

Agenda
Special City Council Meeting
April 27, 2015

1. Special Agenda April 27,2015

Documents: [AGNAPRIL27, 2015.PDF](#)

2. Special Agenda & Packet 04-27-2015

Documents: [AGENDA APRIL 27,2015.PDF](#)

MICHAEL F. BRENNAN (MAYOR)
KEVIN J. DONOGHUE (1)
DAVID A. MARSHALL (2)
EDWARD J. SUSLOVIC (3)
JUSTIN COSTA (4)

DAVID BRENERMAN (5)
JILL C. DUSON (A/L)
JON HINCK (A/L)
NICHOLAS M. MAVODONES, JR. (A/L)

AGENDA
SPECIAL CITY COUNCIL MEETING
APRIL 27, 2015

The Portland City Council will hold a Special City Council Meeting at 7:00 p.m. in City Council Chambers, City Hall. The Honorable Michael F. Brennan, Mayor, will preside.

PLEDGE OF ALLEGIANCE:

ROLL CALL:

ANNOUNCEMENTS:

RECOGNITIONS:

APPROVAL OF MINUTES OF PREVIOUS MEETING:

(Tab 1) April 6, 2015

PROCLAMATIONS:

Proc 27-14/15 Proclamation Recognizing Portland Businesses that Provided Free
(Tab 2) Reusable Bags to Prepare Citizens for Implementation of Green
Packing Ordinance - Co-sponsored by Mayor Michael F. Brennan,
Councilors Kevin J. Donoghue, Edward J. Suslovic, David Brenerman,
Justin Costa, Jill C. Duson, Nicholas M. Mavodones, Jr., David A.
Marshall, and Jon Hinck.

Proc 28-14/15 Proclamation Honoring Officer David Argitis as Police Officer of the
(Tab 3) Month for March 2015 – Sponsored by Mayor Michael F. Brennan.

Proc 29-14/15 Proclamation Declaring Public Works Week, May 17-23, 2015
(Tab 4) - Sponsored by Mayor Michael F. Brennan.

APPOINTMENTS:

Order 211-14/15 Order Appointing Michael Sauschuck as Acting City Manager –
(Tab 5) and Setting Annual Salary – Sponsored by Mayor Michael F. Brennan.

This order appoints the Acting City Manager for the City of Portland effective May 8, 2015, as of 4:30 p.m. and continuing until the Council appoints a new City Manager.

The annual salary of the Acting City Manager will be \$148,063.50 as of May 8, 2015.

Five affirmative votes are required for passage after public comment.

CONSENT ITEMS:

Order 212-14/15 (Tab 6) Order Declaring May 16, 2015 Townsquare Media Street Eats and Beats Festival – Sponsored by Sheila Hill-Christian, Acting City Manager.

The festival is scheduled for the Ocean Gateway queuing lanes from 12:00 p.m. to 5:00 p.m. on Saturday, May 16, 2015, with gates opening at 12:00 p.m. The Ocean Gateway queuing lane areas are bordered by the Ocean Gateway terminal on the northern side and the Portland terminal on the southern side.

The purpose of the Townsquare Media – Street Eats and Beats 2015 is to provide patrons with the opportunity to enjoy food from local and visiting food trucks, as well as beer from local breweries and live entertainment. Good Shepherd Food Bank will be the primary event beneficiary.

Townsquare Media – Street Eats and Beats 2015 will bring an anticipated 3,000 people to the Portland waterfront and provide a positive financial impact to the waterfront during the day of the event.

The bulk of the queuing lanes would be used for access to food trucks which will be parked around the perimeter of the queuing lanes facing in towards the center of the space. Beer vending will take place from two booths located in the center of the queuing lanes with service out of the front and back of both booths with access limited to those 21 or older. Access to the visitors' center located in the Ocean Gateway Terminal and the tug boats that operate from the Portland Ocean Terminal would not be impeded.

A small stage would be set-up on the southwest side of the queuing lanes, oriented northeast towards the Ocean Gateway Terminal with entertainment performed by local/regional musicians.

Any and all public announcement (PA) and other speakers or amplifiers used to amplify music or other sound shall be maintained at a reasonable level and be configured by Townsquare Media, its contractor, and the City to focus volume on the queuing lanes and its immediate environment, limiting any sound impacts in residential areas. All amplified sound will end at the conclusion of the festival's activities (5:00 p.m. Saturday, May 16th 2015).

**Order 213-14/15
(Tab 7)**

Order Declaring May 1, 2015 through October 31, 2015 as the In the Square Festival - Sponsored by Sheila Hill-Christian, Acting City Manager.

Friends of Congress Square Park has submitted a proposal to schedule entertainment, dances, films, and other activities for Congress Square Park.

The Friends group will work around other Public Services Event Office permitted events for that location so that activities at the square would be both "Friends" events, as well as other permitted events, such as rallies, start location for parades, concerts, art shows, etc.

A May Day Celebration on May 1st kicks off the programming. The Friends are working on a draft schedule and at this time and have about 50 dates (performances/activities) lined up.

At some of these events reserved parking may be needed at the parking meters surrounding Congress Square Park.

**Order 214-14/15
(Tab 8)**

Order Declaring June 5, 2015 through October 12, 2015 as the Federal Street Folly – Sponsored by Sheila Hill Christian, Acting City Manager.

Owners of The Press Hotel, a new boutique hotel opening soon in the former Portland Press Herald building, have proposed the creation of a pedestrian friendly zone that will provide a unique space for pedestrians to explore and to showcase Portland's performing and visual arts in a pedestrian friendly environment in the upper Exchange Street portion of the Old Port.

If approved, this will be the first time the City has authorized an extended street closure to create a park-like environment. The only similar event is Park[ing] Day, in which participants transform parking spaces into temporary "pop-up" parks. Consequently, staff views this event as a pilot or demonstration project in order to study the implications of creating this type of space in a street.

At the conclusion of the event staff will reconvene to discuss the event and whether it would be wise to permit similar events if requested.

Vision – Public Benefit

These pedestrian friendly spaces have become very desirable and popular in urban areas and are considered to be an integral part of good urban planning and economic development.

Creating pedestrian friendly destinations increases walkability in downtown areas, reduces traffic, and creates a more positive and friendly experience, which has the desired effect of increasing downtown economic commerce.

Design and Programming Scope

The design of the space is being coordinated with Tony Cowles, Landscape Architect, and Erin Hutton, Associate Director of MECA Artists at Work Program.

The design will have three elements:

- Softening of the streetscape (indoor/outdoor carpet in some sections)
- Functional art (benches/seating)
- Lighting Component (possible canopy of lights)

Organizers are working with Creative Portland and Portland Downtown Distrist and have identified the following non-profit organizations that represent the best of Portland's art. The following organizations have shown a great deal of interest in partnering and/or participating in the programming component of the Federal Street Folly:

Portland Public Library
Portland Trails
Space Gallery
Mad Horse Theater
Circus Conservatory

Programming:

Organizers are currently discussing details of the programming. Organizers envision standing and scheduled programming throughout the summer, as well as special events that are not yet planned: acoustic music; one-act plays; poetry readings; temporary art exhibits; possible light show/film; circus performance; and dance.

In order for the Federal Street Folly to occur, a portion of Federal Street, between Exchange Street and Market Street, needs to be barricaded to vehicle traffic from (for setup purposes: June 1, 2015) to October 19, 2015 (for breakdown purposes). The street would be barricaded 24/7.

Barricades across the street would most likely be a mix of granite and concrete planters.

**Order 215-14/15
(Tab 9)**

Order Declaring Saturday, June 27, 2015 as the Allagash 20th Anniversary Street Fair Festival – Sponsored by Sheila Hill-Christian, Acting City Manager.

Allagash Brewing Company will be celebrating their 20th Anniversary this year. As part of the celebration, the company would like to host a neighborhood block party/festival that would be held on June 27th 2015 from 1:00 pm-6:00 pm. This will be a ticketed event (\$10 adults, children under 12 free) and expected attendance is 2,000 people. The event includes entertainment such as live music from several local bands, and performances by the Circus Conservatory. Eight breweries will be on site (stations set up on private property), along with food trucks and restaurant vendors.

A fenced perimeter will be set up around each of the beer service areas. The organizer's staff and private security staff will ensure that only 21+ wrist banded attendees are in beer service areas. The organizer is obtaining the necessary beer tasting license from the state/city for serving beer, as well as other licenses from the city for the food vendors, large tents, stages and other aspects of the event.

Industrial Way (at Riverside Street) would be closed to traffic for about 1,000 feet to the Office Max parking lot at 125 Industrial Way.

Businesses in the closed section of street have endorsed the event. City staff met with organizers March 13 to discuss details and traffic management, which will consist of event staff-monitored barricades positioned at the intersection of Industrial Way and Riverside Street, as well as across the street at 125 Industrial Way.

In order for the festival anniversary party to be held, a portion of Industrial Way needs to be barricaded to vehicle traffic. The Festival Zone is Industrial Way (from Riverside Street to 125 Industrial Way), and the Allagash Brewing Company property, as well as other adjacent business properties.

**Order 216-14/15
(Tab 10)**

Order Declaring Saturday, August 1, 2015 as Slide the City Festival – Sponsored by Sheila Hill-Christian, Acting City Manager.

Slide the City is a national event held in downtown areas of various cities across the country. The event involves a 1,000 foot long "Slip N' Slide" set up on an inclined, downtown city street for participants to slide down for a one-day or two-day event.

Organizers are interested in bringing this unique event to Portland on Saturday August 1, 2015 and are hoping for 2,000 – 5,000 participants. In addition to the slide itself, organizers plan to set up tents and a small stage and will invite local food vendors and sponsors to participate.

The total area needed, including the slide, tents, and vendors, is about 1400 feet with an incline for the slide of 30-150-feet drop over 1,000 feet. Water for the slide (14,000 gallons) would come from a Portland Water District metered, fire hydrant nearby. If a flow-through water system is used, then gallons used would total around 80,000. City staff has okayed the disposal of water into the combined overflow sewer system and will implement a plan for discharge of water.

The event is proposed for the north-bound lanes of Franklin Street from Cumberland Ave down the hill, across Fox Street intersection, continuing down and ending just before reaching Marginal Way. Vehicle traffic would still flow on south-bound lanes of Franklin Street, as well as on Marginal Way. Traffic on Fox Street heading west would be detoured at Diamond Street - a block before. Traffic heading east on Somerset Street (Whole Foods) could only take a right on Franklin, to head up the hill. Traffic would also still flow on Cumberland Ave. The water slide would run from Cumberland Ave. down to Fox Street. The festival tent/registration area would be on Franklin Street (north-bound lanes) from Fox St. to Marginal Way.

The slide area would be fenced off (snow fence) on all sides, with checkpoint openings up along the slide. Some of the existing chain-link fence along Franklin would be used (holes/openings to be fenced over). Fencing would be placed so that onlookers could stand nearby to watch sliders go down the slide. Some area of the grass median would be also be available for onlookers.

The ticket booth would be located on lower Franklin (not up at Cumberland Ave). Ticketholders waiting to slide would assemble on the grass area – east side of Franklin and stretch down the hill.

The parking plan involves participants parking at Marginal Way (the Park and Ride lots) and other parking lots in the area. Organizers are inquiring with property managers about using the old Department of Health and Human Services building parking lot, as well as the InterMed parking garage.

Maine Department of Transportation (MDOT) participated in the planning meeting for the event and was comfortable with the traffic plan proposed. Additionally, the organizer is working with MDOT for the possible use of the 295 message boards which may help with Exit 7.

Street closings are included in the agenda backup.

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

LICENSES:

**Order 217-14/15
(Tab 11)** **Order Granting Municipal Officers' Approval of Whole Foods Market Group, Inc. d/b/a Whole Foods Market. Application for a Class III & IV (Wine & Beer) License with Outdoor Dining on Private Property at 2 Somerset Street – Sponsored by Katherine L. Jones, City Clerk.**

Application filed 3/20/2015. New City and State applications. Applicant holds a current Food Service Establishment with Preparation License with Outdoor Dining on Private Property.

Five affirmative votes are required for passage after public comment.

**Order 218-14/15
(Tab 12)** **Order Granting Municipal Officers' Approval of Blue Rooster Food Company, LLC d/b/a Blue Rooster Food Co. Application for a Class III & IV (Wine & Beer) License at 5 Dana Street – Sponsored by Katherine L. Jones, City Clerk.**

Application filed 3/20/2015. New City and State applications. Applicant holds a current Food Service Establishment with Preparation License.

Five affirmative votes are required for passage after public comment.

**Order 219-14/15
(Tab 13)** **Order Granting Municipal Officers' Approval of JBB Hospitality I, LLC d/b/a Courtyard Portland Downtown/Waterfront. Application to Add Officers to Class IA 40+ Rooms License with Outdoor Dining on Private Property at 321 Commercial Street – Sponsored by Katherine L. Jones, City Clerk.**

Application filed 3/23/15. New City and State applications. Applicant holds a current Class IA 40+ Rooms License with Outdoor Dining on Private Property. Applicant added two partners with a total of 15% interest in the business.

Five affirmative votes are required for passage after public comment.

**Order 220-14/15
(Tab 14)** **Order Granting Municipal Officers' Approval of Brakes & Shocks, LLC d/b/a Tandem Coffee & Bakery. Application for a Class III & IV (Wine & Beer) License with Outdoor Dining on Private Property at 742 Congress Street – Sponsored by Katherine L. Jones, City Clerk.**

Application filed 4/1/15. New City and State applications. Applicant holds a current Food Service Establishment with Preparation License with Outdoor Dining on Private Property.

Five affirmative votes are required for passage after public comment.

**Order 221-14/15
(Tab 15)**

Order Granting Municipal Officers' Approval of Cow Plaza Hotel LLC d/b/a Hyatt Place Portland/Old Port. Application to add Outdoor Dining on Public and Private Property at 433 Fore Street – Sponsored by Katherine L. Jones, City Clerk.

Application filed 4/1/15. New City application. Applicant holds a current Class IA 40+ Rooms License.

Five affirmative votes are required for passage after public comment.

**Order 222-14/15
(Tab 16)**

Order Granting Municipal Officers' Approval of Chef Paul's d/b/a Chef Paul's. Application for a Class III & IV (Wine & Beer) License and Entertainment without Dance and Outdoor Dining on Private Property at 54 Washington Ave. – Sponsored by Katherine L. Jones, City Clerk.

Application filed 3/23/15. New City and State Application. Former location of Falmouth Flowers & Gifts.

Five affirmative votes are required for passage after public comment.

FY 16 BUDGET ITEMS: PUBLIC HEARING

PUBLIC COMMENT WILL BE TAKEN AT THIS COUNCIL MEETING ON ALL SCHOOL BUDGET ORDERS. COUNCIL ACTION ON THE SCHOOL BUDGET WILL TAKE PLACE ON MAY 4, 2015, AT 7:00 P.M. THE PUBLIC REFERENDUM ON THE SCHOOL BUDGET WILL BE HELD ON TUESDAY, MAY 12, 2015.

**Order 223-14/15
(Tab 17)**

Order Approving State/Local EPS Funding Allocation for Public Education from Kindergarten to Grade 12 for Portland Schools for FY2016 – Sponsored by the Finance Committee, Councilor Nicholas M. Mavodones, Jr., Chair.

Orders 223-14/15 to 228-14/15 are orders required by State law 20-A M.R.S.A. §15690 in order to comply with what is known as LD1, a set of state laws passed to control increases in property taxes.

This order provides \$79,352,047 as the amount determined by state law to be the minimum amount the city must appropriate in order to receive the full amount of state funding under the Essential Programs and Services Funding Act (EPS).

This requires the city to raise \$64,342,989 as the city's contribution to the total cost of funding public education from K-12 as described in the EPS law. The City's Tax levy for the total for school budget programs of \$102,776,657 will be \$79,773,211.

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

**Order 224-14/15
(Tab 18)**

Order Approving Non-State Funded School Construction Debt Service for Portland Schools for FY2016 – Sponsored by the Finance Committee, Councilor Nicholas M. Mavodones, Jr., Chair.

Non-state funded debt service is the amount of money needed for the annual payments on the City's long-term debt for major capital school construction projects and portions of school construction projects that are not approved for state funding. The bonding of this long-term debt was previously approved by the voters or the City Council.

This order appropriates \$561,907 for the annual payments on debt service previously approved by the voters or the City Council for non-state (local-only) funded school construction projects. The state no longer includes minor capital projects in this calculation.

The \$561,907 is in addition to the funds appropriated as the EPS required local share (amount of the city's contribution to the total cost of funding public education from kindergarten to grade 12).

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

**Order 225-14/15
(Tab 19)**

Order Raising and Appropriating Additional Local Funds for Portland Schools for FY2016– Sponsored by the Finance Committee, Councilor Nicholas M. Mavodones, Jr., Chair.

This order appropriates \$13,332,753 in additional city funds over and above regional EPS amount and the non-state funded debt service amount.

This exceeds the EPS funding model by \$13,880,753 and funds the cost of city schools, Kindergarten-12, which are not covered by the state funding model established by the Essential Programs and Services Funding Act.

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

**Order 226-14/15
(Tab 20)**

Order Approving Total School Operating Budget for Portland Schools for FY2016 – Sponsored by the Finance Committee, Nicholas M. Mavodones, Jr., Chair.

This order is required by 20-A M.R.S.A. §15690(4)(A). It sets the School Budget required by state law. The total amount recommended for that budget is \$97,231,508.

That is the amount in the budget that under state law will be sent to the voters for approval at a citywide Referendum Election on May 12, 2015. \$78,237,649 of the \$97,231,508 would come from property taxes, \$15,034,100 would come from state subsidy, and \$3,508,759 from other revenues.

This order does not provide money unless the other General Fund budget orders passed.

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

**Order 227-14/15
(Tab 21)**

Order Appropriating and Raising Funds for Adult Education for FY 2016 as Required by the Maine Revised Statutes, Title 20-A M.R.S.A. §8603-A(1) – Sponsored by the Finance Committee, Nicholas M. Mavodones, Jr., Chair.

This order raises \$1,063,833 to support the Adult Education program and appropriates a budget for that program of \$1,752,513. The budgets for the Adult Education Program and for the Food Service Program in the next Order, are in addition to the \$97,231,508 proposed for the General Fund School Budget that must be submitted to the voters.

Under the City Charter, the Council must act on this school funding order, which is not part of the General Fund budget.

When the amounts for the Adult Education Program and the Food Service Program are added to the proposed General Fund School Budget, it leads to a total for FY2016 school budget programs of \$102,776,657.

The total school budget will come before the Council for approval as part of the annual Appropriation Resolve on May 18th, if the voters approve the General Fund School Budget submitted to them on May 12th.

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

**Order 228-14/15
(Tab 22)**

Order to Raise Local Funds for Food Service in the Portland Public Schools for FY 2016 – Sponsored by the Finance Committee, Nicholas M. Mavodones, Jr., Chair.

This order raises \$417,729 to support the Food Service Budget. The total proposed Food Service Program is \$3,792,636, which is in addition to the General Fund School Budget.

Under the City Charter, the Council must act on this school funding order which is not part of the General Fund budget.

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

COMMUNICATIONS:

RESOLUTIONS:

UNFINISHED BUSINESS:

Order 204-14/15 (Tab 23) **Order Approving the Collective Bargaining Agreement with the Communications Employee Association - Sponsored by Sheila Hill-Christian, Acting City Manager.**

Staff has reached a tentative agreement with the Communications Employee Association on a successor one year contract. The prior collective bargaining agreement expired June 30, 2013.

The Communications Employee Association, which is comprised of 30 Telecommunicators, Fire Alarm Specialist, Radio Systems Specialist and Telecommunications Supervisors, has reached a tentative agreement with the City. The tentative agreement is within the guidance received by the City Council on February 23, 2015.

The City and the Communications Unit have reached a tentative agreement on a three (3) year contract with a 1.0% general wage increase for Fiscal Year (FY) 2014 retroactive to July 7, 2013; a 1.0% general wage increase retroactive to July 6, 2014; a 1.0% general wage increase retroactive to January 4, 2015 and a 3.0% general wage increase effective July 5, 2015. The duration of the contract and the COLA recommendations are consistent with the unified bargaining strategy previously discussed with the Council.

The contract term is July 2013, through June 30, 2016.

All other provisions of the collective bargaining agreement remain the same until a successor agreement is reached through collective bargaining. The total direct cost for the three year agreement is approximately \$165,000 of which \$79,000 has already been approved and appropriated through the FY 2014 and FY 2015 budget process.

This item must be read on two separate days. It was given a first reading on April 6th. Five affirmative votes are required for passage after public comment.

**Order 205-14/15
(Tab 24)**

Order Authorizing General Obligation Bonds to Finance a Portion of the City's 2016 Capital Improvement Program in an Amount not to Exceed \$18,731,000 - Sponsored by the Finance Committee, Councilor Nicholas M. Mavodones, Jr., Chair.

This order authorizes the incurring of indebtedness by the City of Portland through the issuance of General Obligation Bonds in the aggregate amount of \$18,731,000 pursuant to the City Charter. The specific items for which the bond proceeds will be expended are set forth in detail in the accompanying Appropriation Order.

The order also finds, determines, and declares, with respect to the Communication System Replacement Project, that an emergency exists with respect to the need to acquire and install such Communication System Replacement Project within the meaning of Section 16(b)(iii) of the City Charter as follows:

- The current public safety radio communication system was installed approximately 15 years ago and is approaching the end of its useful life;
- These circumstances create an unacceptable public safety risk to the residents of the City and to City public safety personnel and to the residents in the combined dispatch service area;
- There is therefore a substantial public exigency to speedily replace the current system with an up-to-date and more reliable public safety radio communication system in order to meet the needs of the residents of the City and of the combined dispatch service area;
- Because there is an urgent and unavoidable need for a new public safety radio communication system and because a process seeking referendum approval would create uncertainty and an unavoidable and unacceptable delay in the project, the City Council finds, determines and declares that emergency circumstances exist under Section 16(b)(iii) of the City Charter requiring approval of the Communication System Replacement project and issuance of the City's bonds therefore without referendum approval.

This order also authorizes the Director of Finance to prepare, issue, and sell the bonds and also authorizes the Director of Finance, Mayor and Clerk, and other proper officials of the City to perform whatever other acts may be necessary or desirable to effect the issuance, sale, and delivery of the bonds.

Finally, the order requires that sufficient funds for the annual payments of principal and interest on the bonds and any notes issued be included in the tax levy each year until the debt represented by the bonds and any notes is extinguished.

Draft minutes of the Finance Committee meeting held on March 26, 2015 are included in the agenda backup. The Committee voted 3-1 to forward this item to the City Council with a recommendation for passage and to declare the Communication System Replacement Project an emergency (3-1 vote).

This item must be read on two separate days. It was given a first reading on April 6th. Seven affirmative votes are required for passage after public comment.

**Order 206-13/14
(Tab 25)**

Order Appropriating \$18,731,000 of Bond Proceeds for the City's 2016 Capital Improvement Program- Sponsored by the Finance Committee, Councilor Nicholas M. Mavodones, Jr., Chair.

This order appropriates the new general obligation bond proceeds for the following described capital projects and all other related expenses summarized by category as follows:

Transportation Projects	\$1,600,000
Facilities Projects	\$2,705,000
Parks, Fields, & Trails Projects	\$1,140,000
Equipment & Vehicles Projects	\$9,135,000
Sewer/Stormwater Projects	\$4,005,000
Public Art Projects	\$73,000
Land Bank Projects	\$73,000

Draft minutes of the Finance Committee meeting held on March 26, 2015 are included in the agenda backup. The Committee voted 3-1 to forward this item to the City Council with a recommendation for passage.

This item must be read on two separate days. It was given a first reading on April 6th. Five affirmative votes are required for passage after public comment.

**Order 207-14/15
(Tab 26)**

Amendment to Portland City Code Chapter 17 (Offenses, Miscellaneous Provisions) Article V (Regulation of Tobacco) - Sponsored by the Public Safety, Health and Human Services Committee, Councilor Edward J. Suslovic, Chair.

The Public Safety, Health and Human Services Committee asked the Public Health Division to compile information regarding electronic nicotine delivery systems (ENDS) for consideration by the committee to include ENDS in the definition of smoking products in City ordinance.

Staff reviewed the City's existing ordinances related to smoking in public spaces, the actions of other states, local municipalities and health organizations, and the information behind the potential dangers of this relatively new tobacco product.

ENDS are currently not regulated by the US Food and Drug Administration (FDA), nor have they been fully studied for their content and health effects. Concerns about their potential impact on youth tobacco use are also emerging.

Title 22 Chapter 262-A *Maine's Retail Tobacco Sales* laws define electronic cigarettes as tobacco products, which clarifies that e-cigarettes cannot be sold to any person under 18 years of age, and possession and use by minors are prohibited. Maine law does not currently prohibit the use of e-cigarettes in any location.

In 2014, more teens used e-cigarettes than traditional cigarettes, or any other tobacco product. Over 90% of lifetime smokers start before age 18, thus, youth use of a tobacco product and intention to use cigarettes are important public health data.

There is also concern that the use of ENDS in public places such as restaurants, hospitals, and workplaces may cause confusion and thus hinder enforcement of existing smoke-free laws, perhaps even renormalizing smoking in places that were traditionally smoke-free.

As of January 1, 2015, 274 municipalities have passed laws restricting e-cigarette use in 100% smoke-free venues.

The Public Safety, Health and Human Service Department met on March 10, 2015, and voted unanimously to forward this item to the City Council with a recommendation for approval.

This item must be read on two separate days. It was given a first reading on April 6th. Five affirmative votes are required for passage after public comment.

**Order 208-14/15
(Tab 27)**

Amendment to Portland City Code Chapter 11 (Food and Food Handlers) – Sponsored by the Public Safety, Health and Human Services Committee, Councilor Edward J. Suslovic, Chair.

The reasons for submission are to: 1) Adopt the most recent version of the Maine Food Code, 2) specify the loss of hot water as an example of an Imminent Health Hazard (IHH), 3) clearly link raw food menu items and the reminder of the health risks, and 4) require businesses to show proof of a Certified Food Protection Manager (CFPM) before operating and during subsequent inspections.

Adopting the 2013 Maine Food Code will keep us current with the education and enforcement of food code regulations. Specifying the loss of hot water as an IHH will prevent any further confusion if an extended loss of water requires a complete loss of hot and cold water.

More visibly linking the presence of raw food items on restaurant menus and the reminder of increased health risks from their consumption will raise the public's awareness and may lead to a decrease in the number of new foodborne illness cases.

Finally, requiring proof of a CFPM before businesses opens and during subsequent inspections will save city staff time and assures that all new businesses start and maintain at least a common basic level of food safety knowledge.

The Public Safety, Health and Human Services Committee met on March 10, 2015, and voted unanimously to forward this item to the City Council with a recommendation for passage.

This item must be read on two separate days. It was given a first reading on April 6th. Five affirmative votes are required for passage after public comment.

**Order 209-14/15
(Tab 28)**

Amendment to Portland City Code Chapter 14. Land Use Re: R6 and R-6A Zones – Sponsored by the Planning Board, Stuart O'Brien, Chair.

The Planning Board recommends text amendments to the R-6 Residential zone. These include changes to the existing dimensional standards, parking standards, clarifying language linking the R-6 standards to the Design Manual for review of residential projects; standards regarding lots of record, and elimination of the small residential lot development provision. Changes also include a conversion of the dimensional requirements from a descriptive listing to a table format, shortening and simplifying the overall text of the ordinance.

The dominant on-peninsula residential zone, R-6 encompasses all or portions of Munjoy Hill, Parkside, the West End, East Bayside, Bayside, and Libbytown.

These neighborhoods, varied though they are, embody successful pre-war development patterns – patterns that are not mirrored in the current dimensional requirements of the R-6 zone.

Though the pattern of the peninsula's built environment is largely established, incremental changes to that pattern are ongoing, and the parameters of current zoning affect urban character today and into the future. Current zoning renders the vast majority of parcels in the R-6 zone non-conforming.

These changes bring Portland's zoning closer into alignment with desirable patterns of development than is currently the case, as well as offering greater flexibility to existing and future property owners.

The Planning Board met on March 10, 2015, and voted unanimously, 6-0 (Dundon absent) to forward this item to the City Council with a recommendation for passage.

This item must be read on two separate days. It was given a first reading on April 6th. Councilor Donoghue has asked that this item be postponed to the May 4th Council meeting.

**Order 210-14/15
(Tab 29)**

Fourth Amendment to Conditional Zone Agreement Re: Property in the Vicinity of Diamond Cove/Great Diamond Island – Sponsored by the Planning Board, Stuart O'Brien, Chair.

The Planning Board recommends amendments to an existing IR-3 conditional zoning agreement (CZA) for Fort McKinley, Great Diamond Island, to the City Council.

The amendment was requested by the City's Department of Public Services to allow the construction of a solid waste transfer and recycling station that has been the subject of discussions for several years.

The amendments include a minor change to the boundary of the designated open space near the "laundry building" and a text amendment/plan reference to confirm the use is an exception to the limitations. The 1985 CZA anticipated the possibility of a municipally operated island solid waste disposal facility being created.

Current waste management on the island consists of a solid waste truck parked on property on Great Diamond Island that is frequently transported off the island. This arrangement is not sufficiently or effectively serving the needs of the island's residents and is costly and inefficient to operate.

Due to the gradually increasing population and the waste management requirements attendant to that growth, the City and the Diamond Cove Homeowners Association (DCHA) – in cooperation with other residents on the island – have determined that a solid waste transfer station capable of handling the island’s waste would allow more efficient consolidation and transportation. The DCHA and the City have negotiated a lease to allow the construction of a municipal transfer station on land owned by the DCHA.

The site was chosen to be near the barge landing, to minimize truck travel and minimize impact on old growth trees and open space; the agreed site impacts .9 acre of open space and this requires the amendment to the 1985 CZA and associated Open Space Designation.

The Planning Board met on March 24, 2015, and voted 4-0 (O’Brien abstaining; Eaton and Morrisette absent) to forward this item to the City Council with a recommendation for approval.

This item must be read on two separate days. It was given a first reading on April 6th. Staff is asking that this item be postponed to the May 4th City Council meeting.

ORDERS:

**Order 229-14/15
(Tab 30)**

Order Approving Lease with Ready Seafood Co. Re: Portland Ocean Terminal - Sponsored by the Housing and Community Development Committee, Councilor Kevin J. Donoghue, Chair.

Ready Seafood Company has been a tenant at the Maine State Pier, Portland Ocean Terminal (POT) since January 2010 under a City Council approved Lease. Brendan Ready approached City staff asking for a number of lease amendments which include the following:

Space Reduction and Reconfiguration. The request is to reduce the amount of leased square footage from 24,000 square feet to 19,000 square feet, eliminate two options to expand tenancy, along with reconfiguring company leased space to include use of the complete west-to-east depth of the POT, versus leasing space along the western side of the POT.

Rent Reduction. The company is requesting a rent reduction due to their company’s continued investment in POT and Maine State Pier infrastructure.

Ready Seafood Company Investment. Ready Seafood Company investment has been over and above usual tenant responsibilities over the last four years. Examples of Ready investment are included in the agenda backup.

The cost breakdown on the Ready Seafood investment averages \$51,225 per year. A summary table of Ready Seafood Company lease terms compared to Ready's request is included in the agenda backup.

In exchange for an annual rent reduction, Ready Seafood Company is willing to pay separately for parking and is willing to continue to pay for Maine State Pier and POT building improvements.

While the rent reduction reduces annual revenue to the City, it is offset by the actual past and projected investment in pier related infrastructure.

The Housing and Community Development Committee met on March 25th and voted unanimously to forward this item to the City Council with a recommendation for passage.

Five affirmative votes are required for passage after public comment.

**Order 230-14/15
(Tab 31)**

Order Naming the Entrance Road to Portland Technology Park as Technology Park Drive – Sponsored by Sheila Hill-Christian, Acting City Manager.

With the impending sale of Site #1 at the City's Portland Technology Park, off of Rand Road, it is time to formally name the roadway into the Park for 911 purposes, as well as for the tenants.

Technology Park Drive is a roadway shown as Easement Area 1 on the Subdivision Plat of Portland Technology Park Condominium approved by the City of Portland Planning Board on January 24, 2012 and recorded at the Cumberland County Registry of Deeds in Plan Book 212, Page 324.

The City owns the roadway in perpetuity and will continue to be responsible for roadway maintenance until all sites are sold. After all sites are sold, the Condominium Association will be responsible for the long-term roadway maintenance and repair because this is not a publicly accepted street.

Five affirmative votes are required for passage after public comment.

**Order 231-14/15
(Tab 32)**

Order Amending the Promissory Note and Related Closing Documents For Home Program Funds to Avesta Housing for a Rental Housing Project at 134 Washington Avenue - Sponsored by the Housing and Community Development Committee, Councilor Kevin J. Donoghue, Chair.

In September 2013, the City Council approved the allocation of \$522,448 in HOME Program Funds to the Avesta Housing project at 134 Washington Avenue. The project consists of the development of 18 efficiency units of rental housing at 134 Washington Avenue. Eight units will be made available to households earning at or below 50% of the area median income, and ten units will be made available to households earning at or below 40% of the area median income.

The initial loan terms were a 0% interest loan, deferred for 30 years or until sale or transfer. Avesta Housing has requested that the HOME loan provided by the City of Portland be modified so as to extend the loan term from thirty (30) to fifty (50) years. The reason for this request is that the low income housing tax credit investor has concluded that unless the City of Portland debt, along with other project debt, is extended, the transaction would lead to adverse tax consequences for the investor.

At their April 8, 2015 meeting, the Housing and Community Development Committee voted 4-0 to forward this item to the City Council with a recommendation for approval.

Five affirmative votes are required for passage after public comment.

**Order 232-14/15
(Tab 33)**

Order Approving a Sidewalk Brick Apron and Granting the the Sidewalk Brick Apron Easement to Redfern Munjoy LLC – Sponsored by Sheila Hill-Christian, Acting City Manager.

The applicant, Jonathan Culley of Redfern Munjoy LLC, received Planning Board approval to develop the townhomes known as “Munjoy Heights” on December 17, 2013 and the project is now in the final stages of construction. The applicant requested a brick apron where the pedestrian/vehicle access links the 29 new townhouses known as “Munjoy Heights” to Walnut Street. The City’s Sidewalk Replacement Materials map specifies a brick sidewalk with asphalt apron at this location and the City Council is requested to approve this substitution of brick for the 205 square feet asphalt apron area.

The Council is also requested to approve the associated easement that the applicant has agreed to. It confirms that the apron shall be solely the responsibility of the applicant or subsequent owners, and its repair, replacement and maintenance will be carried out in accordance with the City’s Technical Manual.

Five affirmative votes are required for passage after public comment.

AMENDMENTS:

LICENSE RENEWALS:

MICHAEL F. BRENNAN (MAYOR)
KEVIN J. DONOGHUE (1)
DAVID A. MARSHALL (2)
EDWARD J. SUSLOVIC (3)
JUSTIN COSTA (4)

DAVID BRENERMAN (5)
JILL C. DUSON (A/L)
JON HINCK (A/L)
NICHOLAS M. MAVODONES, JR. (A/L)

AGENDA
SPECIAL CITY COUNCIL MEETING
APRIL 27, 2015

The Portland City Council will hold a Special City Council Meeting at 7:00 p.m. in City Council Chambers, City Hall. The Honorable Michael F. Brennan, Mayor, will preside.

PLEDGE OF ALLEGIANCE:

ROLL CALL:

ANNOUNCEMENTS:

RECOGNITIONS:

APPROVAL OF MINUTES OF PREVIOUS MEETING:

(Tab 1) April 6, 2015

PROCLAMATIONS:

Proc 27-14/15 Proclamation Recognizing Portland Businesses that Provided Free
(Tab 2) Reusable Bags to Prepare Citizens for Implementation of Green
Packing Ordinance - Co-sponsored by Mayor Michael F. Brennan,
Councilors Kevin J. Donoghue, Edward J. Suslovic, David Brenerman,
Justin Costa, Jill C. Duson, Nicholas M. Mavodones, Jr., David A.
Marshall, and Jon Hinck.

Proc 28-14/15 Proclamation Honoring Officer David Argitis as Police Officer of the
(Tab 3) Month for March 2015 – Sponsored by Mayor Michael F. Brennan.

Proc 29-14/15 Proclamation Declaring Public Works Week, May 17-23, 2015
(Tab 4) - Sponsored by Mayor Michael F. Brennan.

APPOINTMENTS:

Order 211-14/15 Order Appointing Michael Sauschuck as Acting City Manager –
(Tab 5) and Setting Annual Salary – Sponsored by Mayor Michael F. Brennan.

This order appoints the Acting City Manager for the City of Portland effective May 8, 2015, as of 4:30 p.m. and continuing until the Council appoints a new City Manager.

The annual salary of the Acting City Manager will be \$148,063.50 as of May 8, 2015.

Five affirmative votes are required for passage after public comment.

CONSENT ITEMS:

**Order 212-14/15
(Tab 6)**

Order Declaring May 16, 2015 Townsquare Media Street Eats and Beats Festival – Sponsored by Sheila Hill-Christian, Acting City Manager.

The festival is scheduled for the Ocean Gateway queuing lanes from 12:00 p.m. to 5:00 p.m. on Saturday, May 16, 2015, with gates opening at 12:00 p.m. The Ocean Gateway queuing lane areas are bordered by the Ocean Gateway terminal on the northern side and the Portland terminal on the southern side.

The purpose of the Townsquare Media – Street Eats and Beats 2015 is to provide patrons with the opportunity to enjoy food from local and visiting food trucks, as well as beer from local breweries and live entertainment. Good Shepherd Food Bank will be the primary event beneficiary.

Townsquare Media – Street Eats and Beats 2015 will bring an anticipated 3,000 people to the Portland waterfront and provide a positive financial impact to the waterfront during the day of the event.

The bulk of the queuing lanes would be used for access to food trucks which will be parked around the perimeter of the queuing lanes facing in towards the center of the space. Beer vending will take place from two booths located in the center of the queuing lanes with service out of the front and back of both booths with access limited to those 21 or older. Access to the visitors' center located in the Ocean Gateway Terminal and the tug boats that operate from the Portland Ocean Terminal would not be impeded.

A small stage would be set-up on the southwest side of the queuing lanes, oriented northeast towards the Ocean Gateway Terminal with entertainment performed by local/regional musicians.

Any and all public announcement (PA) and other speakers or amplifiers used to amplify music or other sound shall be maintained at a reasonable level and be configured by Townsquare Media, its contractor, and the City to focus volume on the queuing lanes and its immediate environment, limiting any sound impacts in residential areas. All amplified sound will end at the conclusion of the festival's activities (5:00 p.m. Saturday, May 16th 2015).

**Order 213-14/15
(Tab 7)**

Order Declaring May 1, 2015 through October 31, 2015 as the In the Square Festival - Sponsored by Sheila Hill-Christian, Acting City Manager.

Friends of Congress Square Park has submitted a proposal to schedule entertainment, dances, films, and other activities for Congress Square Park.

The Friends group will work around other Public Services Event Office permitted events for that location so that activities at the square would be both "Friends" events, as well as other permitted events, such as rallies, start location for parades, concerts, art shows, etc.

A May Day Celebration on May 1st kicks off the programming. The Friends are working on a draft schedule and at this time and have about 50 dates (performances/activities) lined up.

At some of these events reserved parking may be needed at the parking meters surrounding Congress Square Park.

**Order 214-14/15
(Tab 8)**

Order Declaring June 5, 2015 through October 12, 2015 as the Federal Street Folly – Sponsored by Sheila Hill Christian, Acting City Manager.

Owners of The Press Hotel, a new boutique hotel opening soon in the former Portland Press Herald building, have proposed the creation of a pedestrian friendly zone that will provide a unique space for pedestrians to explore and to showcase Portland's performing and visual arts in a pedestrian friendly environment in the upper Exchange Street portion of the Old Port.

If approved, this will be the first time the City has authorized an extended street closure to create a park-like environment. The only similar event is Park[ing] Day, in which participants transform parking spaces into temporary "pop-up" parks. Consequently, staff views this event as a pilot or demonstration project in order to study the implications of creating this type of space in a street.

At the conclusion of the event staff will reconvene to discuss the event and whether it would be wise to permit similar events if requested.

Vision – Public Benefit

These pedestrian friendly spaces have become very desirable and popular in urban areas and are considered to be an integral part of good urban planning and economic development.

Creating pedestrian friendly destinations increases walkability in downtown areas, reduces traffic, and creates a more positive and friendly experience, which has the desired effect of increasing downtown economic commerce.

Design and Programming Scope

The design of the space is being coordinated with Tony Cowles, Landscape Architect, and Erin Hutton, Associate Director of MECA Artists at Work Program.

The design will have three elements:

- Softening of the streetscape (indoor/outdoor carpet in some sections)
- Functional art (benches/seating)
- Lighting Component (possible canopy of lights)

Organizers are working with Creative Portland and Portland Downtown Distrist and have identified the following non-profit organizations that represent the best of Portland's art. The following organizations have shown a great deal of interest in partnering and/or participating in the programming component of the Federal Street Folly:

Portland Public Library
Portland Trails
Space Gallery
Mad Horse Theater
Circus Conservatory

Programming:

Organizers are currently discussing details of the programming. Organizers envision standing and scheduled programming throughout the summer, as well as special events that are not yet planned: acoustic music; one-act plays; poetry readings; temporary art exhibits; possible light show/film; circus performance; and dance.

In order for the Federal Street Folly to occur, a portion of Federal Street, between Exchange Street and Market Street, needs to be barricaded to vehicle traffic from (for setup purposes: June 1, 2015) to October 19, 2015 (for breakdown purposes). The street would be barricaded 24/7.

Barricades across the street would most likely be a mix of granite and concrete planters.

**Order 215-14/15
(Tab 9)**

Order Declaring Saturday, June 27, 2015 as the Allagash 20th Anniversary Street Fair Festival – Sponsored by Sheila Hill-Christian, Acting City Manager.

Allagash Brewing Company will be celebrating their 20th Anniversary this year. As part of the celebration, the company would like to host a neighborhood block party/festival that would be held on June 27th 2015 from 1:00 pm-6:00 pm. This will be a ticketed event (\$10 adults, children under 12 free) and expected attendance is 2,000 people. The event includes entertainment such as live music from several local bands, and performances by the Circus Conservatory. Eight breweries will be on site (stations set up on private property), along with food trucks and restaurant vendors.

A fenced perimeter will be set up around each of the beer service areas. The organizer's staff and private security staff will ensure that only 21+ wrist banded attendees are in beer service areas. The organizer is obtaining the necessary beer tasting license from the state/city for serving beer, as well as other licenses from the city for the food vendors, large tents, stages and other aspects of the event.

Industrial Way (at Riverside Street) would be closed to traffic for about 1,000 feet to the Office Max parking lot at 125 Industrial Way.

Businesses in the closed section of street have endorsed the event. City staff met with organizers March 13 to discuss details and traffic management, which will consist of event staff-monitored barricades positioned at the intersection of Industrial Way and Riverside Street, as well as across the street at 125 Industrial Way.

In order for the festival anniversary party to be held, a portion of Industrial Way needs to be barricaded to vehicle traffic. The Festival Zone is Industrial Way (from Riverside Street to 125 Industrial Way), and the Allagash Brewing Company property, as well as other adjacent business properties.

**Order 216-14/15
(Tab 10)**

Order Declaring Saturday, August 1, 2015 as Slide the City Festival – Sponsored by Sheila Hill-Christian, Acting City Manager.

Slide the City is a national event held in downtown areas of various cities across the country. The event involves a 1,000 foot long "Slip N' Slide" set up on an inclined, downtown city street for participants to slide down for a one-day or two-day event.

Organizers are interested in bringing this unique event to Portland on Saturday August 1, 2015 and are hoping for 2,000 – 5,000 participants. In addition to the slide itself, organizers plan to set up tents and a small stage and will invite local food vendors and sponsors to participate.

The total area needed, including the slide, tents, and vendors, is about 1400 feet with an incline for the slide of 30-150-foot drop over 1,000 feet. Water for the slide (14,000 gallons) would come from a Portland Water District metered, fire hydrant nearby. If a flow-through water system is used, then gallons used would total around 80,000. City staff has okayed the disposal of water into the combined overflow sewer system and will implement a plan for discharge of water.

The event is proposed for the north-bound lanes of Franklin Street from Cumberland Ave down the hill, across Fox Street intersection, continuing down and ending just before reaching Marginal Way. Vehicle traffic would still flow on south-bound lanes of Franklin Street, as well as on Marginal Way. Traffic on Fox Street heading west would be detoured at Diamond Street - a block before. Traffic heading east on Somerset Street (Whole Foods) could only take a right on Franklin, to head up the hill. Traffic would also still flow on Cumberland Ave. The water slide would run from Cumberland Ave. down to Fox Street. The festival tent/registration area would be on Franklin Street (north-bound lanes) from Fox St. to Marginal Way.

The slide area would be fenced off (snow fence) on all sides, with checkpoint openings up along the slide. Some of the existing chain-link fence along Franklin would be used (holes/openings to be fenced over). Fencing would be placed so that onlookers could stand nearby to watch sliders go down the slide. Some area of the grass median would be also be available for onlookers.

The ticket booth would be located on lower Franklin (not up at Cumberland Ave). Ticketholders waiting to slide would assemble on the grass area – east side of Franklin and stretch down the hill.

The parking plan involves participants parking at Marginal Way (the Park and Ride lots) and other parking lots in the area. Organizers are inquiring with property managers about using the old Department of Health and Human Services building parking lot, as well as the InterMed parking garage.

Maine Department of Transportation (MDOT) participated in the planning meeting for the event and was comfortable with the traffic plan proposed. Additionally, the organizer is working with MDOT for the possible use of the 295 message boards which may help with Exit 7.

Street closings are included in the agenda backup.

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

LICENSES:

**Order 217-14/15
(Tab 11)** **Order Granting Municipal Officers' Approval of Whole Foods Market Group, Inc. d/b/a Whole Foods Market. Application for a Class III & IV (Wine & Beer) License with Outdoor Dining on Private Property at 2 Somerset Street – Sponsored by Katherine L. Jones, City Clerk.**

Application filed 3/20/2015. New City and State applications. Applicant holds a current Food Service Establishment with Preparation License with Outdoor Dining on Private Property.

Five affirmative votes are required for passage after public comment.

**Order 218-14/15
(Tab 12)** **Order Granting Municipal Officers' Approval of Blue Rooster Food Company, LLC d/b/a Blue Rooster Food Co. Application for a Class III & IV (Wine & Beer) License at 5 Dana Street – Sponsored by Katherine L. Jones, City Clerk.**

Application filed 3/20/2015. New City and State applications. Applicant holds a current Food Service Establishment with Preparation License.

Five affirmative votes are required for passage after public comment.

**Order 219-14/15
(Tab 13)** **Order Granting Municipal Officers' Approval of JBB Hospitality I, LLC d/b/a Courtyard Portland Downtown/Waterfront. Application to Add Officers to Class IA 40+ Rooms License with Outdoor Dining on Private Property at 321 Commercial Street – Sponsored by Katherine L. Jones, City Clerk.**

Application filed 3/23/15. New City and State applications. Applicant holds a current Class IA 40+ Rooms License with Outdoor Dining on Private Property. Applicant added two partners with a total of 15% interest in the business.

Five affirmative votes are required for passage after public comment.

**Order 220-14/15
(Tab 14)** **Order Granting Municipal Officers' Approval of Brakes & Shocks, LLC d/b/a Tandem Coffee & Bakery. Application for a Class III & IV (Wine & Beer) License with Outdoor Dining on Private Property at 742 Congress Street – Sponsored by Katherine L. Jones, City Clerk.**

Application filed 4/1/15. New City and State applications. Applicant holds a current Food Service Establishment with Preparation License with Outdoor Dining on Private Property.

Five affirmative votes are required for passage after public comment.

**Order 221-14/15
(Tab 15)**

Order Granting Municipal Officers' Approval of Cow Plaza Hotel LLC d/b/a Hyatt Place Portland/Old Port. Application to add Outdoor Dining on Public and Private Property at 433 Fore Street – Sponsored by Katherine L. Jones, City Clerk.

Application filed 4/1/15. New City application. Applicant holds a current Class IA 40+ Rooms License.

Five affirmative votes are required for passage after public comment.

**Order 222-14/15
(Tab 16)**

Order Granting Municipal Officers' Approval of Chef Paul's d/b/a Chef Paul's. Application for a Class III & IV (Wine & Beer) License and Entertainment without Dance and Outdoor Dining on Private Property at 54 Washington Ave. – Sponsored by Katherine L. Jones, City Clerk.

Application filed 3/23/15. New City and State Application. Former location of Falmouth Flowers & Gifts.

Five affirmative votes are required for passage after public comment.

FY 16 BUDGET ITEMS: PUBLIC HEARING

PUBLIC COMMENT WILL BE TAKEN AT THIS COUNCIL MEETING ON ALL SCHOOL BUDGET ORDERS. COUNCIL ACTION ON THE SCHOOL BUDGET WILL TAKE PLACE ON MAY 4, 2015, AT 7:00 P.M. THE PUBLIC REFERENDUM ON THE SCHOOL BUDGET WILL BE HELD ON TUESDAY, MAY 12, 2015.

**Order 223-14/15
(Tab 17)**

Order Approving State/Local EPS Funding Allocation for Public Education from Kindergarten to Grade 12 for Portland Schools for FY2016 – Sponsored by the Finance Committee, Councilor Nicholas M. Mavodones, Jr., Chair.

Orders 223-14/15 to 228-14/15 are orders required by State law 20-A M.R.S.A. §15690 in order to comply with what is known as LD1, a set of state laws passed to control increases in property taxes.

This order provides \$79,352,047 as the amount determined by state law to be the minimum amount the city must appropriate in order to receive the full amount of state funding under the Essential Programs and Services Funding Act (EPS).

This requires the city to raise \$64,342,989 as the city's contribution to the total cost of funding public education from K-12 as described in the EPS law. The City's Tax levy for the total for school budget programs of \$102,776,657 will be \$79,773,211.

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

**Order 224-14/15
(Tab 18)**

Order Approving Non-State Funded School Construction Debt Service for Portland Schools for FY2016 – Sponsored by the Finance Committee, Councilor Nicholas M. Mavodones, Jr., Chair.

Non-state funded debt service is the amount of money needed for the annual payments on the City's long-term debt for major capital school construction projects and portions of school construction projects that are not approved for state funding. The bonding of this long-term debt was previously approved by the voters or the City Council.

This order appropriates \$561,907 for the annual payments on debt service previously approved by the voters or the City Council for non-state (local-only) funded school construction projects. The state no longer includes minor capital projects in this calculation.

The \$561,907 is in addition to the funds appropriated as the EPS required local share (amount of the city's contribution to the total cost of funding public education from kindergarten to grade 12).

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

**Order 225-14/15
(Tab 19)**

Order Raising and Appropriating Additional Local Funds for Portland Schools for FY2016– Sponsored by the Finance Committee, Councilor Nicholas M. Mavodones, Jr., Chair.

This order appropriates \$13,332,753 in additional city funds over and above regional EPS amount and the non-state funded debt service amount.

This exceeds the EPS funding model by \$13,880,753 and funds the cost of city schools, Kindergarten-12, which are not covered by the state funding model established by the Essential Programs and Services Funding Act.

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

**Order 226-14/15
(Tab 20)**

Order Approving Total School Operating Budget for Portland Schools for FY2016 – Sponsored by the Finance Committee, Nicholas M. Mavodones, Jr., Chair.

This order is required by 20-A M.R.S.A. §15690(4)(A). It sets the School Budget required by state law. The total amount recommended for that budget is \$97,231,508.

That is the amount in the budget that under state law will be sent to the voters for approval at a citywide Referendum Election on May 12, 2015. \$78,237,649 of the \$97,231,508 would come from property taxes, \$15,034,100 would come from state subsidy, and \$3,508,759 from other revenues.

This order does not provide money unless the other General Fund budget orders passed.

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

**Order 227-14/15
(Tab 21)**

Order Appropriating and Raising Funds for Adult Education for FY 2016 as Required by the Maine Revised Statutes, Title 20-A M.R.S.A. §8603-A(1) – Sponsored by the Finance Committee, Nicholas M. Mavodones, Jr., Chair.

This order raises \$1,063,833 to support the Adult Education program and appropriates a budget for that program of \$1,752,513. The budgets for the Adult Education Program and for the Food Service Program in the next Order, are in addition to the \$97,231,508 proposed for the General Fund School Budget that must be submitted to the voters.

Under the City Charter, the Council must act on this school funding order, which is not part of the General Fund budget.

When the amounts for the Adult Education Program and the Food Service Program are added to the proposed General Fund School Budget, it leads to a total for FY2016 school budget programs of \$102,776,657.

The total school budget will come before the Council for approval as part of the annual Appropriation Resolve on May 18th, if the voters approve the General Fund School Budget submitted to them on May 12th.

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

**Order 228-14/15
(Tab 22)**

Order to Raise Local Funds for Food Service in the Portland Public Schools for FY 2016 – Sponsored by the Finance Committee, Nicholas M. Mavodones, Jr., Chair.

This order raises \$417,729 to support the Food Service Budget. The total proposed Food Service Program is \$3,792,636, which is in addition to the General Fund School Budget.

Under the City Charter, the Council must act on this school funding order which is not part of the General Fund budget.

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

COMMUNICATIONS:

RESOLUTIONS:

UNFINISHED BUSINESS:

**Order 204-14/15
(Tab 23) Order Approving the Collective Bargaining Agreement with the Communications Employee Association - Sponsored by Sheila Hill-Christian, Acting City Manager.**

Staff has reached a tentative agreement with the Communications Employee Association on a successor one year contract. The prior collective bargaining agreement expired June 30, 2013.

The Communications Employee Association, which is comprised of 30 Telecommunicators, Fire Alarm Specialist, Radio Systems Specialist and Telecommunications Supervisors, has reached a tentative agreement with the City. The tentative agreement is within the guidance received by the City Council on February 23, 2015.

The City and the Communications Unit have reached a tentative agreement on a three (3) year contract with a 1.0% general wage increase for Fiscal Year (FY) 2014 retroactive to July 7, 2013; a 1.0% general wage increase retroactive to July 6, 2014; a 1.0% general wage increase retroactive to January 4, 2015 and a 3.0% general wage increase effective July 5, 2015. The duration of the contract and the COLA recommendations are consistent with the unified bargaining strategy previously discussed with the Council.

The contract term is July 2013, through June 30, 2016.

All other provisions of the collective bargaining agreement remain the same until a successor agreement is reached through collective bargaining. The total direct cost for the three year agreement is approximately \$165,000 of which \$79,000 has already been approved and appropriated through the FY 2014 and FY 2015 budget process.

This item must be read on two separate days. It was given a first reading on April 6th. Five affirmative votes are required for passage after public comment.

**Order 205-14/15
(Tab 24)**

Order Authorizing General Obligation Bonds to Finance a Portion of the City's 2016 Capital Improvement Program in an Amount not to Exceed \$18,731,000 - Sponsored by the Finance Committee, Councilor Nicholas M. Mavodones, Jr., Chair.

This order authorizes the incurring of indebtedness by the City of Portland through the issuance of General Obligation Bonds in the aggregate amount of \$18,731,000 pursuant to the City Charter. The specific items for which the bond proceeds will be expended are set forth in detail in the accompanying Appropriation Order.

The order also finds, determines, and declares, with respect to the Communication System Replacement Project, that an emergency exists with respect to the need to acquire and install such Communication System Replacement Project within the meaning of Section 16(b)(iii) of the City Charter as follows:

- The current public safety radio communication system was installed approximately 15 years ago and is approaching the end of its useful life;
- These circumstances create an unacceptable public safety risk to the residents of the City and to City public safety personnel and to the residents in the combined dispatch service area;
- There is therefore a substantial public exigency to speedily replace the current system with an up-to-date and more reliable public safety radio communication system in order to meet the needs of the residents of the City and of the combined dispatch service area;
- Because there is an urgent and unavoidable need for a new public safety radio communication system and because a process seeking referendum approval would create uncertainty and an unavoidable and unacceptable delay in the project, the City Council finds, determines and declares that emergency circumstances exist under Section 16(b)(iii) of the City Charter requiring approval of the Communication System Replacement project and issuance of the City's bonds therefore without referendum approval.

This order also authorizes the Director of Finance to prepare, issue, and sell the bonds and also authorizes the Director of Finance, Mayor and Clerk, and other proper officials of the City to perform whatever other acts may be necessary or desirable to effect the issuance, sale, and delivery of the bonds.

Finally, the order requires that sufficient funds for the annual payments of principal and interest on the bonds and any notes issued be included in the tax levy each year until the debt represented by the bonds and any notes is extinguished.

Draft minutes of the Finance Committee meeting held on March 26, 2015 are included in the agenda backup. The Committee voted 3-1 to forward this item to the City Council with a recommendation for passage and to declare the Communication System Replacement Project an emergency (3-1 vote).

This item must be read on two separate days. It was given a first reading on April 6th. Seven affirmative votes are required for passage after public comment.

**Order 206-13/14
(Tab 25)**

Order Appropriating \$18,731,000 of Bond Proceeds for the City's 2016 Capital Improvement Program- Sponsored by the Finance Committee, Councilor Nicholas M. Mavodones, Jr., Chair.

This order appropriates the new general obligation bond proceeds for the following described capital projects and all other related expenses summarized by category as follows:

Transportation Projects	\$1,600,000
Facilities Projects	\$2,705,000
Parks, Fields, & Trails Projects	\$1,140,000
Equipment & Vehicles Projects	\$9,135,000
Sewer/Stormwater Projects	\$4,005,000
Public Art Projects	\$73,000
Land Bank Projects	\$73,000

Draft minutes of the Finance Committee meeting held on March 26, 2015 are included in the agenda backup. The Committee voted 3-1 to forward this item to the City Council with a recommendation for passage.

This item must be read on two separate days. It was given a first reading on April 6th. Five affirmative votes are required for passage after public comment.

**Order 207-14/15
(Tab 26)**

Amendment to Portland City Code Chapter 17 (Offenses, Miscellaneous Provisions) Article V (Regulation of Tobacco) - Sponsored by the Public Safety, Health and Human Services Committee, Councilor Edward J. Suslovic, Chair.

The Public Safety, Health and Human Services Committee asked the Public Health Division to compile information regarding electronic nicotine delivery systems (ENDS) for consideration by the committee to include ENDS in the definition of smoking products in City ordinance.

Staff reviewed the City's existing ordinances related to smoking in public spaces, the actions of other states, local municipalities and health organizations, and the information behind the potential dangers of this relatively new tobacco product.

ENDS are currently not regulated by the US Food and Drug Administration (FDA), nor have they been fully studied for their content and health effects. Concerns about their potential impact on youth tobacco use are also emerging.

Title 22 Chapter 262-A *Maine's Retail Tobacco Sales* laws define electronic cigarettes as tobacco products, which clarifies that e-cigarettes cannot be sold to any person under 18 years of age, and possession and use by minors are prohibited. Maine law does not currently prohibit the use of e-cigarettes in any location.

In 2014, more teens used e-cigarettes than traditional cigarettes, or any other tobacco product. Over 90% of lifetime smokers start before age 18, thus, youth use of a tobacco product and intention to use cigarettes are important public health data.

There is also concern that the use of ENDS in public places such as restaurants, hospitals, and workplaces may cause confusion and thus hinder enforcement of existing smoke-free laws, perhaps even renormalizing smoking in places that were traditionally smoke-free.

As of January 1, 2015, 274 municipalities have passed laws restricting e-cigarette use in 100% smoke-free venues.

The Public Safety, Health and Human Service Department met on March 10, 2015, and voted unanimously to forward this item to the City Council with a recommendation for approval.

This item must be read on two separate days. It was given a first reading on April 6th. Five affirmative votes are required for passage after public comment.

**Order 208-14/15
(Tab 27)**

Amendment to Portland City Code Chapter 11 (Food and Food Handlers) – Sponsored by the Public Safety, Health and Human Services Committee, Councilor Edward J. Suslovic, Chair.

The reasons for submission are to: 1) Adopt the most recent version of the Maine Food Code, 2) specify the loss of hot water as an example of an Imminent Health Hazard (IHH), 3) clearly link raw food menu items and the reminder of the health risks, and 4) require businesses to show proof of a Certified Food Protection Manager (CFPM) before operating and during subsequent inspections.

Adopting the 2013 Maine Food Code will keep us current with the education and enforcement of food code regulations. Specifying the loss of hot water as an IHH will prevent any further confusion if an extended loss of water requires a complete loss of hot and cold water.

More visibly linking the presence of raw food items on restaurant menus and the reminder of increased health risks from their consumption will raise the public's awareness and may lead to a decrease in the number of new foodborne illness cases.

Finally, requiring proof of a CFPM before businesses opens and during subsequent inspections will save city staff time and assures that all new businesses start and maintain at least a common basic level of food safety knowledge.

The Public Safety, Health and Human Services Committee met on March 10, 2015, and voted unanimously to forward this item to the City Council with a recommendation for passage.

This item must be read on two separate days. It was given a first reading on April 6th. Five affirmative votes are required for passage after public comment.

**Order 209-14/15
(Tab 28)**

Amendment to Portland City Code Chapter 14. Land Use Re: R6 and R-6A Zones – Sponsored by the Planning Board, Stuart O'Brien, Chair.

The Planning Board recommends text amendments to the R-6 Residential zone. These include changes to the existing dimensional standards, parking standards, clarifying language linking the R-6 standards to the Design Manual for review of residential projects; standards regarding lots of record, and elimination of the small residential lot development provision. Changes also include a conversion of the dimensional requirements from a descriptive listing to a table format, shortening and simplifying the overall text of the ordinance.

The dominant on-peninsula residential zone, R-6 encompasses all or portions of Munjoy Hill, Parkside, the West End, East Bayside, Bayside, and Libbytown.

These neighborhoods, varied though they are, embody successful pre-war development patterns – patterns that are not mirrored in the current dimensional requirements of the R-6 zone.

Though the pattern of the peninsula's built environment is largely established, incremental changes to that pattern are ongoing, and the parameters of current zoning affect urban character today and into the future. Current zoning renders the vast majority of parcels in the R-6 zone non-conforming.

These changes bring Portland's zoning closer into alignment with desirable patterns of development than is currently the case, as well as offering greater flexibility to existing and future property owners.

The Planning Board met on March 10, 2015, and voted unanimously, 6-0 (Dundon absent) to forward this item to the City Council with a recommendation for passage.

This item must be read on two separate days. It was given a first reading on April 6th. Councilor Donoghue has asked that this item be postponed to the May 4th Council meeting.

**Order 210-14/15
(Tab 29)**

Fourth Amendment to Conditional Zone Agreement Re: Property in the Vicinity of Diamond Cove/Great Diamond Island – Sponsored by the Planning Board, Stuart O'Brien, Chair.

The Planning Board recommends amendments to an existing IR-3 conditional zoning agreement (CZA) for Fort McKinley, Great Diamond Island, to the City Council.

The amendment was requested by the City's Department of Public Services to allow the construction of a solid waste transfer and recycling station that has been the subject of discussions for several years.

The amendments include a minor change to the boundary of the designated open space near the "laundry building" and a text amendment/plan reference to confirm the use is an exception to the limitations. The 1985 CZA anticipated the possibility of a municipally operated island solid waste disposal facility being created.

Current waste management on the island consists of a solid waste truck parked on property on Great Diamond Island that is frequently transported off the island. This arrangement is not sufficiently or effectively serving the needs of the island's residents and is costly and inefficient to operate.

Due to the gradually increasing population and the waste management requirements attendant to that growth, the City and the Diamond Cove Homeowners Association (DCHA) – in cooperation with other residents on the island – have determined that a solid waste transfer station capable of handling the island’s waste would allow more efficient consolidation and transportation. The DCHA and the City have negotiated a lease to allow the construction of a municipal transfer station on land owned by the DCHA.

The site was chosen to be near the barge landing, to minimize truck travel and minimize impact on old growth trees and open space; the agreed site impacts .9 acre of open space and this requires the amendment to the 1985 CZA and associated Open Space Designation.

The Planning Board met on March 24, 2015, and voted 4-0 (O’Brien abstaining; Eaton and Morrisette absent) to forward this item to the City Council with a recommendation for approval.

This item must be read on two separate days. It was given a first reading on April 6th. Staff is asking that this item be postponed to the May 4th City Council meeting.

ORDERS:

**Order 229-14/15
(Tab 30)**

Order Approving Lease with Ready Seafood Co. Re: Portland Ocean Terminal - Sponsored by the Housing and Community Development Committee, Councilor Kevin J. Donoghue, Chair.

Ready Seafood Company has been a tenant at the Maine State Pier, Portland Ocean Terminal (POT) since January 2010 under a City Council approved Lease. Brendan Ready approached City staff asking for a number of lease amendments which include the following:

Space Reduction and Reconfiguration. The request is to reduce the amount of leased square footage from 24,000 square feet to 19,000 square feet, eliminate two options to expand tenancy, along with reconfiguring company leased space to include use of the complete west-to-east depth of the POT, versus leasing space along the western side of the POT.

Rent Reduction. The company is requesting a rent reduction due to their company’s continued investment in POT and Maine State Pier infrastructure.

Ready Seafood Company Investment. Ready Seafood Company investment has been over and above usual tenant responsibilities over the last four years. Examples of Ready investment are included in the agenda backup.

The cost breakdown on the Ready Seafood investment averages \$51,225 per year. A summary table of Ready Seafood Company lease terms compared to Ready's request is included in the agenda backup.

In exchange for an annual rent reduction, Ready Seafood Company is willing to pay separately for parking and is willing to continue to pay for Maine State Pier and POT building improvements.

While the rent reduction reduces annual revenue to the City, it is offset by the actual past and projected investment in pier related infrastructure.

The Housing and Community Development Committee met on March 25th and voted unanimously to forward this item to the City Council with a recommendation for passage.

Five affirmative votes are required for passage after public comment.

**Order 230-14/15
(Tab 31)**

Order Naming the Entrance Road to Portland Technology Park as Technology Park Drive – Sponsored by Sheila Hill-Christian, Acting City Manager.

With the impending sale of Site #1 at the City's Portland Technology Park, off of Rand Road, it is time to formally name the roadway into the Park for 911 purposes, as well as for the tenants.

Technology Park Drive is a roadway shown as Easement Area 1 on the Subdivision Plat of Portland Technology Park Condominium approved by the City of Portland Planning Board on January 24, 2012 and recorded at the Cumberland County Registry of Deeds in Plan Book 212, Page 324.

The City owns the roadway in perpetuity and will continue to be responsible for roadway maintenance until all sites are sold. After all sites are sold, the Condominium Association will be responsible for the long-term roadway maintenance and repair because this is not a publicly accepted street.

Five affirmative votes are required for passage after public comment.

**Order 231-14/15
(Tab 32)**

Order Amending the Promissory Note and Related Closing Documents For Home Program Funds to Avesta Housing for a Rental Housing Project at 134 Washington Avenue - Sponsored by the Housing and Community Development Committee, Councilor Kevin J. Donoghue, Chair.

In September 2013, the City Council approved the allocation of \$522,448 in HOME Program Funds to the Avesta Housing project at 134 Washington Avenue. The project consists of the development of 18 efficiency units of rental housing at 134 Washington Avenue. Eight units will be made available to households earning at or below 50% of the area median income, and ten units will be made available to households earning at or below 40% of the area median income.

The initial loan terms were a 0% interest loan, deferred for 30 years or until sale or transfer. Avesta Housing has requested that the HOME loan provided by the City of Portland be modified so as to extend the loan term from thirty (30) to fifty (50) years. The reason for this request is that the low income housing tax credit investor has concluded that unless the City of Portland debt, along with other project debt, is extended, the transaction would lead to adverse tax consequences for the investor.

At their April 8, 2015 meeting, the Housing and Community Development Committee voted 4-0 to forward this item to the City Council with a recommendation for approval.

Five affirmative votes are required for passage after public comment.

**Order 232-14/15
(Tab 33)**

Order Approving a Sidewalk Brick Apron and Granting the the Sidewalk Brick Apron Easement to Redfern Munjoy LLC – Sponsored by Sheila Hill-Christian, Acting City Manager.

The applicant, Jonathan Culley of Redfern Munjoy LLC, received Planning Board approval to develop the townhomes known as “Munjoy Heights” on December 17, 2013 and the project is now in the final stages of construction. The applicant requested a brick apron where the pedestrian/vehicle access links the 29 new townhouses known as “Munjoy Heights” to Walnut Street. The City’s Sidewalk Replacement Materials map specifies a brick sidewalk with asphalt apron at this location and the City Council is requested to approve this substitution of brick for the 205 square feet asphalt apron area.

The Council is also requested to approve the associated easement that the applicant has agreed to. It confirms that the apron shall be solely the responsibility of the applicant or subsequent owners, and its repair, replacement and maintenance will be carried out in accordance with the City’s Technical Manual.

Five affirmative votes are required for passage after public comment.

AMENDMENTS:

LICENSE RENEWALS:

ROLL CALL:

Mayor Brennan called the meeting to order at 7:00 P.M. (All Councilors present).

ANNOUNCEMENTS:

RECOGNITIONS:

APPROVAL OF MINUTES OF PREVIOUS MEETING:

Motion was made by Councilor Marshall and seconded by Councilor Duson to approve the City Council minutes of March 16, 2015. Passage 9-0.

PROCLAMATIONS:

- Proc 22-14/15** **Proclamation Recognizing Maine's Day of Recognition for National Service, April 7, 2015 – Sponsored by Mayor Michael F. Brennan.**
- Proc 23-14/145** **Proclamation Proclaiming National Telecommunicators Week April 12-18, 2015 – Sponsored by Councilor Edward J. Suslovic.**
- Proc 24-14/15** **Proclamation Honoring Mary "Beth" Perlman, Barron Center, as Employee of the Month for March 2015 – Sponsored by Mayor Michael F. Brennan.**
- Proc 25-14/15** **Proclamation Recognizing Starting Strong Day April 11, 2015 – Sponsored by Mayor Michael F. Brennan.**
- Proc 26-14/15** **Proclamation Recognizing Maine Marathon – Sponsored by Mayor Michael F. Brennan.**

APPOINTMENTS:

- Order 186-14/15** **Order Appointing Wardens and Ward Clerks – Sponsored by Katherine L. Jones, City Clerk.**
- Motion was made Councilor Suslovic and seconded by Councilor Duson for passage. Passage 9-0.
- Order 187-14/15** **Order Appointing Constable for 2015 Re: Department of Public Services – Sponsored by Sheila Hill-Christian, Acting City Manager.**
- Motion was made by Councilor Suslovic and seconded by Councilor Brenerman to pass Order 187 as an emergency. Passed as an emergency 9-0.

CONSENT ITEMS:

- Order 188-14/15** **Order Approving Transfer of Funds Under 15 M.R.S.A. §§5824(3) and 5826(6) Re: State of Maine v. Marshall Brunnelle– Sponsored by Sheila Hill-Christian, Acting City Manager.**
- Order 189-14/15** **Order Approving Transfer of Funds Under 15 M.R.S.A. §§5824(3) and 5826(6) Re: State of Maine v. Chad Proctor – Sponsored by Sheila Hill-Christian, Acting City Manager.**
- Order 190-14/15** **Order Setting Time for Opening of Polls for Election on May 12, 2015 – Sponsored by Katherine L. Jones, City Clerk.**
- Order 191-14/15** **Order Declaring June 11, 12, 13, & 14, 2015, as Old Port Festival – Sponsored by Sheila Hill-Christian, Acting City Manager.**
- Order 193-14/15** **Order Declaring June 13, 2015 through June 20, 2015 Portland Pride! Week and Portland Pride! Celebration and Festival - Sponsored by Sheila Hill-Christian, Acting City Manager.**

Motion was made by Councilor Donoghue and seconded by Councilor Marshall to separate Order 192 from the Consent Items. Passage 9-0.

Motion was made by Councilor Hinck and seconded by Councilor Marshall to approve the Consent Items. Passage 9-0.

- Order 192-14/15** **Order Declaring June 5, 2015 as the First Friday Art Walk Summer Edition Festival– Sponsored by Sheila Hill-Christian, Acting City Manager.**

Motion was made by Councilor Donoghue and seconded by Councilor Duson for passage. Passage 9-0.

LICENSES:

- Order 194-14/15** **Order Granting Municipal Officers' Approval of El Luchador Holdings LLC d/b/a Terlingua. Application for a Class XI Restaurant/ Lounge License and Outdoor Dining on Public Property at 52 Washington Ave. - Sponsored by Katherine L. Jones, City Clerk.**

Motion was made by Councilor Duson and seconded by Councilor Donoghue for passage. Passage 9-0

IN COUNCIL REGULAR MEETING APRIL 6, 2015 VOL. 130 PAGE 71

Order 195-14/15 Order Granting Municipal Officers' Approval of AAA Rue Marche LLC d/b/a Timber. Application to add corporate officer to Class I FSE License with Outdoor Dining on Public Property at 106 Exchange St. – Sponsored by Katherine L. Jones, City Clerk.

Motion was made by Councilor Duson and seconded by Councilor Brenerman for passage. Passage 9-0.

Order 196-14/15 Order Granting Municipal Officers' Approval of Portland House of Music and Events LLC d/b/a Portland House of Music and Events. Application for an Auditorium License with Entertainment with Dance and Outdoor Dining on Public and Private Property at 25 Temple St. – Sponsored by Katherine L. Jones, City Clerk.

Motion was made by Councilor Duson and seconded by Councilor Costa for passage. Passage 9-0.

Order 197-14/15 Order Granting Municipal Officers' Approval of Aurora Provisions, Inc. Application of a Class I FSE License at 64 Pine Street – Sponsored by Katherine L. Jones, City Clerk.

Motion was made by Councilor Duson and seconded by Councilor Costa for passage. Passage 9-0.

Order 198-14/15 Order Granting Municipal Officers' Approval of AMA, LLC d/b/a Hugo's, Eventide Oyster Co., The Honey Paw. Application for a Class XI Restaurant/Lounge License with Outdoor Dining on Public Property at 88 Middle St. – Sponsored by Katherine L. Jones, City Clerk.

Motion was made by Councilor Duson and seconded by Councilor Hinck for passage. Passage 9-0.

Order 199-14/15 Order Granting Municipal Officers' Approval of The Inn at Diamond Cove LLC d/b/a The Inn at Diamond Cove. Application for a Class IA 40+ Rooms License with Entertainment without Dance and Outdoor Dining on Private Property at 22 McKinley Court – Sponsored by Katherine L. Jones, City Clerk.

Motion was made by Councilor Duson and seconded by Councilor Brenerman for passage. Passage 9-0

BUDGET ITEMS:

Mayor Brennan moved Order 202 out of order.

Order 202-14/15 Order Receiving and Referring to the Finance Committee the Portland Board of Public Education's FY2016 Budget Estimate and Setting a Public Hearing Thereon-- Sponsored by Sheila Hill-Christian, Acting City Manager.

Motion was made by Councilor Mavodones and seconded by Councilor Duson for passage. Passage 9-0.

Order 200-14/15 Order Receiving and Referring Acting City Manager's Fiscal Year 2016 Municipal Budget to the Finance Committee and Setting Date of Public Hearing on FY 2016 Municipal Budget and FY 2016 Appropriation Resolve -- Sponsored by Sheila Hill-Christian, Acting City Manager.

Motion was made by Councilor Mavodones and seconded by Councilor Duson for passage. Passage 9-0.

Order 201-14/15 Order Holding Public Hearings FY2015-2020 Housing and Urban Development Consolidated Plan, FY 2015-2016 Annual Allocation Plan and Appropriations for Community Development Block Grant Program, Home Program, and Emergency Solutions Grant Program -- Sponsored by Acting City Manager, Sheila Hill-Christian.

Motion was made by Councilor Donoghue and seconded by Councilor Marshall for passage. Passage 9-0.

Resolve 6-14/15 Resolution Adopting the FY 2015-2016 Housing and Community Development Annual Action Plan Including Appropriations for Community Development Block Grant Program, Home Program, and Emergency Solutions Grant Program and Certifications Pertaining Thereto -- Sponsored by Sheila Hill-Christian, Acting City Manager.

This is a first reading.

COMMUNICATIONS:

Com 14-14/15 Communication Re: Environmental Performance Report -- 2014 -- Sponsored by the Transportation, Sustainability, and Energy Committee, Councilor David A. Marshall, Chair.

Com 15-14/15 Communication Re: General Assistance Audit by the Maine Department of Human Services – Sponsored by Sheila Hill-Christian, Acting Manager.

Motion was made by Councilor Mavodones and seconded by Councilor Marshall to suspend the City Council Rule to adopt the resolution. Passage 9-0.

Motion was made by Councilor Duson to resolve that the City Council endorses and supports the staff recommendations in response to the General Assistance Audit; and attaching staff memo; was seconded by Councilor Suslovic for passage. Passage 9-0.

UNFINISHED BUSINESS:

Order 183-14/15 Amendment to Portland City Code Chapter 12. Garbage, Wastes and Junk Re: Abandoned Bicycles - Sponsored by the Transportation, Sustainability, and Energy Committee, Councilor David A. Marshall, Chair. This item was given first reading on March 16, 2015.

Motion was made by Councilor Marshall and seconded by Councilor Donoghue for passage. Passage 9-0.

Order 203 was taken out of order.

Order 203-14/15 Order Discontinuing a Portion of Cleeve Street – Sponsored by the Planning Board, Stuart O'Brien, Chair.

Motion was made by Councilor Suslovic and seconded by Councilor Brenerman passage. Passage 9-0.

Order 184-14/15 Amendment to Portland City Code Chapter 14. Land Use Re: 58 Fore Street – Sponsored by the Planning Board, Stuart O'Brien, Chair. This item was given first reading on March 16, 2015.

Motion was made by Councilor Suslovic and seconded by Councilor Duson to postpone Order 184 to June 1, 2015. Passage 9-0.

Order 185-14/15 Amendment to Zoning Map Re: 58 Fore Street – Sponsored by – Sponsored by the Planning Board, Stuart O'Brien, Chair.

Motion was made by Councilor Suslovic and seconded by Councilor Duson to postpone Order 185 to the June 1, 2015. Passage 9-0.

ORDERS:

IN COUNCIL REGULAR MEETING APRIL 6, 2015 VOL. 130 PAGE 74

- Order 204-14/15** **Order Approving the Collective Bargaining Agreement with the Communications Employee Association - Sponsored by Sheila Hill-Christian, Acting City Manager.**
This is its first reading.
- Order 205-14/15** **Order Authorizing General Obligation Bonds to Finance a Portion of the City's 2016 Capital Improvement Program in an Amount not to Exceed \$18,731,000 - Sponsored by the Finance Committee, Councilor Nicholas M. Mavodones, Jr., Chair.**
This is its first reading.
- Order 206-13/14** **Order Appropriating \$18,731,000 of Bond Proceeds for the City's 2016 Capital Improvement Program- Sponsored by the Finance Committee, Councilor Nicholas M. Mavodones, Jr., Chair.**
This is its first reading

AMENDMENTS:

- Order 207-14/15** **Amendment to Portland City Code Chapter 17 (Offenses, Miscellaneous Provisions) Article V (Regulation of Tobacco) - Sponsored by the Public Safety, Health and Human Services Committee, Councilor Edward J. Suslovic, Chair.**
This is its first reading.
- Order 208-14/15** **Amendment to Portland City Code Chapter 11 (Food and Food Handlers) – Sponsored by the Public Safety, Health and Human Services Committee, Councilor Edward J. Suslovic, Chair.**
This is its first reading.
- Order 209-14/15** **Amendment to Portland City Code Chapter 14. Land Use Re: R6 and R-6A Zones – Sponsored by the Planning Board, Stuart O'Brien, Chair.**
This is its first reading.
- Order 210-14/15** **Fourth Amendment to Conditional Zone Agreement Re: Property in the Vicinity of Diamond Cove/Great Diamond Island – Sponsored by the Planning Board, Stuart O'Brien, Chair.**
This is its first reading.

Motion was made by Councilor Donoghue and seconded by Councilor Duson to adjourn. Passage 9-0, 10:25, P.M.

A TRUE COPY.

Katherine L. Jones, City Clerk

*Proc 27-14/15
Tab 2 4-27-15*

P R O C L A M A T I O N

RECOGNIZING

Portland Businesses that Provided Free Reusable Bags to Prepare Citizens for Implementation of Green Packaging Ordinance

WHEREAS: The Portland City Council approved an amendment to the City Code on June 16, 2014 to require a bag fee for single-use carryout bags in order to reduce waste and incentivize the usage of reusable bags; and

WHEREAS: Numerous studies have documented the prevalence of single-use carryout bags littering the environment, blocking storm drains, and endangering wildlife; and

WHEREAS: The City of Portland's taxpayers must bear costs associated with the effects of single-use carryout bags on the solid waste stream, drainage, litter, and wildlife; and

WHEREAS: The City Council aims to conserve resources, reduce greenhouse gas emissions, waste, and litter and to protect the public health and welfare, including wildlife, all of which increase the quality of life for the City's residents and visitors; and

WHEREAS: On April 15, 2015, local retailers began charging customers \$0.05 for each plastic or paper shopping bag they use to package purchased goods; and

WHEREAS: Numerous Portland retailers assisted the City and its citizens by providing free reusable shopping bags in advance of April 15 in order to prepare citizens for the implementation of the ordinance and to help encourage the use of reusable bags.

NOW, THEREFORE, BE IT RESOLVED, THAT I Michael F. Brennan, Mayor of the City of Portland and members of the City Council do hereby recognize and thank these retailers for the service they provided.

Signed and Sealed this 27th Day of April, 2015

**Michael F. Brennan, Mayor
City of Portland, Maine**

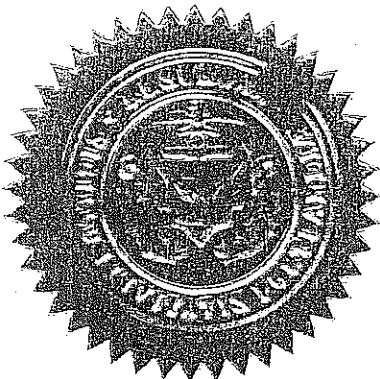
*Dec 28-14/15
Feb 3 14-27-15*

PROCLAMATION
HONORING
OFFICER DAVID ARGITIS

- WHEREAS,** **Officer Argitis** has been with the Police department since 2006 and is currently a Senior Lead Officer for the West End and Parkside Neighborhoods; and
- WHEREAS,** **Officer Argitis** is recommended for Officer of the Month for March 2015 by the Community Policing Unit for his initiative in utilizing available City resources to problem solve community issues; and
- WHEREAS,** **Officer Argitis** is recognized for his proactive response in identifying a pattern of crime where construction is ongoing and working with the City Clerk's office to mitigate further theft and loss of property; and
- WHEREAS,** **Officer Argitis** continues to maintain good solid working community relationships; and
- WHEREAS,** **Officer Argitis** advances each opportunity to support members of the public through collaboration, education and problem solving and is commended for his commitment to public service.

NOW, THEREFORE, BE IT RESOLVED, THAT I, Michael F. Brennan, Mayor of the City of Portland, Maine, and the members of the Portland City Council do hereby proclaim honor and recognition to **Officer David Argitis** as **Officer of the Month for March 2015.**

Signed and sealed this 27th day of April 2015



A handwritten signature of Michael F. Brennan in black ink, written over a horizontal line.

Michael F. Brennan, Mayor
City of Portland, Maine

*Proc 29-14/15
Tab 4 4-27-15*

**PROCLAMATION
PUBLIC WORKS WEEK**

May 17-23, 2015

WHEREAS: Portland Public Services provide a service in our community and are an integral part of our citizens everyday lives; and

WHEREAS: The support of an understanding and informed citizenry is vital to the efficient operation and maintenance of public services programs and systems such as, road and sidewalk networks, storm and wastewater, traffic control and pedestrian safety, solid waste collection and recycling, engineering and design, parks and open spaces, community forest and horticulture, cemeteries, street sweeping, storm water, fleet maintenance, street lighting, island services, winter operations, and the department's support functions; and

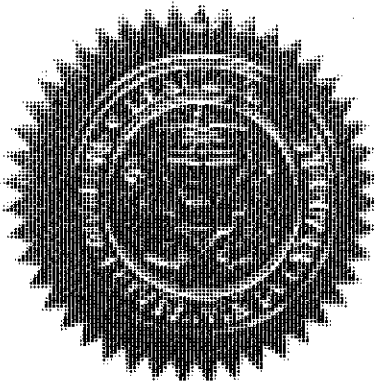
WHEREAS: The health, safety and comfort of this community greatly depends on these facilities and services; and

WHEREAS: The quality and effectiveness of these facilities, as well as their planning, design and construction is vitally dependent upon the efforts and skill of public service employees; and

WHEREAS: The efficiency of qualified and dedicated personnel who staff public works/services departments is materially influenced by the people's attitude and understanding of the importance of the work they perform.

NOW, THEREFORE, BE IT RESOLVED, THAT I, Michael F. Brennan, Mayor of the City of Portland, Maine and the members of the Portland City Council do hereby proclaim the week of **May 17-23, 2015 as National Public Works Week** within the City of Portland, Maine and call upon all citizens and civic organizations to acquaint themselves with the issues involved in providing public works and recognize the contributions which public works employees make every day to our health, safety, comfort, and quality of life.

Signed and sealed this 27th day of April, 2015



Michael F. Brennan

**Michael F. Brennan, Mayor
City of Portland, Maine**

*Order 211-14/15
Tab 5 4-27-15*

MICHAEL F. BRENNAN (MAYOR)
KEVIN J. DONOGHUE (1)
DAVID A. MARSHALL (2)
EDWARD J. SUSLOVIC (3)
JUSTIN COSTA (4)

**CITY OF PORTLAND
IN THE CITY COUNCIL**

DAVID H. BRENERMAN (5)
JILL C. DUSON (A/L)
JON HINCK (A/L)
NICHOLAS M. MAVODONES, JR (A/L)

**ORDER APPOINTING MICHAEL SAUSCHUCK
AS ACTING CITY MANAGER
AND SETTING ANNUAL SALARY**

ORDERED, that Michael Sauschuck is hereby appointed Acting City Manager for the City of Portland effective May 8, 2015 as of 4:30 p.m. and continuing until the Council appoints a new City Manager; and

BE IT FURTHER ORDERED, that the annual salary of Acting City Manager Michael Sauschuck is hereby set at \$148,063.50 as of May 8, 2015.

*Order 212-14/15
Tab 6 4-27-15*

MICHAEL F. BRENNAN (MAYOR)
KEVIN J. DONOGHUE (1)
DAVID A. MARSHALL (2)
EDWARD J. SUSLOVIC (3)
JUSTIN COSTA (4)

**CITY OF PORTLAND
IN THE CITY COUNCIL**

DAVID H. BRENERMAN (5)
JILL C. DUSON (A/L)
JON HINCK (A/L)
NICHOLAS M. MAVODONES, JR (A/L)

**ORDER DECLARING MAY 16, 2015 TOWNSQUARE MEDIA
STREET EATS AND BEATS FESTIVAL**

ORDERED, that May 16, 2015 is hereby declared to be the Townsquare Media Street Eats and Beats Festival, sponsored by Townsquare Media Portland, LLC; and

BE IT FURTHER ORDERED, that the Townsquare Media Street Eats and Beats Festival area shall be the queuing lanes at the Portland Ocean Gateway Facility, which will be reserved for concert attendees and where a small stage will be set up; and

BE IT FURTHER ORDERED, that the Townsquare Media Street Eats and Beats Festival area shall be closed to licensed street vendors as provided in §19-17 of the City Code; and

BE IT FURTHER ORDERED, that the Acting City Manager is authorized to issue a revocable permit to Townsquare Media Portland, LLC under §25-27 of the City Code to conduct said Festival, subject to the direction and control of the Acting City Manager and to the following specific conditions:

1. Townsquare Media Portland, LLC shall defend, indemnify and hold harmless the City of Portland, its officers and employees, from and against all claims arising out of or resulting from the Festival and/or use of City streets and property for said Festival, and shall procure and maintain public liability insurance in the minimum amount of \$400,000 per occurrence for personal or bodily injury, death or property damage and covering the obligation of indemnification hereunder. Townsquare Media Portland, LLC shall provide the City with a certificate showing evidence of such insurance and showing the City as an additional insured on said insurance;
2. No alcoholic beverages may be sold on the streets or public property during the Festival within the Festival area except in the 21-years-old and older area to be partitioned off and staffed by security provided by Public Assembly Facilities Division staff and subject to meeting all liquor licensing requirements;
3. Conditions for use of grounds and requirements for food service, vending sales, and other items specified in an operating agreement issued from the Public Assembly Facilities Division, shall be adhered to;

4. Townsquare Media Portland, LLC shall have sole authority over participating vendors at the festival during the scheduled events and may charge a fee to vendors for the opportunity to vend at the Townsquare Media Street Eats and Beats Festival; and

5. In addition, the City Clerk's Office shall charge the usual fees for licensing food vendors, street goods vendors, and other needed licenses for the Festival to those vendors the Organizer has agreed shall participate; and

BE IT FURTHER ORDERED, that the Acting City Manager is authorized waive fees and to issue such other temporary licenses, including licenses for food service establishments, as may be required by the City Code, provided that all other applicable Code requirements for the operation of the Festival have been met.

MEMORANDUM
City Council Agenda Item

TO: Mayor Brennan and City Council

FROM: Andrew Downs, Director of Public Assembly Facilities

DATE: 4/13/2015

DISTRIBUTION: Sheila Hill-Christian, Michael Brennan, Sonia Bean,
Danielle West-Chuhta, Nancy English, Julie Sullivan

SUBJECT: Townsquare Media – Street Eats and Beats 2015

SPONSOR:

(If sponsored by a Council committee, list the date the committee met and the results of vote.)

COUNCIL MEETING DATE ACTION IS REQUESTED:

1st reading 4/27/2015 Final Action 4/27/2015

Can action be taken at a later date: _____ Yes X No (If no why not?)
Organizers are in need to begin planning and marketing immediately following approval.

PRESENTATION: (List the presenter(s), type and length of presentation)

I. SUMMARY OF ISSUE (Agenda Description)

Declare “Townsquare Media – Street Eats and Beats 2015” as a Festival. Festival is scheduled for the Ocean Gateway Queuing Lanes from 12:00 PM on Saturday, May 16, 2015 until 5:00 PM Saturday, May 16, 2015 with gates opening at 12:00 p.m.; in the Ocean Gateway Queuing Lanes areas bordered by: The Ocean Gateway terminal on the northern side and the Portland Ocean terminal on the southern side.

The purpose of the “Townsquare Media – Street Eats and Beats 2015” is to provide patrons with the opportunity to enjoy food from local and visiting food trucks as well as beer from local breweries and live entertainment. Good Shepherd Food Bank will be the primary event beneficiary.

Townsquare Media is one of the leading producers of live events in the United States: they plan, produce, and promote approximately 500 events across the country each year that attract approximately 600,000 total attendees, delivering electrifying entertainment to audiences and vital commercial opportunities to customers and partners.

II. REASON FOR SUBMISSION (Summary of Issue/Background)

Approval of “Townsquare Media – Street Eats and Beats 2015” will allow:

- A Festival Declaration
- Control of vendors in the Festival Zone
- Permission to use public space and sell tickets / charge admission
- Sale of alcohol (Ocean Gateway Queuing Lanes)

III. INTENDED RESULT

See above.

IV. COUNCIL GOAL ADDRESSED

“Townsquare Media – Street Eats and Beats 2015” will bring an anticipated 3000 people to the Portland Waterfront and provide a positive financial impact to the waterfront during the day of the event.

V. FINANCIAL IMPACT

A rental fee will paid, and all costs incurred by City Departments will be reimbursed by . Townsquare Media, organizers of this event.

VI. STAFF ANALYSIS

Townsquare Media has had a successful working relationship with the City of Portland for the past year, working as the organizers of the Townsquare Media – Street Eats and Beats 2014 as well as several other events. City staff feels Townsquare Media can successfully plan and implement an event that will have a positive impact on the waterfront.

VII. RECOMMENDATION

City staff feels we can appropriately manage the event and recommend approval.

VIII. LIST ATTACHMENTS

- Memo with additional details

Prepared by: Andrew J. Downs, Director of Public Assembly Facilities

Date: April 13, 2015



Anita R. LaChance
Director

Department of Recreation & Facilities Management

Andrew J. Downs
Director

Public Assembly Facilities

TO: Sheila Hill-Christian, Acting City Manager
FROM: Andrew Downs, Director of Public Assembly Facilities
DATE: April 13, 2015
RE: Townsquare Media – Street Eats and Beats 2015

I am requesting that the following order be placed on the next City Council agenda: order authorizing Townsquare Media – Street Eats and Beats 2015 as a “Festival”, scheduled for Saturday May 16, 2015 (with load in and load out happening before and after the event on Saturday May 16, 2015).

The festival area will include: all of the Ocean Gateway Queuing Lanes.

Townsquare Media Live Events will be organizing and producing the event. Good Shepherd Food Bank will be the primary event beneficiary and is a registered 501c3 non-profit organization. Townsquare Media will be signing an operating agreement with the City of Portland's Public Assembly Facilities Division.

The bulk of the Queuing Lanes would be used for access to food trucks which will be parked around the perimeter of the Queuing Lanes facing in towards the center of the space. Beer vending will take place from two booths located in the center of the Queuing with service out of the front and back of both booths. Access to the visitors center located in the Ocean Gateway Terminal and the tug boats that operate from the Portland Ocean Terminal would not be impeded.

A small stage would be set-up on the southwest side of the Queuing Lanes, oriented northeast towards the Ocean Gateway Terminal with entertainment performed by local/regional musicians. Any and all public announcement (PA) and other speakers or amplifiers used to amplify music or other sound shall be maintained at a reasonable level; and be configured by Townsquare Media, its contractor and the City to focus volume on the Queuing Lanes and its immediate environment, limiting any sound impacts in residential areas. All amplified sound will end at the conclusion of the festival's activities (5:00pm Saturday, May 16th 2015).

Beer would be available in the Queuing Lanes, to which access would be limited to those twenty one (21) and over. All Security will be provided by Public Assembly Facilities Division Staff. The event will also include merchandise and food vendors. All vendors will require the appropriate permits and licenses.

City staff feels we can appropriately manage this event and recommend approval.

Order 213 - 14/15
Tab 7 4-27-15

MICHAEL F. BRENNAN (MAYOR)
KEVIN J. DONOGHUE (1)
DAVID A. MARSHALL (2)
EDWARD J. SUSLOVIC (3)
JUSTIN COSTA (4)

**CITY OF PORTLAND
IN THE CITY COUNCIL**

DAVID H. BRENERMAN (5)
JILL C. DUSON (A/L)
JON HINCK (A/L)
NICHOLAS M. MAVODONES, JR (A/L)

**ORDER DECLARING MAY 1, 2015 THROUGH OCTOBER 31, 2015
AS THE IN THE SQUARE FESTIVAL**

ORDERED, that the period beginning May 1, 2015 and ending on October 31, 2015 is hereby declared to be the In the Square Festival, sponsored by the Friends of Congress Square Park; and

BE IT FURTHER ORDERED, that the In the Square Festival area, which is Congress Square Park, shall be closed to licensed street vendors on the days of scheduled In the Square Festival events as provided in §19-17 of the City Code; and

BE IT FURTHER ORDERED, that the Acting City Manager is authorized to issue a revocable permit to Friends of Congress Square Park under §25-27 of the City Code to conduct said Festival, subject to the direction and control of the Acting City Manager and to the following specific conditions:

1. The Friends of Congress Square Park shall defend, indemnify and hold harmless the City of Portland, its officers and employees, from and against all claims arising out of or resulting from the Festival and/or use of City streets and property for said Festival, and shall procure and maintain public liability insurance in the minimum amount of \$400,000 per occurrence for personal or bodily injury, death or property damage and covering the obligation of indemnification hereunder. The Friends of Congress Square Park shall provide the City with a certificate showing evidence of such insurance and showing the City as an additional insured on said insurance;
2. No alcoholic beverages may be sold on the streets or public property during the Festival within the Festival area;
3. Conditions for use of grounds and requirements for food service, vending sales, and other items specified in a permit issued from the Public Services Department, shall be adhered to;
4. The Friends of Congress Square Park shall have sole authority over which vendors may participate in the festival during the scheduled events except for any Food Trucks awarded a contract with the City authorizing operation in Congress

Square Park. The Friends of Congress Square Park may charge a fee to those vendors chosen by the Friends to operate at the In the Square Festival;

5. In addition, the City Clerk's Office shall charge the usual fees for licensing food vendors, street goods vendors, and other needed licenses for the Festival to those vendors the Organizer has agreed shall participate;

BE IT FURTHER ORDERED, that the Acting City Manager is authorized to waive fees and to issue such other temporary licenses, including licenses for food service establishments, as may be required by the City Code, provided that all other applicable Code requirements for the operation of the Festival have been met.



Michael J. Bobinsky
Director of Public Services

TO: Sheila Hill-Christian, Acting City Manager
FROM: Michael Bobinsky, Director of Public Services
DATE: April 12, 2015
RE: "In the Square" Festival – City Council Agenda Item

I am requesting that the following order be placed on the next City Council agenda:

Order declaring May 1 – October 31, 2015, as the "In the Square" Festival

Friends of Congress Square Park has submitted a proposal to schedule entertainment, dances, films, and other activities for Congress Square Park.

Programming at the square kicks off on May 1, with a May Day Celebration. The friends are working on a draft schedule, and at this time have about 50 dates (performances/activities) lined up.

At some of these events, reserved parking may be needed at the parking meters surrounding Congress Square Park.

On the days FOCSP has scheduled activities at the square/park, the Festival area will be closed to street vendors pursuant to Section 19-17 of the Portland City Code (except for Food Trucks who are awarded the RFP for Congress Square) and is reserved for the use of Friends of Congress Square Park for the purpose of conducting the Festival, subject to the direction and control of the City Manager.

Vehicles in violation of the "no parking" signs in the Festival Zones shall be towed (at owner's expense).

Also, the City Manager is authorized to issue a revocable permit under Section 25-27 of the Municipal Code to Friends of Congress Square Park for the use of the above-described area for said Festival subject to the following conditions:

- Friends of Congress Square Park shall indemnify the city and hold it harmless from and against all claims arising out of activities during said events, and shall take out and maintain public liability insurance coverage in the amount of at least \$400,000 per occurrence for personal or bodily injury, death or property damage for said purpose. This insurance certificate will also list the City of Portland as an additional insured in regards to the "In the Square" Festival and its programs/activities,

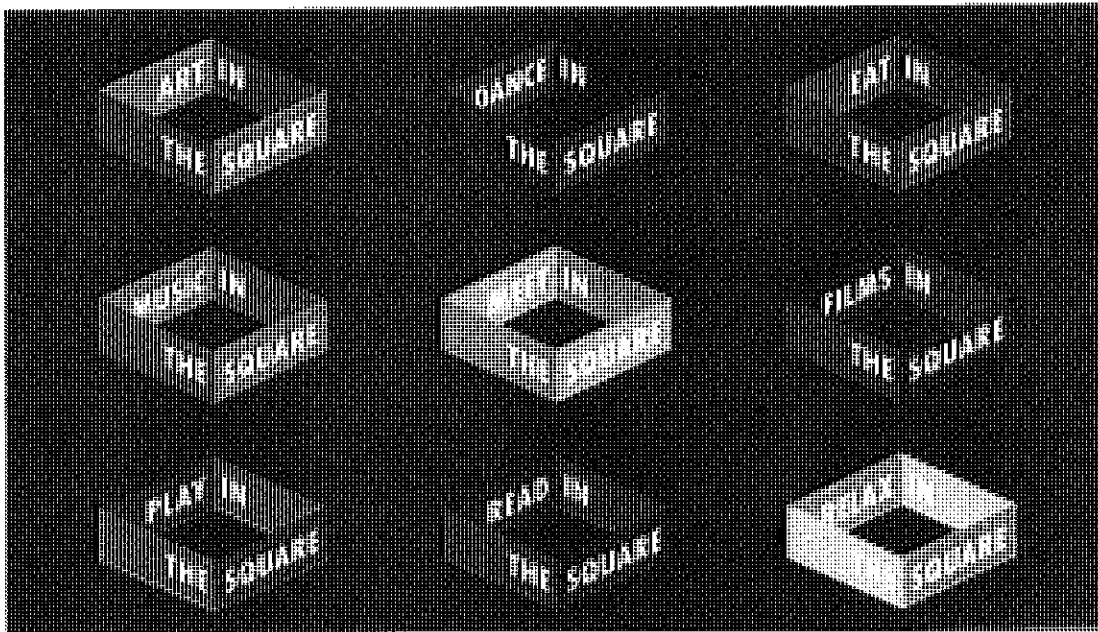


Michael J. Bobinsky
Director of Public Services

- Under no circumstances may alcoholic beverages be sold/served on the streets/sidewalks/park grounds of public property of said area during said Festival.
- Conditions for use of grounds and requirements for food service, vending sales, tents, stages, and other items specified in a permit issued from Public Services Event Office, shall be adhered to,
- City Clerk's Office will charge the usual fees for licensing food vendors, street goods vendors, and other needed licenses for the Festival,
- If an proposed event is such that city staff require Police Officers and city EMS staff, or city event staff to be on site during the event, then "In the Square" organizers/FOCSP will need to hire and pay for those city services/staff, and
- Friends of Congress Square Park shall have sole authority over participating vendors at the Festival (except for RFP awarded Food Trucks) and may charge a fee to vendors for the opportunity to vend at the "In the Square" Festival and activities.

The City Manager is also authorized to waive any fees, and issue such other temporary licenses and temporary permits, including licenses for food service establishments and permits for sales of non-food related items, as may be required by the Portland City Code, provided that all applicable requirements of said code have been met regarding the operation of said event.

Document prepared by Ted Musgrave, PS Event Coordinator



In the Square Events

Draft Schedule v.4.11.15

*Regular Programming: Wednesdays and Fridays 6-8pm,
Saturday Yoga 10am-11am, Sunday Movies at Dusk, Third Thursdays 6-9pm*

- May 1st – May Day Celebration & Art Intervention by Denis Nye
- May 19th, 20th, 21st – Shakespeare's Julius Caesar, co-presented with Portland Stage
- May 22nd – Music in the Square: Portland Swing Project featuring Cassidy and the Orleans Kids
- May 27th – MicroMasse (afrobeat trio)
- May 29th – Music in the Square: PM Salsa featuring Primo Cubano
- May 31st – Shakespeare's Julius Caesar, co-presented with Portland Stage
- June 3rd – TBD
- June 6th – Family yoga, Maine Yoga Kids / Hurry Down Sunshine (acoustic Americana music duo)
- June 7th – Films in the Square: *Casablanca*, co-presented with Portland Summer Films
- June 10th – Raging Brass Raggaie
- June 12th – Music in the Square: Portland Swing Project and the Hadacol Bouncers
- June 13th – Family yoga, Maine Yoga Kids
- June 14th – Films in the Square: *Singing in the Rain*, co-presented with Portland Summer Films
- June 17th – Art Department Noon Dance Party / Dark Follies
- June 18th – Films in the Square: curated shorts
- June 19th – Music in the Square: Gather Rounders (bluegrass & folk)
- June 20th – Family yoga, Maine Yoga Kids / Portfringe Opening Day teasers
- June 21st – Mayo Street Arts Dance Performance / Films in the Square: *The Muppets Take Manhattan*, co-presented with Portland Summer Films
- June 24th – TBD
- June 26th – Music in the Square: Jerks of Grass & Flight 317, co-presented with 317 Main
- June 27th – Family yoga, Maine Yoga Kids
- June 28th – *North by Northwest*, co-presented with Portland Summer Films
- July 1st – TBD

July 3rd – FFAW – Rock Alot Knights (Break dancing Crew)
 July 5th – Films in the Square: *All the Presidents Men*, co-presented with Portland Summer Films
 July 8th – Reading by 4 Portland Authors, co-presented with Maine Writers & Publishers Alliance
 July 10th – Music in the Square: Portland Swing Project and TBD
 July 11th – Family yoga, Maine Yoga Kids
 July 12th – Films in the Square: *Some like it Hot*, co-presented with Portland Summer Films
 July 16th – Art in the Square, TBD
 July 17th – Art Department Noon Dance Party / Music in the Square: Acadian Aces (Cajun music trio)
 July 18th – Family yoga, Maine Yoga Kids
 July 19th – Films in the Square: *Sunset Boulevard*, co-presented with Portland Summer Films
 July 22nd – Viva & the Reinforcements (blend of Latin, Jazz, and Soul)
 July 24th – Music in the Square: TBD, co-presented with SPACE Gallery
 July 25th – Family yoga, Maine Yoga Kids / HAMLET, co-presented with Fenix Theatre
 July 26th – Films in the Square: *American Graffiti*, co-presented with Portland Summer Films
 July 29th – MO Nunez (DJ in the Park)
 July 31st – Music in the Square: TBD
 August 1st – Family yoga, Maine Yoga Kids
 August 2nd – Films in the Square: *To Kill a Mockingbird*, co-presented with Portland Summer Films
 August 5th – ARTCADE: interactive art games and performances by Hidden Ladder
 August 7th – Music in the Square: Raging Brass Raggae
 August 8th – Family yoga hour, Maine Yoga Kids
 August 9th – Films in the Square: *Streetcar Named Desire*, co-presented with Portland Summer Films
 August 12th – “Heartbeat” visual and musical art interaction by Burd & Moss
 August 14th – Art Department Noon Dance Party / Portland Swing Project featuring CC+ The Swing Set
 August 15th – Family yoga, Maine Yoga Kids
 August 16th – Films in the Square: *Rear Window*, co-presented with Portland Summer Films
 August 20th – Art in the Square, TBD
 August 21st – Music in the Square: TBD, co-presented with SPACE Gallery
 August 22nd – Family yoga, Maine Yoga Kids
 August 23rd – Films in the Square: *Snow White & the Seven Dwarfs*, co-presented w/ Portland Summer Films
 August 26th – *Whole World Waiting* film screening & talk, co-presented with the Telling Room
 August 28th – Music in the Square: TBD
 August 29th – Family yoga, Maine Yoga Kids
 August 30th – Films in the Square: *Annie Hall*, co-presented with Portland Summer Films
 September 2nd – VJ Collaboration with the Psychologist
 September 4th – Curated film festival, co-presented with the Art Department
 September 5th – Out of Your Hands Art Interaction
 September 9th – Sunset musical performance with Patrick Carey
 September 11th – Music in the Square: Portland Swing Project featuring the Hadacol Bouncers
 September 17th – Art in the Square: curated silent films
 September 18th – Music in the Square: PM Salsa featuring Primo Cubano
 September 23rd – TBD
 September 25th – Music in the Square: Down East Soul (Soul, funk & blues)
 September 30th – Films in the Square, co-presented with SPACE Gallery
 October 15th – Art in the Square, co-presented with the Portland Museum of Art

Dates TBD: Children’s story time & touring author readings, co-presented with the Portland Public Library, and movie screening co-presented with the Maine Historical Society.



CITY OF PORTLAND, DEPARTMENT OF PUBLIC SERVICES
PUBLIC PARK & SPACE APPLICATION (3 pages)
55 Portland St. ~ Portland ~ ME ~ 04101
207-874-8826 (Event Office) ~ Fax 207-874-8816
tvm@portlandmaine.gov

For uses of city property, there are typically: 1. fees charged for use of the area
2. a security deposit required 3. insurance required
(There may be fees due and applications required from other City Departments)

TODAY'S DATE	3-26-2015	ORGANIZATION NAME	Friends of Congress Square Park				
ORGANIZATION ADDRESS	74 Grant St	CITY	Portland	STATE	Maine	ZIP	04101
CONTACT NAME(S)	David LaCasse, President Bree LaCasse, Programming Chair Denis Nye, Event Coordinator						
HOME #	WORK 773 7711	CELL		FAX			
EMAIL	dlacasse@lacwes.com		EMAIL	bree@lacasse@gmail.com nyedenis@gmail.com			

PARK AREA OR PUBLIC SPACE REQUESTED	Congress Square Park				
EVENT DAY & DATE(S)	May 1st thru October 31, 2015		RAIN DAY & DATE(S)		
EVENT START TIME (i.e. set-up start time)	TBA	EVENT END TIME (i.e. when event cleanup is complete)	TBA	ACTUAL START & END TIME OF EVENT	TBA

EVENT NAME	EXPECTED ATTENDANCE
he Square event series in Congress Square Park	Will vary with event
DESCRIPTION OF EVENT	
The Friends of Congress Square Park will program a series of events to occur between May 1 and October 31st. This second season continues the community effort to activate the square and its park through free public amenities and events. The event season will include a wide variety of community activities such as art interactions, dance performances, live music, films and community gatherings. The Westin Hotel has requested a Beer/Wine Garden (21+) out in the square for some of the performances. All activities will be scheduled in advance with Ted Musgrave at the PS Event Office. <i>See attached calendar for current proposed dates and programs.</i> (Organizers will also work with other groups during this time so that other agencies or events, other than FoCSP events, can also take place in the square/park.) Electricity will be needed during some events. Musical equipment and PA set up on the stage area.	
IS THERE A REGISTRATION FEE?	Events are free to the public

WHAT WILL BE THE ANTICIPATED NEED FOR PARKING AND WHAT IS YOUR PARKING PLAN?
--

PLEASE CHECK OFF AND ANSWER:

PLEASE SEE ATTACHED FEE SCHEDULE / DEPT. INFORMATION IF YOU ANSWER YES

	X-YES	X-NO	X-NOT SURE
* Are you setting up a canopy(s) ? (canopy is 10x10 size) How many:			X
* Do you wish to set up a tent(s)? (a canopy or tent larger than 10x10 needs to be		X	
* Will you be setting up tables and/or chairs ? for the season How many tables:	X		
* Are other items or equipment being placed on City property ? (i.e. Moon Bounce, Dunk Tank, Radio Station Van, Helium Tank, etc.) Please List:		X	
Will there be refreshments at the event?		X	
Do you wish to sell food? There will be food trucks & cart vendors, but through the City's own RFP process (If so, you will need approval from Public Services) List food and drink: Small Axe Food Truck A Temporary Food Service License (from the City Clerk's Office) is needed, even if food is			

	given away (and even if it is pre-packaged). PLEASE give the Clerk's Office at least a 2-week notice.			
*	Do you wish to sell non-food items (like T-shirts, crafts, cd's, etc.) ?		X	
*	Are you setting up a PA (sound) system ? Are you planning on having Amplified Music - YES Band - YES DJ - YES If so, your event requires a concert license from the City Clerk's Office. (Just voice - i.e. Press Conference, would not require the license because it is not music). For amplified music/speech, there are time restrictions for the Downtown Parks & Squares (music limited to 11:45am - 1:15pm, and 1 hour between 5pm - 8pm).	X		
*	Will your event require electricity ? Electricity is available at some of the parks & squares	X		
*	Are you planning on bringing a Grill for a Barbecue ?		X	
*	Will the event require reserved parking spaces / parking meters ? occasionally How many? We may occasionally purchase 1 parking spot for the bands. "No Parking" signs may be purchased at Public Services, 55 Portland Street.	X		X
*	Will your event need safety vests, signs, barricades and/or cones ? Please list what you would like to borrow:		X	
*	Will your event require street closures ? (Please be specific under "Description of Event")		X	
*	Will your event require Police assistance? An event such as a road race, march in the		X	
*	Will your event require Fire/EMS assistance? (For a large walk/race, it is recommended.)		X	
*	Will your event require porta-restroom rental(s) or need existing porta-restrooms cleaned? (Some of the parks already have porta-restrooms. Event participants may use these, but a \$25 fee is assessed for events where attendance is 150 or more.)		X	

INSURANCE CERTIFICATE INFORMATION

*	Will your event require liability Insurance? (For an event such as a walkathon, race, festival, press conference, concert, etc., the city requires insurance coverage - General Liability. The City of Portland needs to be named as additional insured and the policy endorsed in regards to the event activities on that date). If your event has been approved for serving food, Product Liability is also required, in addition to General Liability.	X ON FILE		
♦	If you answered yes, please have "City of Portland, Maine" listed as an additional insured on the certificate, in this way: certificate must say either: A) "the policy actually is endorsed to name the City of Portland as an Additional Insured" and a copy of the endorsement must come to the City of Portland with the certificate, or B) "the policy already includes an endorsement, such as the General Liability Expansion Endorsement, by which the City of Portland is, in fact, automatically made an additional insured." A Certificate which merely has a box checked under 'Addl Insr,' or which merely states The City of Portland is named as an Additional Insured, will not be acceptable. The amount of coverage must be shown on the certificate, and the minimum coverage amount is \$400,000. Please have your insurance company email a copy to Public Services: email to tvm@portlandmaine.gov .			

PUBLIC SERVICES POLICIES

ELECTRICITY

All cords in the public way must be covered by rugs, mats or orange cones to avoid public hazard. If weather is inclement (drizzle, rain, snow, etc.) we require that you **not use** electricity, unless all connections and equipment are covered and protected from the elements.

BARBECUES - GAS GRILLS ONLY

Only GAS GRILLS are allowed in parks/public spaces - i.e. No Charcoal Grills or open burning. Barbecuing must first be approved by Public Services and is subject to weather conditions, and possible further review by the Fire Dept. Grills must be set up away from children's activities. You must bring a fire extinguisher with you to the grilling area.

PORTA-RESTROOMS / BATHROOM FACILITIES

Porta-Restrooms are required for large events and events where food is being served. No units are on site at Congress Square.

TRASH

All groups must abide by our Carry In/ Carry Out Policy. Please bring extra trash bags and/or trash receptacles and remove all trash. You will need to haul all of your trash out of the park/public space or forfeit the security deposit(s). The area will be checked following your event and if the park is clean and conditions for use adhered to, your security deposit will be returned to you. Thank you in advance!

PARKING ON GRASS AREAS / SIDEWALKS / ILLEGALLY PARKED VEHICLES

Public Services has a strict policy that prohibits vehicles from parking on grass areas/sidewalks/park streets (unless specifically approved by city staff). \$10 will be deducted from your security deposit for each vehicle parked on grass/sidewalk areas or vehicles parked illegally. **y tire ruts/damage to the grass areas would mean a forfeit of your security deposits.**

TOBACCO FREE ZONES

By city ordinance, smoking is prohibited at and within 20 feet of the following outdoor recreation and event areas: downtown squares and plazas, trails, parks, playgrounds, beaches, and athletic facilities. Please make sure you pass this information along to participants / spectators at the event.

NOTIFICATION

Please keep a copy of this permit on site at all times. City staff may require proof of permit.

REVOCABLE PERMIT

- The City reserves the unconditional right to control or cancel events to protect and/or prohibit damage to public property.
- The City reserves the unconditional right to revoke or revise an issued permit.

I HAVE READ AND UNDERSTAND ALL OF THE ABOVE POLICIES	TYPE INITIALS	BAL	DATE	03/26/15
--	---------------	-----	------	----------

ASSUMPTION OF RISK & LIABILITY

Users of the area agree to accept the grounds in an "as is" condition and shall be responsible for all risk and liability in using the park/public space area for the said event. By returning this form, (should permission be granted to use city property), the above parties agree to indemnify and hold harmless the City of Portland, its employees and agents, from and against all claims arising out of activities during said event.

I have read the Assumption of Risk & Liability Agreement	TYPE INITIALS	BAL	DATE	03/26/15
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CREDIT CARD INFORMATION

Visa or MasterCard Number		7447	Exp Date (Mon/Yr)	5	17
CREDIT CARD WILL ONLY BE CHARGED FOR SECURITY DEPOSIT(S) AS NEEDED					

PLEASE MAKE CHECKS PAYABLE TO "CITY OF PORTLAND"

- Please make out security deposit checks separate from permit fees.

TOTAL AMOUNT(S) DUE TO PUBLIC SERVICES (Please make all security deposit checks out separately)

Permit Fee for use of area: \$40 per hour (i.e. a 3 hour event totals \$120) includes use of elec. If your event is rained out / cancelled, the bulk of the fee is returned (however \$40 is non-refundable)	\$ N/A Friends Group	Vest, Barricade, Cone Deposit: \$10 per/item	\$?
Number of Hours of Use: Electricity: \$5per/hr (fee only pertains to 1 st amendment uses – i.e. no charge if paying hourly fee)	\$	Public Space / Park Security Deposit: Sound Security Deposit \$100 - \$1000	\$ 250 CC on file
Key Deposit: \$50 per key	\$	Other (Porta-Restroom User Fee, etc.)	\$

FOR OFFICE USE ONLY

DATE REC'D APPLICATION	3-27-2015	DATE REC'D INSURANCE	3-27-2014	PERMIT FEE AMT REC'D	\$ waived	SECURITY DEPOSIT	CC on file
PAYMENT TYPE							
VISA	\$	MC	\$	CK #		CK AMOUNT	\$
						CASH AMT	\$

*Order 214-14/15
Tab 8 4-24-15*

MICHAEL F. BRENNAN (MAYOR)
KEVIN J. DONOGHUE (1)
DAVID A. MARSHALL (2)
EDWARD J. SUSLOVIC (3)
JUSTIN COSTA (4)

**CITY OF PORTLAND
IN THE CITY COUNCIL**

DAVID H. BRENERMAN (5)
JILL C. DUSON (A/L)
JON HINCK (A/L)
NICHOLAS M. MAVODONES, JR (A/L)

**ORDER DECLARING JUNE 5, 2015 THROUGH OCTOBER 12, 2015
AS THE FEDERAL STREET FOLLY FESTIVAL**

ORDERED, that the period beginning June 5, 2015 and ending on October 12, 2015 is hereby declared to be the Federal Street Folly Festival, sponsored by Press Hotel MT LLC; and

BE IT FURTHER ORDERED, that the Federal Street Folly Festival area, which is Federal Street between Exchange Street and Market Street, shall be closed to traffic for the period of the Festival and barricaded by semi-permanent design elements; and

BE IT FURTHER ORDERED, that Press Hotel MT LLC shall reimburse the City of Portland for the revenue lost from the one parking meter in this short block, by paying the City a one-time fee of \$600; and

BE IT FURTHER ORDERED, that the Federal Street Folly Festival area, which is Federal Street between Exchange Street and Market Street, shall be closed to licensed street vendors for the period of the Federal Street Folly Festival as provided in §19-17 of the City Code; and

BE IT FURTHER ORDERED, that the Acting City Manager is authorized to issue a revocable permit to Press Hotel MT LLC under §25-27 of the City Code to conduct said Festival, subject to the direction and control of the Acting City Manager and to the following specific conditions:

1. Press Hotel MT LLC shall defend, indemnify and hold harmless the City of Portland, its officers and employees, from and against all claims arising out of or resulting from the Festival and/or use of City streets and property for said Festival, and shall procure and maintain public liability insurance in the minimum amount of \$400,000 per occurrence for personal or bodily injury, death or property damage and covering the obligation of indemnification hereunder. Press Hotel MT LLC shall provide the City with a certificate showing evidence of such insurance and showing the City as an additional insured on said insurance;
2. No alcoholic beverages may be sold on the streets or public property during the Festival within the Festival area, except in an enclosed Beer and Wine Garden for

people 21-years-old and older, to be run and staffed by the Westin Portland Harborview Hotel;

3. Conditions for use of grounds and requirements for food service, vending sales, and other items specified in an operating agreement issued from the Recreation & Facilities Management Department, shall be adhered to;
4. Press Hotel MT LLC shall have sole authority over participating vendors at the festival during the scheduled events and may charge a fee to vendors for the opportunity to vend at the In the Federal Street Folly Festival;
5. In addition, the City Clerk's Office shall charge the usual fees for licensing food vendors, street goods vendors, and other needed licenses for the Festival to those vendors the Organizer has agreed shall participate;

BE IT FURTHER ORDERED, that the Acting City Manager is authorized to waive fees and to issue such other temporary licenses, including licenses for food service establishments, as may be required by the City Code, provided that all other applicable Code requirements for the operation of the Festival have been met.



Michael J. Bobinsky
Director of Public Services

TO: Sheila Hill-Christian, Acting City Manager
FROM: Michael Bobinsky, Director of Public Services
DATE: April 13, 2015
RE: Federal Street Folly – City Council Agenda Item

I am requesting that the following order be placed on the next City Council agenda:

Order declaring June 5, 2015 to October 12, 2015 as the Federal Street Folly

Owners of The Press Hotel, a new boutique hotel that will recently open in the former Portland Press Herald building, have proposed the creation of a pedestrian friendly zone that will provide a unique space for pedestrians to explore and to showcase Portland's performing and visual arts in a pedestrian friendly environment in the upper Exchange Street portion of the Old Port.

If approved, this will be the first time the City has authorized an extended street closure to create a park-like environment. The only similar event is Park(ing) Day, in which participants transform parking spaces into temporary "pop-up" parks. Consequently, staff views this event as a pilot or demonstration project in order to study the implications of creating this type of space in a street. At the conclusion of the event staff will reconvene to discuss the event and whether it would be wise to permit similar events if requested.

Vision – Public Benefit

These pedestrian friendly spaces have become very desirable and popular in urban areas and are considered to be an integral part of good urban planning and economic development. Creating pedestrian friendly destinations increases walkability in downtown areas, reduces traffic, and creates a more positive and friendly experience – which has the desired effect of increasing downtown economic commerce.

Design and Programming Scope

The design of the space is being coordinated with Tony Cowles, Landscape Architect, and Erin Hutton, Associate Director of MECA Artists at work program.

The design will have three elements:

- Softening of the streetscape (indoor/outdoor carpet in some sections)
- Functional art (benches/seating)
- Lighting Component (possible canopy of lights)



Michael J. Bobinsky
Director of Public Services

Organizers are working with Creative Portland and PDD and have identified the following non-profit organizations that represent the best of Portland's art. The following organizations have shown a great deal of interest in partnering and/or participating in the programming component of the Federal Street Folly:

- Portland Public Library Portland Trails Space Gallery Mad Horse Theater
Circus Conservatory

Programming: Organizers are currently discussing details of the programming. Organizers envision standing and scheduled programming throughout the summer as well as "special events" that are not yet planned: acoustic music; one-act plays; poetry readings; temporary art exhibits; possible light show/film; circus performance, and dance.

In order for the Federal Street Folly to occur, a portion of Federal Street, between Exchange Street and Market Street, needs to be barricaded to vehicle traffic from (for setup purposes: June 1, 2015) to October 19, 2015 (for breakdown purposes). The street would be barricaded 24/7. Barricades across the street, would most likely be a mix of granite and concrete planters.

The Festival area will be closed to street vendors pursuant to Section 19-17 of the Portland City Code and is reserved for the use of Federal Street Folly organizers for the purpose of conducting the Festival, subject to the direction and control of the City Manager.

City Departments will require payment from organizers for the parking revenue that is usually generated by the one parking meter located on Federal Street, totaling \$600.

Also, the City Manager is authorized to issue a revocable permit under Section 25-27 of the Municipal Code to the Federal Street Folly for the use of the above-described area for said Festival subject to the following conditions:

- Federal Street Folly organizers shall indemnify the city and hold it harmless from and against all claims arising out of activities during said events, and shall take out and maintain public liability insurance coverage in the amount of at least **\$400,000** per occurrence for personal or bodily injury, death or property damage for said purpose. This insurance certificate will also list the City of Portland as an additional insured in regards to Federal Street Folly and its activities,
- Under no circumstances may alcoholic beverages be sold on the streets of public property of said area during said Festival,
-

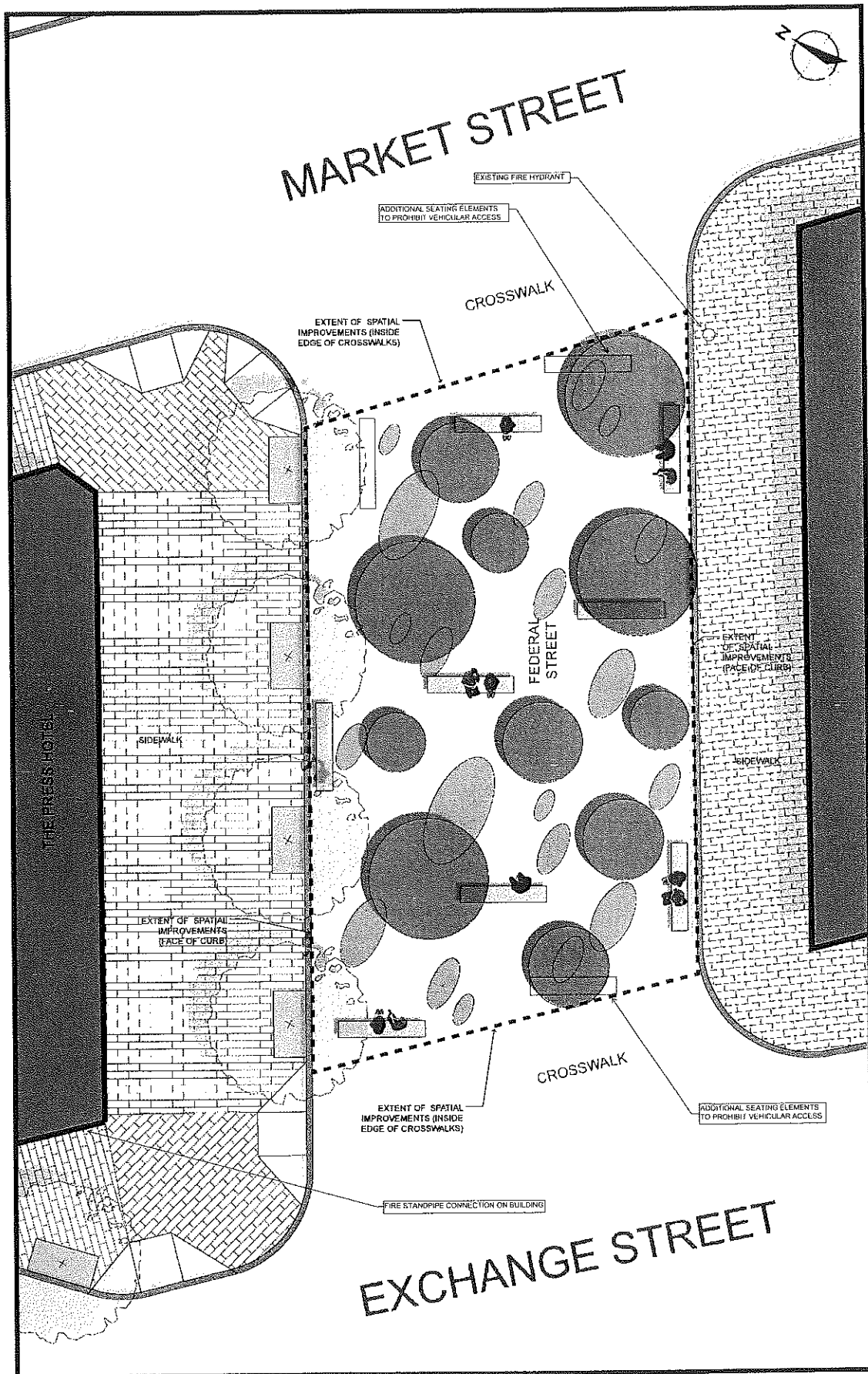


Michael J. Bobinsky
Director of Public Services

- Conditions for use of grounds and requirements for food service, vending sales, stages, and other items specified in a permit issued from Public Services Event Office, shall be adhered to,
- Federal Street Folly organizers will cover cost for city services and rental of equipment needed to facilitate the event and festival,
- Federal Street Folly organizers will pay the city \$600 for use of the street (covers lost parking meter revenue),
- Federal Street Folly organizers shall have sole authority over participating vendors at the event and may charge a fee to vendors for the opportunity to vend at the festival, and
- City Clerk's Office will require payment of license fees for food, music, and street goods when appropriate.

The City Manager is also authorized to waive any fees, and issue such other temporary licenses and temporary permits, including licenses for food service establishments and permits for sales of non-food related items, as may be required by the Portland City Code, provided that all applicable requirements of said code have been met regarding the operation of said event.

Document prepared by Ted Musgrave, PS Event Coordinator



federal street folly concept diagram

cowles studio | landscape architecture

RED GROUP



CITY OF PORTLAND, DEPARTMENT OF PUBLIC SERVICES
PUBLIC PARK & SPACE APPLICATION (3 pages)
55 Portland St. ~ Portland ~ ME ~ 04101
207-874-8826 (Event Office) ~ Fax 207-874-8816
tvm@portlandmaine.gov

For uses of city property, there are typically: 1. fees charged for use of the area
2. a security deposit required 3. insurance required
(There may be fees due and applications required from other City Departments)

TODAY'S DATE	March 15, 2015 Revised: 3-23	ORGANIZATION NAME	The Press Hotel				
ORGANIZATION ADDRESS	119 Exchange Street	CITY	Portland	STATE	ME	ZIP	04101
CONTACT NAME(S)	Sean P. Ireland	TITLE	Project Manager				
HOME #		WORK		CELL	207-632-0424	FAX	
EMAIL	seanireland72@gmail.com		EMAIL				

PARK AREA OR PUBLIC SPACE REQUESTED	Federal Street - area between Market and Exchange Street				
EVENT DAY & DATE(S)	June 5, 2015 – October 12, 2015		RAIN DAY & DATE(S)	N/A	
EVENT START TIME (i.e. set-up start time)	9:00 am	EVENT END TIME (i.e. when event cleanup is complete)	10:00 pm	ACTUAL START & END TIME OF EVENT	Ongoing

EVENT NAME	EXPECTED ATTENDANCE
Federal Street Folly	Event Specific (10-50)

DESCRIPTION OF EVENT:

Vision – Public Benefit

Our vision is to provide a unique space for pedestrians to explore and to showcase Portland's performing and visual arts in a pedestrian friendly environment in the upper Exchange Street portion of the Old Port.

These pedestrian friendly spaces have become very desirable and popular in urban areas and are considered to be an integral part of good urban planning and economic development. Creating pedestrian friendly destinations increases walkability in downtown areas, reduces traffic, and creates a more positive and friendly experience – which has the desired effect of increasing downtown economic commerce.

