

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 18, 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/85621497951?pwd=UFFoUHdtZldieU1vVms5eFB2L25ZZz09>

Passcode: 206775

Or One tap mobile :

US: +13017158592,,85621497951#,,, *206775# or

+13126266799,,85621497951#,,, *206775#

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

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

Webinar ID: 856 2149 7951

Passcode: 206775

International numbers available: <https://us02web.zoom.us/j/85621497951?pwd=UFFoUHdtZldieU1vVms5eFB2L25ZZz09>

PLEDGE OF ALLEGIANCE:

ROLL CALL:

ANNOUNCEMENTS:

RECOGNITIONS:

PRESENTATIONS:

ANNUAL MEETING:

**Annual Meeting of the Corporator of the Portland Fish Exchange Corporation -
Sponsored by Kate Snyder, Mayor**

The City Council, as Corporator of the Portland Fish Exchange, meets annually to conduct business and receive an update of activities. The Annual Report is attached in the

backup materials. The City Council will also be introduced to the new Portland Fish Exchange General Manager, Jodie York.

This item requires no formal Council action.

APPROVAL OF MINUTES OF PREVIOUS MEETING:

Approval of the Draft October 4, 2021 City Council Meeting Minutes

PROCLAMATIONS:

APPOINTMENTS:

Order 75-21/22 Appointing Directors of the Portland Widows' Wood Society for the 2021-2022 Term - Sponsored by Jon P. Jennings, City Manager

The Portland Widows' Wood Society provides heating and utility bill assistance to needy Portland residents who are referred to the Society by various charitable organizations and the City of Portland. This order appoints the following persons as Directors to the Portland Widows' Wood Society for the 2021-2022 term:

John Knox
Nancy English
Henry Donovan
Cyrus Hagge
Thomas Pierce
Cheryl Hallett
Desiree Lester

Five affirmative votes are required for passage after public comment.

CONSENT ITEMS:

Order 76-21/22 Appointing Parking Control Officers Constables - Sponsored by Jon P. Jennings, City Manager

This order appoints Parking Control Officers as Constables in order for them to use license plate recognition in enforcement of city traffic ordinances. These appointments are effective from the effective date of the order until 12:00 midnight, December 31, 2021, and are made pursuant to Portland City Code, Sections 2019 and 2019.5. Constables are not allowed to carry a firearm, concealed or unconcealed, in the performance of their duties, or to make arrests.

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

LICENSES:

Order 77-21/22 Granting Municipal Officers' Approval of Stratos Hospitality, dba West End Inn. Application for Class IV/V Nonprofit at 146 Pine St. - Sponsored by Jon P. Jennings, City Manager

Application was filed on 9/28/21. New City and State applications. New owner of an existing business.

Five affirmative votes are required for passage after public comment.

Order 78-21/22 Granting Municipal Officers' Approval of 77 Free Street LLC, dba Free Street. Application for Class XI Restaurant/Lounge with Indoor Entertainment at 77 Free St. - Sponsored by Jon P. Jennings, City Manager

Application was filed on 10/5/21. New City and State applications. Location was previously Binga's Wingas Stadium.

Five affirmative votes are required for passage after public comment

COMMUNICATIONS:

Com 3-21/22 Communication re: City Manager Search Subcommittee - Sponsored by Kate Snyder, Mayor

UNFINISHED BUSINESS:

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. It received its first reading on October 4, 2021. Five affirmative votes are required for passage after public comment.

Written Public Comment

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. It received its first reading on October 4, 2021. Five affirmative votes are required for passage after public comment.

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. It received its first reading on October 4, 2021. Five affirmative votes are required for passage after public comment.

ORDERS:

Order 79-21/22 Releasing Deed Restrictions on C Street and Valley Street - Sponsored by Jon P. Jennings, City Manager

Avesta Housing is preparing for a construction loan closing on the 200 Valley Street rental housing development project. As part of the due diligence for the closing, an examination of the title to the real estate uncovered three deeds from the City to a former owner of the property dating back to 1900 and 1907. The properties referenced include 6 C Street (064 F 015), 204 Valley Street (064 F 008) and 201 Valley Street (064 F 007). The deeds prohibit construction of buildings on the property within 5' of the street line, but the development plans and recorded subdivision plat approved by the Planning Board include less than a 5' setback.

Department of Public Works staff have been consulted and determined that there is no need to continue the 5' setback requirement in the deed, and Corporation Counsel's Office has reviewed and approved the form of the attached release deed.

Five affirmative votes are required for passage after public comment.

Order 80-21/22 Approving Findings of Fact Re: Fair Elections Portland - Sponsored by Kate Snyder, Mayor

In 2019, Fair Elections Portland submitted a petition proposing a change to the City Charter that would add a requirement in the City's Charter that the City's annual budget include "sufficient" funds to finance the campaigns of candidates for the City Council and the Board of Public Education. As contemplated by the State Home Rule Act, the City Council at the time considered whether the proposed change constituted a revision or an amendment to the City's Charter. After several public hearings and, with the advice of Corporation Counsel, the City Council determined that the proposed change constituted a charter revision rather than a more simple amendment of the Charter. Under State statute, revisions of municipal charters may not be placed directly on a ballot for voter consideration and must, instead, be considered and proposed by a Charter Commission.

Fair Elections Portland, Inc., et al. appealed the City Council's determination that the proposed charter change constitutes a revision, not an amendment. On appeal, the City

Council's action was largely upheld by both the Superior Court and the Maine Supreme Judicial Court. The Maine Supreme Judicial Court did, however, order the remand of the decision back to the City Council in order to allow the Council to provide "a statement of its basis in law and in fact" for concluding that the proposed change constitutes a revision rather than an amendment of the City Charter. That "statement" is here called Findings of Fact.

Five affirmative votes are required for passage after public comment.

Written Public Comment

Order 81-21/22 Approving and Appropriating \$4.5 Million for Land Acquisition by the Portland International Jetport - Sponsored by Jon P. Jennings, City Manager

The Portland International Jetport is requesting approval and an appropriation of \$4.5 million from its unrestricted fund balance for the acquisition of land. The parcels proposed for acquisition were specifically noted for future purchase in the Jetport's Sustainable Airport Master Plan that was accepted by the City Council in 2016.

The purchase includes five parcels totaling 4.53 acres currently held by Toye Airport Park, LLC and Toye Realty Holdings III, LLC.

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

Order 82-21/22 Approving the Homeless Services Center Ground and Building Master Leases at 654 Riverside Street - Sponsored by the Housing & Economic Development Committee, Mayor Kate Snyder, Chair, and the Finance Committee, Councilor Nicholas Mavodones, Chair

On October 5, 2021, the Housing & Economic Development Committee (HEDC) voted 4-0 to recommend to the City Council approval of these leases in substantially the form presented to them. Also, on October 7, 2021, the Finance Committee voted 3-0 to recommend to the City Council approval.

For the Homeless Services Center (HSC), a 51,690-square-foot, 200-bed facility, the cost would be capped at \$25 million for the facility construction. The \$5 million cost increase from the developer's original \$20 million proposal is due to changes required to address Planning Board approval conditions; the pandemic's impact on material costs; energy efficiency requirements associated with the Green New Deal; and site improvement expenses.

The annual rent would be fixed at \$2.701 million for 10 years, after which it would decrease by \$307,500 and include annual 2.5% escalators to \$434,489 in year 25. At the end of year 25, the City would have the option to purchase the HSC for \$1.

The \$25 million cost cap allows staff to negotiate equal or better lease terms based on additional negotiations with the developer and possible additional State of Maine and/or Cumberland County funds to support the HSC.

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

Order 83-21/22 Approving the Collective Bargaining Agreement with the Police Benevolent Association (PBA) - Sponsored by Jon P. Jennings, City Manager

City staff has reached a tentative agreement with the Police Benevolent Association (PBA) which is within guidance. The PBA represents 125 police officers and detectives in the Portland Police Department.

The Union has ratified the tentative agreement and the City negotiating team recommends your support for the agreement.

Terms of the Agreement include a three (3) year contract with general wage increases of 3% effective January 3, 2021 (retroactive); 0% effective January 2, 2022 and 3% effective January 1, 2023.

Other economic agreements are as follows:

Effective January 2022 – implement the 3C retirement plan (66.6% at 25 years, no age requirement); increase the employer contribution to the 401a retirement plan, 2.5% above the current employer contribution rate; increase the 18+ year step by 2%

Article 4 Salaries – Add Traffic Investigator to the Detective pay scale

Article 4.2.2 – add DRE and Media Specialist to the part time specialty list

Article 5 Overtime – one rate for outside details set at \$52.00 per hour

Article 7 Vacations – raise the accrual cap to 200 hours but keep maximum payout at 160 hours

Establish a Retirement Health savings Account (RHSA) to be funded from employees' excess sick leave accruals

The contract term is January 1, 2021 through December 31, 2023.

The approximate total direct costs of the general wage increases are approximately one million, one hundred fifty thousand (\$1,150,000.00) dollars over the three (3) year agreement.

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

Order 84-21/22 Appropriating \$14.2 Million in American Rescue Plan Act Funding - Sponsored by Jon P. Jennings, City Manager

The City of Portland has undertaken an intensive public process to solicit input from the community on priorities for the City's allocation of State and Local Fiscal Recovery Funds from the American Rescue Plan Act of 2021. The City is receiving \$46M of funding in two tranches, \$23M in 2021 and \$23M expected to be received in 2021. The first \$8.75M of funding was allocated as part of the FY22 budget process to sustain municipal services. This item allocates an additional \$14.2M of the first tranche payment.

Top priorities of the community and City Council for first tranche funding included community recreation facilities, parks and public spaces maintenance, affordable housing programs, homeless services, public health, childcare program assistance, and expansion

of public restrooms. On October 7, 2021 the Finance Committee voted (3-0) to approve these funding recommendations and bring them to the full City Council. Complete details on the public outreach process, funding priorities identified, specific project recommendations and backup materials can be found in the agenda item attachments.

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

AMENDMENTS:

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

EXECUTIVE SESSION: