

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 - OCTOBER 4, 2021 AT 5:00 PM

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:

Please click the link below to join the webinar:

<https://us02web.zoom.us/j/84217109286?pwd=NzBPM2hQaDB0NWFBWmpHck1lbnRpQT09>

Passcode: 970838

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Webinar ID: 842 1710 9286

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International numbers available: <https://us02web.zoom.us/j/84217109286?pwd=NzBPM2hQaDB0NWFBWmpHck1lbnRpQT09>

PLEDGE OF ALLEGIANCE:

ROLL CALL:

ANNOUNCEMENTS:

Announcement by Katherine L. Jones, City Clerk, regarding early voting

RECOGNITIONS:

PRESENTATIONS:

APPROVAL OF MINUTES OF PREVIOUS MEETING:

Approval of the Draft September 20, 2021 City Council Meeting Minutes

PROCLAMATIONS:

Proclamation 9-21/22 Recognizing October 10, 2021 as World Mental Health Awareness Day - Sponsored by Pious Ali, Councilor

Proclamation 10-21/22 Recognizing Indigenous Peoples' Day 2021 - Sponsored by Kate Snyder, Mayor

CONSENT ITEMS:

Order 60-21/22 Declaring November 6, 2021 the Shipyard Old Port Half Marathon and 5K Festival - Sponsored by Jon P. Jennings, City Manager

The Shipyard Old Port Half Marathon & 5K is a for-profit event, however Gary's House, Habitat for Humanity of Greater Portland, and Portland Trails (as well as other non-profits in the area) all benefit from race proceeds.

This race has been held in the city for nine years (this will be the 10th). In 2020 the race was approved by the City Council; however, due to COVID-19 it was cancelled. This year every aspect of the event will be completely re-configured to ensure the safety of all stakeholders. The number of half marathon and 5K runners will be capped at a maximum of 3,500 people per race, with an additional 500 spectators.

Organizers will follow all current local, state and federal orders when it comes to COVID-19.

Order 61-21/22 Granting Central Maine Power an Easement at Presumpscot Elementary School - Sponsored by Jon P. Jennings, City Manager

This item approves an easement for Central Maine Power to add electric capacity at Presumpscot Elementary School. The Buildings For Our Future expansion and renovation of the Presumpscot School was approved by Portland taxpayers in November 2017. The final plan includes adding a separate cafeteria and kitchen as well as additional instructional spaces totaling over 17,000 square feet, increasing the building footprint over 70% to more than 42,000 square feet. The existing electrical infrastructure does not meet code requirements and would not support the new load. The removal of the three existing modular classroom buildings is also part of the project.

Order 62-21/22 Declaring February 15 to February 28, 2022 the CarnavalME Festival - Sponsored by Jon P. Jennings, City Manager

CarnavalME will be the sister event to Carnaval de Quebec which is a 10-day winter festival that started in 1894. The 2022 CarnavalME will have an anticipated attendance of 25,000 over 10 days. The majority of the CarnavalME experiences will take place outdoors, including but not limited to ice sculptures, illumination, an open air event igloo, a snow stage featuring children's theatricals and live music, plus a rail jam and food trucks.

CarnavalME will comply with any and all life, safety, and health code requirements during the use of the space, including, without limitation, all applicable local, state, and federal orders related to COVID-19.

Order 63-21/22 Setting the Time for Opening and Closing of Polls on November 2, 2021 Re: General Municipal Election and State Referendum - Sponsored by Katherine L. Jones, City Clerk

Pursuant to 21A M.R.S. §626, this item sets the opening of polls at 7:00 a.m. and the closing at 8:00 p.m. on Tuesday, November 2, 2021 for the General Municipal Election and State Referendum.

Five affirmative votes are required for passage of consent items after public comment.

LICENSES:

Order 64-21/22 Granting Municipal Officers' Approval of Rosemont Market Inc, dba Rosemont Market and Wine Bar. Application for Outdoor Dining on Private Property at 42 Resurgam Pl. - Sponsored by Jon P. Jennings, City Manager

Application was filed on 9/13/21. New City application. Applicant currently holds a Class III & IV FSE at this location.

Five affirmative votes are required for passage after public comment.

Order 65-21/22 Granting Municipal Officers' Approval of Perfect Pie 2, LLC, dba Pizzaiolo. Application for Combined Entertainment at 865 Forest Ave. - Sponsored by Jon P. Jennings, City Manager

Application was filed on 9/13/21. New City application. Applicant currently holds a Class XI Restaurant/Lounge with Outdoor Dining on Private Property at this location.

Five affirmative votes are required for passage after public comment.

Order 66-21/22 Granting Municipal Officers' Approval of Smallaxe LLC, dba East Ender. Application for Indoor Entertainment at 47 Middle St. - Sponsored by Jon P. Jennings, City Manager

Application was filed on 9/13/21. New City application. Applicant currently holds a Class I FSE with Outdoor Dining on Public Property at this location.

Five affirmative votes are required for passage after public comment.

Order 67-21/22 Granting Municipal Officers' Approval of Arcadia Gaming and Pizza Parlor LLC, dba Arcadia. Application for Class XI Restaurant/Lounge with Indoor Entertainment, 50 Amusement Devices and 50 Pinball Machines at 504 Congress St. - Sponsored by Jon P. Jennings, City Manager

Application was filed on 9/13/21. New City and State applications. Location was previously Port City Music Hall.

Five affirmative votes are required for passage after public comment.

Written Public Comment

RESOLUTIONS:

Resolve 3-21/22 Urging the Adoption of Precautionary Measures to Slow the Spread of COVID-19 - Sponsored by Kate Snyder, Mayor

This resolution seeks to achieve the goal of impacting behaviors and precautions regarding Covid-19.

While the City of Portland requires vaccination and/or testing by employees, requires vaccination for those over 12 at Merrill Auditorium, the Expo, and other City-owned and -operated venues, we know that the City does not have the staff resources to enforce a mask mandate or vaccine requirement at places of business it does not own or operate.

With this Resolution we ask, urge and recommend vaccination, mask wearing, and other precautions that we know stem the spread of Covid-19. We also recommend and support the launch of a City-led public education campaign, which includes the development of assets for use by community organizations and businesses.

UNFINISHED BUSINESS:

Order 48-21/22 Order Declaring an Emergency - Sponsored by Kate Snyder, Mayor

After hearing from City of Portland public health officials at a workshop on September 8, 2021, the City Council called a special meeting on September 13, 2021 in order to consider amending its emergency proclamation to, among other things, mandate the use of face coverings in public indoor spaces located in the City. Public health officials made it clear that critical care hospitalizations in Maine have reached their highest numbers for the entire period of the Covid-19 pandemic. And that this is happening despite a high county-wide rate of vaccinations and is primarily the result of the Delta variant's contagiousness. As a result, they, along with the United States Centers for Disease Control and Prevention officials and the Maine Center for Disease Control officials, all advise the use of all preventative measures, including the use of face coverings in public indoor spaces. It is hoped that these measures will succeed at stopping the relentless spread of Covid-19, especially among the immune-compromised and children under 12, who are not yet allowed to be vaccinated.

At a September 13, 2021 special meeting, the Council voted (8-1) to postpone their vote on the emergency proclamation to September 20, 2021 to gather additional information. On September 20, 2021, after various amendments were approved (see attached order), a motion to pass as amended failed (4-4). Pursuant to Rule 20, this item shall appear on this and any other succeeding meeting agendas until it passes or is postponed indefinitely.

An amendment deleting language concerning a mask mandate is in the back-up material for council consideration. Staff is requesting that this item be passed as an emergency. Seven votes are required for passage as an emergency.

Written Public Comment

Order 54-21/22 Appointing Local Health Officer Bridget Rauscher Constable - Sponsored by Kate Snyder, Mayor

This order appoints Local Health Officer Bridget Rauscher constable for the 2021 calendar year. The appointment would authorize her to enforce the mask mandate under consideration in the Emergency Order 48-21/22.

This appointment is effective from the effective date of the order until 12:00 midnight, December 31, 2021, and is made pursuant to Portland City Code, Sections 2019 and 20-19.5. Constables are not allowed to carry a firearm, concealed or unconcealed, in the performance of their duties, or to make arrests or issue parking tickets, except for the constables listed who work for the Parking Division and issue parking tickets as part of their job.