Design and Programming Scope

The design of the space is being coordinated with Tony Cowles, Landscape Architect, and Erin Hutton, Associate Director of MECA Artists at work program.

The design will have three elements:

- Softening of the streetscape (indoor/outdoor carpet in some sections)
- Functional art (benches/seating)
- Lighting Component (possible canopy)

We are working with Creative Portland and PDD and have identified the following non-profit organizations that represent the best of Portland's art. The following organizations have shown a great deal of interest in partnering and/or participating in the programming component of the Federal Street Folly:

- Portland Public Library Portland Museum of Art SPACE Gallery St. Lawrence Theater Circus Conservatory

Programming: We are currently in the process of a series of meetings to discuss the details of the programming. We envision standing and scheduled programming throughout the summer as well as "special events" that are not yet planned: acoustic music; one-act plays; poetry readings; temporary art exhibits; possible light show/film; circus performance, and; dance.

IS THERE A REGISTRATION FEE?	no
------------------------------	----

WHAT WILL BE THE ANTICIPATED NEED FOR PARKING AND WHAT IS YOUR PARKING PLAN?
N/A

PLEASE CHECK OFF AND ANSWER:

PLEASE SEE ATTACHED FEE SCHEDULE / DEPT. INFORMATION IF YOU ANSWER YES

	X-YES	X-NO	X-NOT SURE
Will be submitting comprehensive site plan			
* Are you setting up a canopy(s) ? (canopy is 10x10 size) How many:	X		
* Do you wish to set up a tent(s) ? (a canopy or tent larger than 10x10 needs to be		X	
* Will you be setting up tables and/or chairs ? How many tables: chairs:	X		
* Are other items or equipment being placed on City property? (i.e. Moon Bounce, Dunk Tank, Radio Station Van, Helium Tank, etc.) Please List: benches	X		
* Will there be refreshments at the event?		X	
Do you wish to sell food ?		X	
* Do you wish to sell non-food items (like T-shirts, crafts, cd's, etc.)?		X	
* Are you setting up a PA (sound) system ?	ACOUSTIC	X	
Are you planning on having Amplified Music ? Band ? DJ ?			
* Will your event require electricity ? Electricity is available at some of the parks &	X -?		
* Are you planning on bringing a Grill for a Barbecue ?		X	
* Will the event require reserved parking spaces / parking meters ?		X	
* Will your event need safety vests, signs, barricades and/or cones ?	X		
Please list what you would like to borrow: ??? A few orange vests and cones may usually be borrowed from Public Services, Event Office. Barricades and signs are borrowed from Public Services, Customer Service.			
* Will your event require street closures ?	X		
* Will your event require Police assistance?		X	
* Will your event require Fire/EMS assistance? (For a large walk/race, it is recommended.)		X	
* Will your event require porta-restroom rental(s) or need existing porta-restrooms		X	
* Do you wish to have a banner over the street to advertise your event?		X	

INSURANCE CERTIFICATE INFORMATION

* Will your event require liability Insurance? (For an event such as a walkathon, race, festival, press conference, concert, etc., the city requires insurance coverage - General Liability. The City of Portland needs to be named as additional insured and the policy endorsed in regards to the event activities on that date). If your event has been approved for serving food, Product Liability is also required, in addition to General Liability.		X	
♦ If you answered yes, please have "City of Portland, Maine" listed as an additional insured on the certificate, in this way: certificate must say either: A) "the policy actually is endorsed to name the City of Portland as an Additional Insured" and a copy of the endorsement must come to the City of Portland with the certificate, or B) "the policy already includes an endorsement, such as the General Liability Expansion Endorsement, by which the City of Portland is, in fact, automatically made an additional insured." A Certificate which merely has a box checked under 'Addl Insr,' or which merely states The City of Portland is named as an Additional Insured, will not be acceptable. The amount of coverage must be shown on the certificate, and the minimum coverage amount is \$400,000. Please have your insurance company email a copy to Public Services: email to tvm@portlandmaine.gov.			

PUBLIC SERVICES POLICIES

ELECTRICITY

All cords in the public way must be covered by rugs, mats or orange cones to avoid public hazard. If weather is inclement (drizzle, rain, snow, etc.) we require that you **not use** electricity, unless all connections and equipment are covered and protected from the elements.

BARBECUES - GAS GRILLS ONLY

Only GAS GRILLS are allowed in parks/public spaces – i.e. No Charcoal Grills or open burning. Barbecuing must first be approved by Public Services and is subject to weather conditions, and possible further review by the Fire Dept. Grills must be set up away from children's activities. You must bring a fire extinguisher with you to the grilling area.

PORTA-RESTROOMS / BATHROOM FACILITIES

Porta-Restrooms are required for large events and events where food is being served. No outdoor public facilities are located on Federal Street (NONE will be required).

TRASH

groups must abide by our Carry In/ Carry Out Policy. Please bring extra trash bags and/or trash receptacles and remove all trash. You will need to haul all of your trash out of the park/public space or forfeit the security deposit(s). The area will be checked following your event and if the park is clean and conditions for use adhered to, your security deposit will be returned to you. Thank you in advance!

PARKING ON GRASS AREAS / SIDEWALKS / ILLEGALLY PARKED VEHICLES

Public Services has a strict policy that prohibits vehicles from parking on grass areas/sidewalks/park streets (unless specifically approved by city staff). \$10 will be deducted from your security deposit for each vehicle parked on grass/sidewalk areas or vehicles parked illegally. **y tire ruts/damage to the grass areas would mean a forfeit of your security deposits.**

TOBACCO FREE ZONES

By city ordinance, smoking is prohibited at and within 20 feet of the following outdoor recreation and event areas: downtown squares and plazas, trails, parks, playgrounds, beaches, and athletic facilities. Please make sure you pass this information along to participants / spectators at the event.

NOTIFICATION

Please keep a copy of this permit on site at all times. City staff may require proof of permit.

REVOCABLE PERMIT

- ♦ The City reserves the unconditional right to control or cancel events to protect and/or prohibit damage to public property.
- ♦ The City reserves the unconditional right to revoke or revise an issued permit.

I HAVE READ AND UNDERSTAND ALL OF THE ABOVE POLICIES

TYPE INITIALS

SI

DATE

3/16/15

ASSUMPTION OF RISK & LIABILITY

Users of the area agree to accept the grounds in an "as is" condition and shall be responsible for all risk and liability in using the park/public space area for the said event. By returning this form, (should permission be granted to use city property), the above parties agree to indemnify and hold harmless the City of Portland, its employees and agents, from and against all claims arising out of activities during said event.

I have read the Assumption of Risk & Liability Agreement

TYPE INITIALS

SI

DATE

3/16/15

CREDIT CARD INFORMATION

Visa or MasterCard Number

Exp Date (Mon/Yr)

CREDIT CARD WILL ONLY BE CHARGED FOR SECURITY DEPOSIT(S) AS NEEDED

PLEASE MAKE CHECKS PAYABLE TO "CITY OF PORTLAND"

- ♦ Please make out security deposit checks separate from permit fees.

TOTAL AMOUNT(S) DUE TO PUBLIC SERVICES (Please make all security deposit checks out separately)

Permit Fee for use of area: \$40 per hour (i.e. a 3 hour event totals \$120) includes use of elec. If your event is rained out / cancelled, the bulk of the fee is returned (however \$40 is non-refundable) Number of Hours of Use:	\$	Vest, Barricade, Cone Deposit: \$10 per/item	\$
Electricity: \$5per/hr (Note: a fee is not typically charged)	\$	Public Space / Park Security Deposit: Sound Security Deposit \$100 - \$1000	\$
Key Deposit: \$50 per key	\$	Other (Porta-Restroom User Fee, etc.)	\$

FOR OFFICE USE ONLY

DATE REC'D APPLICATION	3-16-2015	DATE REC'D INSURANCE		PERMIT FEE AMT REC'D	\$	SECURITY DEPOSIT	\$
PAYMENT TYPE							
VISA	\$	MC	\$	CK #		CK AMOUNT	\$
						CASH AMT	\$

April 16, 2015

Subject: Federal Street Folly

To the City of Portland;

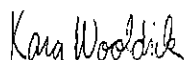
Portland Trails - a nonprofit urban land trust - transforms Greater Portland into a healthier community for people-powered transportation, conservation and recreation by creating and maintaining a network of trails and green spaces that connect people with places.

We hope you will support the permitting of the Federal Street Folly for Summer 2015. We are looking forward to working with Press Hotel, Portland Museum of Art, Portland Public Library, Maine College of Art and other partners to do some "programming" at the Federal St Folly this summer.

While this type of public use of a street has been successfully executed around the world, we know that Portland does not have a permitting process that fits this type of ongoing public space activity. We think it is wise that the City has been carefully working through this conversation to come up with a solution, as you did for *Sundays on the Boulevard*. It is important that the City have permitting processes that can accommodate different models of public events. And, the Federal Street Folly partners are a solid group of community institutions to help with this task.

Please do not hesitate to contact me if you have questions or concerns about Federal Street Folly or other ways that Portland Trails might use this type of permitting process for placemaking and creating a healthier community. We hope you'll join us for lunch at the Folly this summer.

Sincerely,



Kara Wooldrik
Executive Director



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Executive Director

Kara Wooldrik



April 15, 2015

Portland City Council, via email
City of Portland
389 Congress Street
Portland, ME 04101

Dear City Councilors,

It is with great enthusiasm that I write this letter in support of the Press Hotel's "Federal Street Folly" project, to be considered at the April 22 meeting.

Jim Brady's concept of building a summer-long pop-up park with arts programming is innovative, imaginative, and will enliven the Old Port area. Designing a welcoming open space next to the Press Hotel will benefit locals as well as tourists visiting in the summer, and will create a more pedestrian-friendly downtown. With Sean Ireland's dynamic landscape design and programming, this space will become a vital part of our city, just like Monument Square and the "reinvented" Congress Square.

As Portland's reputation continues to flourish as a beautiful, foodie city with a lively arts and cultural community, these types of projects will attract national attention and increase support for our creative economy.

I encourage you to approve the project, thus recognizing how this forward-thinking idea will benefit the city of Portland.

Sincerely,

Mark H.C. Bessire
Director

MECA

MAINE COLLEGE OF ART

April 17, 2015

Mr. James Brady
Mr. Sean Ireland
The Press Hotel
119 Exchange Street
Portland, ME 04101

Dear Jim and Sean,

I am pleased to write in support of the proposed plan for a pop-up park that will close off the Exchange and Market Street entrances to Federal Street, June through October 2015 to allow for installations and programming in the Federal Street Follies Parklet.

On behalf of our students, faculty and alumni, we are grateful for the partnership the Press Hotel established with Maine College of Art (MECA) from the hotel's early planning and the major investment you have made in making art integral to the facility and specifically for the MECA artists you have supported financially.

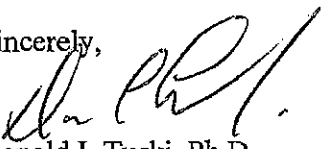
The Federal Street Follies Parklet is an opportunity to continue our collaboration, which we feel is unique and demonstrates a particular entrepreneurial spirit between developers and an art college. By adding the support of the City to close the streets for the parklet, the patrons of the hotel and the public at large will recognize Portland as a leader in providing innovative and creative community spaces.

The opportunity for MECA's Woodworking and Furniture Design Department to assist in the construction of the temporary park by designing, fabricating, installing and deinstalling seating elements is a wonderful learning experience for the small team of students who will be receiving academic credit and stipends as part of a micro-class this spring. We all look forward to the park as a destination for the public to engage with inviting, fun, unique and sophisticated designs and we will continue to develop more ideas for the parklet across the summer.

As you know, Erin Hutton, in our Artists at Work program is the liaison for all of your projects and I encourage you to stay in direct communication with her.

Please let me know if I can provide additional details.

Sincerely,



Donald L. Tuski, Ph.D.
President



549 Congress Street, Portland, ME 04101
 portlandmaine.com • 207.772.6828

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Trish Weimer
 Vice President of Operations
 JB Brown & Sons

April 22, 2015

Mr. Sean Ireland
 The Press Hotel
 PO Box 7486
 Portland, ME 04112

RE: Federal Street Folly

Dear Sean,

We are pleased to offer our support for the temporary park on Federal Street. After hosting several meetings with our retailer and art community constituents, I believe there is general downtown support for the project.

We were initially concerned about potential traffic, parking and public safety issues, however I am pleased that key city staff and their departments have thoroughly reviewed the plans, and also support it. My own view is that the advantages of having a place for pedestrians to relax and meet amid the upper Old Port area will help to enliven this part of the city. I also believe that businesses in the area will benefit from the increased foot traffic. Of course, as with any new idea we will likely learn ways to improve the concept over time.

I appreciate your efforts on this, and we look forward to working closely together to help ensure the success of the "Folly" over the upcoming summer season!

Sincerely,

Steve Hewins
 Executive Director

Portland.
 How Maine Does a City.

Order 215-14/5
Tab 9 4-27-15

MICHAEL F. BRENNAN (MAYOR)
KEVIN J. DONOGHUE (1)
DAVID A. MARSHALL (2)
EDWARD J. SUSLOVIC (3)
JUSTIN COSTA (4)

**CITY OF PORTLAND
IN THE CITY COUNCIL**

DAVID H. BRENERMAN (5)
JILL C. DUSON (A/L)
JON HINCK (A/L)
NICHOLAS M. MAVODONES, JR (A/L)

**ORDER DECLARING SATURDAY JUNE 27, 2015
AS THE ALLAGASH 20th ANNIVERSARY STREET FAIR FESTIVAL**

ORDERED, that June 27, 2015 is hereby declared to be the Allagash 20th Anniversary Street Fair Festival, sponsored by Allagash Brewing Company; and

BE IT FURTHER ORDERED, that in the Allagash 20th Anniversary Street Fair Festival area shall be Industrial Way from Riverside Street for approximately 1,000 feet to the Office Max Parking Lot at 125 Industrial Way and Allagash Brewing Company property and adjacent business properties, and that Festival area will be reserved for festival attendees, musicians, performers and event staff; and

BE IT FURTHER ORDERED, that the following street shall be closed to traffic:

Industrial Way from Riverside to the Office Max Parking Lot at 125 Industrial Way; and

BE IT FURTHER ORDERED, that vehicles in violation of the "no parking" signs in the Festival area shall be towed at owner's expense; and

BE IT FURTHER ORDERED, that the Allagash 20th Anniversary Street Fair Festival area shall be closed to licensed street vendors as provided in §19-17 of the City Code; and

BE IT FURTHER ORDERED, that the Acting City Manager is authorized to issue a revocable permit to Allagash Brewing Company under §25-27 of the City Code to conduct said Festival, subject to the direction and control of the Acting City Manager and to the following specific conditions:

1. Allagash Brewing Company shall defend, indemnify and hold harmless the City of Portland, its officers and employees, from and against all claims arising out of or resulting from the Festival and/or use of City streets and property for said Festival, and shall procure and maintain public liability insurance in the minimum amount of \$400,000 per occurrence for personal or bodily injury, death or property damage and covering the obligation of indemnification hereunder. Allagash Brewing Company shall provide the City with a certificate showing

evidence of such insurance and showing the City as an additional insured on said insurance;

2. No alcoholic beverages may be sold on the streets or public property during the Festival within the Festival area but on private property there will be beer gardens restricted to people 21-years-old and older staffed by private security and Allagash Brewing Company staff and subject to meeting all liquor licensing requirements;

3. Conditions for use of grounds and requirements for food service, vending sales, and other items specified in an operating agreement issued from the Recreation & Facilities Management Department, shall be adhered to;

5. Allagash Brewing Company shall have sole authority over which vendors may participate in the Festival and may charge a fee to vendors for the opportunity to vend at the Allagash 20th Anniversary Street Fair Festival;

6. In addition, the City Clerk's Office shall charge the usual fees for licensing food vendors, street goods vendors, and other needed licenses for the Festival to those vendors the Organizer has agreed shall participate; and

7. City Departments will provide services at the Allagash 20th Anniversary Street Fair Festival, and Allagash Brewing Company will reimburse City Departments for the costs; and

BE IT FURTHER ORDERED, that the Acting City Manager is authorized to waive fees and to issue such other temporary licenses, including licenses for food service establishments, as may be required by the City Code, provided that all other applicable Code requirements for the operation of the Festival have been met.



Michael J. Bobinsky
Director of Public Services

TO: Sheila Hill-Christian, Acting City Manager
FROM: Michael Bobinsky, Director of Public Services
DATE: April 12, 2015
RE: Allagash 20th Anniversary Street Fair – City Council Agenda Item

I am requesting that the following order be placed on the next City Council agenda:

**Order declaring Saturday, June 27, 2015, as the
Allagash 20th Anniversary Street Fair**

Allagash Brewing Co. will be celebrating their 20th Anniversary this year. As part of the celebration, the company would like to host a neighborhood block party/festival that would be held on June 27th 2015 from 1pm-6pm. This will be a ticketed event (\$10 adults, children under 12 free) and expected attendance is 2,000 people. The event includes entertainment such as live music from several local bands, and performances by the Circus Conservatory. Eight breweries will be on site (stations set up on private property), along with food trucks and restaurant vendors.

A fenced perimeter will be set up around each of the beer service areas. Organizer's staff (and private security staff) will ensure that only 21+ wrist banded attendees are in beer service areas. Organizer is obtaining the necessary "beer tasting" license from the state/city for serving beer, as well as other licenses from the city for the food vendors, large tents, stages and other aspects of the event.

Industrial Way (at Riverside Street) would be closed to traffic for about 1000 ft, to the Office Max parking lot at 125 Industrial Way. Businesses in the closed section of street have endorsed the event. City staff met with organizers, March 13, to discuss details and traffic management, which will consist of event staff-monitored barricades positioned at the intersection of Industrial Way and Riverside Street, as well as across the street at 125 Industrial Way.

Unified Parking will provide a shuttle service for attendees of the festival, and the Bicycle Coalition of Maine will assist with bicycle parking. Organizers are looking into using the Portland Color building as the turnaround for the shuttle drop-off and pick-up.

At least two Police Officers are required to be on site, as well as two City EMS staff.



Michael J. Bobinsky
Director of Public Services

In order for the festival anniversary party to be held, a portion of Industrial Way needs to be barricaded to vehicle traffic. The Festival Zone is Industrial Way (from Riverside Street to 125 Industrial Way), and the Allagash Brewing Company property, as well as other adjacent business properties.

The Festival area will be closed to street vendors pursuant to Section 19-17 of the Portland City Code and is reserved for the use of Allagash Brewing Company for the purpose of conducting the Festival, subject to the direction and control of the City Manager.

Vehicles in violation of the "no parking" signs in the Festival Zones shall be towed (at owner's expense).

Also, the City Manager is authorized to issue a revocable permit under Section 25-27 of the Municipal Code to Allagash Brewing Company for the use of the above-described area for said Festival subject to the following conditions:

- Allagash Brewing Company shall indemnify the city and hold it harmless from and against all claims arising out of activities during said events, and shall take out and maintain public liability insurance coverage in the amount of at least **\$400,000** per occurrence for personal or bodily injury, death or property damage for said purpose. This insurance certificate will also list the City of Portland as an additional insured in regards to the Allagash 20th Anniversary Street Fair and its activities,
- Under no circumstances may alcoholic beverages be sold/served on the streets of public property of said area during said Festival, (as alcohol service areas will be on private property within this festival zone),
- City Council approves the service of alcohol in the designated "beer gardens" which are on private property owned by Allagash Brewing Company (grass area and parking lot areas outside the brewery), pending a license from the State is issued to the festival organizer,
- Conditions for use of grounds and requirements for food service, vending sales, tents, stages, and other items specified in a permit issued from Public Services Event Office, shall be adhered to,
- City Clerk's Office will charge the usual fees for licensing food vendors, street goods vendors, and other needed licenses for the Festival,
- Police Officers and city EMS staff will be hired by organizers (Allagash Brewing Company), and



Michael J. Bobinsky
Director of Public Services

- Allagash Brewing Company shall have sole authority over participating vendors at the Festival and may charge a fee to vendors for the opportunity to vend at the Allagash 20th Anniversary Street Fair.

The City Manager is also authorized to waive any fees, and issue such other temporary licenses and temporary permits, including licenses for food service establishments and permits for sales of non-food related items, as may be required by the Portland City Code, provided that all applicable requirements of said code have been met regarding the operation of said event.

Document prepared by Ted Musgrave, PS Event Coordinator

MEMORANDUM
City Council Agenda Item

TO: Mayor and City Council

FROM: Michael Bobinsky, Director of Public Services

DATE: April 12, 2015

DISTRIBUTION: City Manager, Mayor, Sonia Bean, Danielle West-Chuhta,
Nancy English, Julie Sullivan

SUBJECT: Allagash Brewing Company 20th Anniversary Street Fair

SPONSOR: City Manager

(If sponsored by a Council committee, list the date the committee met and the results of vote.)

COUNCIL MEETING DATE ACTION IS REQUESTED:

1st reading _____ April 27, 2015 _____ Final Action _____

Can action be taken at a later date: ☒ Yes ☐ No (If no why not?)

PRESENTATION: None that is known of.

I. SUMMARY OF ISSUE (Agenda Description)

Please see attached memo

Declare **Friday, June 27, 2015**, as the "Allagash 20th Anniversary Street Fair"
Festival

Festival area is Industrial Way itself (Riverside Street to 125 Industrial Way), and the
surrounding private/public property.

Please see attached city memo.

II. REASON FOR SUBMISSION (Summary of Issue/Background)

Festival Declaration and Use of City Property

Allows for control of vendors.

Allows for posting of streets "no parking."

Allows for service of alcohol off premise (expansion of alcohol footprint).

Allows for charging of admission to festival area.

Closing of Streets in Festival area.

III. INTENDED RESULT

Please see above.

IV. COUNCIL GOAL ADDRESSED

V. FINANCIAL IMPACT

Allagash Brewing Company will pay for needed Police and Parking Control Officers, Medcu Staff, security staff, as well as any needed City Clerk's licenses (food, street goods, concert, etc.), Inspections licenses (tents, stages) and Public Services assistance including barricades, "No Parking" signs, and permit fees).

VI. STAFF ANALYSIS

VII. RECOMMENDATION

This is the first year for this event.

The Department of Public Services recommends approval of this order.

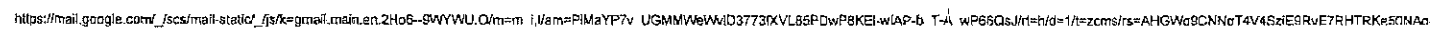
VIII. LIST ATTACHMENTS

- Detailed Memo from Staff
- Application for Use of Public Space
- Event Proposal and Map from Organizer

Prepared by:

Ted Musgrave
Public Services Event Office

Date: April 12, 2015





Allagash Brewing Co. will be celebrating their 20th Anniversary this year. In order to celebrate we would like to host a neighborhood wide block party/festival that would be held on June 27th 2015 rain or shine from 1-6pm.

This will be a ticketed event and we are expecting upwards of 2,000 people. We will sell tickets for \$10.00 per person which will include one drink ticket. Children under 12 will be free. We would like the event to run from the intersection of Riverside all the way through Industrial Way, stopping at 125 Industrial way.

The event will include entertainment such as live music from several local bands, and performances by the Circus Conservatory. We are inviting 8 other breweries to join us and serve their beer as well as a local non-alcoholic soda company. These 8 breweries have somehow played a role in Allagash's 20 years of life. We are also inviting several different local food vendors and trucks to sell their food along with a beer pairing from each brewery. We will have security staff at the front gate I.D-ing guests. Adults over 21 years old will receive a brightly colored bracelet, anyone under 21 will get a stamp on their hand as well as a brightly colored bracelet of a different color.

Beer will be kept in a contained area where only adults over 21 are able to enter. Guests will not be able to leave contained area with their beverage. Front gate will be set back from the Riverside intersection directly after the Portland Color driveway. The Shuttle service will use the Portland Color parking lot as a turn-around for their buses.

Along with music, food and beer we will also have local craft vendors selling their products, local farms and garbage to garden with representatives discussing what they do and how people can get involved. Craft will all be located on private property areas. The Circus Conservatory will be joining us with some of their top performers to provide entertainment as well.

We understand this is a lot of cars to park so we will be providing parking in a nearby lot soon to be determined with valet and shuttling services by Unified Parking Partners. Allagash is prepared to have police staff, paramedics, and the fire department on hand for the entirety of the event.

Thank you,
Charli McGrew
In-House Events Coordinator
Allagash Brewing Co.
207-878-5385
cmcgrew@allagash.com

*order 216-14/15
Tab 10 4-27-15*

MICHAEL F. BRENNAN (MAYOR)
KEVIN J. DONOGHUE (1)
DAVID A. MARSHALL (2)
EDWARD J. SUSLOVIC (3)
JUSTIN COSTA (4)

**CITY OF PORTLAND
IN THE CITY COUNCIL**

DAVID H. BRENERMAN (5)
JILL C. DUSON (A/L)
JON HINCK (A/L)
NICHOLAS M. MAVODONES, JR (A/L)

ORDER DECLARING AUGUST 1, 2015 AS SLIDE THE CITY FESTIVAL

ORDERED, that August 1, 2015 is hereby declared to be the Slide the City Festival, sponsored by Slide the City, with an extension approved to August 2, 2015 if participation is very high; and

BE IT FURTHER ORDERED, that the Slide the City Festival area, which is the northbound lanes of Franklin Street from Cumberland Avenue to Marginal Way including the Fox Street intersection, will be reserved for festival attendees; and

BE IT FURTHER ORDERED, that tickets for the 1,000-foot water slide may be sold by the Organizers for \$15 per ride, \$30 for three rides, and \$55 for unlimited slides; and

BE IT FURTHER ORDERED, that the City Department of Public Services shall implement a plan for the discharge of water used for the waterslide into its combined overflow sewer system; and

BE IT FURTHER ORDERED, that the following streets shall be closed to traffic:

On Saturday August 1, 2015.

Northbound lanes of Franklin Street from Cumberland Avenue to Marginal Way, including the Fox Street Intersection
(Westbound traffic on Fox Street will be detoured to Diamond Street)
from 4 a.m. to midnight;

If the Festival is extended, on Sunday August 2, 2015.

Northbound lanes of Franklin Street from Cumberland Avenue to Marginal Way, including the Fox Street Intersection
(Westbound traffic on Fox Street will be detoured to Diamond Street)
from 12 a.m. to midnight;

BE IT FURTHER ORDERED, that vehicles in violation of the "no parking" signs in the Festival Zone shall be towed at owner's expense; and

BE IT FURTHER ORDERED, that the Slide the City Festival area shall be closed to licensed street vendors as provided in §19-17 of the City Code; and

BE IT FURTHER ORDERED, that the Acting City Manager is authorized to issue a revocable permit to **Slide the City** under §25-27 of the City Code to conduct said Festival, subject to the direction and control of the City Manager and to the following specific conditions:

1. **Slide the City** shall defend, indemnify and hold harmless the City of Portland, its officers and employees, from and against all claims arising out of or resulting from the Festival and/or use of City streets and property for said Festival, and shall procure and maintain public liability insurance in the minimum amount of \$400,000 per occurrence for personal or bodily injury, death or property damage and covering the obligation of indemnification hereunder. **Slide the City** shall provide the City with a certificate showing evidence of such insurance and showing the City as an additional insured on said insurance;
2. No alcoholic beverages may be sold on the streets or public property during the Festival within the Festival area;
3. Conditions for use of grounds and requirements for food service, vending sales, stages, and other items specified in a permit issued from Public Services Event Office, shall be adhered to,
4. Slide the City organizers will enter into a contractual agreement with Public Assemblies Facilities Management Staff, for services and rental of equipment needed to facilitate the event and festival,
5. The City Clerk's Office shall charge the usual fees for licensing food vendors, street goods vendors, and other needed licenses for the Festival;
6. **Slide the City** shall have sole authority over participating vendors at the festival and may charge a fee to vendors for the opportunity to vend at the Slide the City Festival; and
7. **Slide the City** shall reimburse the City for services provided by City Staff from the Portland Police Department, Fire Department, Parking Division and Facilities Management, including but not limited to conducting traffic and providing security; and

BE IT FURTHER ORDERED, that the Acting City Manager is authorized waive fees and to issue such other temporary licenses, including licenses for food service establishments, as may be required by the City Code, provided that all other applicable Code requirements for the operation of the Festival have been met.



Michael J. Bobinsky
Director of Public Services

TO: Sheila Hill-Christian, Acting City Manager
FROM: Michael Bobinsky, Director of Public Services
DATE: April 12, 2015
RE: Slide the City – City Council Agenda Item

I am requesting that the following order be placed on the next City Council agenda:

**Order declaring Saturday, August 1, 2015 (with a possible extension to Sunday August 2, 2015)
as the Slide the City Festival.**

Slide the City is a national event held in downtown areas of various cities across the country. The event involves a 1,000 foot long "Slip N' Slide" set up on an inclined, downtown city street for participants to slide down for a one day or two day event. Organizers are interested in bringing this unique event to Portland on Saturday August 1, 2015, and hoping for 2,000 – 5,000 participants. In addition to the slide itself, organizers plan to set up tents and a small stage, and will invite local food vendors and sponsors to participate.

Registration fees (tickets) of \$15 for a single slide, \$30 for a triple slide, and \$55 for VIP will be charged. In each city, organizers choose a local charity to partner with. Organizers have not yet selected the Portland, Maine recipient yet.

The total area needed including the slide, tents, and vendors is about 1400 feet with an incline for the slide of 30-150 feet drop over 1,000 feet. Water for the slide (14,000 gallons) would come from a PWD "metered" fire hydrant nearby. If a "flow through" water system is used, then gallons used would total around 80,000. City staff have OK'ed the disposal of water into the combined overflow sewer system and will implement a plan for discharge of water.

The event is proposed for **Franklin Street (north-bound lanes), from Cumberland Ave down the hill, across Fox Street intersection, continuing down and ending just before reaching Marginal Way.** Vehicle Traffic would still flow on south-bound lanes of Franklin St., as well as on Marginal Way. Traffic on Fox Street (heading west) would be detoured at Diamond Street - a block before. Traffic heading east on Somerset (Whole Foods) could only take a right on Franklin, to head up the hill. Traffic would also still flow on Cumberland Ave. The "water slide" would run from Cumberland down to Fox Street. The "festival tent / Registration area" would on Franklin Street (north-bound lanes) from Fox St. to Marginal Way.

The slide area would be fenced off (snow fence) on all sides, with checkpoint openings up along the slide. Some of the existing chain-link fence along Franklin would be used (holes/openings to be



Michael J. Bobinsky
Director of Public Services

fenced over). Fencing would be placed so that onlookers could stand nearby to watch sliders go down the slide. Some area of the grass median would be also be available for onlookers. The "Ticket Booth"

would be located on lower Franklin (not up at Cumberland Ave). Ticketholders waiting to slide, would assemble on the grass area – east side of Franklin and stretch down the hill.

The parking plan involves participants parking at Marginal Way (the "Park and Ride" lots) and other parking lots in the area. Organizers are inquiring with property managers about using the old DHHS building parking lot, as well as the InterMed parking garage.

MDOT participated in the planning meeting for the event, and was comfortable with the traffic plan proposed. Additionally, organizer is working with Tim Soucie (MDOT) to inquire with the state on use of the 295 Message Boards as that may help with Exit 7.

The event organizers will hire sufficient Police Officers, PCO's, Fire/Meduc Staff, and Facilities Management Staff to oversee traffic intersections and festival grounds. If Fire Dept. trucks are needed, those costs will be paid by event organizers.

In order for the festival to be held, a portion of **Franklin Street (north-bound lanes), from Cumberland Ave, down the hill, across Fox Street intersection, continuing down and ending just before reaching Marginal Way**, needs to be barricaded to vehicle traffic.

The Festival Zone is the area above, as well as the grass medians and grass areas abutting Kennedy Park area, from 4 am – Midnight on Saturday August 1, 2015 with the event running from 11:00 am – 6pm. An extension to Sunday Aug. 2 may be granted (i.e. slide could stay up for two days).

The Festival area will be closed to street vendors pursuant to Section 19-17 of the Portland City Code and is reserved for the use of Slide the City organizers for the purpose of conducting the Festival, subject to the direction and control of the City Manager.

Vehicles in violation of the "no parking" signs in the Festival Zones shall be towed (at owner's expense).

City Departments will require payment of services for all city staff (and materials/equipment needed) to facilitate and staff the Slide the City event.

Also, the City Manager is authorized to issue a revocable permit under Section 25-27 of the Municipal Code to Slide the City for the use of the above-described area for said Festival subject to the following conditions:



Michael J. Bobinsky
Director of Public Services

- Slide the City organizers shall indemnify the city and hold it harmless from and against all claims arising out of activities during said events, and shall take out and maintain public liability insurance coverage in the amount of at least **\$400,000** per occurrence for personal or bodily injury, death or property damage for said purpose. This insurance certificate will also list the City of Portland as an additional insured in regards to Slide the City and its activities,
- Under no circumstances may alcoholic beverages be sold on the streets of public property of said area during said Festival,
- Conditions for use of grounds and requirements for food service, vending sales, stages, and other items specified in a permit issued from Public Services Event Office, shall be adhered to,
- Slide the City organizers will enter into a contractual agreement with Public Assemblies Facilities Management Staff, for services and rental of equipment needed to facilitate the event and festival,
- Slide the City organizers shall have sole authority over participating vendors at the event and may charge a fee to vendors for the opportunity to vend at the festival, and
- City permit fees and license fees, and costs for city staff assistance, will be paid by Slide the City organizers.

The City Manager is also authorized to waive any fees, and issue such other temporary licenses and temporary permits, including licenses for food service establishments and permits for sales of non-food related items, as may be required by the Portland City Code, provided that all applicable requirements of said code have been met regarding the operation of said event.

Document prepared by Ted Musgrave, PS Event Coordinator

MEMORANDUM
City Council Agenda Item

TO: Mayor and City Council

FROM: Michael Bobinsky, Director of Public Services

DATE: April 12, 2015

DISTRIBUTION: City Manager, Mayor, Sonia Bean, Danielle West-Chuhta,
Nancy English, Julie Sullivan

SUBJECT: Slide the City

SPONSOR: City Manager

(If sponsored by a Council committee, list the date the committee met and the results of vote.)

COUNCIL MEETING DATE ACTION IS REQUESTED:

1st reading _____ April 27, 2015 _____ Final Action _____

Can action be taken at a later date: ___X___ Yes _____ No (If no why not?)

PRESENTATION: None that is known of.

I. SUMMARY OF ISSUE (Agenda Description)

Please see attached memo.

Declare **Saturday August 1, 2015** (with a possible extension to Sunday August 2, 2015) as the **"Slide the City" Festival**.

Festival area is Franklin Street south-bound lanes (Cumberland Ave. to just before Marginal Way), and as well as some of the grass areas along Franklin Street (east side of Franklin, stretching down the hill).

II. REASON FOR SUBMISSION (Summary of Issue/Background)

Festival Declaration and Use of City Property

Allows for control of vendors.

Allows for posting of streets "no parking."

Closing of Streets in Festival area.

Allows for charging admission to event.

III. INTENDED RESULT

Please see above.

IV. COUNCIL GOAL ADDRESSED

V. FINANCIAL IMPACT

Slide the City will pay for needed Police and Parking Control Officers, Fire Dept. Staff, and Facilities Management Staff, as well as any needed City Clerk's licenses (food, street goods, concert, etc.). Public Services assistance (barricades, "No Parking" signs, permit fees) will also be paid for.

VI. STAFF ANALYSIS

VII. RECOMMENDATION

This is a first year event.
The Department of Public Services recommends approval of this order.

VIII. LIST ATTACHMENTS

- Detailed Memo from Staff
- Application for Use of Public Space
- Map of Slide the City

Prepared by:

Ted Musgrave
Public Services Event Office

Date: April 9, 2015



CITY OF PORTLAND, DEPARTMENT OF PUBLIC SERVICES
PUBLIC PARK & SPACE APPLICATION (3 pages)
55 Portland St. ~ Portland ~ ME ~ 04101
207-874-8826 (Event Office) ~ Fax 207-874-8816
tvm@portlandmaine.gov

For uses of city property, there are typically: 1. fees charged for use of the area
2. a security deposit required 3. insurance required
(There may be fees due and applications required from other City Departments)

TODAY'S DATE	11-24-14 Revised: 4-8-15	ORGANIZATION NAME	Slide the City				
ORGANIZATION ADDRESS	345 S. 1450 E.	CITY	Provo	STATE	UT	ZIP	84606
CONTACT NAME(S)	Tim Knapp TITLE: Event Director						
HOME #	WORK	CELL	801-830-9674	FAX			
EMAIL	tim@slidethecity.com		EMAIL				

PARK AREA OR PUBLIC SPACE REQUESTED	Franklin Street from Cumberland Ave to Marginal Way (northbound lanes). The water slide itself will only run from Cumberland to Fox. From Fox to Marg. Way will be sponsor canopies, registration canopy, Food Trucks, PA system, etc.				
EVENT DAY & DATE(S)	Saturday Aug 1, 2015. If there is demand then we would extend it to one more day. (We could do another date in Aug if need be to avoid conflict with other events in the city)		RAIN DAY & DATE(S)		
EVENT START TIME set-up start time)	4am	EVENT END TIME (i.e. when event cleanup is complete)	11:59pm	ACTUAL START & END TIME OF EVENT	11am for VIP 12pm for general admission

EVENT NAME	EXPECTED ATTENDANCE
Slide the City Portland, ME (event needs approval from Portland City Council)	4,000-5,000
DESCRIPTION OF EVENT: Please be specific regarding area of public space/park and describe Event in detail. If submitting a request for a Road Race (other than around Back Cove and using Back Cove Pathway for the route), please include a detailed MAP of the COURSE (as this will need to be approved by City Departments and the Manager's Office).	
We hold an event with a 1,000 foot long slip n' slide. We like to hold the event on a city street in a downtown area so it's in an iconic location. It is typically a one-day event but depending on demand we would try to do a two-day event. Tickets are purchased on-line and if it's not sold out then they can be purchased the day of the event. The capacity is 4,000-5,000 participants per day. We set up on the morning of the event (usually a Saturday) starting at 4am, so we would need street closures. We set up some tents, a small stage, some speakers for music, portable toilets, and set up the slide. We would have a fire lane for equipment trucks, water trucks, and emergency vehicles in case of emergency and will have EMTs on site throughout the event. Once the slide is set-up we fill it with about 12,000 gallons of water from a fire hydrant or water truck and have a pool technician treat the water with chlorine to make it safe. The sliding begins at 11am and goes till 6pm, and then we will clean up till around 11pm to midnight. We have a registration and merchandise tent on site and would hire local food vendors and other sponsors to set up as well. The total area needed including the slide, tents, and vendors is about 1400 feet with an incline for the slide of 30-150 feet drop over 1,000 feet. We work with city officials to determine the best location and date for the event. In each city we choose a local charity to partner with that helps: 1) publicize the event and 2) provide volunteers and the event day and we donate to the organization accordingly. We may consider having the city be the "charity partner" to be a fund raiser for the city or certain department (ie parks and rec or special events etc) Please visit www.slidethecity.com to get a better visual of what it is like and see what an exciting event this could be in your city. We are excited to bring this very unique event to your area and are confident that it will be a big hit as it already has been at our previous events and people all over the world are hearing about it, talking about it, and requesting we bring it to them. Many of us have had experience with putting on big events domestically and internationally and know the importance of doing things the right way to ensure safety and good organization while providing a great experience for families in the community and we look forward to working with you to accomplish this goal. Franklin Street from Cumberland Ave to Somerset Street is a street that we looked at on-line that we think might be a good location, but would like your feedback as well.	

IS THERE A REGISTRATION FEE?	yes	
IF YES, HOW MUCH?	FEE	\$ 15 for a single slide, \$30 for a triple slide, \$55 for VIP
	STUDENT FEE	\$

WHAT WILL BE THE ANTICIPATED NEED FOR PARKING AND WHAT IS YOUR PARKING PLAN? We would like to use public parking in the surrounding areas, but would work with city on more details

PLEASE CHECK OFF AND ANSWER:

PLEASE SEE ATTACHED FEE SCHEDULE / DEPT. INFORMATION IF YOU ANSWER YES

	X-YES	X-NO	X-NOT SURE
* Are you setting up a canopy(s) ? (canopy is 10x10 size) How many:	X		
* Do you wish to set up a tent(s) ? (a canopy or tent larger than 10x10 needs to be approved)		X	
* Will you be setting up tables and/or chairs ? How many tables: 10 chairs: 12	X		
* Are other items or equipment being placed on City property ? (i.e. Moon Bounce, Dunk Tank, Radio Station Van, Helium Tank, etc.) Please List: Speakers for music, 10X10 stage, food trucks, water truck, equipment truck	X		
* Will there be refreshments at the event? Do you wish to sell food? We will not sell food ourselves but hire local vendors such as food trucks (If so, you will need approval from Public Services) List food and drink: A Temporary Food Service License (from the City Clerk's Office) is needed, even if food is given away (and even if it is pre-packaged). PLEASE give the Clerk's Office at least a 2-week notice (874-8557).	X		
* Do you wish to sell non-food items (like T-shirts, crafts, cd's, etc.) ? If so, you will need approval from Public Services, and you will need to apply for a Street Goods Vendor License(s) at the City Clerk's Office (874-8557). List items you wish to sell:	X		
Are you setting up a PA (sound) system ? Are you planning on having Amplified Music ? Yes Band ? DJ ? an MC If so, your event requires a concert license from the City Clerk's Office (874-8557). (Just voice – i.e. Press Conference, would not require the license because it is not music). For amplified music/speech, there are time restrictions for the Downtown Parks & Squares (music limited to 11:45am – 1:15pm, and 1 hour between 5pm – 8pm).	X		
* Will your event require electricity ? Electricity is available at some of the parks & squares	X		
* Are you planning on bringing a Grill for a Barbecue ?		X	
* Will the event require reserved parking spaces / parking meters ? How many? "No Parking" signs may be purchased at Public Services, 55 Portland Street (874-8822).			X
* Will your event need safety vests, signs, barricades and/or cones ? Please list what you would like to borrow: A few orange vests and cones may usually be borrowed from Public Services, Event Office. Barricades and signs are borrowed from Public Services, Customer Service.	X		
* Will your event require street closures ? (Please be specific under "Description of Event")	X		
* Will your event require Police assistance ? An event such as a road race, march in the street, or parade would typically require police assistance.	X		
* Will your event require Fire/EMS assistance ? (For a large walk/race, it is recommended.) We plan to hire EMTs to be onsite for duration of event, but not necessarily Fire			X
* Will your event require porta-restroom rental(s) or need existing porta-restrooms cleaned? (Some of the parks already have porta-restrooms. Event participants may use these, but a \$25 fee is assessed for events where attendance is 150 or more.)	X		
* Do you wish to have a banner over the street to advertise your event ? (Banners hung over Congress St. or Baxter Blvd). Banner inquiries directed to Public Services: 874-8751.			X

INSURANCE CERTIFICATE INFORMATION

* Will your event require liability Insurance? (For an event such as a walkathon, race, festival, press conference, concert, etc., the city requires insurance coverage - General Liability. The City of Portland needs to be named as additional insured and the policy endorsed in regards to the event activities on that date). If your event has been approved for serving food, Product Liability is also required, in addition to General Liability.	X		
♦ If you answered yes, please have "City of Portland, Maine" listed as an additional insured on the certificate, in this way: certificate must say either: A) "the policy actually is endorsed to name the City of Portland as an Additional Insured" and a copy of the endorsement must come to the City of Portland with the certificate, or B) "the policy already includes an endorsement, such as the General Liability Expansion Endorsement, by which the City of Portland is, in fact, automatically made an additional insured."			

A Certificate which merely has a box checked under 'Addl Insr,' or which merely states The City of Portland is named as an Additional Insured, will not be acceptable. The amount of coverage must be shown on the certificate, and the minimum coverage amount is \$400,000. Please have your insurance company email a copy to Public Services: email to tvm@portlandmaine.gov.

PUBLIC SERVICES POLICIES

ELECTRICITY

All cords in the public way must be covered by rugs, mats or orange cones to avoid public hazard. If weather is inclement (drizzle, rain, snow, etc.) we require that you **not use** electricity, unless all connections and equipment are covered and protected from the elements.

PORTA-RESTROOMS / BATHROOM FACILITIES

Porta-Restrooms are required for large events and events where food is being served. Some of Portland's parks already have portable restrooms (*Preble Street Grass Area at the Preble Street Parking Lot – across from Hannafords, *Entrance to Dyer's Flat – beside Payson Park, *Deering Oaks Park – Playground + Ravine, *East End Beach). If over 150 people are expected to attend the event, a \$25 user fee is required (paid to Public Services). The restrooms are cleaned M, W, & F. If you would like to guarantee that they are cleaned just prior to your event, then you need to call the porta-restroom company (Associated Septic, 207-799-1980, M-F) to request and pay for a cleaning.

TRASH

All groups must abide by our Carry In/ Carry Out Policy. Please bring extra trash bags and/or trash receptacles and remove all trash. You will need to haul all of your trash out of the park/public space or forfeit the security deposit(s). The area will be checked following your event and if the park is clean and conditions for use adhered to, your security deposit will be returned to you. Thank you in advance!

PARKING ON GRASS AREAS / SIDEWALKS / ILLEGALLY PARKED VEHICLES

Public Services has a strict policy that prohibits vehicles from parking on grass areas/sidewalks/park streets (unless specifically approved by city staff). \$10 will be deducted from your security deposit for each vehicle parked on grass/sidewalk areas or vehicles parked illegally. **Any tire ruts/damage to the grass areas would mean a forfeit of your security deposits.**

TOBACCO FREE ZONES

By city ordinance, smoking is prohibited at and within 20 feet of the following outdoor recreation and event areas: downtown squares and plazas, trails, parks, playgrounds, beaches, and athletic facilities. Please make sure you pass this information along to participants / spectators at the event.

NOTIFICATION

Please keep a copy of this permit on site at all times. City staff may require proof of permit.

REVOCABLE PERMIT

- ♦ The City reserves the unconditional right to control or cancel events to protect and/or prohibit damage to public property.
- ♦ The City reserves the unconditional right to revoke or revise an issued permit.

I HAVE READ AND UNDERSTAND ALL OF THE ABOVE POLICIES	TYPE INITIALS	TK	DATE	11-24-14
--	---------------	----	------	----------

ASSUMPTION OF RISK & LIABILITY

Users of the area agree to accept the grounds in an "as is" condition and shall be responsible for all risk and liability in using the park/public space area for the said event. By returning this form, (should permission be granted to use city property), the above parties agree to indemnify and hold harmless the City of Portland, its employees and agents, from and against all claims arising out of activities during said event.

I have read the Assumption of Risk & Liability Agreement	TYPE INITIALS	TK	DATE	11-24-14
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CREDIT CARD INFORMATION

Visa or MasterCard Number	Exp Date (Mon/Yr)
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CREDIT CARD WILL ONLY BE CHARGED FOR SECURITY DEPOSIT(S) AS NEEDED

PLEASE MAKE CHECKS PAYABLE TO "CITY OF PORTLAND"

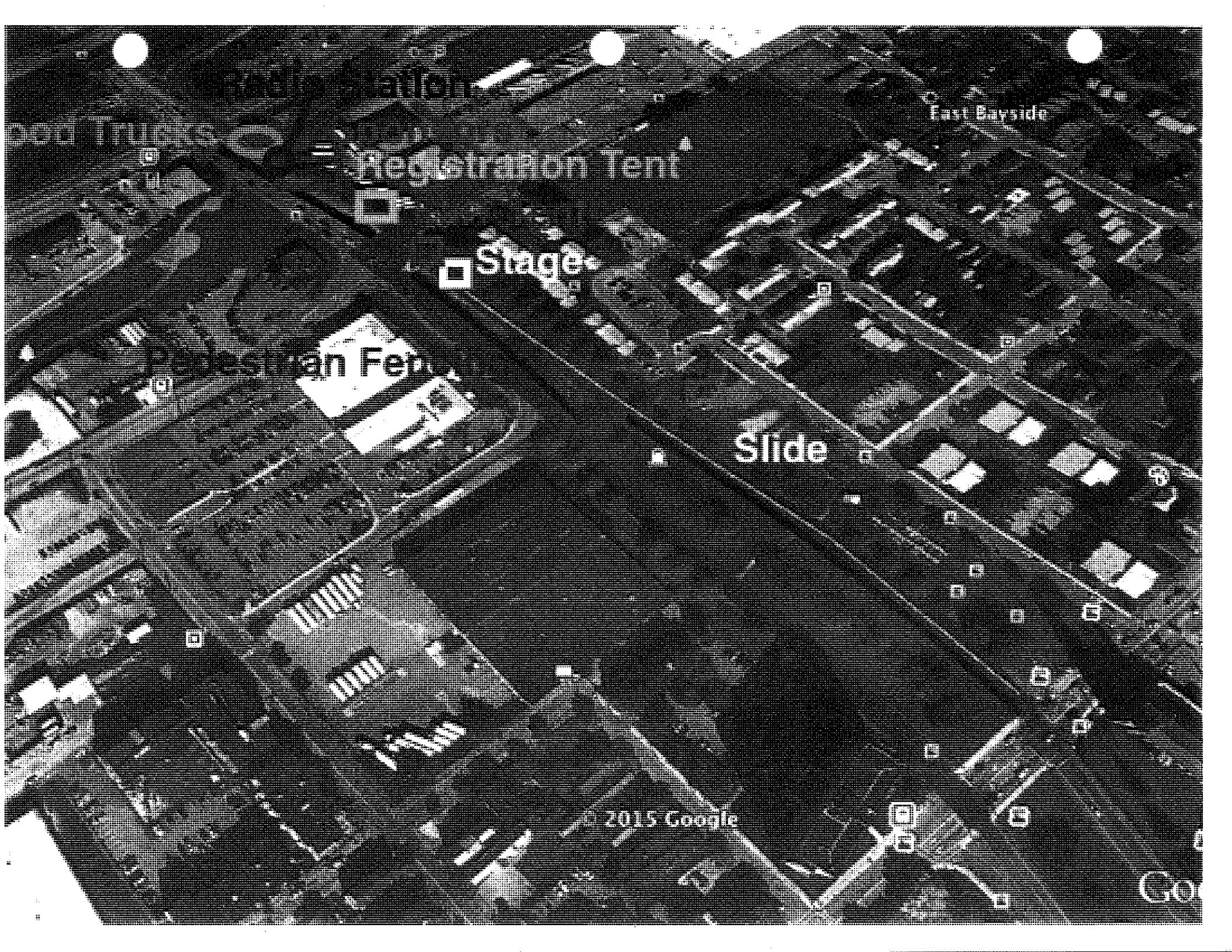
- ♦ Please make out security deposit checks separate from permit fees.

TOTAL AMOUNT(S) DUE TO PUBLIC SERVICES (Please make all security deposit checks out separately)

Permit Fee for use of area: \$40 per hour (i.e. a 3 hour event totals \$120) includes use of elec. If your event is rained out / cancelled, the bulk of the fee is returned (however \$40 is non-refundable) Number of Hours of Use:	\$ 800 due additional fee if 2-day event	Vest, Barricade, Cone Deposit: \$10 per/item	\$???
Electricity: \$5per/hr (Note: a fee is not typically charged)	\$	Public Space / Park Security Deposit: Sound Security Deposit \$100 - \$1000	\$ not sure at this point

Key Deposit: \$50 per key	\$	Other (Porta-Restroom User Fee, etc.)	\$
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FOR OFFICE USE ONLY							
DATE REC'D APPLICATION	11-24-2014	DATE REC'D INSURANCE	need	PERMIT FEE AMT REC'D	\$ need	SECURITY DEPOSIT	\$ need
PAYMENT TYPE							
VISA	\$	MC	\$	CK #	CK AMOUNT	\$	CASH AMT \$



Registration Tent

East Bay Side

Registration Tent

Stage

Slide

Westman Fe

2015 Google

Go

*Order 217-14/15
Tab 11 4-27-15*

MICHAEL F. BRENNAN (MAYOR)
KEVIN J. DONOGHUE (1)
DAVID A. MARSHALL (2)
EDWARD J. SUSLOVIC (3)
JUSTIN COSTA (4)

CITY OF PORTLAND
IN THE CITY COUNCIL

DAVID H. BRENERMAN (5)
JILL C. DUSON (A/L)
JON HINCK (A/L)
NICHOLAS M. MAVODONES (A/L)

ORDER
GRANTING MUNICIPAL OFFICERS'
APPROVAL OF:

Whole Foods Market Group, Inc. d/b/a Whole Foods Market. Application for a Class III & IV (Wine & Beer) License with Outdoor Dining on Private Property at 2 Somerset St.



2 Somerset Street | Portland, ME 04101 | T 207.774.7711 | F 207.828.0201

Rcvd 3/19/15
3:00pm

March 19, 2015

City of Portland
389 Congress Street
Portland, ME 01401

Dear Mayor Brennan and Members of the City Council:

Whole Foods Market has been a proud member of the Portland community since we opened in 2007. We have enjoyed much success at our Portland location and we are now looking to invest further in Portland through the introduction of a pub restaurant in the southwest portion of the store. The pub restaurant will feature approximately 43 indoor seats as more particularly shown on the plan, and will include and 40 seasonal outdoor seats on private land.

In addition to serving food made from ingredients available in our store, including such items as lobster macaroni and cheese, fish and chips and a vegetarian entree, the pub restaurant will strongly highlight locally produced beer from some of Maine's finest brewers. The pub restaurant will also offer wine to our customers. Whole Foods Market has launched a similar concept in our Nashua, New Hampshire store and it has proven to be very successful and well-received by our customers, local brewers and the public.

In addition to highlighting local beers from Maine, Whole Foods Market also intends to utilize the space to promote Maine brewers and we intend to have local brewers in to talk about their products and the uniqueness of the Maine brewing scene. These events will enhance the visibility of local producers and give them an opportunity to highlight their products and businesses.

Please do not hesitate to contact me if you have any questions regarding our application.

Sincerely,

A handwritten signature in black ink, appearing to read "Robert Maxwell", written over a horizontal line.

Robert Maxwell
Store Team Leader

2761450.1

WHOLEFOODSMARKET.COM



KW 5/11/12
3pm

Office of the City Clerk
389 Congress Street
Portland, ME 04101
(207) 874-8557

Application for Food Service Establishment With Alcoholic Beverages

Type of Liquor License Applying for: Class III and Class IV

Please check one: (Corporation/ LLC/ Non-profit org. ☒) (Sole Proprietor ☐) (Partnership ☐)

Business Name (d/b/a): Whole Foods Market Group, Inc. d/b/a Whole Foods Market Phone: 207-774-7711

Location Address: 2 Somerset Street, Portland, ME ZIP 01401

If new, what was formerly in this location: part of Whole Foods Market grocery store

Mailing Address: 550 Bowie Street, Austin, TX ZIP 78703

Contact Person: Robert Maxwell, Store Team Leader Phone: 207-774-7711

Manager of Establishment: Robert Maxwell Home Phone # 207-239-9467

Owner of Premises (landlord): Franklin & Somerset Portland, ME LLC

Address of Premises Owner: 550 Bowie Street, Austin, TX ZIP 78703

Does the Issuance of this license directly or indirectly benefit any City employee(s)? Yes ☐ No ☒
If yes, list name(s) of employee(s) and department(s).

Have any of the applicants, including the corporation if applicable, ever held a business license with the City of Portland? Yes ☒ No ☐. If yes, please list business name(s) and location(s):
Food Service Establishment with Prep/Beer and Wine Takeout (License No. 3118)

Is any principal officer under the age of 18? ☐ Yes ☒ No

Have applicant, partners, associates, or corporate officers ever been *arrested, indicted, or convicted* for any violation of law? ☐ No ☐ If yes, please explain: _____

SOLE PROPRIETOR / PARTNERSHIP INFORMATION: (if corporation, leave blank)

Name of Owner(s): _____	DOB _____	Residence Address _____
Name of Owner(s): _____	DOB _____	Residence Address _____
Name of Owner(s): _____	DOB _____	Residence Address _____

CORPORATE / LLC / NON-PROFIT ORGANIZATION APPLICANTS: (if sole proprietor, leave blank)

Corporation Name: Whole Foods Market Group, Inc.

Corporation Mailing Address: 550 Bowie Street, Austin, TX ZIP 78703

Contact Person: Jacob Creswell Phone Number: 512-542-3743

PRINCIPAL OFFICERS: (if more space is needed, please attach a separate page)

Name	Roberta Lang	Title	Pres/Treas/Dir	DOB	10/16/58	Residence Address	8304 Twilight Terrace Dr., Austin, TX 78737
Name	_____	Title	_____	DOB	_____	Residence Address	_____
Name	Albert Percival	Title	Secretary	DOB	04/13/64	Residence Address	705 Baylor, Austin, TX 78703
Name	_____	Title	_____	DOB	_____	Residence Address	_____
Name	Anthony C. Gallo	Title	Director	DOB	09/07/53	Residence Address	95 Prolovich Rd, Colrain, MA 01340
Name	_____	Title	_____	DOB	_____	Residence Address	_____

(Please see reverse side)

Type of Food Served: Snacks and starters, sandwiches, plates and desserts, as more particularly
described in the menu

Please check all that will be served: Beer ☒ Wine ☒ Liquor ☐

Percentage of sales – Generated from Food : Approx 30% Generated from Alcohol: Approx 70%

Hours and Days of operation: 8:00 AM to 10:00 PM

Will full-course meals, only capable of consumption with the use of tableware, be served the entire time the establishment is open? Yes ☒ No ☐.

If no, please explain _____

Is the establishment less than 300 feet from a school, dormitory, church or parish house, or similar establishment? Yes ☐ No ☒. If yes, give the distance _____.

Will you have entertainment on the premises? Yes ☐ No ☒ (If yes, a separate application is required.)

Will you permit dancing on the premises? Yes ☐ No ☒

Will you permit dancing after 1:00am? Yes ☐ No ☒

Will you have outside dining? Yes ☒ No ☐. If yes, please indicate location on diagram.

Also, will the outside dining be on PUBLIC ☐ or PRIVATE ☒ property?

Have you applied for an Outdoor Dining Permit? Yes ☐ No ☒

Will you have any amusement devices (pinball, video games, juke box)? Yes ☐ No ☒.

If yes, please list, # of pinball: _____ # of amusements: _____ # of pool tables: _____.

What is your targeted opening date? : September 2015

Applicant, by signature below, agrees to abide by all laws, orders, ordinances, rules and regulations governing the above licensee and further agrees that any misstatement of material fact may result in refusal of license or revocation if one has been granted. Applicant agrees that all taxes and accounts pertaining to the premises will be paid prior to issuance of the license.

It is understood that this and any application(s) shall become public record and the applicant(s) hereby waive(s) any rights to privacy with respect thereto.

I/We, hereby authorize the release of any criminal history record information to the City Clerk's Office or licensing authority. I/We, hereby waive any rights to privacy with respect thereto.

Signature [Signature] Title Store Team Leader Date 3/19/15

**BUREAU OF ALCOHOLIC BEVERAGES
DIVISION OF LIQUOR LICENSING & ENFORCEMENT
8 STATE HOUSE STATION
AUGUSTA, ME 04333-0008**



Promise by any person that he or she can expedite a liquor license through influence should be completely disregarded.
To avoid possible financial loss an applicant, or prospective applicant, should consult with the Division before making any substantial investment in an establishment that now is, or may be, attended by a liquor license.

DEPARTMENT USE ONLY

LICENSE NUMBER:	CLASS:
DEPOSIT DATE	
AMT. DEPOSITED:	BY:
CK/MO/CASH:	

PRESENT LICENSE EXPIRES _____

INDICATE TYPE OF PRIVILEGE: ☒ MALT ☐ SPIRITUOUS ☒ VINOUS

INDICATE TYPE OF LICENSE:

☒ RESTAURANT (Class I,II,III,IV) ☐ HOTEL-OPTINONAL FOOD (Class I-A) ☐ CLASS A LOUNGE (Class X) ☐ CLUB (Class V) ☐ TAVERN (Class IV)	☐ RESTAURANT/LOUNGE (Class XI) ☐ HOTEL (Class I,II,III,IV) ☐ CLUB-ON PREMISE CATERING (Class I) ☐ GOLF CLUB (Class I,II,III,IV) ☐ OTHER: _____
---	---

REFER TO PAGE 3 FOR FEE SCHEDULE

ALL QUESTIONS MUST BE ANSWERED IN FULL

1. APPLICANT(S) –(Sole Proprietor, Corporation, Limited Liability Co., etc.) WHOLE FOODS MARKET GROUP, INC. DOB: N/A	2. Business Name (D/B/A) WHOLE FOODS MARKET
DOB:	Location (Street Address) 2 Somerset Street
Address 550 Bowie Street	City/Town Portland State ME Zip Code 04101
DOB:	Mailing Address 550 Bowie Street
City/Town Austin State TX Zip Code 78703	City/Town Austin State TX Zip Code 78703
Telephone Number 512-542-3743	Fax Number 512-499-6739
Federal I.D. # 52-1711175	Business Telephone Number 207-774-7711
Fax Number 512-499-6739	Fax Number 207-828-0201
Seller Certificate #	Seller Certificate #

3. If premises is a hotel, indicate number of rooms available for transient guests: _____
4. State amount of gross income from period of last license: ROOMS \$ _____ FOOD \$ _____ LIQUOR \$ _____
5. Is applicant a corporation, limited liability company or limited partnership? YES ☒ NO ☐
- complete Supplementary Questionnaire, If YES
6. Do you permit dancing or entertainment on the licensed premises? YES ☐ NO ☒
7. If manager is to be employed, give name: Robert Maxwell
8. If business is NEW or under new ownership, indicate starting date: Restaurant expected to open September 2015
 Requested inspection date: _____ Business hours: 8:00 AM to 10:00 PM
9. Business records are located at: 2 Somerset Street, Portland, ME and 550 Bowie Street, Austin, TX

10. Is/are applicants(s) citizens of the United States? YES ☒ NO ☐ *Applicant is a corporation organized under the laws of DE, but qualified in ME. Manager is a citizen of the US and resident of Maine
11. Is/are applicant(s) residents of the State of Maine? YES ☒ NO ☐
12. List name, date of birth, and place of birth for all applicants, managers, and bar managers. Give maiden name, if married: Use a separate sheet of paper if necessary.

Name in Full (Print Clearly)	DOB	Place of Birth
Robert Maxwell (Manager)	07/03/1974	Dover, NH
Whole Foods Market Group, Inc. (Applicant)	N/A	N/A
ROBERTA LANG, ALBERT PERCIVAL, ANTHONY C. GALLO		
Residence address on all of the above for previous 5 years (Limit answer to city & state)		
Manager: Ealing, London, UK; Hudson, NH; Roswell, GA; Portland, ME (current)		
Applicant: N/A		

13. Has/have applicant(s) or manager ever been convicted of any violation of the law, other than minor traffic violations, of any State of the United States? YES ☐ NO ☒

Name: _____ Date of Conviction: _____

Offense: _____ Location: _____

Disposition: _____

14. Will any law enforcement official benefit financially either directly or indirectly in your license, if issued? Yes ☐ No ☒ If Yes, give name: _____

15. Has/have applicant(s) formerly held a Maine liquor license? YES ☒ NO ☐

16. Does/do applicant(s) own the premises? Yes ☐ No ☐ If No give name and address of owner: _____
Franklin & Somerset Portland ME, LLC, 550, Bowie Street, Austin, TX 78703

17. Describe in detail the premises to be licensed: (Supplemental Diagram Required) The southwest corner of the Whole Foods Market containing a bar with stools, stand up bar, lounge seating, chairs and tables and outdoor seating, all as shown on the attached plans.

18. Does/do applicant(s) have all the necessary permits required by the State Department of Human Services? YES ☐ NO ☐ Applied for: _____ Applicant will apply for these permits soon

19. What is the distance from the premises to the NEAREST school, school dormitory, church, chapel or parish house, measured from the main entrance of the premises to the main entrance of the school, school dormitory, church, chapel or parish house by the ordinary course of travel? 755' Which of the above is nearest? First Assembly of God

20. Have you received any assistance financially or otherwise (including any mortgages) from any source other than yourself in the establishment of your business? YES ☐ NO ☒

If YES, give details: _____

The Division of Liquor Licensing & Inspection is hereby authorized to obtain and examine all books, records and tax returns pertaining to the business, for which this liquor license is requested, and also such books, records and returns during the year in which any liquor license is in effect.

NOTE: "I understand that false statements made on this form are punishable by law. Knowingly supplying false information on this form is a Class D offense under the Criminal Code, punishable by confinement of up to one year or by monetary fine of up to \$2,000 or both."

Dated at: Portland, Maine on March 19, 2015
Town/City, State Date

Please sign in blue ink

Signature of Applicant or Corporate Officer(s)

ROBERT MAXWELL

Print Name

Signature of Applicant or Corporate Officer(s)

Print Name



State of Maine
Bureau of Alcoholic Beverages
Division of Liquor Licensing and Enforcement

Supplemental Information Required for
Business Entities Who Are Licensees

For Office Use Only:

License #: _____

Date Filed: _____

For information required for Questions 1 to 4, this information is on file with the Maine Secretary of State's office and must match their record information. Please clearly complete this form in its entirety.

1. Exact legal name:

WHOLE FOODS MARKET GROUP, INC.

2. Other business name for your entity (DBA), if any:

WHOLE FOODS MARKET

3. Date of filing with the Secretary of State: 12/12/1990 (DELAWARE)

4. State in which you are formed: DELAWARE

5. If not a Maine business entity, date on which you were authorized to transact business in the State of Maine: 01/19/2006

6. List the name and addresses for previous 5 years, birth dates, titles of officers, directors and list the percentage ownership: (attached additional sheets as needed)

Name	Address for Previous 5 years	Date of Birth	Ownership %
See attached			

7. Is any principal person involved with the entity a law enforcement official?

Yes ☐ No ☒

8. If Yes to Question 7, please provide the name and law enforcement agency:

Name: _____ Agency: _____

9. Has any principal person involved in the entity ever been convicted of any violation of the law, other than minor traffic violations, in the United States?

Yes ☐ No ☒

10. If Yes to Question 9, please complete the following: (attached additional sheets as needed)

Name: _____

Date of Conviction: _____

Offense: _____

Location of Conviction: _____

Disposition: _____

Signature:



Signature of Duly Authorized Person

3/19/15

Date

ROBERT MAXWELL, STORE TEAM LEADER

Print Name of Duly Authorized Person

If you have questions regarding the legal name or assumed (DBA) name on file with the Secretary of State's office, please call (207) 624-7752. The SOS can only speak to the information on file with their office, not the filing of this supplemental information -- please direct any questions about this form to our office at the number below.

Submit Completed Forms To: Bureau of Alcoholic Beverages and Lottery
Operations Division of Liquor Licensing Enforcement
8 State House Station
Augusta, Me 04333-0008
Telephone Inquiries: (207) 624-7220
Fax: (207) 287-3434
Email Inquiries: MaineLiquor@Maine.gov

CONTINUATION SHEET FOR
SUPPLEMENTAL INFORMATION FOR BUSINESS ENTITIES

6. List name and address for previous 5 years, birth dates, titles of officers, directors and list the percentage ownership:

Name	Address for Previous 5 years	Date of Birth	Ownership %
Whole Foods Market, Inc. (a publicly traded company)	550 Bowie Street Austin, TX 78703-4644	N/A	100%
Roberta L. (Plasschaert) Lang, President, Treasurer & Director	8304 Twilight Terrace Drive Austin, TX 78737	10/16/58	0%
Albert E. Percival, Secretary	705 Baylor Austin, TX 78703 (Current) 1107 W. 9 th Street Austin, TX 78703 (Former)	04/13/64	0%
Anthony C. Gallo, Director	95 Prolovich Road Colrain, MA 01340	09/07/53	0%

PTL Pub Menu

Snacks & Starters

Downeast Lobster Chowder

Poutine

Loaded Fries

Spicy Chicken Wings

Salad

Sandwiches

Pineland Farms Burger

Craig's Lobster Roll

Grilled Cheese

Plates

Fish & Chips

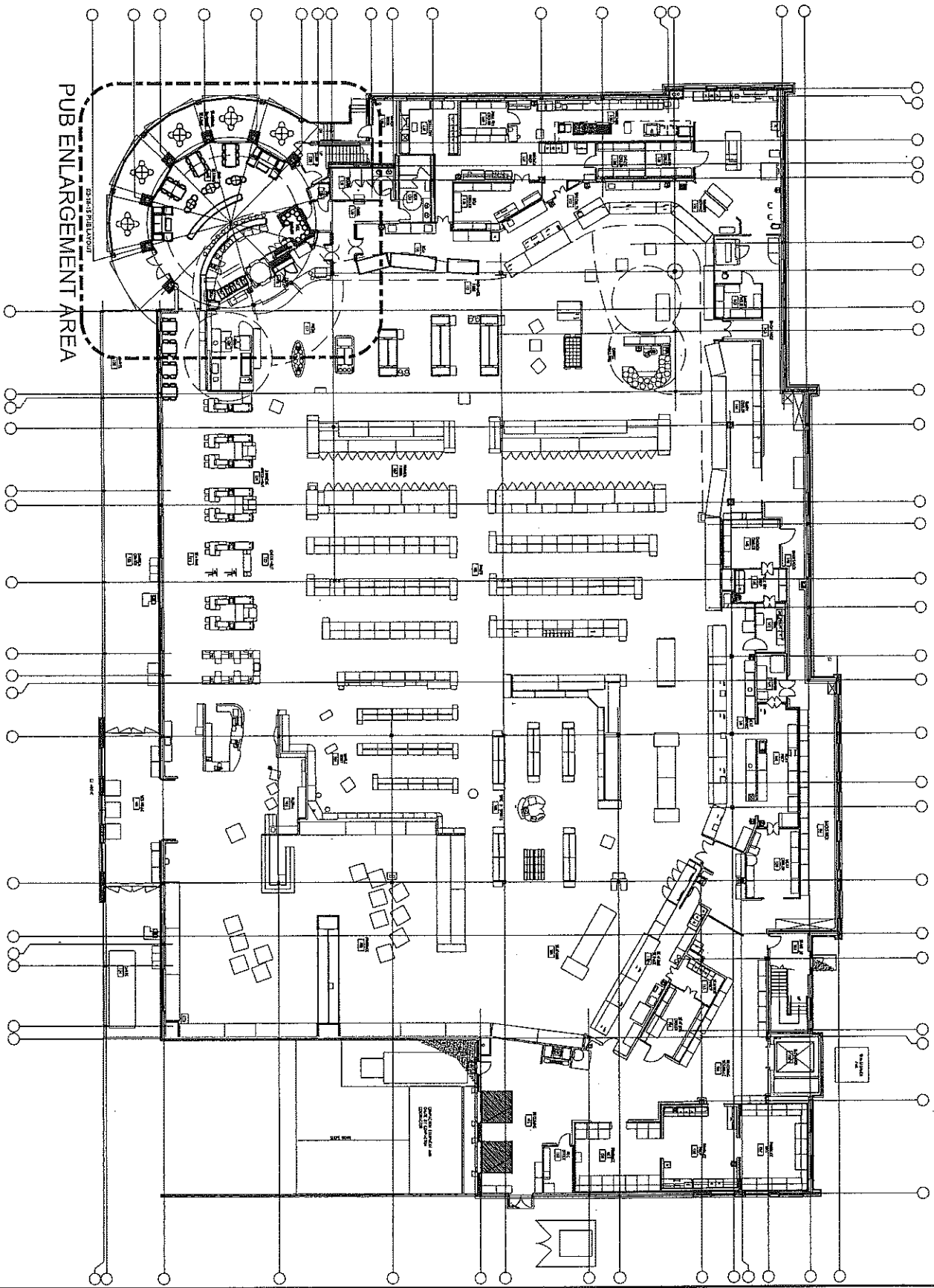
Lobster Mac & Cheese

Local squash & Mushroom Gemelli

Dessert

Housmade Pie

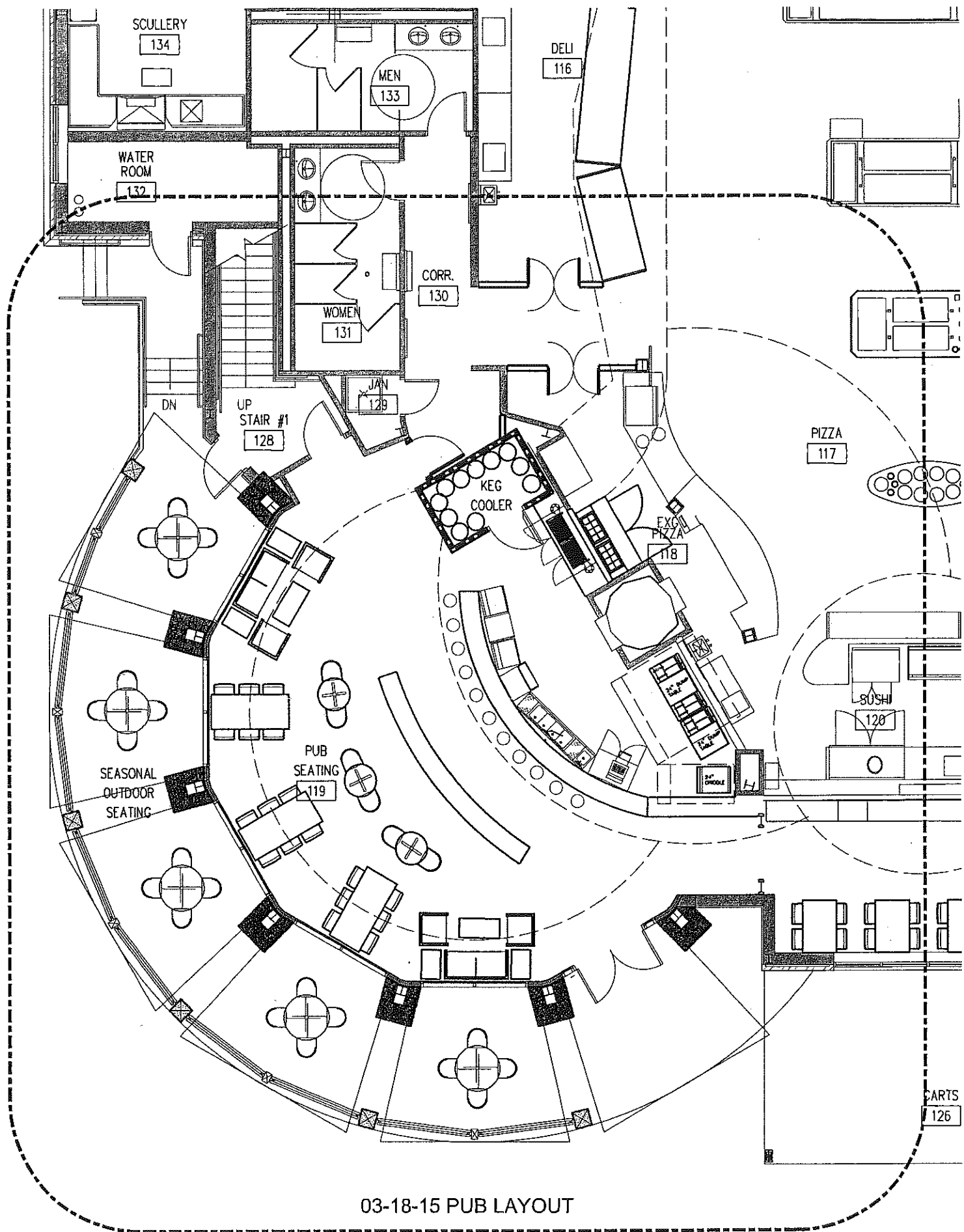
Assorted Ice Creams



HARRIMAN
ARCHITECTS

WOLF
ARCHITECTS
2 SOMERSET ST
BIRMINGHAM, B2 4BN

Project Name	2 Somerset St
Client	WOLF ARCHITECTS
Architect	HARRIMAN ARCHITECTS
Date	10/10/10
Scale	1:50
Sheet No	01
Sheet Title	Floor Plan



03-18-15 PUB LAYOUT

PUB ENLARGEMENT AREA

Business Licensing - Re: Fwd: Whole Foods Market-2 Somerset Street

From: Gary Rogers
To: Business Licensing
Date: 4/10/2015 3:39 PM
Subject: Re: Fwd: Whole Foods Market-2 Somerset Street
CC: Gary Hutcheson

Police approve.

Commander Gary Rogers
Portland Police Department
109 Middle Street
Portland, Maine 04101
(207) 874-8546

>>> Business Licensing 4/7/2015 10:28 AM >>>
And... this one...

>>> Business Licensing 3/23/2015 3:38 PM >>>
Good Afternoon,

For your approval:

Whole Foods Market Group, INC d/b/a Whole Foods Market has submitted an application for a Class III & IV Beer and Wine License with Outdoor Dining on private property at 2 Somerset Street. They are expanding their License to include Beer and Wine. They wish to go before Council April 22nd.

Please find their application and menu attached.
Please but feedback into UI.

Thank you!
Melissa Caiazzo

Business License Administrator
bl@portlandmaine.gov
207.874.8557



MAINE STATE BUREAU OF IDENTIFICATION
45 Commerce Drive, Suite 1 / STATE HOUSE STATION # 42
AUGUSTA, ME 04333
(207) 624-7240 (VOICE) (207) 624-4478 (TDD)

JANICE GARDNER
389 CONGRESS STREET
ROOM 203
PORTLAND, ME 04101

Transaction Response #: MIQ99C441356

Criminal History Record

Introduction

This criminal history record was produced in response to the following request
(Produced on 2015-03-23) :

Inquiries Name(s) ROBERT MAXWELL (1974-07-03)

NO MATCH WAS FOUND FOR YOUR REQUEST.



MAINE STATE BUREAU OF IDENTIFICATION
45 Commerce Drive, Suite 1 / STATE HOUSE STATION # 42
AUGUSTA, ME 04333
(207) 624-7240 (VOICE) (207) 624-4478 (TDD)

JANICE GARDNER
389 CONGRESS STREET
ROOM 203
PORTLAND, ME 04101

Transaction Response #: MIQ99C441353

Criminal History Record

Introduction

This criminal history record was produced in response to the following request
(Produced on 2015-03-23) :

Inquiries Name(s) ANTHONY GALLO (1953-09-07)

NO MATCH WAS FOUND FOR YOUR REQUEST.



MAINE STATE BUREAU OF IDENTIFICATION
45 Commerce Drive, Suite 1 / STATE HOUSE STATION # 42
AUGUSTA, ME 04333
(207) 624-7240 (VOICE) (207) 624-4478 (TDD)

JANICE GARDNER
389 CONGRESS STREET
ROOM 203
PORTLAND, ME 04101

Transaction Response #: MIQ99C441352

Criminal History Record

Introduction

This criminal history record was produced in response to the following request
(Produced on 2015-03-23) :

Inquiries Name(s) ROBERTA LANG (1958-10-16)

NO MATCH WAS FOUND FOR YOUR REQUEST.



MAINE STATE BUREAU OF IDENTIFICATION
45 Commerce Drive, Suite 1 / STATE HOUSE STATION # 42
AUGUSTA, ME 04333
(207) 624-7240 (VOICE) (207) 624-4478 (TDD)

JANICE GARDNER
389 CONGRESS STREET
ROOM 203
PORTLAND, ME 04101

Transaction Response #: MIQ99C441350

Criminal History Record

Introduction

This criminal history record was produced in response to the following request
(Produced on 2015-03-23) :

Inquiries Name(s) ALBERT PERCIVAL (1964-04-13)

NO MATCH WAS FOUND FOR YOUR REQUEST.

Portland, Maine



Yes. Life's good here.

Office of the City Clerk
Katherine L. Jones, CCM, City Clerk

April 8, 2015

Whole Foods Market
Attn: Jacob Creswell
550 Bowie St.
Austin, TX 78703

Re: Whole Foods Market Group, Inc. d/b/a Whole Foods Market. Application for a Class III & IV (Wine & Beer) License at 2 Somerset St.

Dear Mr. Creswell,

Yesterday, I sent a letter confirming that your application for a Class III & IV (Wine & Beer) License would be considered at the Wednesday, April 22nd Council meeting. This meeting has been rescheduled for **Monday, April 27th at 7:00 p.m.**

I apologize for any confusion. Should you have any questions or concerns, please do not hesitate to contact our office directly at (207) 874-8557 or by email, BL@portlandmaine.gov

Sincerely,

Janice Gardner
Business License Administrator
207-874-8557
bl@portlandmaine.gov

cc: Robert Maxwell, Store Manager

Portland Press Herald
Maine Sunday Telegram
pressherald.com

Classified Advertising Proof

Portland, City Of
HR Department
Room 315, 389 Congress Street
Portland, ME 04101

Thank you for advertising in The Portland Press Herald and Maine Sunday Telegram.

Your order information and a preview of your advertisement are below for your review. If there are any changes or questions, please immediately contact the Classified Department at 207-791-6100 or email classified@pressherald.com

Thank you,
Joan Jensen

207-791-6100 | Monday-Friday 8:00 am - 5:00 pm

ORDER INFORMATION:

Order Number: 31530

Title: Portland Press Herald
Class: 1000 Legal Notices
Order Price: \$212.24
PO Number: Whole Foods / Janice

Start Date: 4/13/2015
Number of Days: 3
Payment Method: Invoice

AD PREVIEW:

Legal Advertisement

**Notice of Public Hearing
City of Portland**

A Public Hearing will be held on April 27th at 7:00 P.M., in City Council Chambers, 389 Congress St., on Whole Foods Market Group, Inc. d/b/a Whole Foods Market. Application for a Class III & IV (Wine & Beer) License at 2 Somerset St. Sponsored by Katherine L. Jones, City Clerk.

*Order 218-14/15
Tab 12 4-27-15*

MICHAEL F. BRENNAN (MAYOR)
KEVIN J. DONOGHUE (1)
DAVID A. MARSHALL (2)
EDWARD J. SUSLOVIC (3)
JUSTIN COSTA (4)

CITY OF PORTLAND
IN THE CITY COUNCIL

DAVID H. BRENERMAN (5)
JILL C. DUSON (A/L)
JON HINCK (A/L)
NICHOLAS M. MAVODONES (A/L)

ORDER
GRANTING MUNICIPAL OFFICERS'
APPROVAL OF:

**Blue Rooster Food Company, LLC d/b/a Blue Rooster Food Co. Application for a Class III
& IV (Wine & Beer) License at 5 Dana Street.**

Blue Rooster Food Company
Daniel McCarthy, Partner
Blue Rooster Food Company
5 Dana Street
Portland, Maine 04101

Dear members of the board

We, the owners of Blue Rooster Food Company, appeal to the City of Portland, to approve our request and application for the privilege to offer beer as an accompaniment to the varied and popular food items at our establishment located at 5 Dana Street, Portland, Maine.

On March 27th, Blue Rooster celebrated its two year anniversary thanks to a very loyal local clientele and to the media, which has been equally as generous in their positive reviews awarding us a steady stream of tourism. Due to this fantastic response we are in a financially stable position and are making plans to further better our business. We are a locally run business and do everything we can to work with other local businesses as well as purveyors, and to donate to local charities as well. We run a legitimate business, and take the responsibility of serving beer and wine very seriously. We aim to sell these as an accompaniment to our food as a means to draw new customers and to offer something other than soft drinks to our clientele who regularly ask: "when are you guys going to sell beer?!".

Please accept our application and grant us permission to serve our clientele what they desire at the same time helping us to remain relevant in an ever competitive foodie scene. We appreciate your time and thank you for your consideration.

Sincerely,



Daniel McCarthy
Partner
Blue Rooster Food Company

RC003 312010
4:30pm



Office of the City Clerk • 389 Congress St. • Portland, ME 04101 • (207) 874-8557

Application for Food Service Establishment with Alcoholic Beverages License

Business Information.	
Business Name (d/b/a):	BLUE ROOSTER FOOD CO. LLC. Phone: 917 952 2086
Location Address:	5 DANA STREET Zip: 04101
If new, what was formerly at this location:	SIMPLE SANDWICH
Mailing Address:	5 DANA STREET Zip: 04101
Contact Person:	DANIEL K. MCCARTHY Phone: 917 952 2086
Contact Person Email:	DMcCARTHY@BLUEROSTERFOODCO.COM
Manager of Establishment:	DANIEL MCCARTHY Phone: 917 952 2086
Owner of Premises (Landlord):	STEVE McDUFFY
Address of Premises Owner:	230 ADDERSON STREET, PORTLAND, ME Zip: 04101

Sole Proprietor/Partnership Information (If Corporation, leave blank)

Name of Owner(s)	Date of Birth	Residence Address

Corporate/LLC/Non-Profit Organization Applicants (If Sole Proprietor or Partnership, leave blank)

Corporate Name		Corporate Mailing Address	
BLUE ROOSTER FOOD COMPANY/ LLC		5 DANA STREET, PORTLAND Zip: 04101	
Contact Person:	DANIEL K. MCCARTHY, MIKE BARR		Phone: 917 952 2086 207 632 3347
Principal Officers	Title	Date of Birth	Residence Address
DANIEL MCCARTHY	PARTNER	01/01/76	45 OCEAN HOUSE RD. CAPE E. 04107
PAUL CRUSE	PARTNER	11/28/70	71 SHERMAN, #10 PORTLAND 04101
MIKE BARR	PARTNER	8/12/87	36 CARDINAL LN. WILDHAM, ME 04062

About Your Establishment

Class of Liquor License:	CLASS IV, III	
Type of food served:	SANDWICHES, HOT DOGS, TACOS, SIDES	
Please circle all that will be served:	Beer Wine Liquor	
Projected percentage of sales:	Generated from Food:	Generated from Alcohol:
Hours & days of operation:	W-TH 8:00 A.M - 8:00 P.M FRIDAY, SAT 8:00 A.M - 2:00 A.M SUN 8:00 A.M - 5:00 P.M	

QUESTIONS		☒ Y ☐ N
Will full-course meals, only capable of consumption with the use of tableware, be served the entire time the establishment is open?		☒ Y ☐ N
If No, please explain:		
Is the establishment less than 300 feet from a school, dormitory, church or parish house, or similar establishment?		☒ Y ☐ N
If yes, give the distance:		
Will you have entertainment on the premises? (If yes, a Supplemental Application for Dancing & Entertainment is required.)		☒ Y ☐ N
Will you permit dancing on the premises?		☒ Y ☐ N
Will you permit dancing after 1:00 a.m.?		☒ Y ☐ N
Will you have outside dining? (If yes, an Outdoor Dining Application is required)		☒ Y ☐ N
If yes, will the outside dining be on PUBLIC or PRIVATE property (circle one).		
Will you have any amusement devices (pinball, video games, juke box)?		☒ Y ☐ N
If yes, please list: # of pinball machines: _____ # of amusements: _____ # of pool tables: _____		
What is your targeted opening date? JUNE 1ST (FOR BEER AND WINE)		
Does the issuance of this license directly or indirectly benefit any City employee(s)?		☒ Y ☐ N
If Yes, list name(s) of employee(s) and department(s):		
Have any of the applicants, including the corporation (if applicable), ever held a business license with the City of Portland?		☒ Y ☐ N
If Yes, please list business name(s) and location(s):		
SAME AS LISTED		
Is any principal officer under the age of 21?		☒ Y ☐ N
Have applicant, partners, associates, or corporate officers ever been arrested, indicted, or convicted for any violation of law?		☒ Y ☐ N
If Yes, please explain:		

I, Daniel C. McCarty do hereby swear and affirm that every employee in my establishment that serves alcohol to the public has attended server training, or will attend server training within 90 days of their hire. I also understand that at any time the City license administrator can, upon request, require me to produce Server Training certificates for each employee that serves alcohol to the public in my establishment. Failure to meet the training requirement imposed by section 15-41 may result in the denial of a liquor license pursuant to 28-A M.R.S.A. § 653 (2) (G).

Applicant, by signature below, agrees to abide by all laws, orders, ordinances, rules and regulations governing the above licensee and further agrees that any misstatement of material fact may result in refusal of license or revocation if one has been granted. Applicant agrees that all taxes and accounts pertaining to the premises will be paid prior to issuance of the license.

It is understood that this and any application(s) shall become public record and the applicant(s) hereby waive(s) any rights to privacy with respect thereto. I/We, hereby authorize the release of any criminal history record information to the City Clerk's Office or licensing authority. I/We, hereby waive any rights to privacy with respect thereto.

Signature [Signature] Title OWNER/PARTNER Date 3/20/15

For more information about Liquor Licenses, see Portland City Code Chapter 15 at www.portlandmaine.gov and M.R.S.A. Title 28-A at www.maine.gov

Department of Public Safety
Division

Liquor Licensing & Inspection



Promise by any person that he or she can expedite a liquor license through influence should be completely disregarded.
To avoid possible financial loss an applicant, or prospective applicant, should consult with the Division before making any substantial investment in an establishment that now is, or may be, attended by a liquor license.

BUREAU USE ONLY

License No. Assigned:

Class:

Deposit Date:

Amt. Deposited:

PRESENT LICENSE EXPIRES _____

INDICATE TYPE OF PRIVILEGE: ☐ MALT ☐ SPIRITUOUS ☐ VINOUS

INDICATE TYPE OF LICENSE:

☒ RESTAURANT (Class I,II,III,IV)

☐ HOTEL-OPTIONAL FOOD (Class I-A)

☐ CLASS A LOUNGE (Class X)

☐ CLUB (Class V)

☐ TAVERN (Class IV)

☐ RESTAURANT/LOUNGE (Class XI)

☐ HOTEL (Class I,II,III,IV)

☐ CLUB-ON PREMISE CATERING (Class I)

☐ GOLF CLUB (Class I,II,III,IV)

☐ OTHER: _____

REFER TO PAGE 3 FOR FEE SCHEDULE

ALL QUESTIONS MUST BE ANSWERED IN FULL

1. APPLICANT(S) --(Sole Proprietor, Corporation, Limited Liability Co., etc.) <u>BLUE ROOSTER FOOD CO. LLC</u> DOB: _____			2. Business Name (D/B/A) <u>BLUE ROOSTER FOOD COMPANY</u>		
DOB: _____			<u>5 DATA STREET</u>		
DOB: _____			Location (Street Address) <u>PORTLAND ME 04101</u>		
Address <u>5 DATA STREET</u>			City/Town State Zip Code <u>PORTLAND ME 04101</u>		
City/Town State Zip Code <u>PORTLAND ME 04101</u>			Mailing Address <u>SAM LASARUS</u>		
City/Town State Zip Code <u>PORTLAND ME 04101</u>			City/Town State Zip Code <u>PORTLAND ME 04101</u>		
Telephone Number Fax Number <u>207 747 4157</u>			Business Telephone Number Fax Number <u>207 747 4157</u>		
Federal ID. # <u>46-2315986</u>			Seller Certificate # <u>5279</u>		

3. If premises are a hotel, indicate number of rooms available for transient guests: _____

4. State amount of gross income from period of last license: ROOMS \$ _____ FOOD \$ _____ LIQUOR \$ _____

5. Is applicant a corporation, limited liability company or limited partnership? YES ☒ NO ☐

complete Supplementary Questionnaire, If YES

6. Do you permit dancing or entertainment on the licensed premises? YES ☐ NO ☒

7. If manager is to be employed, give name: _____

8. If business is NEW or under new ownership, indicate starting date: _____

Requested inspection date: 5.1.2015 Business hours: 8:00 AM - 6:00 PM M-Su

9. Business records are located at: 5 DATA ST. PORTLAND ME 04101

10. Is/are applicants(s) citizens of the United States? YES ☒ NO ☐

11. Is/are applicant(s) residents of the State of Maine?

YES ☒ NO ☐

12. List name, date of birth, and place of birth for all applicants, managers, and bar managers. Give maiden name, if married:
Use a separate sheet of paper if necessary.

Name in Full (Print Clearly)	DOB	Place of Birth
DANIEL K. MCCARTHY	01/01/76	GREENFIELD, MA
RADY CRUSE	11/28/70	MESIDA, NY
MIKE BARR	8/12/87	PORTLAND, ME
Residence address on all of the above for previous 5 years (Limit answer to city & state)		
SEE CARL ELIZABETH, ME (MCCARTHY) PORTLAND, ME (CRUSE)		

13. Has/have applicant(s) or manager ever been convicted of any violation of the law, other than minor traffic violations, of any State of the United States? YES ☐ NO ☒

Name: _____ Date of Conviction: _____

Offense: _____ Location: _____

Disposition: _____

14. Will any law enforcement official benefit financially either directly or indirectly in your license, if issued?

Yes ☐ No ☒ If Yes, give name: _____

15. Has/have applicant(s) formerly held a Maine liquor license? YES ☐ NO ☒

16. Does/do applicant(s) own the premises? Yes ☐ No ☒ If No give name and address of owner: _____

STEVE McDUFF / 230 ADERSON, PORTLAND ME

17. Describe in detail the premises to be licensed: (Supplemental Diagram Required) _____

FIRST FLOOR 5 ADA STREET

18. Does/do applicant(s) have all the necessary permits required by the State Department of Human Services?

YES ☒ NO ☐ Applied for: _____

19. What is the distance from the premises to the NEAREST school, school dormitory, church, chapel or parish house, measured from the main entrance of the premises to the main entrance of the school, school dormitory, church, chapel or parish house by the ordinary course of travel? 1/4 MILE Which of the above is nearest? CHURCH

20. Have you received any assistance financially or otherwise (including any mortgages) from any source other than yourself in the establishment of your business? YES ☒ NO ☐

If YES, give details: PERSONAL LOAN (PROMISSORY NOTE) FRIEND

The Division of Liquor Licensing & Inspection is hereby authorized to obtain and examine all books, records and tax returns pertaining to the business, for which this liquor license is requested, and also such books, records and returns during the year in which any liquor license is in effect.

NOTE: "I understand that false statements made on this form are punishable by law. Knowingly supplying false information on this form is a Class D offense under the Criminal Code, punishable by confinement of up to one year or by monetary fine of up to \$2,000 or both."

Dated at: _____

PORTLAND, ME 04101 on _____

3/20/15, 20 _____

Town/City, State

Date

Please sign in blue ink

Signature of Applicant or Corporate Officer(s)

Signature of Applicant or Corporate Officer(s)



State of Maine
Bureau of Alcoholic Beverages
Division of Liquor Licensing and Enforcement

Supplemental Information Required for
Business Entities Who Are Licensees

For Office Use Only:

License #: _____

Date Filed: _____

For information required for Questions 1 to 4, this information is on file with the Maine Secretary of State's office and must match their record information. Please clearly complete this form in its entirety.

1. Exact legal name:

Blue Rooster Food Co. LLC

2. Other business name for your entity (DBA), if any:

Blue Rooster Food Co.

3. Date of filing with the Secretary of State: 3/19/2013

4. State in which you are formed: MAINE

5. If not a Maine business entity, date on which you were authorized to transact business in the State of Maine: _____

6. List the name and addresses for previous 5 years, birth dates, titles of officers, directors and list the percentage ownership: (attached additional sheets as needed)

Name	Address for Previous 5 years	Date of Birth	Ownership %
DANIEL McLEOD	45 OCEAN HS. Cape Elizabeth, ME 04107	01/01/76	33
RANDY GUSSE	PORTLAND, ME 04101	11/28/70	33
MIKE BALL	WESTBROOK, ME	8/12/87	33

7. Is any principal person involved with the entity a law enforcement official?

Yes ☐

No ☒

8. If Yes to Question 7, please provide the name and law enforcement agency:

Name: _____ Agency: _____

9. Has any principal person involved in the entity ever been convicted of any violation of the law, other than minor traffic violations, in the United States?

Yes



No



10. If Yes to Question 9, please complete the following: (attached additional sheets as needed)

Name:

Daniel McCarthy

Date of Conviction:

2004

Offense:

UNPAID SPEEDWA TICKET

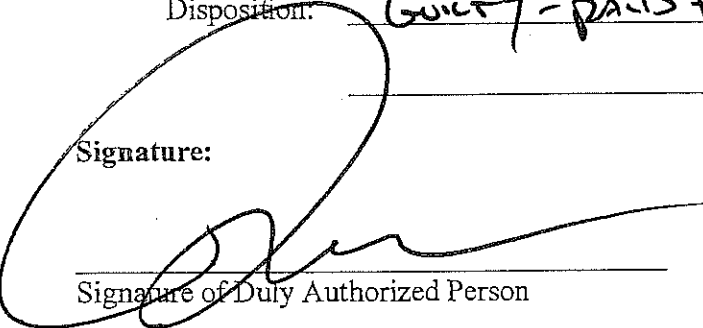
Location of Conviction:

NEW YORK CITY

Disposition:

GUILTY - PAID FINE

Signature:


Signature of Duly Authorized Person

Date

3/20/10

Daniel C. McCarthy
Print Name of Duly Authorized Person

If you have questions regarding the legal name or assumed (DBA) name on file with the Secretary of State's office, please call (207) 624-7752. The SOS can only speak to the information on file with their office, not the filing of this supplemental information – please direct any questions about this form to our office at the number below.

Submit Completed Forms To:

Bureau of Alcoholic Beverages and Lottery Operations
Division of Liquor Licensing and Enforcement
164 State House Station
Augusta, Me 04333-0101
Telephone Inquiries: (207) 624-7220
Fax: (207) 287-3424
Email Inquiries: MaineLiquor@Maine.gov

PREMISE DIAGRAM

↑
WALK IN
COOLER
(12 DOORS)
REAR
EXIT

REACH
IN
COOLER

OVER/STOVE
HOOD

PREP
TABLE

3
BATH
ROOMS

PREP
SINK

HAND
SINK

W-2814
MAY 1000

REG
SERVING
COUNTER

STAINLESS
STEEL

BOOTH
BOOTH
BOOTH

SEATING 6 SEATS

○ ○ ○ ○ ○ ○ ○ ○

ENTRANCE

5 DATA STREET (FEAR OF BOSS)

SANDWICHES

Pork "Etta James"	9.00
Steak marinated in roasted garlic, cilantro, jalapeno, served on naan with shredded lettuce, pico de gallo, crema, salsa verde, queso fresco.	
Charlie Noble	8.25
House brined turkey breast, brussels sprout slaw, melted provolone, horseradish mayonnaise	
Rooster Blue	9.00
Fried chicken thigh, purple cabbage slaw, blue cheese mayonnaise	
The Fez	8.75
Confit tuna, smoked paprika potatoes, roasted piquillo peppers, red onion, tomato relish, olive tapenade, greens, olive oil	
Fat Tuesday	9.00
House cured tasso ham, pickled okra, celery root remoulade, cajun mayonnaise	
Farmer Tess	8.75
Hummus, roasted beet goat cheese, carrots, radish, piquillo peppers, pickled onion, greens	
Godfather	8.25
Mortadella, salami, provolone, picadilly, olive tapenade, greens, lemon vinaigrette	

NATURAL CASING BEEF/PORK HOT DOGS

Plain Jane	3.50
Plain hot dog on Chicago style bun – waiting for you to dress her up!	
Pineapple Express	5.00
Pickled mango salsa, cilantro jalapeno pineapple mustard	
Seoul Dog	4.75
Plain hot dog, house made kimchee, garlic mayonnaise, crushed peanuts	
Das Boot	5.00
Bacon wrapped hot dog, celery salt, Morses' sauerkraut, spicy brown mustard	
Barking Dog	5.00
Bacon wrapped hot dog, house made relish, cheese sauce, crispy onions	
Growly Dog	5.00
Bacon dog, cheese curds, gravy, fried pickled jalapeno	

TATER TOTS

Crispy Tater Tots	4.00
Deep fried tater tots served with house ketchup	
Tot-tine	sm 6.50 / lg 12.00
Tater Tot Poutine- house made gravy over Pineland Farms cheese curds	
Three Little Pigs	sm 7.50 / lg 13.00
Tot-tine with seared pork belly, house made fresh sausage and bacon	
Nacho Tots	sm 6.50 / lg 12.00
Tater tots, all beef chili, cheese sauce, pico de gallo, pickled jalapenos	
Buffalo Tots	sm 6.50 / lg 12.00
Tater tots, bleu cheese mayo, crisp celery root, carrots and celery	
The Early Bird	sm 6.50 / lg 12.00
Tater Tots, maple mayonnaise, bacon, fried egg	

SALADS AND SIDES

Daily Greens Salad	8.00
Local greens, pickled onions, olive, carrots, Cucumbers, radish, pangritata, lemon vinaigrette	
Sweet Chili Sprouts	sm 6.00 / lg 11.50
Deep fried brussel sprouts, sweet chili sauce, sesame seeds, queso fresco	
Caeser Sprouts	sm 6.00 / lg 11.50
Deep fried brussel sprouts, Ceaser dressing, pangritata, parmesan, lemon wedge	
Tahini Cauliflower	sm 6.00 / lg 11.50
Fried cauliflower, tahini dressing, sesame seeds, Pangritata, smoked paprika, scallions	
Chipotle Cauliflower	sm 6.00 / lg 11.50
Fried cauliflower, crisp pork belly, chipotle mayo, Bread and butter celery pickle, scallions	
Brussels sprouts cole slaw	sm 3.50 / lg 6.50
House made kimchi	sm 6.00 / lg 11.50
Celery root slaw	sm 6.00 / lg 11.50
Purple cabbage slaw	sm 6.00 / lg 11.50
Macaroni and cheese	5.00
Add bacon or mortadella	1.50 each

BREAKFAST SANDWICHES

Served until 12:00pm

THE PIG LEBOWSKI

7.00

Fried Egg, mortadella, bacon, cheddar
Hash brown, lingonberry jam,
English muffin

REDEYE

7.00

Fried egg, hash brown,
Seared pork belly, house made biscuit

CLUBBER LANG

7.00

Turkey, tomato, bacon,
American cheese, maple mayo, bulky roll

SAUSAGE MORELLI

7.00

House made sausage, fried egg,
Sage goat cheese, baby kale, piquillo peppers,
English muffin

Business Licensing - Re: Blue Rooster Food Co- 5 Dana Street

From: Gary Rogers
To: Business Licensing
Date: 4/10/2015 3:32 PM
Subject: Re: Blue Rooster Food Co- 5 Dana Street
CC: Gary Hutcheson

Police approve. I don't have UI, Gary will be back at the end of the month.

Thanks,
Gary

Commander Gary Rogers
Portland Police Department
109 Middle Street
Portland, Maine 04101
(207) 874-8546

>>> Business Licensing 4/7/2015 10:24 AM >>>

Apologies - here is the application and the SBI we got back for one of the applicants.

Thanks,
Janice

>>> Gary Rogers 4/7/2015 10:09 AM >>>
Missing the attachment.

Commander Gary Rogers
Portland Police Department
109 Middle Street
Portland, Maine 04101
(207) 874-8546

>>> Business Licensing 4/7/2015 8:56 AM >>>

Hi,

Could I get your feedback on this one? Back-up for the 4/22 Council meeting is due tomorrow, and I need PD feedback before then.

Thanks!
Janice

Business License Administrator
bl@portlandmaine.gov
207.874.8557

>>> Business Licensing 3/23/2015 3:19 PM >>>

Hello,

For your approval:

Blue Rooster Food Company, LLC d/b/a Blue Rooster Food Co. has submitted an application for a Class III & IV Beer and Wine License for 5 Dana St. They are expanding their license to include Beer and Wine. They wish to



MAINE STATE BUREAU OF IDENTIFICATION
45 Commerce Drive, Suite 1 / STATE HOUSE STATION # 42
AUGUSTA, ME 04333
(207) 624-7240 (VOICE) (207) 624-4478 (TDD)

JANICE GARDNER
389 CONGRESS STREET
ROOM 203
PORTLAND, ME 04101

Transaction Response #: MIQ99C441357

Criminal History Record

Introduction

This criminal history record was produced in response to the following request
(Produced on 2015-03-23) :

Inquiries Name(s) MICHAEL BARR (1987-08-12)

The information in this criminal history record is provided subject to the following caveats:

Important! When a criminal history record and juvenile crime information record check is processed by the State Bureau of Identification using personal identifiers such as name and date of birth, it is possible that the record supplied belongs to another person with the same or essentially similar name and date of birth. Confirmation that convictions relate to person whose record has been requested requires fingerprint comparison. If the information contained in this response will be used to disqualify an applicant for employment, housing, credit, or other benefits or programs, the person making the eligibility determination using this record should provide the applicant with an opportunity to complete or contest the accuracy of the criminal history information in the response. An individual may request amendment or correction of criminal history record information by a criminal justice agency pursuant to 16 M.R.S. section 709.

****THIS RESPONSE IS BEING PRODUCED FOR YOUR REQUEST SENT: 2015-03-23**

This record, effective September 1, 2000, contains information relating to persons arrested as fugitives from justice, 15 M.R.S section 201.4 or arrested or charged with Maine crimes. It does not include former crimes no longer classified as criminal, or Class D and E crimes in Title 12 or Title 29-A, former Title 29, unless the crime is alcohol-related or drug-related 25 M.R.S. section 1541.4-A.A. For information regarding excluded Marine Resources crimes in

Title 12, contact the Department of Marine Resources. For information regarding excluded Inland Fisheries and Wildlife crimes in Title 12, contact the Department of Inland Fisheries and Wildlife. For information relating to excluded crimes in Title 29-A former Title 29, contact the Secretary of State, Motor Vehicle Division. A list of former crimes is available from this Bureau.

THE FOLLOWING ATN(S) ARE UNSUPPORTED BY FINGERPRINTS IN STATE BUREAU OF IDENTIFICATION FILES: (768095A).

Identification

Subject Name/or potential Alias Name(s)

BARR, MICHAEL G

Subject Description (date information provided listed in parentheses)

State ID Number

ME0184201

DOC Number

Unknown/NA

Sex

Male

Race

White

Skin Tone

Unknown/NA

Height

510

Weight

175

Date of Birth

1987-08-12

Hair Color

Brown

Eye Color

Blue

Scars, Marks, and Tattoos

Unknown/NA

Place of Birth

Unknown/NA

Citizenship

Unknown/NA

Residence

Residence as of
Address

2011-08-30
558 ALLEN AVE
PORTLAND, ME 04102

Caution Information

Firearms Disqualified

C - Cleared

Criminal History

Cycle 001

ATN/Tracking Number 768095A
 Earliest Event Date 2009-10-06

Arrest/Charge (Cycle 001)
 Arrest/Charge Date 2009-10-06
 Arresting/Charging Agency PORTLAND PD; ME0030500
 Subject Name(s) BARR, MICHAEL
 Arrest Type Adult

Charge 1

Charge Number 768095A 001
 Charge Tracking Number 768095A
 Charge Case Number 09-10172
 Agency PORTLAND PD; ME0030500
 Offense Date 2009-10-06
 Charge Description OPERATING UNDER THE INFLUENCE
 Statute 29-A MRSA SUBSECTION 2411(1-A)(A)
 State Sequence Code 11493
 Severity Misdemeanor

Prosecutor Disposition (Cycle 001)
 Prosecution Date 2010-01-27
 Prosecutor Agency DISTRICT ATTORNEY'S OFFICE PORTLAND; ME003013A

Charge 1

Charge Number 768095A 001
 Charge Tracking Number 768095A
 Offense Date 2009-10-06
 Charge Description OPERATING UNDER THE INFLUENCE
 Statute 29-A MRSA SUBSECTION 2411(1-A)(A)
 State Sequence Code 11493
 Severity Misdemeanor
 Prosecutor Action 2010-01-27; ADDED

Court Disposition (Cycle 001)
 Court Case Number CUMCDCR200908318
 Court Agency CUMBERLAND CRIMINAL DOCKET COURT; ME003075J

Charge 1

Charge Number 768095A 001
 Charge Tracking Number 768095A

CUMBERLAND CRIMINAL DOCKET COURT; ME003075J

Offense Date 2009-10-06

Charge Description OPERATING UNDER THE INFLUENCE

Statute 29-A MRSA SUBSECTION 2411(1-A)(A)

State Sequence Code 11493

Severity Misdemeanor

Disposition 2010-01-27; DISMISSED BY DA/AG - PLED OTHER
CHARGE

Sentencing	No data supplied
-------------------	------------------

Corrections	No data supplied
--------------------	------------------

Index of Agencies

Agency	CUMBERLAND CRIMINAL DOCKET COURT; ME003075J
Agency Telephone	207-822-4113
Address	205 NEWBURY STREET PORTLAND, ME 04112-0287

Agency	DISTRICT ATTORNEY'S OFFICE PORTLAND; ME003013A
Agency Telephone	207-871-8384
Address	142 FEDERAL ST PORTLAND, ME 04101

Agency	PORTLAND PD; ME0030500
Agency Telephone	207-874-8479
Address	109 MIDDLE ST PORTLAND, ME 04111



MAINE STATE BUREAU OF IDENTIFICATION
45 Commerce Drive, Suite 1 / STATE HOUSE STATION # 42
AUGUSTA, ME 04333
(207) 624-7240 (VOICE) (207) 624-4478 (TDD)

JANICE GARDNER
389 CONGRESS STREET
ROOM 203
PORTLAND, ME 04101

Transaction Response #: MIQ99C441355

Criminal History Record

Introduction

This criminal history record was produced in response to the following request (Produced on 2015-03-23) :

Inquiries Name(s) RANDY CRUSE (1970-11-28)

NO MATCH WAS FOUND FOR YOUR REQUEST.



MAINE STATE BUREAU OF IDENTIFICATION
45 Commerce Drive, Suite 1 / STATE HOUSE STATION # 42
AUGUSTA, ME 04333
(207) 624-7240 (VOICE) (207) 624-4478 (TDD)

JANICE GARDNER
389 CONGRESS STREET
ROOM 203
PORTLAND, ME 04101

Transaction Response #: MIQ99C441354

Criminal History Record

Introduction

This criminal history record was produced in response to the following request
(Produced on 2015-03-23) :

Inquiries Name(s) DANIEL MCCARTHY (1976-01-01)

NO MATCH WAS FOUND FOR YOUR REQUEST.

Portland, Maine



Yes. Life's good here.

Office of the City Clerk
Katherine L. Jones, CCM, City Clerk

April 8, 2015

Blue Rooster Food Co.
Attn: Dan McCarthy
5 Dana St
Portland, ME 04101

Re: Blue Rooster Food Company, LLC d/b/a Blue Rooster Food Co. Application for a Class III & IV Beer and Wine License at 5 Dana Street.

Dear Mr. McCarthy,

Yesterday, I sent a letter confirming that your application for a Class III & IV (Wine & Beer) License would be considered at the Wednesday, April 22nd Council meeting. This meeting has been rescheduled for **Monday, April 27th at 7:00 p.m.**

I apologize for any confusion. Should you have any questions or concerns, please do not hesitate to contact our office directly at (207) 874-8557 or by email, BL@portlandmaine.gov

Sincerely,

Janice Gardner
Business License Administrator
207-874-8557
bl@portlandmaine.gov

Portland Press Herald
Maine Sunday Telegram
pressherald.com

Classified Advertising Proof

Portland, City Of
HR Department

Room 315, 389 Congress Street
Portland, ME 04101

Thank you for advertising in The Portland Press Herald and Maine Sunday Telegram.

Your order information and a preview of your advertisement are below for your review. If there are any changes or questions, please immediately contact the Classified Department at 207-791-6100 or email classified@pressherald.com

Thank you,
Joan Jensen

207-791-6100 | Monday-Friday 8:00 am - 5:00 pm

ORDER INFORMATION:		Order Number:	31534
Title:	Portland Press Herald	Start Date:	4/13/2015
Class:	1000 Legal Notices	Number of Days:	3
Order Price:	\$212.24	Payment Method:	Invoice
PO Number:	Blue Rooster / Janice		

AD PREVIEW:

Legal Advertisement

Notice of Public Hearing
City of Portland

A Public Hearing will be held on April 27th at 7:00 P.M., in City Council Chambers, 389 Congress St., on Blue Rooster Food Company, LLC d/b/a Blue Rooster Food Co. Application for a Class III & IV (Wine & Beer) License at 5 Dana Street. Sponsored by Katherine L. Jones, City Clerk.

Order 219 - 14/15
Tab 13 4-27-15

MICHAEL F. BRENNAN (MAYOR)
KEVIN J. DONOGHUE (1)
DAVID A. MARSHALL (2)
EDWARD J. SUSLOVIC (3)
JUSTIN COSTA (4)

CITY OF PORTLAND
IN THE CITY COUNCIL

DAVID H. BRENERMAN (5)
JILL C. DUSON (A/L)
JON HINCK (A/L)
NICHOLAS M. MAVODONES (A/L)

ORDER
GRANTING MUNICIPAL OFFICERS'
APPROVAL OF:

JBB Hospitality I, LLC d/b/a Courtyard Portland Downtown/Waterfront. Application to add officers to Class IA 40+ Rooms License with Outdoor Dining on Private Property at 321 Commercial St.

Rcvd 3/23/15

JBB Hospitality I, LLC
15 Main Street, Suite #210
Freeport, ME 04032
(207) 865-6105

March 18, 2015

City of Portland
Mayor Michael F. Brennan and City Council Members
389 Congress Street
Portland, ME 04101

Dear Mayor Brennan and Portland City Council Members:

Currently JBB Hospitality I, LLC d/b/a Courtyard Portland Downtown/Waterfront is operating with the following licenses:

State of Maine Liquor License CLASS I-A (expiration date 5/13/2015)

City of Portland CLASS 1A FSE 40+ Rooms (expiration date 5/13/2015)

The purpose of this letter is to notify you of a change in ownership of the hotel since the initial application was made before the hotel opened last year. At that time, J.B. Brown & Sons was the sole investor. Shortly after the hotel opened, two additional entities invested in the hotel. The ownership currently stands as follows:

J.B. Brown & Sons	85%
MRA Realty, LLC	10%
Dugas Management, LLC	5%

The following items are included with this application:

Letter of intent

City Application for Food Service Establishment With Alcoholic Beverages

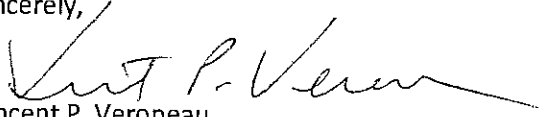
State liquor license renewal application

Payment of Fees including: \$42.00 SBI background check (2 additional officers), and \$70.00 legal advertisement deposit. \$2,075.00 was previously paid to renew the City of Portland CLASS 1A FSE 40+ ROOMS license.

If you should require additional information, please do not hesitate to contact Beth Peters at (207) 865-6105 ext. 103.

Thank you for your consideration of our application.

Sincerely,


Vincent P. Veroneau
President
JBB Hospitality I, LLC

Office of the City Clerk

389 Congress Street

Portland, ME 04101

(207) 874-8557

Application for Food Service Establishment With Alcoholic Beverages

Type of Liquor License Applying for: CLASS 1 A FSE 40+ RoomsPlease check one: (Corporation/ LLC/ Non-profit org. ☒) (Sole Proprietor ☐) (Partnership ☐)Business Name (d/b/a): Courtyard Portland Downtown/Waterfront Phone: (207) 780-6000Location Address: 321 Commercial St Portland ^{ME} ZIP 04101

If new, what was formerly in this location: _____

Mailing Address: 15 main st, Suite 210 Freeport ^{ME} ZIP 04032Contact Person: Beth Peters Phone: (207) 865-6105 ext 103Manager of Establishment: Aaron Marks ^{cell} Home Phone # (104) 680-2244Owner of Premises (landlord): JBB Hospitality, LLCAddress of Premises Owner: 15 main st, Ste 210 ^{Freeport, ME} ZIP 04032Does the Issuance of this license directly or indirectly benefit any City employee(s)? Yes ☐ No ☒

If yes, list name(s) of employee(s) and department(s). _____

Have any of the applicants, including the corporation if applicable, ever held a business license with the City of Portland? Yes ☒ No ☐ If yes, please list business name(s) and location(s):CLASS 1A FSE 40+ Rooms - JBB Hospitality I, LLCIs any principal officer under the age of 18? Yes ☐ No ☒Have applicant, partners, associates, or corporate officers ever been *arrested*, *indicted*, or *convicted* for any violation of law? NO If yes, please explain: _____

SOLE PROPRIETOR / PARTNERSHIP INFORMATION: (if corporation, leave blank)

Name of Owner(s): _____	DOB _____	Residence Address _____
Name of Owner(s): _____	DOB _____	Residence Address _____
Name of Owner(s): _____	DOB _____	Residence Address _____

CORPORATE / LLC / NON-PROFIT ORGANIZATION APPLICANTS: (if sole proprietor, leave blank)

Corporation Name: JBB Hospitality I, LLCCorporation Mailing Address: 15 main st, Suite 210 ^{Freeport, ME} ZIP 04032Contact Person: Beth Peters Phone Number: (207) 865-6105 ext. 103

PRINCIPAL OFFICERS: (if more space is needed, please attach a separate page)

Name <u>Vincent Veroneau</u>	Title <u>President</u>	DOB <u>5/3/1963</u>	Residence Address <u>40 Caldwell St Portland ME 04103</u>
Name <u>*Paul Lohne</u>	Title <u>member</u>	DOB <u>12/8/1946</u>	Residence Address <u>75 Cambridge Pkwy Cambridge, MA 02142</u>
Name <u>*Marc Dugas</u>	Title <u>member</u>	DOB <u>12/3/63</u>	Residence Address <u>30 Clearwater Dr Scarborough, ME 04074</u>
Name <u>Dugas Management LLC</u>	Title _____	DOB _____	Residence Address _____
Name _____	Title _____	DOB _____	Residence Address _____

(Please see reverse side)

Type of Food Served: Healthy choices including breakfast and dinner options.

Please check all that will be served: Beer ☒ Wine ☒ Liquor ☒

Percentage of sales – Generated from Food: 67% Generated from Alcohol: 33%

Hours and Days of operation: Breakfast: 6:30 am - 10:00 am
Dinner: 5:00 pm - 10:00 pm
Bar: 5:00 pm - 10:00 pm

Will full-course meals, only capable of consumption with the use of tableware, be served the entire time the establishment is open? Yes ☐ No ☒.

If no, please explain A variety of food will be offered including sandwiches and appetizers

Is the establishment less than 300 feet from a school, dormitory, church or parish house, or similar establishment? Yes ☐ No ☒. If yes, give the distance _____.

Will you have entertainment on the premises? Yes ☐ No ☒ (If yes, a separate application is required.)

Will you permit dancing on the premises? Yes ☐ No ☒

Will you permit dancing after 1:00am? Yes ☐ No ☒

Will you have outside dining? Yes ☒ No ☐. If yes, please indicate location on diagram.

Also, will the outside dining be on PUBLIC ☐ or PRIVATE ☒ property?

Have you applied for an Outdoor Dining Permit? Yes ☒ No ☐

Will you have any amusement devices (pinball, video games, juke box)? Yes ☐ No ☒.

If yes, please list, # of pinball: _____ # of amusements: _____ # of pool tables: _____

What is your targeted opening date? : opened on: 5/21/2014

Applicant, by signature below, agrees to abide by all laws, orders, ordinances, rules and regulations governing the above licensee and further agrees that any misstatement of material fact may result in refusal of license or revocation if one has been granted. Applicant agrees that all taxes and accounts pertaining to the premises will be paid prior to issuance of the license.

It is understood that this and any application(s) shall become public record and the applicant(s) hereby waive(s) any rights to privacy with respect thereto.

I/We, hereby authorize the release of any criminal history record information to the City Clerk's Office or licensing authority. I/We, hereby waive any rights to privacy with respect thereto.

Signature [Signature] Title President Date 3/23/15

**BUREAU OF ALCOHOLIC BEVERAGES
DIVISION OF LIQUOR LICENSING & ENFORCEMENT
8 STATE HOUSE STATION
AUGUSTA, ME 04333-0008**



Promise by any person that he or she can expedite a liquor license through influence should be completely disregarded.

To avoid possible financial loss an applicant, or prospective applicant, should consult with the Division before making any substantial investment in an establishment that now is, or may be, attended by a liquor license.

DEPARTMENT USE ONLY

LICENSE NUMBER:

CLASS:

DEPOSIT DATE

AMT. DEPOSITED:

BY:

CK/MO/CASH:

PRESENT LICENSE EXPIRES 5/13/15

INDICATE TYPE OF PRIVILEGE: ☒ MALT ☒ SPIRITUOUS ☒ VINOUS

INDICATE TYPE OF LICENSE:

☒ RESTAURANT (Class I,II,III,IV)

☒ HOTEL-OPTINONAL FOOD (Class I-A)

☐ CLASS A LOUNGE (Class X)

☐ CLUB (Class V)

TAVERN (Class IV)

☐ RESTAURANT/LOUNGE (Class XI)

☐ HOTEL (Class I,II,III,IV)

☐ CLUB-ON PREMISE CATERING (Class I)

☐ GOLF CLUB (Class I,II,III,IV)

☐ OTHER: _____

REFER TO PAGE 3 FOR FEE SCHEDULE

ALL QUESTIONS MUST BE ANSWERED IN FULL

1. APPLICANT(S) - (Sole Proprietor, Corporation, Limited Liability Co., etc.) <u>JOB Hospitality I, LLC</u> DOB:		2. Business Name (D/B/A) <u>Courtyard Portland Downtown/Waterfront</u>	
DOB:			
DOB:		Location (Street Address) <u>321 Commercial Street</u>	
Address <u>clo maine course Hospitality Group</u>	City/Town <u>Portland</u>	State <u>ME</u>	Zip Code <u>04032</u>
Mailing Address <u>15 main street, Suite 210</u>		Mailing Address <u>15 main street Suite 210</u>	
City/Town <u>Freeport</u>	State <u>ME</u>	Zip Code <u>04032</u>	City/Town <u>Freeport</u>
Telephone Number <u>(207) 865-6105</u>	Fax Number <u>(207) 865-9761</u>	Business Telephone Number <u>(207) 780-6000</u>	Fax Number <u>(207) 274-6820</u>
Federal I.D. # <u>46-4908308</u>		Seller Certificate #	

3. If premises is a hotel, indicate number of rooms available for transient guests: 132

4. State amount of gross income from period of last license: ROOMS \$ 4,156,682 FOOD \$ 173,275 LIQUOR \$ 85,542

5. Is applicant a corporation, limited liability company or limited partnership? YES ☒ NO ☐

Complete Supplementary Questionnaire, If YES

6. Do you permit dancing or entertainment on the licensed premises? YES ☐ NO ☒

7. If manager is to be employed, give name: Aaron Marks
8. If business is NEW or under new ownership, indicate starting date: n/a
 Requested inspection date: ASAP Business hours: 24/7
9. Business records are located at: 15 main street, Suite 210, Freeport, ME 04032
10. Is/are applicant(s) citizens of the United States? YES ☒ NO ☐
11. Is/are applicant(s) residents of the State of Maine? YES ☐ NO ☒ (see below)
12. List name, date of birth, and place of birth for all applicants, managers, and bar managers. Give maiden name, if married:
 Use a separate sheet of paper if necessary.

Name in Full (Print Clearly)	DOB	Place of Birth
<u>See attached</u>		

Residence address on all of the above for previous 5 years (Limit answer to city & state)

See attached

13. Has/have applicant(s) or manager ever been convicted of any violation of the law, other than minor traffic violations, of any State of the United States? YES ☐ NO ☒

Name: _____ Date of Conviction: _____

Offense: _____ Location: _____

Disposition: _____

Will any law enforcement official benefit financially either directly or indirectly in your license, if issued?

Yes ☐ No ☒ If Yes, give name: _____

15. Has/have applicant(s) formerly held a Maine liquor license? YES ☒ NO ☐

16. Does/do applicant(s) own the premises? Yes ☒ No ☐ If No give name and address of owner: _____

17. Describe in detail the premises to be licensed: (Supplemental Diagram Required) 132 room limited service hotel including dining services

18. Does/do applicant(s) have all the necessary permits required by the State Department of Human Services?

YES ☒ NO ☐ Applied for: _____

19. What is the distance from the premises to the NEAREST school, school dormitory, church, chapel or parish house, measured from the main entrance of the premises to the main entrance of the school, school dormitory, church, chapel or parish house by the ordinary course of travel? 500 feet Which of the above is nearest? School

20. Have you received any assistance financially or otherwise (including any mortgages) from any source other than yourself in the establishment of your business? YES ☒ NO ☐

If YES, give details: Loan through Bangor Savings Bank

The Division of Liquor Licensing & Inspection is hereby authorized to obtain and examine all books, records and tax returns pertaining to the business, for which this liquor license is requested, and also such books, records and returns during the year in which any liquor license is in effect.

NOTE: "I understand that false statements made on this form are punishable by law. Knowingly supplying false information on this form is a Class D offense under the Criminal Code, punishable by confinement of up to one year or by monetary fine of up to \$1000 or both."

Dated at: Portland, ME on 3/19, 20 15
Town/City, State Date

Please sign in blue ink

Signature of Applicant or Corporate Officer(s)

Signature of Applicant or Corporate Officer(s)

Vincent P. Veroneau
Print Name

Print Name

NOTICE – SPECIAL ATTENTION

All applications for NEW or RENEWAL liquor licenses must contact their Municipal Officials or the County Commissioners unincorporated places for approval of their application for liquor licenses prior to submitting them to the bureau.

THIS APPROVAL EXPIRES IN 60 DAYS.

FEE SCHEDULE

Class I Spirituous, Vinous and Malt \$ 900.00
CLASS I: Airlines; Civic Auditoriums; Class A Restaurants; Clubs with catering privileges; Dining Cars; Golf Clubs; Hotels; Indoor Ice Skating Clubs; Indoor Tennis Clubs; Vessels; Qualified Caterers; OTB.

Class I-A Spirituous, Vinous and Malt, Optional Food (Hotels Only) \$1,100.00
CLASS I-A: Hotels only that do not serve three meals a day.

Class II Spirituous Only \$ 550.00
CLASS II: Airlines; Civic Auditoriums; Class A Restaurants; Clubs with catering privileges; Dining Cars; Golf Clubs; Hotels; Indoor Ice Skating Clubs; Indoor Tennis Clubs; and Vessels.

Class III Vinous Only \$ 220.00
CLASS III: Airlines; Civic Auditoriums; Class A Restaurants; Clubs with catering privileges; Dining Cars; Golf Clubs; Hotels; Indoor Ice Skating Clubs; Indoor Tennis Clubs; Restaurants; Vessels; Pool Halls; and Bed and Breakfasts.

Class IV Malt Liquor Only \$ 220.00
CLASS IV: Airlines; Civic Auditoriums; Class A Restaurants; Clubs with catering privileges; Dining Cars; Golf Clubs; Hotels; Indoor Ice Skating Clubs; Indoor Tennis Clubs; Restaurants; Taverns; Pool Halls; and Bed and Breakfasts.

Class V Spirituous, Vinous and Malt (Clubs without Catering, Bed & Breakfasts) \$ 495.00
CLASS V: Clubs without catering privileges.

Class X Spirituous, Vinous and Malt – Class A Lounge \$2,200.00
CLASS X: Class A Lounge

Class XI Spirituous, Vinous and Malt – Restaurant Lounge \$1,500.00
CLASS XI: Restaurant/Lounge; and OTB.

FILING FEE \$ 10.00

UNORGANIZED TERRITORIES \$10.00 filing fee shall be paid directly to County Treasurer. All applicants in unorganized territories shall submit along with their application evidence of payment to the County Treasurer.

JBB Hospitality I, LLC
d/b/a Courtyard Portland Downtown/Waterfront
State of Maine Liquor License Application CLASS I-A

Question #12:

List name, date of birth, and place of birth for all applicants, managers, and bar managers.

Name in Full	DOB	Place of Birth	Residence address for previous 5 years (City & State)
Aaron Marks	7/3/1981	Statesville, NC	Scarborough, ME; Portland, ME; Statesville, NC
Vincent Veroneau	5/3/1963	Portland, ME	Portland, ME
Paul Lohnes	12/8/1946	Cambridge, MA	Cambridge, MA; Winchester, MA
Marc Dugas	12/3/1963	Portland, ME	Scarborough, ME





State of Maine
Bureau of Alcoholic Beverages
Division of Liquor Licensing and Enforcement

For Office Use Only:

License #: _____

Date Filed: _____

Supplemental Information Required for
Business Entities Who Are Licensees

For information required for Questions 1 to 4, this information is on file with the Maine Secretary of State's office and must match their record information. Please clearly complete this form in its entirety.

1. Exact legal name:

JBB Hospitality I, LLC

2. Other business name for your entity (DBA), if any:

Courtyard Portland Downtown / Waterfront

3. Date of filing with the Secretary of State: 5/23/2012

4. State in which you are formed: Maine

5. If not a Maine business entity, date on which you were authorized to transact business in the State of Maine: _____

6. List the name and addresses for previous 5 years, birth dates, titles of officers, directors and list the percentage ownership: (attached additional sheets as needed)

Name	Address for Previous 5 years	Date of Birth	Ownership %
J.B. Brown & Sons	36 Danforth St	n/a	85%
	Portland, ME		
	04101		
see attached			

7. Is any principal person involved with the entity a law enforcement official?

Yes

☐

No

☒

8. If Yes to Question 7, please provide the name and law enforcement agency:

Name: _____ Agency: _____

9. Has any principal person involved in the entity ever been convicted of any violation of the law, other than minor traffic violations, in the United States?

Yes

☐

No

☒

10. If Yes to Question 9, please complete the following: (attached additional sheets as needed)

Name: _____

Date of Conviction: _____

Offense: _____

Location of Conviction: _____

Disposition: _____

Signature:



Signature of Duly Authorized Person

2/17/2015
Date

Vincent P. Veroneau

Print Name of Duly Authorized Person

If you have questions regarding the legal name or assumed (DBA) name on file with the Secretary of State's office, please call (207) 624-7752. The SOS can only speak to the information on file with their office, not the filing of this supplemental information – please direct any questions about this form to our office at the number below.

Submit Completed Forms To:

Bureau of Alcoholic Beverages and Lottery Operations
Division of Liquor Licensing and Enforcement
164 State House Station
Augusta, Me 04333-0101
Telephone Inquiries: (207) 624-7220
Fax: (207) 287-3424
Email Inquiries: MaineLiquor@Maine.gov

JBB Hospitality I, LLC
Ownership Information

J.B. Brown & Sons

P.O. Box 207

Portland, ME 04112

EIN

01-0036030

Ownership %

85%

MRA Realty, LLC

Lavery Lohnes Properties

75 Cambridge Parkway, Ste 100

Cambridge, MA 02142-1229

EIN

26-2654016

Ownership %

10%

Dugas Management, LLC

Marc Dugas

P.O. Box 1732

Scarborough, ME 04070-1732

SS#

002-56-5449

Ownership %

5%



MAINE STATE BUREAU OF IDENTIFICATION
45 Commerce Drive, Suite 1 / STATE HOUSE STATION # 42
AUGUSTA, ME 04333
(207) 624-7240 (VOICE) (207) 624-4478 (TDD)

JANICE GARDNER
389 CONGRESS STREET
ROOM 203
PORTLAND, ME 04101

Transaction Response #: MIQ99C447182

Criminal History Record

Introduction

This criminal history record was produced in response to the following request (Produced on 2015-03-30) :
Inquiries Name(s) PAUL LOHNES (1946-12-08)

NO MATCH WAS FOUND FOR YOUR REQUEST.



MAINE STATE BUREAU OF IDENTIFICATION
45 Commerce Drive, Suite 1 / STATE HOUSE STATION # 42
AUGUSTA, ME 04333
(207) 624-7240 (VOICE) (207) 624-4478 (TDD)

JANICE GARDNER
389 CONGRESS STREET
ROOM 203
PORTLAND, ME 04101

Transaction Response #: MIQ99C447184

Criminal History Record

Introduction

This criminal history record was produced in response to the following request (Produced on 2015-03-30) :
Inquiries Name(s) MARC DUGAS (1963-12-03)

NO MATCH WAS FOUND FOR YOUR REQUEST.

Portland, Maine



Yes. Life's good here.

Office of the City Clerk

Katherine L. Jones, CCM, City Clerk

April 7, 2015

JBB Hospitality I, LLC
Attn: Beth Peters
15 Main St., Suite 210
Freeport, ME 04032

Re: JBB Hospitality I, LLC d/b/a Courtyard Portland Downtown/Waterfront. Application to add officers to Class IA 40+ Rooms License with Outdoor Dining on Private Property at 321 Commercial St.

Dear Ms. Peters,

Yesterday, I sent a letter confirming that your application to add officers to the hotel's Class IA 40+ Room License would be considered at the Wednesday, April 22nd Council meeting. This meeting has been rescheduled for **Monday, April 27th at 7:00 p.m.**

I apologize for any confusion. Should you have any questions or concerns, please do not hesitate to contact our office directly at (207) 874-8557 or by email, BL@portlandmaine.gov

Sincerely,

Janice Gardner
Business License Administrator
207-874-8557
bl@portlandmaine.gov

Portland Press Herald
Maine Sunday Telegram
pressherald.com

Classified Advertising Proof

Portland, City Of
HR Department

Room 315, 389 Congress Street
Portland, ME 04101

Thank you for advertising in The Portland Press Herald and Maine Sunday Telegram.

Your order information and a preview of your advertisement are below for your review. If there are any changes or questions, please immediately contact the Classified Department at 207-791-6100 or email classified@pressherald.com

Thank you,
Joan Jensen

207-791-6100 | Monday-Friday 8:00 am - 5:00 pm

ORDER INFORMATION:		Order Number:	31544
Title:	Portland Press Herald	Start Date:	4/13/2015
Class:	1000 Legal Notices	Number of Days:	3
Order Price:	\$277.94	Payment Method:	Invoice
PO Number:	Courtyard / Janice		

AD PREVIEW:

Legal Advertisement

**Notice of Public Hearing
City of Portland**

A Public Hearing will be held on April 27th at 7:00 P.M., in City Council Chambers, 389 Congress St., on JBB Hospitality I, LLC d/b/a Courtyard Portland Downtown/Waterfront. Application to add officers to Class 1A 40+ Rooms License with Outdoor Dining on Private Property at 321 Commercial St. Sponsored by Katherine L. Jones, City Clerk.

*Order 220 - 14/15
Tab 14 4-27-15*

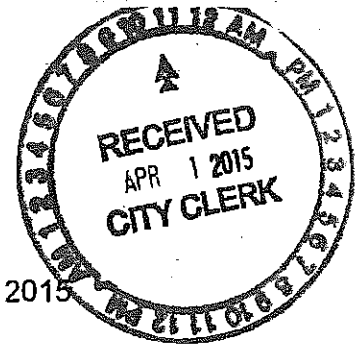
MICHAEL F. BRENNAN (MAYOR)
KEVIN J. DONOGHUE (1)
DAVID A. MARSHALL (2)
EDWARD J. SUSLOVIC (3)
JUSTIN COSTA (4)

CITY OF PORTLAND
IN THE CITY COUNCIL

DAVID H. BRENERMAN (5)
JILL C. DUSON (A/L)
JON HINCK (A/L)
NICHOLAS M. MAVODONES (A/L)

ORDER
GRANTING MUNICIPAL OFFICERS'
APPROVAL OF:

**Brakes & Shocks, LLC d/b/a Tandem Coffee & Bakery. Application for a Class III & IV
(Wine & Beer) License with Outdoor Dining on Private Property at 742 Congress St.**



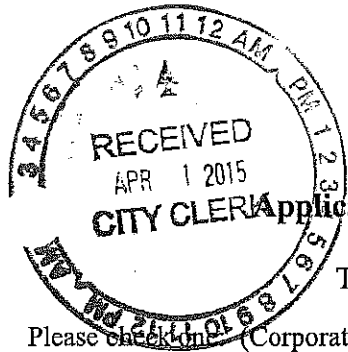
March 26, 2015

To Mayor Brennan and the Members of City Council:

We at Tandem Coffee + Bakery intend to responsibly sell beer and wine on premise to of age customers at our 742 Congress Street location. All persons who look under the age of 40 shall be asked for identification. Please feel free to contact me should you have any concerns or questions.

Thank you,

Kathleen Pratt
Owner
Tandem Coffee + Bakery



Office of the City Clerk
389 Congress Street
Portland, ME 04101
(207) 874-8557

Application for Food Service Establishment With Alcoholic Beverages

Type of Liquor License Applying for: CLASS III & IV (BEER + WINE)

Please check one: (Corporation/ LLC/ Non-profit org. ☒) (Sole Proprietor ☐) (Partnership ☐)

Business Name (d/b/a): TANDEM COFFEE + BAKERY Phone: 805.1887

Location Address: 742 CONGRESS ST. PORTLAND, ME ZIP 04102

If new, what was formerly in this location: _____

Mailing Address: SAME ZIP _____

Contact Person: KATHLEEN PRATT Phone: 415.608.8506

Manager of Establishment: VIENT DOBULI Home Phone # 408.806.1334

Owner of Premises (landlord): MICHAEL KAPLAN

Address of Premises Owner: 49 OCEAN AVE. PORTLAND ZIP 04103

Does the Issuance of this license directly or indirectly benefit any City employee(s)? Yes ☐ No ☒

If yes, list name(s) of employee(s) and department(s). _____

Have any of the applicants, including the corporation if applicable, ever held a business license with the City of Portland? Yes ☒ No ☐ If yes, please list business name(s) and location(s):

TANDEM COFFEE ROASTERS (122 ANDERSON ST.) SONNY'S (83 EXCHANGE ST.)
LOCAL 198 (685 CONGRESS ST.) SALVAGE (919 CONGRESS ST.)

Is any principal officer under the age of 18? Yes ☐ No ☒

Have applicant, partners, associates, or corporate officers ever been arrested, indicted, or convicted for any violation of law? _____ If yes, please explain: _____

SOLE PROPRIETOR / PARTNERSHIP INFORMATION: (if corporation, leave blank)

Name of Owner(s): _____	DOB _____	Residence Address _____
Name of Owner(s): _____	DOB _____	Residence Address _____
Name of Owner(s): _____	DOB _____	Residence Address _____

CORPORATE / LLC / NON-PROFIT ORGANIZATION APPLICANTS: (if sole proprietor, leave blank)

Corporation Name: BRAKES & SHOCKS, LLC

Corporation Mailing Address: 742 CONGRESS ST. PORTLAND ZIP 04102

Contact Person: KATHLEEN PRATT Phone Number: 415.608.8506

PRINCIPAL OFFICERS: (if more space is needed, please attach a separate page)

Name <u>KATHLEEN PRATT</u>	Title <u>MEMBER</u>	DOB <u>4/14/82</u>	Residence Address <u>18 MADISON ST. 04101</u>
Name <u>WILLIAM PRATT</u>	Title <u>MEMBER</u>	DOB <u>3/26/81</u>	Residence Address <u>18 MADISON ST. 04101</u>
Name <u>VIENT DOBULI</u>	Title <u>MEMBER</u>	DOB <u>6/27/82</u>	Residence Address <u>58 CONGRESS ST. 04102</u>
Name <u>JAN VILLANI</u>	Title <u>MEMBER</u>	DOB <u>4/30/66</u>	Residence Address <u>43 CLARK ST. 04102</u>
Name <u>GARRY BOWCOTT</u>	Title <u>MEMBER</u>	DOB <u>12/6/73</u>	Residence Address <u>8 A ST. 04102</u>
Name <u>BRIAN</u>	Title _____	DOB _____	Residence Address _____
<u>MATTHEW PURRINGTON</u> <u>MEMBER</u>		<u>6/27/66</u>	<u>128 CHADWICK ST. 04102</u>
<u>PATRICK CORRINGTON</u> <u>MEMBER</u>		<u>5/5/69</u>	<u>(Please see reverse side)</u>
<u>107 HANDOVER ST. 04101</u>			

Type of Food Served: BAKED GOODS AND PREPARED SANDWICHES

Please check all that will be served: Beer ☒ Wine ☒ Liquor ☐

Percentage of sales - Generated from Food: 40% Generated from Alcohol: 20% 40% COFFEE

Hours and Days of operation: TUES - SAT (7-10 PM), SUN (9-3), MON CLOSED

Will full-course meals, only capable of consumption with the use of tableware, be served the entire time the establishment is open? Yes ☐ No ☒

If no, please explain WE ARE A BAKERY (DINE IN & OUT), NOT A RESTAURANT

Is the establishment less than 300 feet from a school, dormitory, church or parish house, or similar establishment? Yes ☐ No ☒ If yes, give the distance _____

Will you have entertainment on the premises? Yes ☐ No ☒ (If yes, a separate application is required.)

Will you permit dancing on the premises? Yes ☐ No ☒

Will you permit dancing after 1:00am? Yes ☐ No ☒

Will you have outside dining? Yes ☒ No ☐ If yes, please indicate location on diagram.

Also, will the outside dining be on PUBLIC ☐ or PRIVATE ☒ property?

Have you applied for an Outdoor Dining Permit? Yes ☒ No ☐

Will you have any amusement devices (pinball, video games, juke box)? Yes ☐ No ☒

If yes, please list, # of pinball: _____ # of amusements: _____ # of pool tables: _____

What is your targeted opening date? : OPENED AUG. 28TH, 2014

Applicant, by signature below, agrees to abide by all laws, orders, ordinances, rules and regulations governing the above licensee and further agrees that any misstatement of material fact may result in refusal of license or revocation if one has been granted. Applicant agrees that all taxes and accounts pertaining to the premises will be paid prior to issuance of the license.

It is understood that this and any application(s) shall become public record and the applicant(s) hereby waive(s) any rights to privacy with respect thereto.

I/We, hereby authorize the release of any criminal history record information to the City Clerk's Office or licensing authority. I/We, hereby waive any rights to privacy with respect thereto.

Signature K. Leach Title 3/28/15 Date OWNER

* WE HAVE AN
OUTDOOR
SEATING
PERMIT

**BUREAU OF ALCOHOLIC BEVERAGES
DIVISION OF LIQUOR LICENSING & ENFORCEMENT
164 STATE HOUSE STATION
AUGUSTA, ME 04333-0164**



Promise by any person that he or she can expedite a liquor license through influence should be completely disregarded.

To avoid possible financial loss an applicant, or prospective applicant, should consult with the Division before making any substantial investment in an establishment that now is, or may be, attended by a liquor license.

DEPARTMENT USE ONLY

LICENSE NUMBER: _____ **CLASS:** _____

DEPOSIT DATE _____

AMT. DEPOSITED: _____ **BY:** _____

CK/MO/CASH: _____

PRESENT LICENSE EXPIRES _____

INDICATE TYPE OF PRIVILEGE: ☒ MALT ☐ SPIRITUOUS ☒ VINOUS

INDICATE TYPE OF LICENSE:

- ☒ RESTAURANT (Class I,II,III,IV)
- ☐ HOTEL-OPTINONAL FOOD (Class I-A)
- ☐ CLASS A LOUNGE (Class X)
- ☐ CLUB (Class V)
- ☐ TAVERN (Class IV)

- ☐ RESTAURANT/LOUNGE (Class XI)
- ☐ HOTEL (Class I,II,III,IV)
- ☐ CLUB-ON PREMISE CATERING (Class I)
- ☐ GOLF CLUB (Class I,II,III,IV)
- ☐ OTHER: _____

REFER TO PAGE 3 FOR FEE SCHEDULE

ALL QUESTIONS MUST BE ANSWERED IN FULL

1. APPLICANT(S) –(Sole Proprietor, Corporation, Limited Liability Co., etc.) <u>BRAKES & SHOCKS, LLC</u> DOB: _____ _____ DOB: _____ _____ DOB: _____			2. Business Name (D/B/A) <u>TANDEM COFFEE + BAKERY (DBA)</u> <u>BRAKES & SHOCKS, LLC</u>		
Address <u>742 CONGRESS ST.</u>			Location (Street Address) <u>742 CONGRESS ST.</u>		
City/Town <u>PORTLAND</u> State <u>ME</u> Zip Code <u>04102</u>			City/Town <u>PORTLAND</u> State <u>ME</u> Zip Code <u>04102</u>		
Telephone Number <u>207.809.1887</u> Fax Number _____			Business Telephone Number <u>207.809.1887</u> Fax Number _____		
Federal I.D. # <u>46-5185683</u>			Seller Certificate # <u>1167726</u>		

3. If premises is a hotel, indicate number of rooms available for transient guests: _____
4. State amount of gross income from period of last license: ROOMS \$ _____ FOOD \$ _____ LIQUOR \$ _____
5. Is applicant a corporation, limited liability company or limited partnership? YES ☒ NO ☐

If YES, complete Supplementary Questionnaire

6. Do you permit dancing or entertainment on the licensed premises? YES ☐ NO ☒
7. If manager is to be employed, give name: VLEN DOBUI
8. If business is NEW or under new ownership, indicate starting date: AUG. 28, 2014
 Requested inspection date: _____ Business hours: TUES-SAT 7-10PM, SUN 9-3PM MON CLOSED
9. Business records are located at: 742 CONGRESS ST. PORTLAND, ME 04102

10. Is/are applicant(s) citizens of the United States? YES ☒ NO ☐

11. Is/are applicant(s) residents of the State of Maine? YES ☒ NO ☐

12. List name, date of birth, and place of birth for all applicants, managers, and bar managers. Give maiden name, if married:
Use a separate sheet of paper if necessary.

Name in Full (Print Clearly)	DOB	Place of Birth
* SEE ATTACHED ! *		

Residence address on all of the above for previous 5 years (Limit answer to city & state)

13. Has/have applicant(s) or manager ever been convicted of any violation of the law, other than minor traffic violations, of any State of the United States? YES ☐ NO ☒

Name: _____ Date of Conviction: _____

Offense: _____ Location: _____

Disposition: _____

14. Will any law enforcement official benefit financially either directly or indirectly in your license, if issued?
Yes ☐ No ☒ If Yes, give name: _____

15. Has/have applicant(s) formerly held a Maine liquor license? YES ☒ NO ☐

16. Does/do applicant(s) own the premises? Yes ☐ No ☒ If No give name and address of owner: MICHAEL KAPLAN - 49 OCEAN AVE. PORTLAND, ME 04103

17. Describe in detail the premises to be licensed: (Supplemental Diagram Required) BAKERY/CAFE THAT IS 1355 SQ. FT W/ 20 SEATS (SEE DIAGRAM)

18. Does/do applicant(s) have all the necessary permits required by the State Department of Human Services?
YES ☒ NO ☐ Applied for: _____

19. What is the distance from the premises to the NEAREST school, school dormitory, church, chapel or parish house, measured from the main entrance of the premises to the main entrance of the school, school dormitory, church, chapel or parish house by the ordinary course of travel? 0.2 MILES Which of the above is nearest? CHURCH (SACRED HEART)

20. Have you received any assistance financially or otherwise (including any mortgages) from any source other than yourself in the establishment of your business? YES ☒ NO ☐

If YES, give details: BUSINESS LOAN FROM BANGOR SAVINGS & FROM FAMILY

The Division of Liquor Licensing & Inspection is hereby authorized to obtain and examine all books, records and tax returns pertaining to the business, for which this liquor license is requested, and also such books, records and returns during the year in which any liquor license is in effect.

NOTE: "I understand that false statements made on this form are punishable by law. Knowingly supplying false information on this form is a Class D offense under the Criminal Code, punishable by confinement of up to one year or by monetary fine of up to \$2,000 or both."

Dated at: PORTLAND, ME on 4/1/15, 20 15
Town/City, State Date

Please sign in blue ink

Signature of Applicant or Corporate Officer(s)

KATHLEEN PRATT

Print Name

Signature of Applicant or Corporate Officer(s)

Print Name



State of Maine
Bureau of Alcoholic Beverages
Division of Liquor Licensing and Enforcement

Supplemental Information Required for
Business Entities Who Are Licensees

For Office Use Only:

License #: _____

Date Filed: _____

For information required for Questions 1 to 4, this information is on file with the Maine Secretary of State's office and must match their record information. Please clearly complete this form in its entirety.

1. Exact legal name:

BRACKS & STOCKS, LLC

2. Other business name for your entity (DBA), if any:

TANDEM COFFEE + BAKERY

3. Date of filing with the Secretary of State: 4/1/15

4. State in which you are formed: MAINE

5. If not a Maine business entity, date on which you were authorized to transact business in the State of Maine: _____

6. List the name and addresses for previous 5 years, birth dates, titles of officers, directors and list the percentage ownership: (attached additional sheets as needed)

Name	Address for Previous 5 years	Date of Birth	Ownership %
<u>SEE ATTACHED</u>			

7. Is any principal person involved with the entity a law enforcement official?

Yes ☐ No ☒

8. If Yes to Question 7, please provide the name and law enforcement agency:

Name: _____ Agency: _____

9. Has any principal person involved in the entity ever been convicted of any violation of the law, other than minor traffic violations, in the United States?

Yes

☐

No

☒

10. If Yes to Question 9, please complete the following: (attached additional sheets as needed)

Name: _____

Date of Conviction: _____

Offense: _____

Location of Conviction: _____

Disposition: _____

Signature:



Signature of Duly Authorized Person

4/1/15

Date

KATHLEEN PRATT

Print Name of Duly Authorized Person

If you have questions regarding the legal name or assumed (DBA) name on file with the Secretary of State's office, please call (207) 624-7752. The SOS can only speak to the information on file with their office, not the filing of this supplemental information – please direct any questions about this form to our office at the number below.

Submit Completed Forms To: Bureau of Alcoholic Beverages and Lottery Operations
Division of Liquor Licensing and Enforcement
164 State House Station
Augusta, Me 04333-0101
Telephone Inquiries: (207) 624-7220
Fax: (207) 287-3424
Email Inquiries: MaineLiquor@Maine.gov

Tandem Coffee + Bakery State Application: Beer and Wine License

Applicants and Managers

<u>Name</u>	<u>DOB</u>	<u>Place of Birth</u>	<u>Residence Address</u>
Kathleen Pratt (Previously Brooklyn, NY – Moved to Portland in 2012)	4/14/82	Lancaster, PA	18 Madison St. Portland, ME
William Pratt (Previously Brooklyn, NY – Moved to Portland in 2012)	3/26/81	Torrington, CT	18 Madison St. Portland, ME
Vien Dobui (Previously San Francisco, CA – Moved to Portland in 2012)	6/27/82	Arlington, VA	48 Congress St. Portland, ME
Jay Villani	4/30/66	Staten Island, NY	43 Clark St. Portland, ME
Matt Purrington	6/27/66	Concord, NH	128 Chadwick St. Portland, ME
Pat Corrigan	5/5/69	Woonsocket, RI	107 Hanover St. Portland, ME
Garry Bowcott	12/6/73	Glasgow, Scotland	8 A St. Portland, ME

TANDEM
COFFEE ROASTERS
742 Congress Street
Portland, ME 04101

02/16/2014

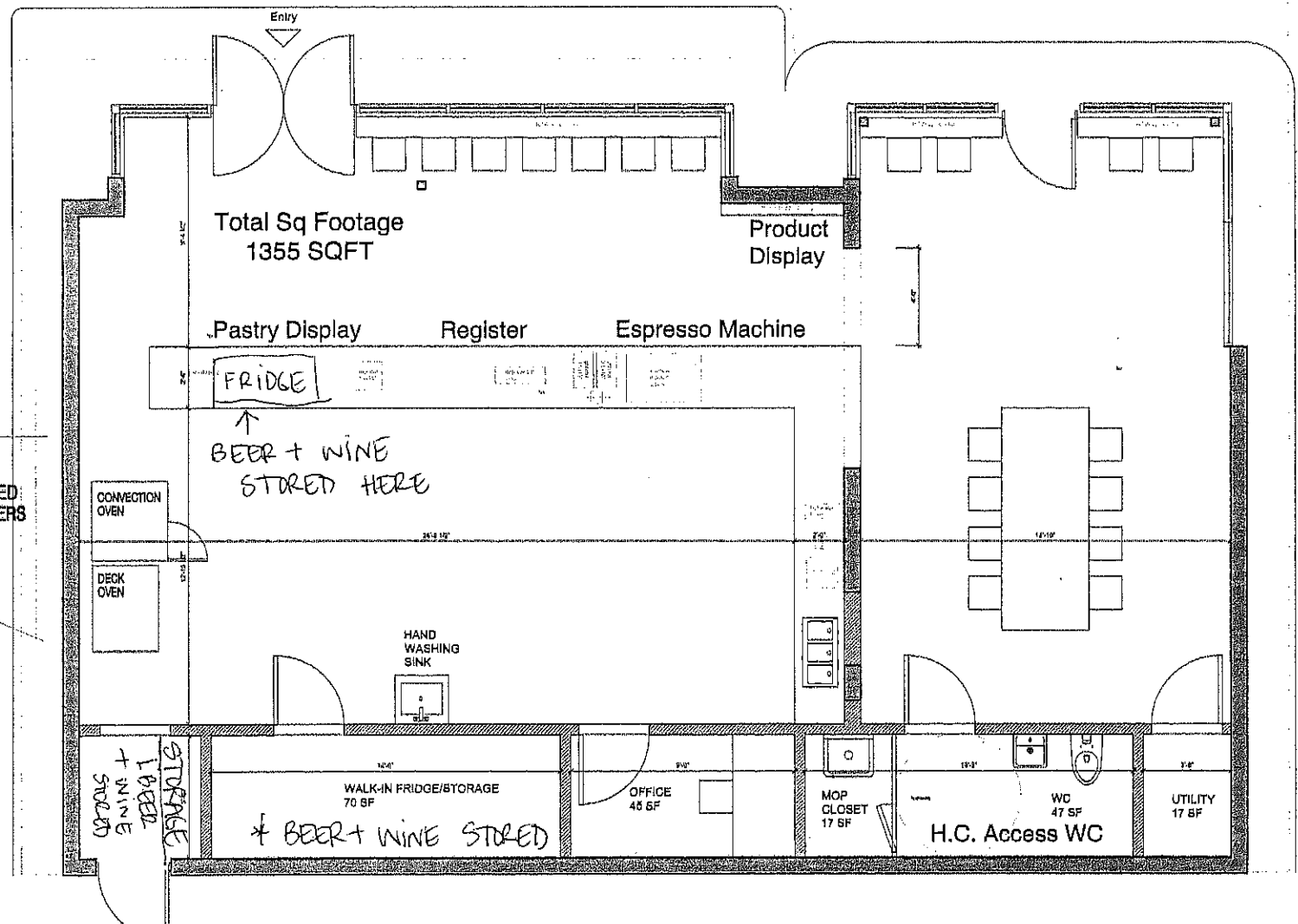
Changes:

1. From metal studs to wood
2. Take out a couple interior partitions

FULL HEIGHT WALL
TILED TO 6'-0"

OVEN TO BE INSTALLED
AS PER MANUFACTURERS
RECOMMENDATIONS
- VENTING TO BE
THROUGH EXISTING
SIDEWALL VENT
LOCATION

As Built Drawing



Tandem Coffee + Bakery Menu

- granola with yogurt and compote
- banana cake with black sesame
- blood orange and tangerine poppyseed cake
- coconut tea cake
- chocolate chip cookie w/ sea salt
- spicy molasses cookie w/ toasted white chocolate
- malted chocolate loaf cake
- pumpkin hazelnut cake with brown butter icing

PIES

- apple
- cranberry
- grapefruit custard
- maple and brown butter custard
- pear and sour cherry crumble
- buttermilk chess
- sweet potato and marshmallow
- coconut cream pie
- banana cream pie

SCONES

- kale and parmesan and black pepper
- apple, feta, green onion
- plum and rosemary or pineapple and rosemary
- oatmeal and berry
- sour cherry and dark chocolate

SAVORY

- focaccia sandwiches:
 - chicken schnitzel with horseradish and apricot and bitter lettuce
 - hard boiled eggs, spicy mayo, house pickles, feta, caper and herb salad
 - roasted broccoli with ricotta and black walnuts
 - banh mi
- biscuits sandwiches:
 - ham and honey butter with jalapenos
 - egg salad and pickled celery
 - pimento cheese, ham, kale or chicory salad.

COFFEE

- drip
- espresso
- macchiato
- cappuccino
- latte
- hot chocolate
- mocha
- tea

BEER + WINE (assorted bottles, varying)



Outdoor Dining Permit Application

If you or the property owner owes real estate or personal property taxes or user charges on any property within the City, payment arrangements must be made before permits of any kind are accepted.

☒ New Application for Outside Dining ☐ Renewal Application for Outside Dining		
City Clerk signature for liquor license approval: _____		
Location Name & Address: TANDEM COFFEE + BAKERY 742 CONGRESS ST. PORTLAND 04102		Chart Block Lot 054 6004 001
Owner & Phone # MICHAEL KAPLAN 207.774.9492		Total Square Footage of Proposed Seating Area: ¹
Applicant *must* be owner or lessee Name: KATHLEEN PRATT Address: 18 MADISON ST. City, State & Zip: PORTLAND, ME 04101 E-Mail: KATHLEEN@TANDEMCOFFEE.COM		Annual Fee: \$80 Total Sq. Ft.: PRIVATE PROPERTY Sq. Ft. Fee: (sq ft x \$2) \$ (Due when issued) Total Fees: \$ 86 (Permit not issued until all fees are paid)
Current use: PARKING LOT		
Business name: BRAKES AND SHOCKS, LLC (DBA TANDEM COFFEE + BAKERY)		
Seating area dimensions: _____		
How many chairs? _____ How many tables? 2		
☒ Yes Alcohol is served. ☒ No Alcohol being served.		
Who should we contact for the pre-inspection: KATHLEEN PRATT		
Mailing address: 122 ANDERSON ST. PORTLAND 04101 Phone: 415.608.8506		

Please submit all of the information outlined in the Outdoor Dining Application Checklist. Failure to do so will result in the automatic denial of your permit.

In order to be sure the City fully understands the full scope of the project, the Planning and Development Department may request additional information prior to the issuance of a permit. For further information visit us on-line at www.portlandmaine.gov, stop by the Building Inspections office, room 315 City Hall or call 874-8703.

I hereby certify that I am the Owner of record of the named property, or that the owner of record authorizes the proposed work and that I have been authorized by the owner to make this application as his/her authorized agent. I agree to conform to all applicable laws of this jurisdiction. In addition, if a permit for work described in this application is issued, I certify that the Code Official's authorized representative shall have the authority to enter all areas covered by this permit at any reasonable hour to enforce the provisions of the codes applicable to this permit.

Signature of Applicant: K. Pratt Date: 7/22/14

¹ In no instance shall the total square footage of dining area equal more than 10% of park space, unless the applicant receives a waiver from the Director of Parks and Recreation or his or her designee.

This is not a permit; you may not commence ANY work until the permit is issued.

742 Congress



Business Licensing - Re: Fwd: Tandem Coffee & Bakery - 742 Congress St.

From: Gary Rogers
To: Business Licensing
Date: 4/10/2015 4:17 PM
Subject: Re: Fwd: Tandem Coffee & Bakery - 742 Congress St.
CC: Gary Hutcheson

Principal Officer listed as "Patrick Corrington" should be Corrigan I bet. Not sure if there are other errors with principles. With that verification police approve.

Commander Gary Rogers
Portland Police Department
109 Middle Street
Portland, Maine 04101
(207) 874-8546

>>> Business Licensing 4/7/2015 10:26 AM >>>

And this one...

>>> Business Licensing 4/2/2015 12:03 PM >>>

Hello,

For your approval:

Tandem Coffee & Bakery at 742 Congress St. has submitted an application to obtain a Class III & IV (Wine & Beer) license with outdoor dining on private property. They currently have an FSE w/ Prep license with outdoor dining on private property. They wish to go before Council on 4/22.

Engineering, I think these folks are all set with their grease trap as they were newly licensed in the past year.

Contact: Kathleen Pratt - 415-608-8506

Their application is attached. Please put feedback into UI.

Thanks,
Janice



MAINE STATE BUREAU OF IDENTIFICATION
45 Commerce Drive, Suite 1 / STATE HOUSE STATION # 42
AUGUSTA, ME 04333
(207) 624-7240 (VOICE) (207) 624-4478 (TDD)

JANICE GARDNER
389 CONGRESS STREET
ROOM 203
PORTLAND, ME 04101

Transaction Response #: MIQ99C451447

Criminal History Record

Introduction

This criminal history record was produced in response to the following request (Produced on 2015-04-02) :

Inquiries Name(s)

GARRY BOWCOTT (1973-12-06)

NO MATCH WAS FOUND FOR YOUR REQUEST.



MAINE STATE BUREAU OF IDENTIFICATION
45 Commerce Drive, Suite 1 / STATE HOUSE STATION # 42
AUGUSTA, ME 04333
(207) 624-7240 (VOICE) (207) 624-4478 (TDD)

JANICE GARDNER
389 CONGRESS STREET
ROOM 203
PORTLAND, ME 04101

Transaction Response #: MIQ99C451442

Criminal History Record

Introduction

This criminal history record was produced in response to the following request (Produced on 2015-04-02) :
Inquiries Name(s) VIEN DOBUI (1982-06-27)

NO MATCH WAS FOUND FOR YOUR REQUEST.



MAINE STATE BUREAU OF IDENTIFICATION
45 Commerce Drive, Suite 1 / STATE HOUSE STATION # 42
AUGUSTA, ME 04333
(207) 624-7240 (VOICE) (207) 624-4478 (TDD)

JANICE GARDNER
389 CONGRESS STREET
ROOM 203
PORTLAND, ME 04101

Transaction Response #: MIQ99C451446

Criminal History Record

Introduction

This criminal history record was produced in response to the following request (Produced on 2015-04-02) :
Inquiries Name(s) KATHLEEN PRATT (1982-04-14)

NO MATCH WAS FOUND FOR YOUR REQUEST.



MAINE STATE BUREAU OF IDENTIFICATION
45 Commerce Drive, Suite 1 / STATE HOUSE STATION # 42
AUGUSTA, ME 04333
(207) 624-7240 (VOICE) (207) 624-4478 (TDD)

JANICE GARDNER
389 CONGRESS STREET
ROOM 203
PORTLAND, ME 04101

Transaction Response #: MIQ99C451448

Criminal History Record

Introduction

This criminal history record was produced in response to the following request (Produced on 2015-04-02) :
Inquiries Name(s) JAY VILLANI (1966-04-30)

NO MATCH WAS FOUND FOR YOUR REQUEST.



MAINE STATE BUREAU OF IDENTIFICATION
45 Commerce Drive, Suite 1 / STATE HOUSE STATION # 42
AUGUSTA, ME 04333
(207) 624-7240 (VOICE) (207) 624-4478 (TDD)

JANICE GARDNER
389 CONGRESS STREET
ROOM 203
PORTLAND, ME 04101

Transaction Response #: MIQ99C451449

Criminal History Record

Introduction

This criminal history record was produced in response to the following request (Produced on 2015-04-02) :

Inquiries Name(s)

MATTHEW PURRINGTON (1966-06-27)

NO MATCH WAS FOUND FOR YOUR REQUEST.



MAINE STATE BUREAU OF IDENTIFICATION
45 Commerce Drive, Suite 1 / STATE HOUSE STATION # 42
AUGUSTA, ME 04333
(207) 624-7240 (VOICE) (207) 624-4478 (TDD)

JANICE GARDNER
389 CONGRESS STREET
ROOM 203
PORTLAND, ME 04101

Transaction Response #: MIQ99C451453

Criminal History Record

Introduction

This criminal history record was produced in response to the following request (Produced on 2015-04-02) :

Inquiries Name(s) PATRICK CORRINGTON (1969-05-05)

NO MATCH WAS FOUND FOR YOUR REQUEST.



MAINE STATE BUREAU OF IDENTIFICATION
45 Commerce Drive, Suite 1 / STATE HOUSE STATION # 42
AUGUSTA, ME 04333
(207) 624-7240 (VOICE) (207) 624-4478 (TDD)

JANICE GARDNER
389 CONGRESS STREET
ROOM 203
PORTLAND, ME 04101

Transaction Response #: MIQ99C451443

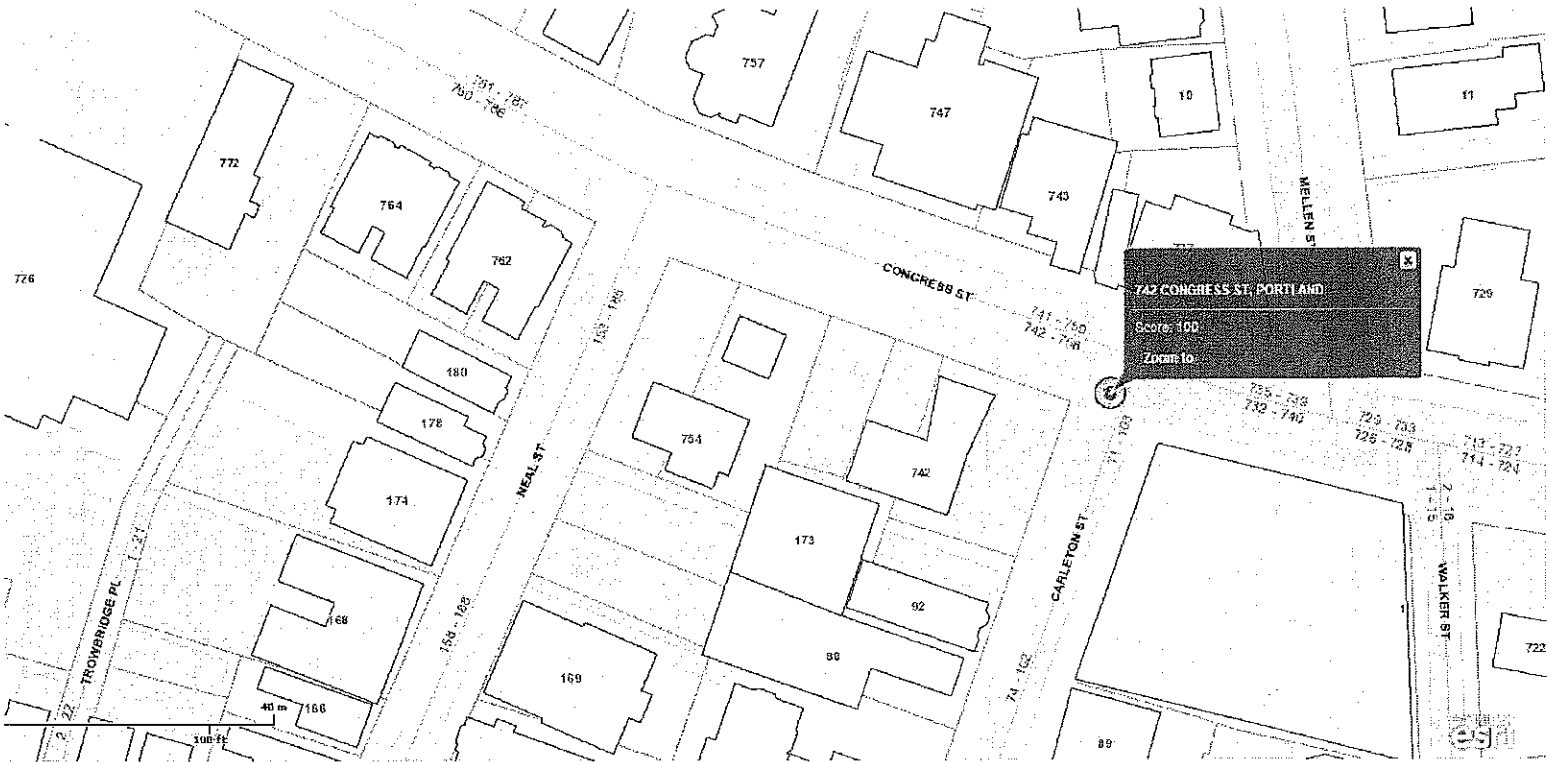
Criminal History Record

Introduction

This criminal history record was produced in response to the following request (Produced on 2015-04-02) :
Inquiries Name(s) WILLIAM PRATT (1981-03-26)

NO MATCH WAS FOUND FOR YOUR REQUEST.

My Map



742 CONGRESS ST, PORTLAND

Score: 100

Zoom to:



Office of the City Clerk

Katherine L. Jones, CCM, City Clerk

April 8, 2015

Brakes & Shocks, LLC
Attn: Kathleen Pratt
742 Congress St.
Portland, ME 04102

Re: Brakes & Shocks, LLC d/b/a Tandem Coffee & Bakery. Application for a Class III & IV (Wine & Beer) License with Outdoor Dining on Private Property at 742 Congress St.

Dear Ms. Pratt,

Yesterday, I sent a letter confirming that your application for a Class III & IV license for Tandem Coffee & Bakery would be considered at the Wednesday, April 22nd Council meeting. In fact, this meeting is on **Monday, April 27th at 7:00 p.m.**

I apologize for any confusion. Should you have any questions or concerns, please do not hesitate to contact our office directly at (207) 874-8557 or by email, BL@portlandmaine.gov

Sincerely,

Janice Gardner
Business License Administrator
207-874-8557
bl@portlandmaine.gov

Portland Press Herald
Maine Sunday Telegram
pressherald.com

Classified Advertising Proof

Portland, City Of
HR Department

Room 315, 389 Congress Street
Portland, ME 04101

Thank you for advertising in The Portland Press Herald and Maine Sunday Telegram.

Your order information and a preview of your advertisement are below for your review. If there are any changes or questions, please immediately contact the Classified Department at 207-791-6100 or email classified@pressherald.com

Thank you,
Joan Jensen

207-791-6100 | Monday-Friday 8:00 am - 5:00 pm

ORDER INFORMATION:		Order Number:	31541
Title:	Portland Press Herald	Start Date:	4/13/2015
Class:	1000 Legal Notices	Number of Days:	3
Order Price:	\$251.66	Payment Method:	Invoice
PO Number:	Tandem Coffee / Janice		

AD PREVIEW:

Legal Advertisement

**Notice of Public Hearing
City of Portland**

A Public Hearing will be held on April 27th at 7:00 P.M., in City Council Chambers, 389 Congress St., on Brakes & Shocks, LLC d/b/a Tandem Coffee & Bakery, Application for a Class III & IV (Wine & Beer) License with Outdoor Dining on Private Property at 742 Congress St. Sponsored by Katherine L. Jones, City Clerk.

*Order 221-14/15
Feb 15 4-27-15*

MICHAEL F. BRENNAN (MAYOR)
KEVIN J. DONOGHUE (1)
DAVID A. MARSHALL (2)
EDWARD J. SUSLOVIC (3)
JUSTIN COSTA (4)

CITY OF PORTLAND
IN THE CITY COUNCIL

DAVID H. BRENERMAN (5)
JILL C. DUSON (A/L)
JON HINCK (A/L)
NICHOLAS M. MAVODONES (A/L)

ORDER
GRANTING MUNICIPAL OFFICERS'
APPROVAL OF:

Cow Plaza Hotel LLC d/b/a Hyatt Place Portland/Old Port. Application to add Outdoor Dining on Public and Private Property at 433 Fore St.

April 2, 2015

City Council

RE: Outdoor Seating Concept

Dear City Council Members:

We are requesting permission to add outdoor seating, on the NE corner of the Hyatt Place Portland Old Port, and to extend the current business license to allow us to serve beer, wine, liquor and food to the guests using the proposed outdoor dining area.

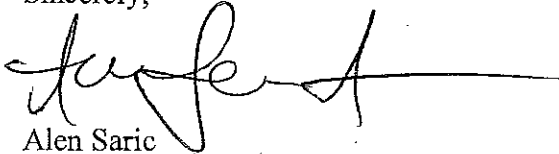
As an upscale Old Port hotel, it is our intention to add a quality outdoor seating area to compliment the streetscape and guest experience, in the Old Port Area. We would like to offer high quality food & beverage selection, in the proposed area. Attached is sketch of the outdoor seating area, which would use parts of the city sidewalk, as well as areas owned by the hotel.

Proposed area has been reviewed and approved by the City of Portland Building Inspector. It is our intention to comply with the outdoor dining ordinance.

We feel this would add another amenity to the Old Port Area, and encourage guests to visit and extend their stay.

If you have any further questions, please do not hesitate to contact me at 207.775.1000 or via email at Alen.Saric@hyatt.com.

Sincerely,

A handwritten signature in black ink, appearing to read 'Alen Saric', with a long horizontal line extending to the right.

Alen Saric
General Manager
Hyatt Place Portland Old Port
433 Fore Street
Portland, ME 04101

Portland, Maine



Yes. Life's good here.

Jeff Levine, AICP

Director, Planning & Urban Development Department

Office of the City Clerk • 389 Congress St. • Portland, ME 04101 • (207) 874-8557

www.portlandmaine.gov

Application for Food Service Establishment with Alcoholic Beverages License

Business Information	
Business Name (d/b/a):	Hyatt Place Portland/Old Port Phone: 207 775 1000
Location Address:	433 Fore St Zip: 04101
If new, what was formerly at this location:	
Mailing Address:	Zip:
Contact Person:	ALEN SARIC Phone: 207 770 2405
Contact Person Email:	ALEN.SARIC@HYATT.COM
Manager of Establishment:	ALEN SARIC Date of Birth: 12/20/85 Phone: 207 749 5477
Owner of Premises (Landlord):	Tim Soley (East Brow Cow)
Address of Premises Owner:	100 Commercial St Zip: 04101

Sole Proprietor/Partnership Information (If Corporation, leave blank)

Name of Owner(s)	Date of Birth	Residence Address

Corporate/LLC/Non-Profit Organization Applicants (If Sole Proprietor or Partnership, leave blank)

Corporate Name		Corporate Mailing Address	
Cow Plaza Hotel LLC		100 Commercial St Zip: 04101	
Contact Person:	DENINE LEEMAN	Phone:	207 775 2252
Principal Officers	Title	Date of Birth	Residence Address
Tim Soley	Owner	4/14/63	644 Shore Rd Cape Elizabeth

About Your Establishment

Class of Liquor License:	Lodging House	
Type of food served:	24/7 menu w/ different food options - Burgers, wraps, salads, etc.	
Please circle all that will be served:	☒ Beef ☒ Wine ☒ Liquor	
Projected percentage of sales:	Generated from Food:	Generated from Alcohol: Rooms 95% Food 5%
Hours & days of operation:	11-5 pm - 1am	

QUESTIONS

Will full-course meals, only capable of consumption with the use of tableware, be served the entire time the establishment is open?

