirds (2/3) vote of those directors present is necessary for the passage of any amendment. No amendment to the Bylaws shall be valid if it has the effect of amending or circumventing the Corporation's Articles of Incorporation or the powers of the Corporation as set forth in the Bylaws.

* * *

The undersigned hereby certifies that the foregoing Bylaws of the Portland Fish Pier Authority, a Maine nonprofit corporation, were duly approved and adopted by action of its Board of Directors on _____, 2023 and that the Bylaws currently are in effect.

[NAME], Secretary

Dated this ____ day of _____, 2023

To: Councilor Pious Ali, Chair
Members of the Housing and Economic Development Committee

From: Mary Davis, Division Director, Housing and Community Development Division

CC: Greg Watson, Director, Housing and Economic Development Department

Date: January 19, 2024

Re: 45 Dougherty – Request for Housing Development Subsidy

In October 2022, the City Council approved the establishment of an Affordable Housing Tax Increment Financing District and Credit Enhancement Agreement for the project located on a portion of city-owned property at 43 and 91 Douglass Street. MaineHousing issued a Certificate of Approval for the district in March 2023. The project, known as 45 Dougherty, will consist of 63 rental housing units all of which will be affordable to households earning at or below 60% of the area median income (\$56,820 for a 2-person household or \$70,980 for a 4-person household). The number of affordable units in the project has increased since the City Council approved the TIF District and Credit Enhancement Agreement. The original proposal included 17 units at market rate. The project will contain 35 one-bedroom units, 18 two-bedroom units and 10 three-bedroom units.

As the developers moved through the process of securing funding, finalizing construction plans and obtaining construction bids, they ran into significant issues which resulted in a \$2.4 million gap in the project budget. After an extension review of the project, which included value engineering reductions, they identified a \$1.2 million funding gap. Please see attached letter from The Szanton Company for additional details.

The developer is working with each of the three project financing partners, the city, MaineHousing and Evernorth (equity investor), to identify additional funding opportunities to help reduce the gap. The developer will contribute to this effort by reducing their developer fee by \$100,000. As noted in the letter from the Szanton Company, there are two potential options for the City of Portland to consider.

1. Eliminate the purchase price. The property at 43 and 91 Douglass Street is city-owned property. The Szanton Company and Maine Cooperative Development Partners are under contract to purchase the property from the city for \$475,000. The Szanton Company portion of the purchase price is \$375,000.

There are potential implications for the city with this option. The purchase price money is intended to be set aside for use by the Parks, Recreation and Facilities Department to partially fund a new artificial turf field. If these funds are not available, the field project may not move forward or the city may need to identify other funding for the project.

2. Provide \$400,000 in funding assistance to the project. As noted above, the approved credit enhancement agreement is the only city funding awarded to this project.

The city could provide financial assistance through the Jill C. Duson Housing Trust. Currently the Housing Trust Fund has an available balance of \$7,494,682. The Housing and Community Development Division has two applications underway seeking \$6.9 million in financial assistance leaving an available balance of \$594,682 (this includes the \$500,000 minimum balance). Funding for the 45 Dougherty project would reduce the available balance.

Staff Recommendation

Housing and Economic Development Department staff recommend that the HEDC approve and recommend to the City Council approval of a \$400,000 financial assistance from the Jill C. Duson Housing Trust Fund for the 45 Dougherty project.

While the developer is requesting a 0% interest, 30 year deferred loan, staff will work with the developer to determine the final funding terms associated with the assistance, prior to City Council approval.

Attachment: January 16, 2024 Letter from The Szanton Company



January 16, 2024

Mary Davis
Housing and Economic Development Department
389 Congress Street, Room 208
Portland, ME 04101

Dear Mary:

We appreciate all the time and effort the City Council has put into the Dougherty Commons site over the last several years and appreciate your continued work more recently as projects have faced financing gaps due to several factors, including continued steep rise in construction prices. We would like to share some updates on our project in order to explain why we're requesting additional financial support from the City.

We have spent many months fully developing our construction plans and obtaining bids from contractors and subcontractors. Three major changes have occurred. Our bids from potential subcontractors based on 90% completed plans came back in November at just over \$21,200,000, far above the estimate we had gotten at the 50% plans stage.

