

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

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

NOVEMBER 19, 2018 CITY COUNCIL AGENDA

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

PLEDGE OF ALLEGIANCE:

ROLL CALL:

ANNOUNCEMENTS:

RECOGNITIONS:

PRESENTATIONS:

ANNUAL MEETING:

Annual Meeting of Corporator of Portland Development Corporation.

Pursuant to the Bylaws of the Portland Development Corporation (PDC), the Portland City Council, as Corporator of the Portland Development Corporation, shall hold its annual meeting in the month of September each year or at a special meeting.

This year's Annual Meeting Agenda includes:

1. Acceptance of Portland Development Corporation Fiscal Year Ending 2018 Activity and Financial Reports;
2. Transaction of other business as may be deemed necessary.

PDC FYE2018 Activity and Financial Reports

For FY2018, the PDC invested just under \$1.1 Million in 19 businesses and economic development projects, which leveraged over \$5 Million in private sector funds associated with creating 26 jobs and retaining 62 jobs. Fiscal Year 2018 loan activity included a public to private investment ratio of 1:7.

Annual Meeting of Corporator of Creative Portland

Pursuant to the Bylaws of Creative Portland, the Portland City Council, as Corporator of Creative Portland, shall hold its annual meeting in the month of November each year or at a special meeting. This year's Annual Meeting Agenda includes:

1. Accepting Creative Portland Fiscal Year Ending 2018 Activity and Financial Reports .
2. Transaction of other business as may be deemed necessary.

SPECIAL MEETING:

APPROVAL OF MINUTES OF PREVIOUS MEETING:

November 5, 2018 Draft Regular City Council Meeting Minutes

PROCLAMATIONS:

Proclamation 17-18/19 Honoring Detective Kelly Gorham as Officer of the Month for September 2018 – Sponsored by Mayor Ethan K. Strimling.

APPOINTMENTS:

CONSENT ITEMS:

Order 100-18/19 Approving Transfer of Funds Under 15 M.R.S. §§5824(3) and 5826(6) Re: Melissa Emmons – Sponsored by Jon P. Jennings, City Manager.

This order authorizes the City Council to approve the transfer of \$600.00 in forfeited assets from the State of Maine to the City of Portland from the case of the State of Maine v. Melissa Emmons.

The money was seized during a drug investigation conducted by the M.D.E.A. in conjunction with the Portland Police Department. The money will be deposited into the Portland Police Department's drug investigation account. The money is used to offset the costs of drug investigations, such as drug analysis, drug purchases, covert surveillance, surveillance equipment, drug training and protective gear, such as body armor. The money may also be used to support the department's Law Enforcement Addiction Advocacy Program.

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

LICENSES:

Order 101-18/19 Granting Municipal Officers' Approval of Portland Shuck Shack LLC dba The Shop. Application for a Class I FSE with Entertainment without Dance and Outdoor Dining on Private Property at 123 Washington Avenue - Sponsored by Michael Russell, Director of Permitting & Inspections Department.

Application was filed on 10/26/2018. New City and State applications. The owners currently operate a Class III & IV with Entertainment without Dance and Outdoor Dining on Private Property at this location.

Five affirmative votes are required for passage after public comment.

Order 102-18/19 Approving Municipal Officers' Approval of Blue Lobster Urban Winery LLC dba Blue Lobster Urban Winery. Application for a Winery with Entertainment without Dancing and Outdoor Dining on Private Property at 219 Anderson Street - Sponsored by Michael Russell, Director of Permitting & Inspections Department.

Application was filed on 10/29/2018. New City applications. The owners currently operate the same business in a different unit.

Five affirmative votes are required for passage after public comment.

Order 103-18/19 Granting Municipal Officers' Approval of Pig Exchange, LLC dba Thirsty Pig. Renewal application for an Entertainment without Dance at 37 Exchange Street with the Condition of No Amplified Entertainment Outdoors - Sponsored by Michael Russell, Director of Permitting and Inspections.

Applicant holds a current Class A Lounge License with Entertainment without Dance and Outdoor Dining on Private Property with the condition of no amplified entertainment outdoors. The City Council requested that this business come back before them for renewal.

Five affirmative votes are required for passage after public comment.

Order 104-18/19 Granting Municipal Officers' Approval of Bunker Brewing LLC dba Bunker Brewing. Application for an Entertainment without Dancing at 17 Westfield Street with the Condition of Limiting the Events to 20 Per Year, Closing the Garage Door Closest to Neighbors and Ending All Events by 9:00pm. - Sponsored by Michael Russell, Director of Permitting & Inspections Department.

