

KATE SNYDER (MAYOR)
BELINDA S. RAY (1)
SPENCER THIBODEAU (2)
TAE Y. CHONG (3)
ANDREW J. ZARRO (4)

MARK N. DION (5)
APRIL FOURNIER (A/L)
PIOUS ALI (A/L)
NICHOLAS M. MAVODONES, JR. (A/L)

CITY COUNCIL MEETING - SEPTEMBER 8, 2021 AT 5:00PM

The Portland City Council will hold a City Council Meeting remotely using Zoom. The Honorable Kate Snyder, Mayor, will preside.

To submit written public comment on an agenda item, email publiccomment@portlandmaine.gov. Submissions must be received by 12:00 pm the day of the Council 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 order number (see below).

ZOOM INFORMATION:

Due to the existence of an emergency or urgent issue the City Council will conduct this meeting by remote methods/technology at the Zoom link provided below, in accordance with the requirements of 1 M.R.S. section 403-B and the City Council's Remote Participation Policy.

Please click the link below to join the webinar:

<https://us02web.zoom.us/j/82388661337?pwd=eGhyYUFWK2F5MEdHZlllExJQUVaZz09>

Passcode: 466635

Or One tap mobile :

US: +19292056099,,82388661337#,,, *466635# or +13017158592,,82388661337#,,, *466635#

Or Telephone:

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

US: +1 929 205 6099 or +1 301 715 8592 or +1 312 626 6799 or +1 669 900 6833 or +1 253 215 8782 or +1 346 248 7799

Webinar ID: 823 8866 1337

Passcode: 466635

International numbers available: <https://us02web.zoom.us/j/82388661337?pwd=eGhyYUFWK2F5MEdHZlllExJQUVaZz09>

PLEDGE OF ALLEGIANCE:

ROLL CALL:

ANNOUNCEMENTS:

Announcement of the Barron Center achieving a five star rating from the Centers for Medicare & Medicaid Services, by Jon P. Jennings, City Manager

APPROVAL OF MINUTES OF PREVIOUS MEETING:

Approval of the draft Special City Council Minutes for August 23, 2021

PROCLAMATIONS:

Proclamation 3-21/22 Recognizing Nadine Pembele with the 2021 Spirit of America Foundation Tribute - Sponsored by Kate Snyder, Mayor

Proclamation 4-21/22 Recognizing September 2021 as African Heritage Month - Sponsored by Pious Ali, Councilor

CONSENT ITEMS:

Order 38-21/22 Approving Transfer of Funds under 15 M.R.S. § 5824 (3) and § 5826(6) Re: David Logugune - Sponsored by Jon P. Jennings, City Manager

The Portland Police Department seized assets including money in the amount of \$573.00 that were deemed to be either proceeds from the sale of illicit substances or assets intended to be furnished in exchange for illicit substances. A judgment has been received by the Superior Court awarding the assets to the State of Maine and allowing transfer to the City of Portland. The Civil Forfeiture statute, 15 M.R.S.A. § 5824 (3) and § 5826(6), requires that before any forfeitable item may be transferred to a state agency, county or municipality, the legislative body of that entity must publicly vote to accept the item.

Order 39-21/22 Extending the Outdoor Dining/Retail Festival from November 1, 2021 to April 15, 2022 - Sponsored by Jon P. Jennings, City Manager

This order extends the existing Outdoor Dining/Retail Festival Order to April 15, 2022, effectively allowing the street closings and outdoor dining permits issued under the pandemic emergency provisions to continue until that date. It details the street closing locations, and confirms that no additional fees will be charged to the stores and restaurants already permitted.

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

LICENSES:

Order 40-21/22 Granting Municipal Officers' Approval of Apple Nine Hospitality Management Inc, dba AC Hotel Portland Downtown/Waterfront. Application for a Class IA Inn at 158 Fore St. - Sponsored by Jon P. Jennings, City Manager

Application was filed on 8/16/21. New City and State applications. New owner of an existing business.

Five affirmative votes are required for passage after public comment.

Order 41-21/22 Granting Municipal Officers' Approval of Apple Nine Hospitality Management Inc, dba Aloft Hotel Portland. Application for a Class IA Inn at 379 Commercial St. - Sponsored by Jon P. Jennings, City Manager

Application was filed on 8/16/21. New City and State applications. New owner of an existing business.

Five affirmative votes are required for passage after public comment.

Order 42-21/22 Granting Municipal Officers' Approval of Yardie Ting LLC, dba Yardie Ting. Application for a Class III & IV FSE at 28 Monument Square - Sponsored by Jon P. Jennings, City Manager

Application was filed on 7/26/21. New City and State applications. Applicant currently holds FSE with prep.

Five affirmative votes are required for passage after public comment.

Order 43-21/22 A City Councilor is requesting referral of Tangible Alchemy dba Urban Farm Fermentory's Combined Entertainment license at 200 Anderson St. - Sponsored by Jon P. Jennings, City Manager

Applicant currently holds a Combined Entertainment license. Chapter 4-57.1 (d) allows for the referral of an Entertainment license to the Sound Oversight Committee by the City Council.

Five affirmative votes are required for passage after public comment.

Written Public Comment

RESOLUTIONS:

Resolve 1-21/22 Requesting the Maine Department of Transportation Establish a Rail Corridor Use Advisory Council for the Casco Bay Trail - Sponsored by the Sustainability & Transportation Committee, Councilor Belinda Ray, Chair

On July 19, 2021, the Sustainability and Transportation Committee voted 3-0 to recommend the City Council adopt a resolution regarding the proposed Casco Bay Trail. The resolution calls for the Maine Department of Transportation (MaineDOT) to accept the abandonment of the St. Lawrence and Atlantic railroad tracks between Yarmouth and Portland, to provide a notice-and-comment procedure if the MaineDOT decides to consider an extension of the existing freight easement; and create a Rail Corridor Use Advisory Council to consider future use of the Casco Bay St. Lawrence-Atlantic Corridor as a multi-use "trail-until-rail." This follows similar resolutions by the Town Councils in Yarmouth, Falmouth, and Freeport.

This item was postponed on August 23, 2021. Five affirmative votes are required for passage after public comment.

Written Public Comment

UNFINISHED BUSINESS:

Order 22-21/22 Amendment to Zoning Map Re: 99 Winter Street and 152-160 State Street from R-6 Residential to B-3 Downtown - Sponsored by Brandon Mazer, Chair, Portland Planning Board

On June 8, 2021, the Planning Board voted (5-0) that the proposed zoning map amendment is consistent with the Comprehensive Plan and recommended this action to the City Council. Thanos, LLC, requests a zoning map amendment to facilitate development at 99 Winter Street. The zoning map amendment would rezone two parcels from the existing R-6 zone to a B-3 zone. The Downtown Height Overlay Map (see next item) would be amended coterminous with the proposed B-3 rezoning area.

The proposed rezoning would facilitate the development of a new six-story, multifamily residential building including workforce housing at 99 Winter Street, which currently contains no structures. At this point in the process, the proposal for development remains conceptual in nature, as no site plan application has yet been submitted. Furthermore, one additional parcel located 152-160 State Street is included in the proposed map amendment boundary in order to create a contiguous B-3 zone and to bring the existing parcel's use (Portland Club) into greater conformance.

This item must be read on two separate days. It received its first reading on July 19, 2021 and was postponed on August 23, 2021. Five affirmative votes are required for passage after public comment.

Order 23-21/22 Amending the Height Overlap Map at 99 Winter Street - Sponsored by Brandon Mazer, Chair, Portland Planning Board

This is a companion item with the order above. Thanos, LLC, seeks an amendment to the Downtown Height Overlay Map. The Downtown Height Overlay Map would be amended to add two B-3 parcels and designate heights for those parcels.

This item must be read on two separate days. It received its first reading on July 19, 2021 and was postponed on August 23, 2021. Five affirmative votes are required for passage after public comment.

Order 35-21/22 Accepting and Appropriating \$480,850 in U.S. Environmental Protection Agency Brownfields Funds for the City's Brownfields Revolving Loan Fund - Sponsored by Jon P. Jennings, City Manager

This item provides the City Council's authorization to accept and appropriate \$480,850 in a United States Environmental Protection Agency (EPA) Brownfields Revolving Loan Fund grant, which will be awarded by EPA shortly, with the expectation that the local funding program will begin in October. These funds will recapitalize the City's Brownfields Revolving Loan Fund (RLF), allowing the provision of greater assistance

for remediation of Brownfields sites in Portland.

This item must be read on two separate days. It received its first reading on August 23, 2021. Five affirmative votes are required for passage after public comment.

Written Public Comment

Order 36-21/22 Approving the Collective Bargaining Agreement with the Firefighters Local 740, International Association of Firefighters - Sponsored by Jon P. Jennings, City Manager

Staff has reached a tentative agreement with the Local 740, International Association of Firefighters on a successor three (3) year contract. Local 740 is the City's second largest union that represents all Firefighters throughout the city with approximately 225 members.

Highlights are as follows:

- 2021 - 3% COLA increase, effective July 4, 2021, retroactive
- 2022 - 0 % COLA but implementation of the 3C retirement plan, additional 2.5% City contribution to the 401a retirement plan and 2% increase to the top steps of the pay plan
- 2023 – 2% COLA increase
- Other provisions include Earned Paid Leave, changing the work cycle from eight days to seven days for pay purposes and simplifying the payment of specialty stipends.
- The new contract term is January 1, 2021, through December 31, 2023

This item must be read on two separate days. It was received its first reading on August 23, 2021. Five affirmative votes are required for passage after public comment.

Written Public Comment

Order 37-21/22 Designating the Marguerite Emerson House at 99 Capisic Street as a Landmark - Sponsored by Jon P. Jennings, City Manager

The Historic Preservation Board is recommending that the c.1848 residential structure at 99 Capisic Street be designated an individual Landmark under the provisions of Portland's historic preservation ordinance. A fine example of Greek Revival architecture, the building is particularly significant for its temple-like form, which is unusual for Greek Revival dwellings in Portland, especially in the once-rural areas off the Portland peninsula.

The building was nominated for landmark designation by its current owner, Vana Carmona. Following a review of the building's history and an evaluation of its architectural significance and condition, the Historic Preservation Board found that the historic residence at 99 Capisic meets the historic preservation ordinance's minimum

criteria for designation and voted unanimously to recommend landmark designation.

This item must be read on two separate days. It received its first reading on August 23, 2021. Five affirmative votes are required for passage after public comment.

Written Public Comment

Order 259-20/21 Authorizing 6th Amendment to the Downtown Transit Oriented Development and Omnibus Tax Increment Financing District to Increase Funding to Creative Portland - Sponsored by the Housing and Economic Development Committee, Councilor Spencer Thibodeau, Chair

The Housing and Economic Development Committee (HEDC) reviewed Creative Portland Board's request for additional Downtown TOD TIF funding and recommended, on a vote of 4-0 on March 16, 2021, to forward this to the City Council for approval.

Creative Portland (CP) Board President Kate Anker presented the Board's request to the HEDC at their March 2nd and 16th meetings for increased funding for CP programs and services. It is noted that the Housing and Economic Development Department includes two full-time positions which provide staff support to the CP Board. The CP Board's request is for the City of Portland to fund the entire costs for the two full-time staff positions assigned to the Board and for the City to redirect the historic level of funding of \$100,000 along with a \$55,000 increase to support programs and services outlined in the attached CP Board request.

The Downtown TOD TIF currently has a cap of \$100,000 annually to support CP. Historically, TIF funding only supported staff costs. The Proposed TIF District Amendment would establish a minimum annual level of funding for CP in the amount of \$155,000 to support CP programs and services. See below funding table:

CP Funding Table		
Timeframe and Use	Source	Total
Existing – City Staff Costs	\$100,000 – DT TOD TIF \$40,000 – DT TOD TIF	\$140,000
CP Board Request: - City Staff Costs - CP Programs and Services	\$140,000 – TIF \$155,000 – DT TOD TIF	\$295,000

This item must be read on two separate days. It received its first reading on May 17, 2021. On June 7, 2021, it was postponed to the September 8, 2021 Council meeting. Five affirmative votes are required for passage after public comment. Staff recommend that this item be postponed to the October 4, 2021 meeting to allow for consideration by the Finance Committee and at a potential City Council workshop.

ORDERS:

Order 44-21/22 Condemning the Property Rights of FEDEQ DV004, LLC et al. Pursuant to 30-A M.R.S. §§ 5401 et seq. (including § 5403(6)), 30-A M.R.S. § 3101, and 23 M.R.S.A. § 3023 - Sponsored by Kate Snyder, Mayor

At its August 23, 2021 meeting, the City Council approved a Notice of Public Hearing concerning this order as Resolve 2-21/22, and that Notice was posted as required and served on the representatives of FEDEQ DV004, LLC, FEDEQ Sponsor Entity V, LLC and Redwood Development Consulting, LLC. Following the public hearing on this order concerning Lot 6, 59 Somerset Street, the Council will vote on whether to take by eminent domain Lot 6, 59 Somerset Street, for the public purpose of a parking facility as defined by 30-A M.R.S. sec. 5401(5)-(7). The power of the City to acquire land by eminent domain for this purpose is specifically granted under, inter alia, 30-A M.R.S. sec. 5401, et seq., including section 5403(6).

Five affirmative votes are required for passage after public comment.

Written Public Comment

Order 47-21/22 Accepting and Appropriating \$40,909.09 in Assistance to Firefighters Grant Funding from Federal Emergency Management Agency - Sponsored by Jon P. Jennings, City Manager

The Portland Fire Department was recently awarded Federal Emergency Management Agency (FEMA) funding of \$40,909.09 to support the work of a new, full-time mental health employee within the Fire Department. The local match for this grant is \$4,090.01 and is accounted for in the FY22 budget.

Specifically, this funding will support training, workshops, equipment and other services for the position. Per FEMA guidelines, funding must be accepted by September 25, 2021.

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

AMENDMENTS:

Order 45-21/22 Traffic Schedule Amendment Re: Closing Dana, Wharf and Part of Milk Street to Through Traffic - Sponsored by Jon P. Jennings, City Manager

On August 31, 2021, the Housing & Economic Development Committee voted unanimously (4-0) to forward the proposal to close Dana Street, Wharf Street, and one block of Milk Street (between Market and Exchange) to through traffic to the full Council for approval.

These recommendations are part of Open Air Portland, a program developed to support increased pedestrian, bicycle, and business activity outdoors. Additional information, including information requested by HEDC on August 31, is included in the agenda packet.

In developing the program, staff collected feedback from various external stakeholders. Regarding the closure of Dana, Wharf, and part of Milk Street to vehicle traffic, 81% of respondents said it was a "good idea", 8% said it was a "bad idea", and 11% said they

were "unsure". More survey results and program details are included in the backup materials.

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

Order 46-21/22 Amendment to Portland City Code Chapter 25 Re: Parklet Fee Reduction - Sponsored by Jon P. Jennings, City Manager

On August 31, 2021, the Housing & Economic Development Committee unanimously voted (4-0) to forward the proposal to reduce parklet permit application fees to the full Council for approval.

This recommendation is part of Open Air Portland, a program developed to support increased pedestrian, bicycle, and business activity outdoors. This recommendation is also designed to help businesses during the economic uncertainty caused by COVID-19.

According to Chapter 25, the parklet permit application fee is \$5,520, which reflects the costs associated with the program administration (staff time, loss of parking revenue, etc.). During the pandemic and with the authority granted to him via a temporary Emergency Order, the City Manager temporarily reduced the fees to \$1,092 in recognition of the economic challenges facing small businesses.

To continue to support small businesses through their recovery, this item would amend Chapter 25 so that the fee associated with one parklet permit is \$3,000 and the fee for two parklet permits is \$5,000. This fee schedule will be evaluated annually to ensure the City can fully recoup the costs associated with program implementation.

In developing Open Air Portland, staff collected feedback from various external stakeholders. Businesses currently licensed to operate on parklets indicated that, if parklet fees were set at \$3,000 (for one) and \$5,000 (for two), 1/3 of them would continue to operate on a parklet; 1/3 would no longer continue to operate on a parklet; and 1/3 were unsure.

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

Written Public Comment

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