In addition to this increase in construction costs, we also just recently were hit with an increase in the Utility Allowances released by HUD effective 1.1.2024. A rise in utility allowances results in a lower amount of rent that can be charged to residents. This reduced rent results in a total reduction in anticipated income for the project and therefore a lower capacity to take on debt.

We have also seen a steady rise in operating expenses since the pandemic. Costs related to all types of maintenance work and supplies, trash collection, and building insurance, have all increased significantly over the last couple of years. More operating expenses mean a reduced capacity to take on debt. All of these factors together caused a gap in our budget of over \$2.4 million.

In the months since receiving our November construction estimate, we have worked diligently with our entire design team, our construction manager and potential subcontractors

to identify areas where costs can be reduced. We identified \$1.8 million of potential value engineering opportunities.

As of today, January 11, 2024 we have received our “best and final” construction number from our general contractor, after all the value engineering efforts that occurred. Our new construction number is \$20,103,000. We were able to reduce our hard construction expenses by nearly \$1.1 million dollars.

Even with all the efforts to reduce construction pricing, we are still facing a \$1,200,000 gap in our financing. We are hopeful that the city can assist us with our efforts to close the last portion of this gap.

There are two ways to eliminate a gap. One way is to further reduce development costs. One way the city can help with that is to eliminate the purchase price. A reduction in costs has more than dollar-for-dollar impact due to the fact that it also reduces the amount of construction loan interest we would need to pay. Our portion of the purchase price from the city is \$375,000 (after removing the \$100,000 portion to be paid by Maine Cooperative Development Partners).

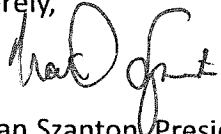
The second way to eliminate a gap is to obtain additional sources of funds. If we are unable to reduce our purchase price, we are asking for \$400,000 of financial assistance from the City. Of note, funds coming from federal funding sources (such as federal HOME funds) trigger the requirement for a lengthy environmental review that could delay our construction start by several months. Funds coming from non-federal sources (such as The Housing Trust Fund) do not trigger an environmental review and therefore would not have such timing impacts on our construction starting.

While this assistance will not reduce our financing gap to zero it will help significantly. We are also exploring opportunities for additional funds from all of our funding partners. We have scheduled meetings with both Maine State Housing Authority and Evernorth to discuss opportunities with them on ways to additionally reduce our gap. We, as developers, have also reduced our developer fee by \$100,000 to reduce our financing gap.

As an update on our project timeline, our development and design teams have been working diligently over the last several months. We have completed our design set suitable for applying for our building permit. We are working with our lender and investor, Maine State Housing Authority and Evernorth, to complete all the necessary items required for our construction loan closing which is scheduled for the end of February. Our construction would begin immediately after that loan closing. Additional reduction in costs or additional sources of funds are crucial to our ability to close and start construction on time. We so much appreciate any support the city can provide!

Thank you again for your time and consideration.

Sincerely,

A handwritten signature in black ink, appearing to read 'Nathan Szanton', written in a cursive style.

Nathan Szanton, President
The Szanton Company

A handwritten signature in black ink, appearing to read 'Kristin Martin', written in a cursive style.

Kristin Martin
Development Officer

TO: Councilor Pious Ali, Chair
Members of the Housing and Economic Development Committee

FROM: Mary Davis, Division Director
Housing and Community Development Division

CC: Greg Watson, Director
Housing and Economic Development Department

DATED: January 19, 2024

RE: 2024 Housing Policies and Goals for the 2024 Jill C. Duson Housing Trust Fund
Annual Plan and 2024 Affordable Housing and Tax Increment Financing Application

Introduction

Staff is seeking direction from the Housing and Economic Development Committee regarding guidelines and priorities for the allocation of city resources (i.e. HOME, Jill C. Duson Housing Trust Fund, and Affordable Housing Tax Increment Financing) in 2024. The established goals and priorities will be incorporated into the *2024 Affordable Housing Development and Tax Increment Financing Application (AHDITF)*, and the *2024 Jill C. Duson Housing Trust Fund (JCD HTF) Annual Plan*.

Background

The *AHDITF Application* is amended on an annual basis to reflect the City Council's housing policy goals. Since 2002, the City of Portland has utilized an annual application and/or RFP process for the allocation of city resources budgeted for the development of affordable housing. The current application format was implemented in 2013. The application establishes the goals for distribution of funds and/or the designation of an affordable housing TIF.

The *JCD HTF Annual Plan* is amended annually by the City Council's Housing and Economic Development Committee during public hearings with a referral to the council for adoption (per Section 18.3 of the Land Code). The plan establishes the priorities in which the current balance of the Housing Trust Fund would be allocated.

Both the *AHDITF Application* and the *JCD HTF Annual Plan* will include the City Council Common Goal requirement to use an equity analysis for approval of qualified applications.

The *AHDITF Application* will be distributed and made available to the public in several different ways. The Housing and Economic Development Department has several interested parties lists. The application will be distributed through these email lists. HCD staff also works with the City's Communication office to utilize all available public notice and social media tools. The application

is available on the City’s website as well as through a new online portal called Neighborly. Staff provides technical assistance to any person or organization interested in completing the application. HCD staff will review the application along with the distribution and evaluation process with the City’s Justice, Diversity, Equity and Inclusion Director and Office of Economic Opportunity Director to ensure compliance with the City Council Common Goal requirement to use an equity analysis for approval of qualified applications.

The chart below identifies the affordability restrictions associated with the each of the financial resources available to the City for investment in housing development.

	at or below 60% AMI		over 60% to 80% AMI		over 80% to 100% AMI		over 100% to 120% AMI	
	Homeowner	Rental	Homeowner	Rental	Homeowner	Rental	Homeowner	Rental
HOME	X	X	X					
Jill C. Duson Housing Trust Fund	X	X	X	X	X	X	X	X
Affordable Housing TIF	X	X	X	X	X	X	X	X

2024 Housing Investment Goals and Priorities

Staff is recommending to and seeking guidance from the Housing and Economic Development Committee of the following goals and priorities to be incorporated into the 2024 *Jill C. Duson Housing Trust Fund Annual Plan*, and the 2024 *Affordable Housing Development and Tax Increment Financing Application*.

Shovel ready projects are strongly encouraged and will be prioritized. The term shovel ready is defined as a project that has received funding approvals from federal, state, local or private sources and demonstrates the ability to move to a construction loan closing by January 2025.

Priority for the use of Jill C. Duson Housing Trust Funds will be to support public/private partnerships that create workforce housing units that are affordable to households earning 60% to 100% of the area median income.

Priority for the use of HOME Program funds will be given to developments that provide rental housing units to households earning 60% of the area median income and below.

Projects with mixed income targeting and a mix of bedroom size, including family size units of 3+ bedrooms, are strongly encouraged.

Priority for the use of the Affordable Housing Tax Increment Financing Program (AHTIF) will be to support projects receiving assistance through the Low Income

Housing Tax Credit Program or projects that create housing units that are affordable to households earning 60% to 100% of the area median income. To comply with the AHTIF Statute's requirements, at least 33% of the housing units in the district must meet these affordable thresholds.

Applications will be reviewed by an evaluation team of City of Portland staff who will evaluate and score each application utilizing the scoring factors outlined in the attached scoring matrix as well as the 2024 City Council Common Goal requirement to use an equity analysis in order to recommend the most qualified application based on the information submitted.

The City of Portland seeks development projects that support the Comprehensive Plan, Portland's Plan 2030, and create contextually appropriate housing density in and proximate to neighborhood centers, concentrations of services, and transit nodes and corridors as a means of supporting complete neighborhoods. Projects should not require a contract or conditional zone (although other rezoning consistent with the Comprehensive Plan may be considered). Resolution of any zoning issues is required before City Council approval of the applicants funding request. Developments should incorporate quality, sustainable design.

Eligible Project Guidelines

The priorities below will be incorporated into the 2024 *Affordable Housing Development and Tax Increment Financing Application*, and the 2024 *Jill C. Duson Housing Trust Fund Annual Plan*. HCD staff are seeking Committee approval on these priorities.

*Projects receiving HOME funding must create **rental** housing units which promote economic diversity within the development and within the neighborhood in which the development is located.*

Projects receiving HTF funds or an AHTIF District Credit Enhancement Agreement must create housing units (either rental or homeownership) that promote economic diversity within the development and within the neighborhood in which the development is located.

Staff Recommendation

Staff is seeking Committee approval of the 2024 affordable housing investment priorities, goals for distribution of funds, and eligible project guideline for incorporation into the 2024 *Affordable Housing Development and Tax Increment Financing Application* and 2024 *Jill C. Duson Housing Trust Fund Annual Plan*.

2024 Housing and Economic Development Committee Draft Work Plan January 19, 2024

	Annual Committee Work	Staff Recommendations	Committee Members' Priorities	Status
ECONOMIC DEVELOPMENT POLICY				
Review Tax Increment Financing (TIF) investment in workforce training for FY2025 funding.		X		
Research and present options for public-private partnerships to support parking garage and possible new affordable housing - City-owned Bayside Lot 6, (corner of Somerset & Chestnut St) acquired by the City Council through eminent domain.		X		
Waterfront Activity Workshop including - Harbor Dredge Project, Portland Harbor Commons, Off-Shore Wind, and other items		X	X	
Accessibility of Public Buildings, ADA Compliance			2023 X	
Evaluate the possibility of establishing a Payment in Lieu of Taxes (PILOT) Program to fund community development programs			X	
Review Outdoor Dining Ordinance and Administrative Policy, including parklets			X	
Evaluate the City's Minimum Wage Ordinance re: possible increase to \$20/hour			X	
Implement a Universal Basic Income pilot project			X	
Evaluate the establishment of a City Department of Labor			X	

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	Annual Committee Work	Staff Recommendations	Committee Members' Priorities	Status
AFFORDABLE HOUSING POLICY AND BUDGETS				
Policy Discussion re: (1) Guidelines and Priorities for the allocation of city resources for housing development	X			
Review of FY 2025 Housing Program Budget	X			
Review of 2024 Jill C. Duson Housing Trust Fund Annual Plan and the 2024 Affordable Housing Development Application	X			
Review and Analysis of the Role of the Rental Housing Advisory Committee		X	X	
Evaluate the Short Term Rental Registration Ordinance			X	
Secure and Utilize 150 New Housing Vouchers			X	
Evaluate how members are appointed to the Rent Board			X	
Facilitate a Developer and Housing policy Forum			X	
Update the City-Owned Property Map and Evaluate Parcels for Potential Housing Development			X	
Presentation of New Housing Data Dashboard			X	
Establish a Portland Social Housing Development Fund			X	

	Annual Committee Work	Staff Recommendations	Committee Members' Priorities	Status
AFFORDABLE HOUSING/ECONOMIC DEVELOPMENT - PUBLIC-PRIVATE PARTNERSHIPS, REAL ESTATE TRANSACTIONS				
Review/ Vote to Approve Funding Requests Received from the Affordable Housing Development Applications -Housing Trust, HOME & AHTIF CEA Requests.	X	X		
Review City Owned property to sell/lease to support affordable housing		X		
Kennebec Street Realignment (from Brattle to Forest)		X		
Establish a Vacant Property Database, institute fees for empty commercial and residen properties.			X	
Establish a Community Opportunity to Purchase Act and “Right to Return” Policy			X	

	Annual Committee Work	Staff Recommendations	Committee Members' Priorities	Status
ANNUAL REPORTS AND ACTIONS				
Presentation of 2023 Housing Report	X			
FY25 Annual Allocation Plan (Jan-April)	X	X		
Annual Presentation,-Permitting & Inspections, Short/Long-term Rental Housing Registration, Safety & Inspection Program - Implementation & Financial Report Discussion of Dept. Staff Needs	X		Process established under prior Housing Committee X	
City TIF District Annual Activity Report (November)	X			
Committee Annual Accomplishment Report (November)	X			