Application was filed on 10/11/2018. New City Application. This is currently a licensed Brewery.

Five affirmative votes are required for passage after public comment.

BUDGET ITEMS:

COMMUNICATIONS:

Communication 7 Re: the Rules Committee - Sponsored by Mayor Ethan K. Strimling.

The City Council Rules Committee will meet to review the Council Rules of Procedure on November 20, 2018 at 9:30 a.m. in Room 24 of Portland City Hall and November 28, 2018 at 3:30 p.m. in Room 209 in Portland City Hall. The Rules Committee will again review the Council Rules of Procedure and determine if and how the Rules should be amended. Any amendment of those Rules will be included on the December 3, 2018 City Council Agenda.

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

RESOLUTIONS:

UNFINISHED BUSINESS:

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

On July 31, 2018, the Housing Committee voted unanimously (2-0, Cook absent) to forward this item to the City Council with a recommendation for passage. On September 17, 2018, the Council voted to postpone this item until November 5, 2018 to allow the Housing Committee to complete additional work on the short term rental ordinance. On November 5, 2018, the City Council voted to postpone this order to November 19, 2018 to be considered with other amendments drafted by the Housing Committee.

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

Staff does not recommend passage of this Order in light of the other amendments being proposed.

This item must be read on two separate days. It was given a first reading on September 17, 2018. Five affirmative votes are required for passage after public comment.

Order 87-18/19 Amendment to the Portland City Code Chapter 6 Re: Non-Owner-Occupied Short Term Rental Units in Multi-Unit Buildings - Sponsored by Councilor Jill C. Duson

During the time that the Housing Committee has worked through changes to the short term rental ordinance, it was the Committee's desire that no non-owner occupied short term rental units – whether they were in an owner occupied building or otherwise – be registered above the 300 unit cap found in City Code § 6-153. The attached amendment, introduced at the City Council meeting on October 15, 2018 and then postponed at that meeting to November 19, 2018, is in lieu of a moratorium on owner-occupied short term rentals.

The amendment would change the short term rental ordinance to make it clear that non-owner occupied units in an owner occupied building will be counted towards the 300 unit cap. Because the total of non-owner occupied units in both owner-occupied and non-owner occupied buildings is at or slightly above that 300 cap, no new non-owner occupied units could be registered unless and until registrations fell below that cap or the cap was raised.

The amendment also contains a retroactivity clause, making it effective October 12, 2018. This means that it would apply to any applications for non-owner occupied units submitted on or after that date. However, any non-owner occupied units registered as of October 11, 2018, would remain registered, regardless of whether the 300 unit cap has been exceeded.

Given Order 99-18/19, which involves the same provisions, staff recommends that this Order be postponed indefinitely.

This item must be read on two separate days. It was given a first reading on October 15, 2018 and postponed twice, for final consideration at this meeting. Five affirmative votes are required for passage after public comment.

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

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

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

This item must be read on two separate days. It was given a first reading on November 5, 2018. Five affirmative votes are required for passage after public comment.

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

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

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

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

This item must be read on two separate days. This item was given a first reading on November 5, 2018. Five affirmative votes are required for passage after public comment.

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

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

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

Similar to the order already pending before the Council, this amendment would also include in the 300-unit cap found in Sec. 6-153(b) all units that are not the owner's primary residence, even if the owner lives in the building. However, the amendment would not be passed as an emergency and would not be retroactive, unlike Order 87-18/19.

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

This item must be read on two separate days. This item was given a first reading on November 5, 2018. Five affirmative votes are required for passage after public comment.

ORDERS:

AMENDMENTS:

Order 105-18/19 Amendment to Portland City Code Chapter 6 Re: Energy Benchmarking - Sponsored by the Sustainability and Transportation Committee, Councilor Spencer Thibodeau, Chair.

The Sustainability and Transportation Committee met on October 17, 2018 and voted 2-0 (Councilor Batson absent) to forward this item to the City Council with a recommendation for passage.

The amendment changes the reporting date for buildings subject to the Energy Benchmarking and Disclosure ordinance.

The current deadline for properties affected by the benchmarking ordinance is December 7, 2018. Staff is recommending that the second reading be waived and the amendment be enacted as an emergency so it takes effect prior to this deadline.

This item must be read on two separate days. The Council will be asked to waive the second reading and enact this order as an emergency. Seven affirmative votes are required to waive the second reading and for passage as an emergency.

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

MINUTES ARE DRAFT UNTIL APPROVED BY THE CITY COUNCIL AT THE FOLLOWING MEETING.