This item was postponed on September 20, 2021. In order to authorize Ms. Rauscher to enforce the mask mandate, if adopted, staff is asking that this order be passed as an emergency. Seven affirmative votes are required for passage after public comment.

Order 58-21/22 Appropriating \$150,000 from the Housing Trust Fund to Developers Collaborative Predevelopment LLC Re: Phoenix at Danforth - Sponsored by the Housing & Economic Development Committee, Mayor Kate Snyder, Chair

The Housing & Economic Development Committee met on August 31, 2021 and voted unanimously (4-0) to forward this item to the City Council with a recommendation for passage.

Developers Collaborative is proposing to construct 30 units of affordable housing on a site it owns at 155 Danforth Street. 100% of the units will have income restrictions.

The City Council previously approved an Affordable Housing Tax Increment Financing District (Order 280-18/19 and Order 28-18/19) to renovate the existing building at 66 State Street and to construct 155 Danforth Street. \$299,999 in HOME subsidy financing was also approved by the City Council for 155 Danforth Street (Order 33-19/20).

This order appropriates \$150,000 from the Housing Trust Fund to Developers Collaborative for the affordable housing project called Phoenix at Danforth, located at 155 Danforth Street.

This item must be read on two separate days. It received its first reading on September 20, 2021. Five affirmative votes are required for passage after public comment.

Order 59-21/22 Amendment to the Portland City Code Chapter 2 Re: Additional Senior Tax Relief - Sponsored by the Finance Committee, Nicholas Mavodones, Chair

The Finance Committee met on September 9, 2021 and voted 3-0 to forward this amendment to the full City Council for approval.

This Order would increase maximum P-STEP payments from \$900 to \$1,200 (matching State of Maine maximum payments) effective upon passage by the City Council. In

FY22 only (the "bridge" year), maximum payments would be doubled for eligible applicants who own a homestead in the City and applied directly to property taxes due.

LD 1638 (An Act To Help Seniors and Certain Persons with Disabilities Remain in their Homes by Providing for the Deferral of Property Taxes) was signed into law by Governor Mills on July 19, 2021. Taxpayers who qualify for this program are eligible to defer their property taxes due until the sale of their homes at a later date. Under this program, the State of Maine will pay a municipality directly for any property taxes due, place a lien on the property, but not foreclose on the loan so the property taxpayer could remain in the home as long as necessary. This program is a win-win-win for the State, local municipality, and the property taxpayer. Unfortunately, due to the timing of the law passage, the program will not go into effect until the FY23 tax year (application period opens in January 2022 for FY23 tax bills), so it is not available for the current property tax year. For many low income seniors in Portland, an option for a "bridge program" for the upcoming tax year (FY22) which will assist them until the State deferral program goes into place is necessary. The most critical component of the bridge program is increasing the maximum payments available under the Portland Senior Tax Equity Program (P-STEP).

This item must be read on two separate days. It received its first reading on September 20, 2021. Five affirmative votes are required for passage after 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 & Economic Development Committee, Mayor Kate Snyder, Chair

The Housing & 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 first postponed to the September 8, 2021 Council meeting, at which time staff recommended that this item be postponed to the October 4, 2021 meeting to allow for consideration by the Finance Committee and a City Council workshop. Five affirmative votes are required for passage after public comment.

ORDERS:

Order 68-21/22 Adopting the 2020 Community Development Block Grant Priority Task Force Report with 2021 Addendum, as amended - Sponsored by the Housing & Economic Development Committee, Mayor Kate Snyder, Chair

At their September 21, 2021 meeting, the Housing & Economic Development Committee voted (4-0) to forward this item to the City Council with the recommendation to adopt the CDBG Priority Task Force Report, as amended.

On February 9, 2020, the City Council approved the re-establishment of the CDBG Priority Setting Task Force to review priorities, structural changes, and administrative changes to the allocation process for U.S. Department of Housing and Urban Development (HUD) funding. HUD requires that communities undertake a planning process every 3 to 5 years to review local affordable housing and community development needs. The new 5-Year Consolidated Plan will be submitted to HUD in May, 2022 as required by a one-year extension approved by HUD to implement a public outreach strategy that met Centers for Disease Control social distancing guidelines and provided time to evaluate the report of the Racial Equity Steering Committee.

A detailed description of the task force recommendations is included in the Staff Analysis and Background section of the memo. The staff is requesting that the City Council accept the 2020 CDBG Priority Task Force Report and the 2021 Addendum and adopt the Task Force recommendations, with the exception of the recommendations noted in the City Manager's Recommendation Letter.

Five affirmative votes are required for passage after public comment.

Order 69-21/22 Appropriating \$10,000 for a Rail Study - Sponsored by Kate Snyder, Mayor

This order would appropriate \$10,000 toward a passenger rail study between Portland and Lewiston and Auburn.

In June 2021, the Legislature and Gov. Janet Mills approved legislation that directed the Maine Department of Transportation to finish a \$200,000 study to determine if Lewiston and Auburn can be tied into the passenger rail network that extends from Portland to

Boston and beyond. The measure required Lewiston and Auburn to chip in 10% of the \$200,000 price tag; however, Auburn City Council recently decided not to contribute to the funding.

This item must be read on two separate days. The City Council is asked to waive the second reading, which requires seven votes. Emergency passage is also requested. Seven votes are required for emergency passage following public comment.

Order 70-21/22 Appointing Danielle P. West as Interim City Manager - Sponsored by Kate Snyder, Mayor

This order appoints Danielle P. West, the City of Portland's Corporation Counsel, as Interim City Manager effective November 2, 2021. City Manager Jon P. Jennings has accepted a new position as City Manager for the City of Clearwater, Florida, and his last day as manager in Portland will be November 1, 2021. Ms. West will serve as the Interim City Manager while a search is conducted for a permanent City Manager, and shall be paid at the annual salary received by Mr. Jennings, of \$181,079. Upon the City Council's appointment of a new City Manager, Ms. West shall resume her appointment as Corporation Counsel.

Five affirmative votes are required for passage after public comment.

Order 71-21/22 Appointing Jennifer Thompson Acting Corporation Counsel - Sponsored by Kate Snyder, Mayor

This order appoints Attorney Jennifer Thompson, currently Associate Corporation Counsel, as the Acting Corporation Counsel effective November 2, 2021. When Attorney West resumes her appointment as Corporation Counsel, Attorney Thompson shall resume her appointment as Associate Corporation Counsel.

Five affirmative votes are required for passage after public comment.

AMENDMENTS:

Order 72-21/22 Zoning Map Amendment Re: 43 and 91 Douglass Street from R-5 to R-5a Residential - Sponsored by the Planning Board, Brandon Mazer, Chair

On September 14, 2021, the Planning Board voted unanimously (6-0; Mazer absent) to recommend to the City Council adoption of a zoning map amendment for two parcels located at 43 and 91 Douglass Street (i.e. 57 Douglass Street) from an R-5 Residential zone to an R-5a Residential zone. This action would facilitate the development of City-owned property in accordance with a Request for Proposals (RFP) released in April of 2020, soliciting proposals for an age-inclusive and affordable housing proposal at this location.

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

Order 73-21/22 Amendment to the Portland City Code Chapter 6 Re: National Electric Code - Sponsored by Jon P. Jennings, City Manager

Effective July 2, 2021, the State Department of Professional and Financial Regulation adopted the 2020 edition of the National Electrical Code ("NEC"). Section 6-98 of the City Code has adopted the 2014 edition of the NEC, and the proposed change updates the version of the NEC adopted by the City to conform to State requirements.

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

Order 74-21/22 Amendment to the Portland City Code Chapter 15 Re: Amusement Device License Fees - Sponsored by Jon P. Jennings, City Manager

This amendment keeps the license fee for "amusements," including pinball machines, at \$153.00 per device up to 25 devices, and charges \$10.00 each for more than 25. This change became important upon the licensing of a business that offered dozens of amusement devices to its customers. This amendment is retroactive to September 13, 2021, should the City Council approve it, and will result in a refund of approximately \$10,725.00 to one business that has already paid fees under the existing fee structure this year. A comparable situation at the former Joker's in Portland involved a fee structure similar to the one being proposed.

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:

EXECUTIVE SESSION: