

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

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

SEPTEMBER 4, 2019 CITY COUNCIL AGENDA

The Portland City Council will hold a City Council meeting in City Council Chambers. The Honorable Ethan K. Strimling, Mayor, will preside.

PLEDGE OF ALLEGIANCE:

ROLL CALL:

APPROVAL OF MINUTES OF PREVIOUS MEETING:

Approval of the Draft Minutes for the August 12, 2019 Special City Council minutes and the August 12, 2019 Regular City Council Minutes.

APPOINTMENTS:

Order 36-18/19 Appointing Frank T. Clark as Police Chief - Sponsored by Jon P. Jennings, City Manager.

Approval is requested for the appointment of Frank T. Clark to the position of Police Chief for the City of Portland's Police Department at the annual salary of \$129,636.00.

Staff is requesting that this order be passed as an emergency to allow Mr. Clark to begin employment immediately. Seven affirmative votes are required for passage as an emergency after public comment.

CONSENT ITEMS:

Order 37-19/20 Declaring November 11, 2019 the Veterans Day Parade Festival - Sponsored by Jon P. Jennings, City Manager.

This order declares November 11, 2019 the Veterans Day Parade festival.

Additional details about the event are included in the agenda backup.

Order 38-19/20 Declaring October 6, 2019 the 28th Annual Maine Marathon, Half Marathon & Relay Festival - Sponsored by Jon P. Jennings City Manager.

This order declares October 6, 2019 the 28th Annual Maine Marathon, Half Marathon & Relay festival.

Additional details about the event are included in the agenda backup.

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

LICENSES:

Order 39-19/20 Granting Municipal Officers' Approval of Smartin Services LLC dba The Bar of Chocolate Café. Application for a Class A Lounge with Outdoor Dining on Public Property at 38 Wharf Street - Sponsored by Jon P. Jennings, City Manager.

Smartin Services LLC dba The Bar of Chocolate Café. Application for a Class A Lounge with Outdoor Dining on Public Property at 38 Wharf Street.

Application was filed on 4/24/2019. New City application. Applicant currently holds a Class Lounge license.

Five affirmative votes are required for passage after public comment.

Order 40-19/20 Granting Municipal Officers' Approval of Public Works LLC dba The Public Works. Application for an Auditorium license with Combined Entertainment and Outdoor Dining on Private Property at 52 Adler Street - Sponsored by Jon P. Jennings, City Manager.

Public Works LLC dba The Public Works. Application for an Auditorium license with Combined Entertainment and Outdoor Dining on Private Property at 52 Adler Street.

Application was filed on 8/12/2019. New City and State application. Applicant currently holds a Class III & Class IV FSE with Entertainment with Dance and Outdoor Dining on Private Property.

Five affirmative votes are required for passage after public comment.

UNFINISHED BUSINESS:

Order 213-18/19 Approving Modification of the Three-Party Agreement between Portland, Portland Area Comprehensive Transportation System and Maine Department of Transportation Re: Congress Street Intersection Improvements - Sponsored by Jon P. Jennings, City Manager

This agreement, between the Maine Department of Transportation (MaineDOT), the City of Portland, and Portland Area Comprehensive Transportation System, WIN 022132.00, obligates MaineDOT to update traffic signal controls, technology and communications, as well as a number of new signal structures and related ADA ramp updates. Lastly, the work will allow for this section of Congress Street to be transit priority ready. The agreement obligates the City to pay \$158,562.50, or 25% of the total cost of the estimated \$634,250.00.

This item must be read on two separate days. It received its first reading on April 8, 2019, and was inadvertently left off the next agenda. In view of that issue, staff requests that this order be passed as an emergency. Seven affirmative votes are required for passage after public comment.

Order 24-19/20 Appropriating \$870,000 in Donations in Support of Asylum Seekers - Sponsored by the Finance Committee, Nicholas M. Mavodones, Chair.

During the past several months an influx of asylum seekers has created an emergency situation within the City of Portland. Adequate funding within the Fiscal Year 2020 budget to allow the City to provide shelter, housing, and basic necessities for asylum seekers did not exist and a campaign was launched to solicit donations for this purpose. City staff, and now the City Finance Committee, have recommended that \$870,000 in donations to asylum seekers be appropriated by the City Council into the City's Health & Human Services budget, to be used specifically within Social Services for the sheltering, housing, and basic necessities of asylum seekers.

This item must be read on two separate days. It was given a first reading on August 12, 2019. Five affirmative votes are required for passage after public comment.

**Order 32-19/20 Approving Agreement with Maine Department of Transportation
Re: Congress Square Intersection Improvements - Sponsored by Jon P. Jennings,
City Manager.**

The Congress Square Intersection Improvement Project will provide safety and mobility improvements to the intersection of Congress Street, High Street, and Free Street, including improved intersection alignment, shorter and more intuitive pedestrian crossings, and updated signal timing. Council approval is requested in order to proceed with the final design of these improvements, with a targeted construction start date of spring 2021. This work is being done in part with Maine Department of Transportation funding. This work does not include related improvements to Congress Square Park, which will commence upon completion of the intersection improvements.

The MaineDOT will reallocate \$38,460 in federal funding for this work, and the City share will be \$61,540.

This item must be read on two separate days. It was given a first reading on August 12, 2019. Five affirmative votes are required for passage after public comment.

Order 33-19/20 Appropriating Home Investment Partnership Program Funds in the Amount of \$299,999 to Developers Collaborative Predevelopment LLC RE: 66 State Street - Sponsored by the Housing Committee, Councilor Jill C. Duson, Chair.

The Housing Committee met on July 10, 2019 and voted unanimously (3 - 0) to forward this item to the City Council with a recommendation for passage.

Developers Collaborative is requesting \$299,999 in Affordable Housing Development funding to construct a new four-story building featuring 30 low-income (13 units at 50% Area Median Income (AMI) and 17 units at 60% AMI) affordable rental units. Projects receiving this funding must set aside 10% of the units in the project for individuals residing in a Portland shelter. The City's Health and Human Services Department provides referrals, and a Supportive Housing Agreement between the City and the developer would document the services and expectations. 66 State Street is a two-building project. Developers Collaborative is requesting funding from the Affordable Housing Development Application for the new rental development only.

Developers Collaborative has requested two forms of financial assistance:

- (1) HOME fund request of \$299,999, 0% interest rate loan, deferred for 30 years.
- (2) Affordable Housing Tax Increment Financing (AHTIF). The AHTIF request was approved by the council on July 15. The AHTIF financing will be provided through a Credit Enhancement Agreement at 75% of the increased taxable value. The new assessed value is estimated at \$3.75 million; the property currently has a zero net taxable value. At full build out the development is projected to pay an annual average of \$118,763 in estimated new taxes of which \$89,072 will be returned to the developer to offset project operating costs and \$29,691 will be general fund revenue.

The Housing and Community Development Division works with an independent consultant who performs third-party underwriting reviews of requests for City funding. The preliminary review of this project is in the back-up material. The third-party underwriting report makes the following recommendations:

1. All standard construction loan conditions, including satisfactory review of final contract with the general contractor consistent with budgeted estimates, and total contractor overhead, profit and general conditions not to exceed 14% of net construction costs.
2. Final commitments from all sources on terms as projected.
3. Satisfactory review of final development and operating budget.
4. Satisfactory review, prior to closing, of current Developers Collaborative Predevelopment LLC financial statement.
5. Satisfactory evidence that sales price of land does not exceed the market value of the land.

This item must be read on two separate days. It was given a first reading on August 12, 2019. Five affirmative votes are required for passage after public comment.

Order 34-19/20 Appropriating Home Investment Partnership Program Funds in the Amount of \$193,266 and Housing Trust Funds in the amount of \$136,734 to Community Housing of Maine RE: 83 Middle Street - Sponsored by the Housing Committee, Councilor Jill C. Duson, Chair.

The Housing Committee met on July 10, 2019 and voted unanimously (3-0) to forward this item to the City Council with a recommendation for passage.

Community Housing of Maine is requesting financial assistance in Affordable Housing Development funding to construct 44 units of affordable rental housing for seniors aged 55 and older. The development would include 3 studio units, and 41 one-bedroom units. The proposed project will be one of the first to use the Income Averaging set-aside in the Low Income Housing Tax Credit Program. The new set aside will allow the project to serve households with incomes up to 80% of the area median income as long as the average income and rental limit in the project remains at 60% or less of the area median income. The property has a preference for 11 units for individuals referred by the City of Portland.

Community Housing of Maine has requested two forms of financial assistance:

(1) Affordable Housing Development funding request of \$330,000

Total City Investment of \$330,000/unit = \$7,500

Total City HOME Investment of \$330,000/affordable unit = \$7,500

(2) Ground lease for the City-owned property at 83 Middle Street; this request is on this agenda as Order 44-19/20.

The Housing and Community Development Division works with an independent consultant who performs third party underwriting reviews of requests for City funding. The review is available in the attachments for this item. The review indicates that the developer has the financial capacity to keep the development process moving forward. It is important to note that the initial underwriting has been done based on other funding sources that are anticipated but have yet to be secured. While significant progress has been made towards securing these financing sources, the final development budget and operating pro forma will need to be reviewed and analyzed to confirm the appropriateness of the initial funding recommendation noted below.

The third party underwriting report makes the following recommendations:

A loan in the amount of no more than \$330,000, zero percent interest.

This item must be read on two separate days. It was given a first reading on August 12, 2019. Five affirmative votes are required for passage after public comment.

Order 35-19/20 Appropriating \$425,000 from the Housing Trust Fund to the Portland Housing Development Corporation for the 47 Boyd Street Affordable Housing Project - Sponsored by the Housing Committee, Councilor Jill C. Duson, Chair.

The Housing Committee met on July 10, 2019 and voted unanimously (3-0) to forward this item to the City Council with a recommendation for passage.

Staff is recommending \$425,000 in Housing Trust funding be appropriated to the Portland Housing Development Corporation to rehabilitate an existing, three-story, multifamily building at 47 Boyd Street from 9 units to 12 units, featuring 8 units affordable at 50% Area Median Income, 1 unit affordable at 80% Area Median Income, and 3 market rate units.

The Housing and Community Development Division works with an independent consultant who performs third-party underwriting reviews of requests for City funding. The review of this project is in the back up material. Per the underwriting loan review, "This is a solid development by a developer with the skills and motivation to make the project succeed." The underwriter recommended a loan in the amount of no more than \$425,000, zero percent interest, payment deferred for 30 years.

One of the benefits of this proposal is that this project does not need to wait for awards of other public funding sources, such as LIHTC, in order to be utilized. This project is anticipated to begin construction in December 2019 and be completed in summer 2020.

The recommendations include the following conditions prior to loan closing:

- 1) All standard construction loan conditions, including satisfactory review of final contract with General Contractor consistent with budgeted estimates, and total contractor overhead, profit and general conditions of, not to exceed 14% of net construction costs; and
- 2) Satisfactory review of relocation budget.

This item must be read on two separate days. It was given a first reading on August 12, 2019. Five affirmative votes are required for passage after public comment.

ORDERS:

Order 41-19/20 Setting Election Date on Citizen Initiative Amendment to the Portland City Charter Re: Ranked Choice Voting for Municipal Officers - Sponsored by Katherine L. Jones, City Clerk.

This citizen initiative item did not receive the required number of signatures. The City Clerk has attached a Certification of that insufficiency to the back up material for this order.

The Citizen Initiative Committee has until Friday, August 30, 2019 at 4:30 p.m. signatures that were not verified by the City Clerk. As of the publication of the Agenda, such a notice had not been received by the Clerk's office. If a notice is received, staff recommends that the Council postpone action on this item to a later date. Conversely, if a notice is not received, staff recommends that the Council not hold the scheduled public hearing and postpone this item indefinitely.

Order 42-19/20 Regarding Citizen Initiative Amendment to the Portland City Charter for Public Campaign Funding - Sponsored by Katherine L. Jones, City Clerk.

Petitions for a proposed charter amendment for public funding for campaigns of municipal officials were submitted to the City Clerk's office on August 2, 2019. The Certification process has been completed, and the Clerk has deemed that the petitions were sufficient since the required amount of signatures (i.e. at least 20% of the number of votes cast in the municipality at the last gubernatorial election) were obtained by the petitioners. See 30-A M.S.R.A. sec. 2102(2).

Due to the significant nature of the proposed charter amendment, it has been determined that this proposal constitutes a revision to the charter, and a Charter Commission must therefore be constituted. The required ballot question about whether or not the voters would like to constitute such a Commission has been included in the agenda back-up materials for your review.

Five affirmative votes are required for passage after public comment.

Order 43-19/20 Approving the Option to Lease and 99-Year Lease Agreement with Community Housing of Maine for Land at 83 Middle Street - Sponsored by the Economic Development Committee, Councilor Justin Costa, Chair.

The Economic Development Committee met on August 20, 2019 and voted 4-0 to forward the recommendation to the City Council for approval.

Community Housing of Maine is requesting a 99-year lease of city-owned property at 83 Middle Street to develop approximately 49 units of affordable rental housing for seniors aged 55 and older, which will also include a preference for 11 units for long-term shelter stayers, parking and ground level commercial space.

As noted in a May 16, 2019 memo to the Housing Committee from Kristen Dow, then Interim Director of the Health and Human Services Department, *“The planned development supports the City’s goal of stabilizing the homeless populations, by targeting the individuals that consume the majority of the resources. As has been shown by CHOM’s development on 81 Danforth St (Danforth on High) the longest-term shelter stayers can thrive when given a chance to obtain safe, stable, affordable housing. CHOM has a proven track record of engaging and blending populations to make stable and successful housing. By housing the longest-term shelter stayers, the City can better allocate their resources by providing fewer shelter beds, and more targeted support services.”*

Staff is requesting approval of an option and lease of city-owned property located at 83 Middle Street to Community Housing of Maine with a term of 99 years at an aggregated lease payment of \$99.00 for the term, due and payable upon execution of the lease agreement.

Five affirmative votes are required for passage after public comment.

AMENDMENTS:

Order 44-19/20 Designating 17 Structures on or Adjacent to Forest Avenue as Historic Landmarks and Amending the Map of Designated Historic Resources - Sponsored by Jon P. Jennings, City Manager.

The Historic Preservation Board is recommending that seventeen 17 historic structures on or adjacent to Forest Avenue be designated as individual landmarks under the provisions of Portland's historic preservation ordinance. Properties recommended for landmark designation are as follows: 309, 330, 331, 343, 355, 364, 495, 501, 517, 525, 533, 617, 630, 643-651, 648 and 660 Forest Avenue; and 536 Deering Avenue.

All of the buildings, located between the I-295 interchange and Woodfords Corner, are thematically related in that they represent key chapters in Forest Avenue's late 19th and early 20th century development, particularly its era as a street car line serving the emerging suburban neighborhoods around it as well as the period when this section of Forest Avenue was known as "Auto Row" due to its concentration of first-generation auto showrooms, garages and auto supply businesses. The Historic Preservation Board's recommendation is based on findings that each of the buildings meet the historic preservation ordinance's minimum criteria for designation.

Designation of Forest Avenue's key historic structures is pursuant to a number of expressed goals and strategies included in the City's recently adopted Comprehensive Plan, Portland's Plan 2030. In the Plan, Woodfords Corner is identified as a priority node warranting enhancement in order to better serve neighborhood needs. The Plan identifies Forest Avenue as a priority corridor where additional planning measures are recommended to discourage typical suburban commercial development patterns and attract quality mixed-use, higher density growth. The Plan also recommends ongoing identification and designation of important historic assets, particularly in off-peninsula areas, and highlights historic preservation as an effective economic development tool. By preserving and enhancing Forest Avenue's key historic assets, the corridor's unique identity will be retained and the positive urban design characteristics exhibited by the identified historic structures will serve as a model for new development.

Landmark designation does not run counter to the City's goal of encouraging additional mixed-use, higher density growth along Forest Avenue. As is made clear in the cover document accompanying the recommended landmark designations and in the individual building descriptions themselves, the subject properties may be more intensively developed in the future, either through the construction of additional floors set back from the building façade and/or removal of noncontributing rear portions of the building for redevelopment. This preservation approach has been used effectively in numerous communities with designated one-or two-story historic auto showrooms.

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

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