Y/N
☒ Y

If No, please explain:

Is the establishment less than 300 feet from a school, dormitory, church or parish house, or similar establishment?

Y/N
☒ Y

If yes, give the distance:

Will you have entertainment on the premises? (If yes, a Supplemental Application for Dancing & Entertainment is required.)

Y/N
☒ Y

Will you permit dancing on the premises?

Y/N
☒ Y

Will you permit dancing after 1:00 a.m.?

Y/N
☒ Y

Will you have outside dining? (If yes, an Outdoor Dining Application is required)

Y/N
☒ Y

If yes, will the outside dining be on ☒ PUBLIC or ☒ PRIVATE property (circle one). Public & Private

Will you have any amusement devices (pinball, video games, juke box)?

Y/N
☒ Y

If yes, please list: # of pinball machines: _____ # of amusements: _____ # of pool tables: _____

What is your targeted opening date?

May 1, 2015

Does the Issuance of this license directly or indirectly benefit any City employee(s)?

Y/N
☒ Y

If Yes, list name(s) of employee(s) and department(s):

Have any of the applicants, including the corporation (if applicable), ever held a business license with the City of Portland?

Y/N
☒ Y

If Yes, please list business name(s) and location(s):

Cow Plaza Hotel LLC (Hwy 101) and East Brown Cow

Is any principal officer under the age of 21?

Y/N
☒ Y

Have applicant, partners, associates, or corporate officers ever been arrested, indicted, or convicted for any violation of law?

Y/N
☒ Y

If Yes, please explain:

I, Allen Savic, do hereby swear and affirm that every employee in my establishment that serves alcohol to the public has attended server training, or will attend server training within 90 days of their hire. I also understand that at any time the City license administrator can, upon request, require me to produce Server Training certificates for each employee that serves alcohol to the public in my establishment. Failure to meet the training requirement imposed by section 15-41 may result in the denial of a liquor license pursuant to 28-A M.R.S.A. § 653 (2) (G).

Applicant, by signature below, agrees to abide by all laws, orders, ordinances, rules and regulations governing the above licensee and further agrees that any misstatement of material fact may result in refusal of license or revocation if one has been granted. Applicant agrees that all taxes and accounts pertaining to the premises will be paid prior to issuance of the license.

It is understood that this and any application(s) shall become public record and the applicant(s) hereby waive(s) any rights to privacy with respect thereto. I/We, hereby authorize the release of any criminal history record information to the City Clerk's Office or licensing authority. I/We, hereby waive any rights to privacy with respect thereto.

Signature [Signature] Title GM Date 4/1/15

For more information about Liquor Licenses, see Portland City Code Chapter 15 at www.portlandmaine.gov and M.R.S.A. Title 28-A at www.maine.gov.

Fore Street

Raposed outside area

Private

Public

14 FT

5 ft

7.9 Ft

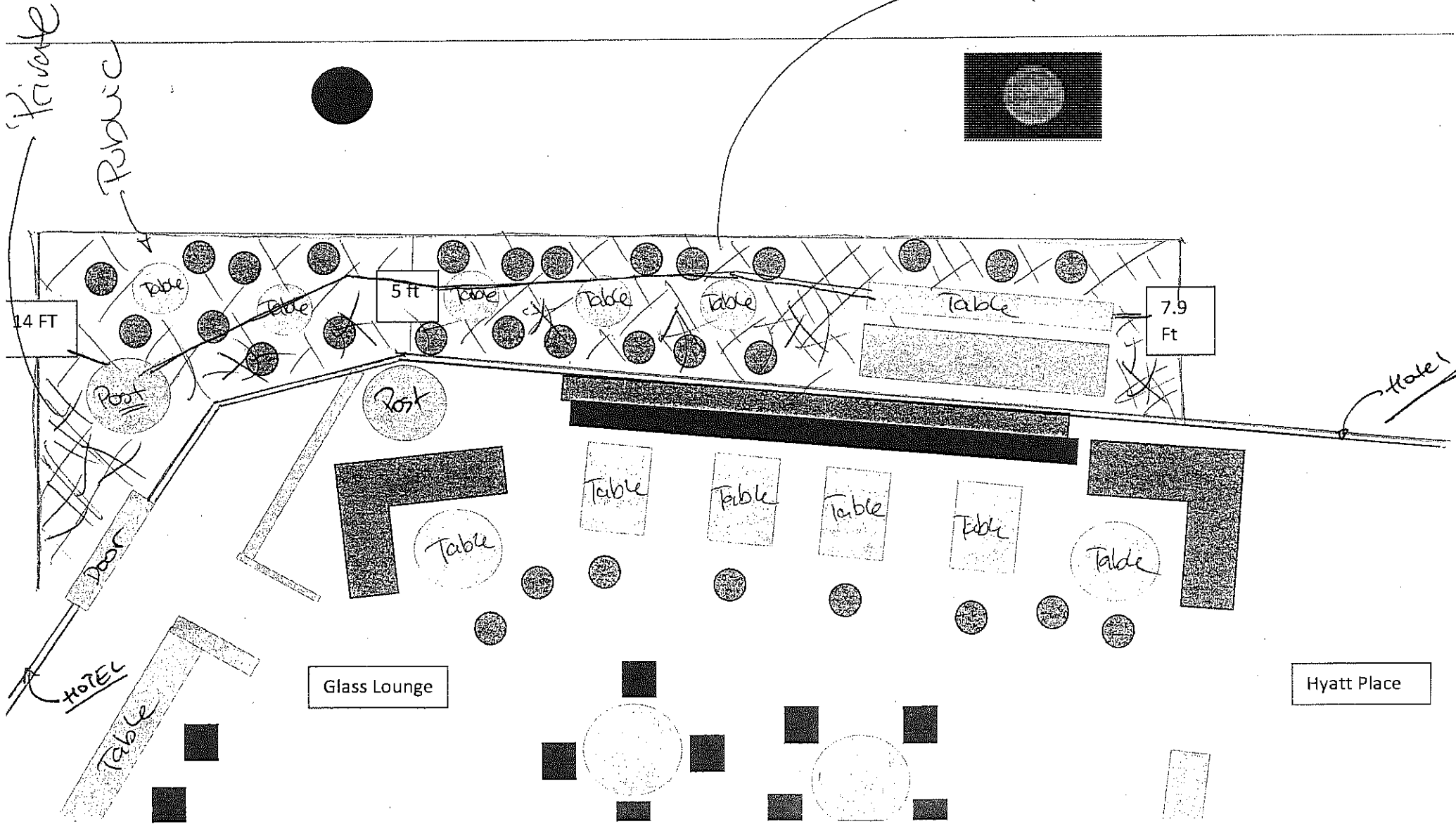
Hotel

Door

Hotel

Glass Lounge

Hyatt Place





Outdoor Dining Permit Application

If you or the property owner owes real estate or personal property taxes or user charges on any property within the City, payment arrangements must be made before permits of any kind are accepted.

☒ New Application for Outside Dining ☐ Renewal Application for Outside Dining		
City Clerk signature for liquor license approval: _____		
Pending Council Date: _____		
Location Name & Address: <u>HVATT PLACE PORTLAND</u>		Chart _____ Block _____ Lot _____
<u>433 FORE ST</u>		
Owner & Phone #: <u>OWNER - TIM SOLEY - 207 775 1252</u>	Total Square Footage of Proposed Seating Area: ¹ <u>20 x 10 = 200 sq ft</u>	
<u>GM</u> <u>ALEN SARIC (GM)</u> <u>207 775 1000</u>		
Applicant *must* be owner or lessee		Annual Fee: <u>\$80</u>
Name: <u>ALEN SARIC</u>		Total Sq. Ft.: <u>200</u>
Address: <u>433 FORE ST</u>		Sq. Ft. Fee: (sq ft x \$2) \$ <u>400</u>
City, State & Zip: <u>PORTLAND, ME 04101</u>		(Due when issued)
E-Mail: <u>ALEN.SARIC@HVATT.COM</u>		Total Fees: \$ <u>480</u>
		(Permit not issued until all fees are paid)
Current use: <u>NONE</u>		
Business name: <u>HVATT PLACE PORTLAND</u>		
Seating area dimensions: <u>20 x 10</u>		
How many chairs? <u>9</u> How many tables? <u>3</u> <u>& proposed.</u>		
☒ Yes Alcohol is served.		
☐ No Alcohol being served.		
Who should we contact for the pre-inspection: <u>ALEN SARIC</u>		
Mailing address: <u>433 FOREST PORTLAND</u> Phone: <u>207 775 1000</u>		

Please submit all of the information outlined in the Outdoor Dining Application Checklist. Failure to do so will result in the automatic denial of your permit.

In order to be sure the City fully understands the full scope of the project, the Planning and Development Department may request additional information prior to the issuance of a permit. For further information visit us on-line at www.portlandmaine.gov, stop by the Building Inspections office, room 315 City Hall or call 874-8703.

I hereby certify that I am the Owner of record of the named property, or that the owner of record authorizes the proposed work and that I have been authorized by the owner to make this application as his/her authorized agent. I agree to conform to all applicable laws of this jurisdiction. In addition, if a permit for work described in this application is issued, I certify that the Code Official's authorized representative shall have the authority to enter all areas covered by this permit at any reasonable hour to enforce the provisions of the codes applicable to this permit.

Signature of Applicant: [Signature] Date: 2/13/15

¹ In no instance shall the total square footage of dining area equal more than 10% of park space, unless the applicant receives a waiver from the Director of Parks and Recreation or his or her designee.

This is not a permit; you may not commence ANY work until the permit is issued.

My Map



Business Licensing - Re: Fwd: Hyatt Place Portland/Old Port - Adding Outdoor Dining

From: Gary Rogers
To: Business Licensing
Date: 4/10/2015 3:57 PM
Subject: Re: Fwd: Hyatt Place Portland/Old Port - Adding Outdoor Dining
CC: Gary Hutcheson

Police approve.

Commander Gary Rogers
Portland Police Department
109 Middle Street
Portland, Maine 04101
(207) 874-8546

>>> Business Licensing 4/7/2015 10:25 AM >>>

Hi,

I also need feedback on this one. It's just an addition of outdoor dining.

Thanks,
Janice

>>> Business Licensing 4/2/2015 12:39 PM >>>

Hello,

For your approval:

Cow Plaza Hotel LLC d/b/a Hyatt Place Portland/Old Port has submitted an application to add outdoor dining on public and private property at 433 Fore St. They hold a current Class IA 40+ Rooms license. They wish to go before Council on 4/22.

Contact: Alen Saric - 770-2405 or 749-5477

Their application is attached. Please put feedback into UI.

Thanks,
Janice

Portland, Maine



Yes. Life's good here.

Office of the City Clerk
Katherine L. Jones, CCM, City Clerk

April 8, 2015

Hyatt Place Portland/Old Port
Attn: Alen Saric
433 Fore St.
Portland, ME 04101

Re: Cow Plaza Hotel LLC d/b/a Hyatt Place Portland/Old Port. Application to add
Outdoor Dining on Public and Private Property at 433 Fore St.

Dear Mr. Saric,

Yesterday, I sent a letter confirming that your application to add outdoor dining to
your license would be considered at the Wednesday, April 22nd Council meeting.
This meeting has been rescheduled for **Monday, April 27th at 7:00 p.m.**

I apologize for any confusion. Should you have any questions or concerns, please do
not hesitate to contact our office directly at (207) 874-8557 or by email,
BL@portlandmaine.gov

Sincerely,

Janice Gardner
Business License Administrator
207-874-8557
bl@portlandmaine.gov

Portland Press Herald
Maine Sunday Telegram
pressherald.com

Classified Advertising Proof

Portland, City Of
HR Department
Room 315, 389 Congress Street
Portland, ME 04101

Thank you for advertising in The Portland Press Herald and Maine Sunday Telegram.

Your order information and a preview of your advertisement are below for your review. If there are any changes or questions, please immediately contact the Classified Department at 207-791-6100 or email classified@pressherald.com

Thank you,
Joan Jensen

207-791-6100 | | Monday-Friday 8:00 am - 5:00 pm

ORDER INFORMATION:		Order Number:	31539
Title:	Portland Press Herald	Start Date:	4/13/2015
Class:	1000 Legal Notices	Number of Days:	3
Order Price:	\$225.38	Payment Method:	Invoice
PO Number:	Hyatt Place / Janice		

AD PREVIEW:

Legal Advertisement

**Notice of Public Hearing
City of Portland**

A Public Hearing will be held on April 27th at 7:00 P.M., in City Council Chambers, 389 Congress St., on Cow Plaza Hotel LLC d/b/a Hyatt Place Portland/Old Port. Application to add Outdoor Dining on Public and Private Property at 433 Fore St. Sponsored by Katherine L. Jones, City Clerk.

*Order 222 -14/15
Tab 16 4-27-15*

MICHAEL F. BRENNAN (MAYOR)
KEVIN J. DONOGHUE (1)
DAVID A. MARSHALL (2)
EDWARD J. SUSLOVIC (3)
JUSTIN COSTA (4)

CITY OF PORTLAND
IN THE CITY COUNCIL

DAVID H. BRENERMAN (5)
JILL C. DUSON (A/L)
JON HINCK (A/L)
NICHOLAS M. MAVODONES (A/L)

**ORDER
GRANTING MUNICIPAL OFFICERS'
APPROVAL OF:**

**Chef Paul's d/b/a Lively. Application for a Class III & IV (Wine & Beer) License and
Entertainment without Dance and Outdoor Dining on Private Property at 54 Washington
Ave.**

MAR 23 2015

12:45pm

March 20, 2015

Legal Advertisement

**Notice of Public Hearing
City of Portland**

A Public Hearing will be held on April 27th at 7:00 P.M. in City Council Chambers 389 Congress St., on Chef Paul's d/b/a Chef Paul's Application for a Class III & IV (Wine & Beer) License and Entertainment without Dance and Outdoor Dining on Private Property at 54 Washington Ave. Sponsored by Katherine L. Jones, City Clerk.

To: Mayor Michael Brennan
Portland City Council

From: Chef Paul Lively

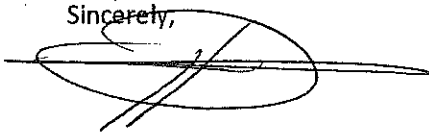
Dear Mayor Brennan & members of the Portland City Council:

I'm writing to express my intent to open LIVELY a small café & retail chocolate shop, at 54 Washington Avenue in Portland. I'm hoping to open for business on or around June 1st, 2015 & will be open Monday through Saturday for the hours of 10:00 am until 9:00 pm. I will be obtaining a class III & IV liquor license in order to serve beer & wine to my customers. My menu is attached for your review. I will be offering lunch selections until 4:00 pm that include sandwiches, soups & salads. After 4:00 pm the menu will change to include desserts & light fare. I will also be selling my handmade hand rolled chocolate truffles & homemade ice creams / sorbets. I will be providing pre-made / to go items that may include soups, salads & breads. I will occasionally offer live music provided by local performers, with a focus on jazz, blues & acoustic performances provided by no more than 4 artists. Indoor seating will be limited to no more than 30 patrons & we will be applying for outdoor seating for up to 10 additional customers (if allowed based on available square footage).

I believe this venue will improve the Munjoy Hill neighborhood & provide the community with an eclectic & unique alternative to larger, more formal eateries. I'm an experienced chef & business owner with 24 years of culinary experience & over 5 years experience as the chef/owner of Chef Paul's Truffles in Brewster, MA.

Thank you, in advance, for your approval of my proposed new business.

Sincerely,

A handwritten signature in black ink, appearing to read "Paul Lively", written over a horizontal line.

Chef Paul Olaf Lively

MAR 23 2015

12:45pm

Portland, Maine



Yes. Life's good here.

Office of the City Clerk • 389 Congress St. • Portland, ME 04101 • (207) 874-8557

Application for Food Service Establishment with Alcoholic Beverages License

Business Information	
Business Name (d/b/a):	"LIVELY" Phone: 774-263-2751
Location Address:	54 Washington Ave. Portland, ME 04101 Zip:
If new, what was formerly at this location:	Florist (Falmouth Flowers & Gifts)
Mailing Address:	28 Fleetwood St. Portland, ME 04102 Zip:
Contact Person:	Paul Lively Phone: 774-263-2751
Contact Person Email:	chefpaulstruffles@live.com
Manager of Establishment:	Paul Lively Phone: 774-263-2751
Owner of Premises (Landlord):	Pling Reynolds
Address of Premises Owner:	56 Washington Ave. Portland, ME 04101 Zip:

Sole Proprietor/Partnership Information (if Corporation, leave blank)

Name of Owner(s)	Date of Birth	Residence Address

Corporate/LLC/Non-Profit Organization Applicants (If Sole Proprietor or Partnership, leave blank)

Corporate Name		Corporate Mailing Address	
Chef Paul's		28 Fleetwood St. Portland, ME 04102 Zip:	
Contact Person:	Paul Lively	Phone:	774-263-2751
Principal Officers	Title	Date of Birth	Residence Address
Paul Lively	chef/owner	11/05/1965	28 Fleetwood St. Portland, ME 04102
Jeanine Lively	asst. mgr./owner	8/13/1968	28 Fleetwood St. Portland, ME 04102

About Your Establishment

Class of Liquor License:	III & IV	
Type of food served:	light fare & desserts	
Please circle all that will be served:	☒ Beer ☒ Wine ☐ Liquor	
Projected percentage of sales:	Generated from Food: 65%	Generated from Alcohol: 35%
Hours & days of operation:	Monday through Saturday 10 am - 9 pm	

QUESTIONS	Y/N
Will full-course meals, only capable of consumption with the use of tableware, be served the entire time the establishment is open?	☒ Y ☐ N
If No, please explain: Sandwiches & chocolate truffles to be served	
Is the establishment less than 300 feet from a school, dormitory, church or parish house, or similar establishment?	☒ Y ☐ N
If yes, give the distance:	
Will you have entertainment on the premises? (If yes, a Supplemental Application for Dancing & Entertainment is required.)	☒ Y ☐ N
Will you permit dancing on the premises?	☒ Y ☐ N
Will you permit dancing after 1:00 a.m.?	☒ Y ☐ N
Will you have outside dining? (If yes, an Outdoor Dining Application is required)	☒ Y ☐ N
If yes, will the outside dining be on PUBLIC or <u>PRIVATE</u> property (circle one).	
Will you have any amusement devices (pinball, video games, juke box)?	☒ Y ☐ N
If yes, please list: # of pinball machines: _____ # of amusements: _____ # of pool tables: _____	
What is your targeted opening date? 6/1/15	
Does the Issuance of this license directly or indirectly benefit any City employee(s)?	☒ Y ☐ N
If Yes, list name(s) of employee(s) and department(s):	
Have any of the applicants, including the corporation (if applicable), ever held a business license with the City of Portland?	☒ Y ☐ N
If Yes, please list business name(s) and location(s):	
Is any principal officer under the age of 21?	☒ Y ☐ N
Have applicant, partners, associates, or corporate officers ever been arrested, indicted, or convicted for any violation of law?	☒ Y ☐ N
If Yes, please explain:	

Paul Lively - Arrested in 2005 for driving in MA with NY insurance. charges dropped as were found untrue

I, Paul Lively do hereby swear and affirm that every employee in my establishment that serves alcohol to the public has attended server training, or will attend server training within 90 days of their hire. I also understand that at any time the City license administrator can, upon request, require me to produce Server Training certificates for each employee that serves alcohol to the public in my establishment. Failure to meet the training requirement imposed by section 15-41 may result in the denial of a liquor license pursuant to 28-A M.R.S.A. § 653 (2) (G).

Applicant, by signature below, agrees to abide by all laws, orders, ordinances, rules and regulations governing the above licensee and further agrees that any misstatement of material fact may result in refusal of license or revocation if one has been granted. Applicant agrees that all taxes and accounts pertaining to the premises will be paid prior to issuance of the license.

It is understood that this and any application(s) shall become public record and the applicant(s) hereby waive(s) any rights to privacy with respect thereto. I/We, hereby authorize the release of any criminal history record information to the City Clerk's Office or licensing authority. I/We, hereby waive any rights to privacy with respect thereto.

Signature [Signature] Title Chef/owner Date 3/20/15



Office of the City Clerk • 389 Congress St. • Portland, ME 04101 • (207) 874-8557
www.portlandmaine.gov

Supplemental Application for Dancing and Entertainment License

License accompanies a City of Portland Food Service Establishment or Food Service Establishment with Alcohol license.

☒ Entertainment without Dancing: \$270 ☐ Entertainment with Dancing: \$485 ☐ After-Hours (1 a.m. to 3 a.m.): \$545

Business Information	
Business Name (d/b/a):	LIVELY
Location Address:	54 Washington Ave.
Phone:	774-263-2751
Zip:	04101

About Your Establishment

Describe in detail the type and nature of the business and proposed entertainment: <i>Retail Chocolate Shop + small cafe. music for customers, Vibe + entertainment for space to sooth the yearning soul.</i>	
Will music be electric, acoustical, or both? (Circle)	
Will amplification be used?	☒ Y ☐ N
If yes, where and at what level? <i>Inside establishment at low volume</i>	
Will music be played (Circle all that apply): ☒ Inside ☐ Outside	
Will you permit dancing on the premises?	☒ Y ☐ N
Will you permit dancing after 1:00 a.m.?	☒ Y ☐ N
What is the distance to the nearest residential dwelling unit both inside and outside the building from where the entertainment will take place? <i>10 ft. - upstairs</i>	
What is your targeted opening date? <i>6/1/15</i>	
Does the issuance of this license directly or indirectly benefit any City employee(s)?	☒ Y ☐ N
If Yes, list name(s) of employee(s) and department(s):	

Applicant, by signature below, agrees to abide by all laws, orders, ordinances, rules and regulations governing the above license and further agrees that any misstatement of material fact may result in refusal of license or revocation, if one has been granted. Applicant agrees that all taxes and accounts pertaining to the premises will be paid prior to issuance of the license.

It is understood that this and any application(s) shall become public record and the applicant(s) hereby waive(s) any rights to privacy with respect thereto.

I/ We hereby authorize the release of any criminal history record information to the City Clerk's Office or licensing authority. I/ We hereby waive any rights to privacy with respect thereto.

Signature

Title

Chef/Owner

Date

3/20/15

For more information, refer to the City Code of Ordinance: Chapter 4 Amusements, at www.portlandmaine.gov

Department of Public Safety
Division

Liquor Licensing & Inspection



Promise by any person that he or she can expedite a liquor license through influence should be completely disregarded. To avoid possible financial loss an applicant, or prospective applicant, should consult with the Division before making any substantial investment in an establishment that now is, or may be, attended by a liquor license.

BUREAU USE ONLY

License No. Assigned:

Class:

Deposit Date:

Amt. Deposited:

PRESENT LICENSE EXPIRES N/A

INDICATE TYPE OF PRIVILEGE: ☒ MALT ☐ SPIRITUOUS ☒ VINOUS

INDICATE TYPE OF LICENSE:

☒ RESTAURANT (Class I,II,III,IV)

☐ HOTEL-OPTINONAL FOOD (Class I-A)

☐ CLASS A LOUNGE (Class X)

☐ CLUB (Class V)

☐ TAVERN (Class IV)

☐ RESTAURANT/LOUNGE (Class XI)

☐ HOTEL (Class I,II,III,IV)

☐ CLUB-ON PREMISE CATERING (Class I)

☐ GOLF CLUB (Class I,II,III,IV)

☐ OTHER: _____

REFER TO PAGE 3 FOR FEE SCHEDULE

ALL QUESTIONS MUST BE ANSWERED IN FULL

1. APPLICANT(S) (Sole Proprietor, Corporation, Limited Liability Co., etc.) <u>CHEF PAUL'S</u> DOB: _____			2. Business Name (D/B/A) <u>LIVELY</u>		
DOB: _____					
DOB: _____			Location (Street Address) <u>54 Washington Ave.</u>		
Address <u>28 Fleetwood St.</u>			City/Town <u>Portland</u>	State <u>ME</u>	Zip Code <u>04101</u>
<u>P.</u>			Mailing Address <u>28 Fleetwood St.</u>		
City/Town <u>Portland</u>	State <u>ME</u>	Zip Code <u>04102</u>	City/Town <u>Portland</u>	State <u>ME</u>	Zip Code <u>04102</u>
Telephone Number <u>774-263-2751</u>		Fax Number	Business Telephone Number <u>774-263-2751</u>		Fax Number
Federal I.D. #			Seller Certificate #		

3. If premises are a hotel, indicate number of rooms available for transient guests: _____

4. State amount of gross income from period of last license: ROOMS \$ _____ FOOD \$ _____ LIQUOR \$ _____

5. Is applicant a corporation, limited liability company or limited partnership? YES ☒ NO ☐

complete Supplementary Questionnaire, If YES

6. Do you permit dancing or entertainment on the licensed premises? YES ☒ NO ☐

7. If manager is to be employed, give name: _____

8. If business is NEW or under new ownership, indicate starting date: 6/1/15

Requested inspection date: 5/22/15

Business hours: MTu-Sa 10am-9pm

9. Business records are located at: 28 Fleetwood St Portland, ME 04102

10. Is/are applicants(s) citizens of the United States? YES ☒ NO ☐

11. Is/are applicant(s) residents of the State of Maine?

YES ☒ NO ☐

12. List name, date of birth, and place of birth for all applicants, managers, and bar managers. Give maiden name, if married:
Use a separate sheet of paper if necessary.

Name in Full (Print Clearly)	DOB	Place of Birth
Paul Olaf Lively	11/5/1965	Tappan, NY
Jeanine Ann (Bard) Lively	8/13/1968	Bangor, ME

Residence address on all of the above for previous 5 years (Limit answer to city & state)

Portland, ME
Brewster, MA

13. Has/have applicant(s) or manager ever been convicted of any violation of the law, other than minor traffic violations, of any State of the United States? YES ☐ NO ☒

Name: _____ Date of Conviction: _____

Offense: _____ Location: _____

Disposition: _____

14. Will any law enforcement official benefit financially either directly or indirectly in your license, if issued?
Yes ☐ No ☒ If Yes, give name: _____

15. Has/have applicant(s) formerly held a Maine liquor license? YES ☐ NO ☒

16. Does/do applicant(s) own the premises? Yes ☐ No ☒ If No give name and address of owner: _____

17. Describe in detail the premises to be licensed: (Supplemental Diagram Required) 54 & 58 Washington Ave Portland, ME. Former location of Falmouth Flowers & Gifts

18. Does/do applicant(s) have all the necessary permits required by the State Department of Human Services?
YES ☐ NO ☒ Applied for: ~~Food Service Establishment~~ with error Food & Fuel License

19. What is the distance from the premises to the NEAREST school, school dormitory, church, chapel or parish house, measured from the main entrance of the premises to the main entrance of the school, school dormitory, church, chapel or parish house by the ordinary course of travel? 0.3 miles Which of the above is nearest? Church

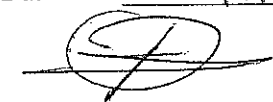
20. Have you received any assistance financially or otherwise (including any mortgages) from any source other than yourself in the establishment of your business? YES ☐ NO ☒

If YES, give details: _____

The Division of Liquor Licensing & Inspection is hereby authorized to obtain and examine all books, records and tax returns pertaining to the business, for which this liquor license is requested, and also such books, records and returns during the year in which any liquor license is in effect.

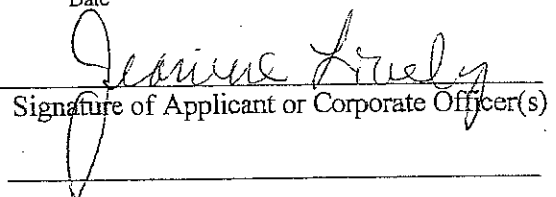
NOTE: "I understand that false statements made on this form are punishable by law. Knowingly supplying false information on this form is a Class D offense under the Criminal Code, punishable by confinement of up to one year or by monetary fine of up to \$2,000 or both."

Dated at: Portland, ME on 3/20, 2015
Town/City, State Date



Signature of Applicant or Corporate Officer(s)

Please sign in blue ink


Signature of Applicant or Corporate Officer(s)



State of Maine
Bureau of Alcoholic Beverages
Division of Liquor Licensing and Enforcement

Supplemental Information Required for
Business Entities Who Are Licensees

For Office Use Only:

License #: _____

Date Filed: _____

For information required for Questions 1 to 4, this information is on file with the Maine Secretary of State's office and must match their record information. Please clearly complete this form in its entirety.

1. Exact legal name:

CHEF PAUL'S

2. Other business name for your entity (DBA), if any:

LIVELY

3. Date of filing with the Secretary of State: _____

4. State in which you are formed: Maine

5. If not a Maine business entity, date on which you were authorized to transact business in the State of Maine: _____

6. List the name and addresses for previous 5 years, birth dates, titles of officers, directors and list the percentage ownership: (attached additional sheets as needed)

Name	Address for Previous 5 years	Date of Birth	Ownership %
Paul Olaf Lively	28 Fleetwood St. Portland 2628 Main St. Brewster MA 02631	11/5/1965	50
Jeanne Lively	28 Fleetwood St. Portland ME 04102 2628 Main St. Brewster MA 02631 430 W. Clinton St. New Bedford, MA	8/13/1968	50

7. Is any principal person involved with the entity a law enforcement official?

Yes ☐

No ☒

8. If Yes to Question 7, please provide the name and law enforcement agency:

Name: _____ Agency: _____

9. Has any principal person involved in the entity ever been convicted of any violation of the law, other than minor traffic violations, in the United States?

Yes

☐

No

☒

10. If Yes to Question 9, please complete the following: (attached additional sheets as needed)

Name: _____

Date of Conviction: _____

Offense: _____

Location of Conviction: _____

Disposition: _____

Signature:



Signature of Duly Authorized Person

3/20/15

Date

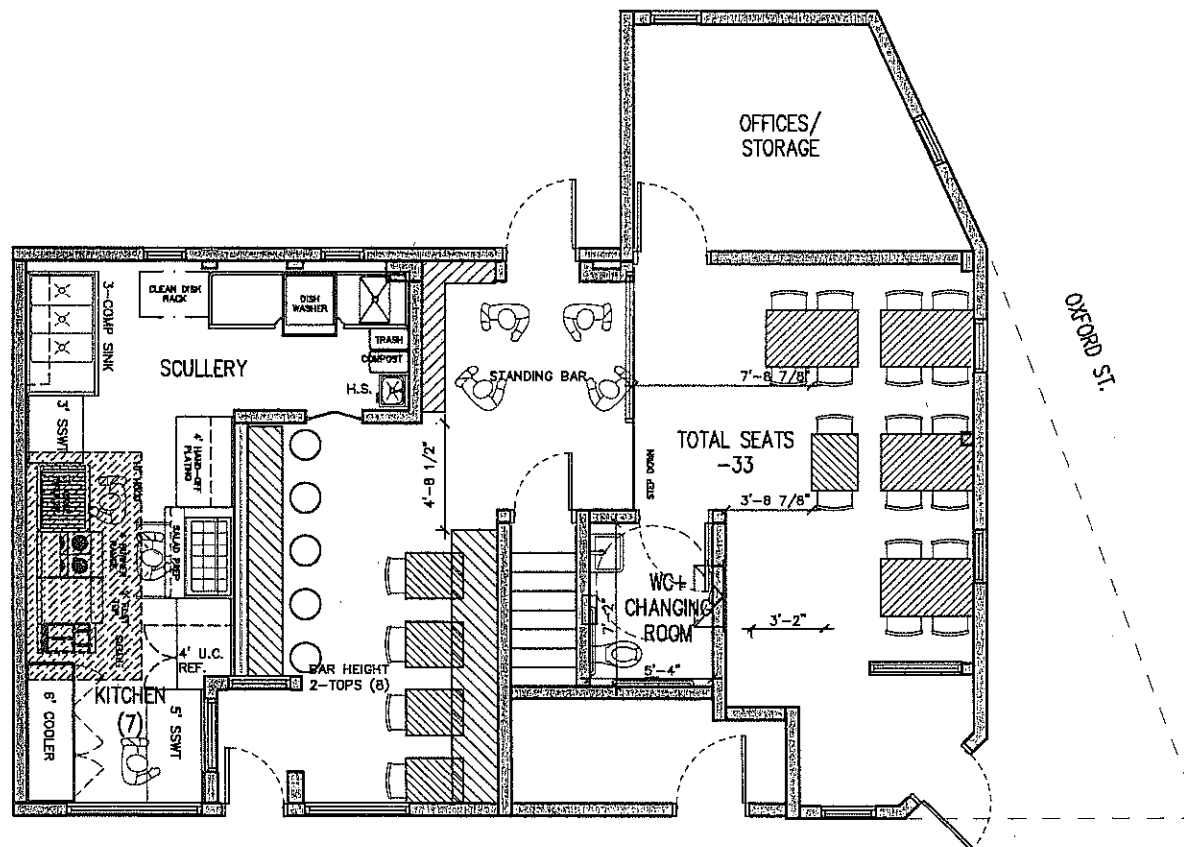
Paul Olaf Lively

Print Name of Duly Authorized Person

If you have questions regarding the legal name or assumed (DBA) name on file with the Secretary of State's office, please call (207) 624-7752. The SOS can only speak to the information on file with their office, not the filing of this supplemental information -- please direct any questions about this form to our office at the number below.

Submit Completed Forms To:

Bureau of Alcoholic Beverages and Lottery Operations
Division of Liquor Licensing and Enforcement
164 State House Station
Augusta, Me 04333-0101
Telephone Inquiries: (207) 624-7220
Fax: (207) 287-3424
Email Inquiries: MaineLiquor@Maine.gov



WASHINGTON AVE

1 Fixture Plan
 Scale: 1/8" = 1' - 0"

LIVELY

The Sweet Savory Experience



Lunch Offerings

Sandwiches

Signature Pulled Pork

Chef Paul's signature pulled pork, smoked gouda, provolone, boursin cheese, red bean garlic butter, onion potato roll

Margarita Chicken Sandwich

Margarita-marinated chicken, apricot-tequila mustard, applewood smoked bacon & blue cheese, on a fresh bun topped with black bean mole sauce

Sandwich du jour

Offerings change daily

Soups

Chuck Wagon Stew

Chef Paul's 134 year old family heritage recipe - Pork tenderloin, smoked sausage, apple wood bacon, sirloin, black & red kidney beans, tomatoes, apples, garlic & onions in a filet mignon stock

Seasonal Gazpacho

Locally sourced seasonal fruits & vegetables in a natural sweet savory broth

Soups du Jour

Offerings change daily

Salads

Jade Garden

Baby spinach, Macha tea poached pear, Tourmeline Hills Farm goat cheese,
sea salted pistachios, elderberry vinaigrette

Smoky Bacon Caesar

Hearts of romaine, freshly shaved parmesan cheese, apple wood smoked bacon, house
made smoky caesar dressing & garlic focaccia croutons

Chef Paul's

The Sweet Savory Experience



Lounge Offerings

Charcuterie & Specialty Goodies

Charcuterie of the day, jerky, black pepper chocolate biscuit, house made jam

70-day Infused Sweet Chile Almonds

Passion fruit baby corn sorbet, black pepper shortbread, carrot orange emulsion

Cheese Selections

Great Hill Blue Cheese Panna Cotta

Candied melon, rose water infused bourbon blueberries

Panko Encrusted Brie

Black truffle bisque, peach purée

Cheeseboard

Chef's selection of cheeses and accompaniments of the day

Soups

Tahitian Vanilla Bean Crème Brûlée

Velvety smooth custard infused with vanilla bean,
Mascarpone blueberry egglettes, ginger
tuile nest

Hawaii in the Making

"Flaming Volcano" baked Alaska, passion
fruit meringue, banana macadamia nut gelato,
chocolate genoise, mango gastrique

Key Lime Tartlet

Puffed millet crust, raspberry crème fraîche

Peanut Butter S'mores Mousse

Graham cracker streusel, white chocolate mint sauce

Chef's Selection of Hand Rolled Chocolate Truffles Assortment

of 6 different chocolate truffles which may include:

<u>14 Chocolate Lover's Fling award winner - Migration of the Whimbrel</u> Take flight with a birds-eye view of bittersweet chocolate ganache. Embrace yourself in feathers of raspberry-laced white peaches. Soar above a strawberry passion fruit sunset on the horizon of the Maine coast.	<u>Portland</u> Handpicked Maine blueberries floating in a harbor of 15 year "Old Port" & docked in 78% bittersweet chocolate ganache. A walking tour of blueberry lined streets lightly covered with a fresh blanket of white chocolate snow.	<u>King Kong's BBQ</u> Grilled red bananas infused into bittersweet chocolate ganache, a gorilla's mist of fresh nutmeg & island pure sugar cane BBQ sauce with skyscraper heights of a Banana Empire towering mango.	<u>Toes in the Sand</u> White chocolate infused with Caribbean rum, sun drenched in pineapple with a hint of key lime & rolled in sweet toasted coconut.
--	---	---	---

Assortment of 3 house made French custard ice creams or sorbets Offerings
change frequently

Chuck Wagon Stew

Chef Paul's 134 year old family heritage recipe - Pork tenderloin, smoked sausage, apple wood smoked bacon, sirloin, black & red kidney beans, tomatoes, apples, garlic & onions in a filet mignon stock with passengers of fingerling potatoes & house made corn bread

Oy Vey Gevalt with a Schmeer

Apricot smoked gouda matzo ball soup, house made pumpernickel bagel, lemon mint cream cheese

Coconut Lemongrass Soup

Star anise cardamom pickled oysters, crispy wild mushrooms

Salads

Tropical Shrimp Martini

Lemongrass poached tiger shrimp*, tropical fruit salsa, passion fruit coulis, plantain chippers

*Vegan option with grilled tofu substitute

Jade Garden

Baby spinach, Macha tea poached pear, goat cheese, sea salted pistachios, elderberry vinaigrette

Roasted Beet Terrine

Roasted red & yellow beets, Tourmeline Hills Farm goat cheese, local honey & bourbon vanilla

Chef Paul's

The Sweet Savory Experience



Desserts The Universe

Grand Marnier chocolate flourless torte,
24 karat edible gold, bittersweet chocolate ganache, blood
orange Malibu sorbet, coconut foam, roasted beet syrup



Jeff Levine, AICP, Director
Planning & Urban Development Department

Tammy Munson, Director
Inspections Division

OUTDOOR DINING PERMIT CHECKLIST

Permits are required for expanding food service establishments to the outside on City Property. The annual fee is \$80.00 plus \$2.00 per square foot of dining area on streets, sidewalks or other public ways and \$80.00 plus \$6.00 per square foot of dining area in city parks. The annual fee is due when you drop off your permit application. The square footage fee is paid when you pick up your permit. *For purposes of fee calculation, the area abutting the buildings which border Monument Square and extending ten (10) feet from the facade of said buildings shall be considered a sidewalk. The ten (10) foot area shall be measured from that portion of the facade that protrudes furthest into the sidewalk. The area beyond the ten (10) foot sidewalk shall be considered park space.*

Outdoor dining is permitted year round under the permit; however, furniture must be removed in inclement weather to allow for sidewalk snow removal.

The permit must be renewed each year.

All of the following information is required and must be submitted. You will also be required to fill out an Outdoor Dining Permit Application.

A plot plan is required and must include:

- ☒ A drawing of the lot, where the building sits on the lot along with the lot and building dimensions
- ☒ The dimensional setback from the sidewalk to the building
- ☒ The location of the street, and if it's a corner lot, the intersecting streets
- ☒ The sidewalk along with its width and curbing location
- ☒ The location of the table and chair placement, including dimensions

(NOTE: there must be a minimum of four feet of open sidewalk from the outer boundary of the seating area to the curb, and a minimum of five feet on corners, and egress from the building must be maintained free of obstruction per the building code and NFPA Life Safety Code).

Additional Requirements:

- ☒ The permit holder is required to produce at the time of submission and maintain public liability insurance coverage in an amount of not less than four hundred thousand dollars (\$400,000) combined single limit for bodily injury, death and property damage, naming the City as an additional insured thereon.

All permits for outdoor dining are issued subject to the following conditions:

- ☒ The tables and chairs must be placed within the permitted area on the sidewalk in such a manner as to allow the free and safe passage of pedestrian traffic. If the tables and chairs are moved and located outside of the permitted outdoor seating area, they must be relocated to within the permitted area. Failure to contain the tables and chairs to the permitted area may result in a reduced permitted area or a revocation of the permit.

- ☒ The permit holder is responsible for keeping the outdoor seating area clean. The sidewalk area where the tables and chairs are located must be kept neat and free from litter and debris.
- ☒ No food shall be prepared outside.
- ☒ If alcohol is to be served, the permit holder must notify the City's Business Licensing Office in room 203 of City Hall or by telephone at 874-8557 and obtain approval for the service of alcohol outdoors. Additionally, State law requires that any outdoor area serving alcohol be segregated from the rest of the public.
- ☒ All tables and chairs shall be removed prior to a predicted snowfall and while any snow or ice exists within the designated outdoor seating area or within four feet from the boundaries thereof. The City will not be responsible for damage to any tables, chairs or other property that is not properly removed when the City is engaged in sidewalk maintenance activities.
- ☒ The permit holder shall comply with all applicable rules and regulations implemented by the city regarding outdoor dining.

Failure to comply with any of the above conditions will result in revocation or non-renewal of the permit.

I/We fully understand that the City of Portland, its agents, officers and employees accept no responsibility and will not be liable for any injury, harm or damage to my/our person or property arising out of the establishment's occupancy of the sidewalk or park space. To the fullest extent permitted by law, I/We do hereby agree to assume all risk of injury, harm or damage to my/our person or property (including but not limited to all risk of injury, harm or damage to my/our property caused by the negligence of the City of Portland, its agents, officers or employees) arising out of the establishment's occupancy of the sidewalk or park space. I/We hereby agree, to the fullest extent permitted by law, to defend, indemnify and hold harmless the City of Portland, its agents, officers and employees, from and against all claims, damages, losses and expenses, just or unjust, including, but not limited to costs of defense and attorney's fees, arising out of the establishment's occupancy of the sidewalk or park space, provided that any such claims, damage, loss or expense (1) is attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property including the loss of use therefrom, and (2) is caused in whole or in part by any negligent act or omission of the establishment, anyone directly or indirectly employed by it, or anyone for whose act it may be liable.

Signed and acknowledged: _____

Date: 3/24/15

Printed name _____

Paul Lively

Establishment _____

Chef Paul's

Location _____

54 Washington Ave.



Jeff Levine, AICP, Director
Planning & Urban Development Department

Tammy Munson, Director
Inspections Division

Electronic Signature and Fee Payment Confirmation

Notice: Your electronic signature is considered a legal signature per state law.

By digitally signing the attached document(s), you are signifying your understanding this is a legal document and your electronic signature is considered a **legal signature** per Maine state law. You are also signifying your intent on paying your fees by the opportunities below.

I, the undersigned, intend and acknowledge that no permit application can be reviewed until payment of appropriate permit fees are **paid in full** to the Inspections Office, City of Portland Maine by method noted below:

Within 24-48 hours, upon receipt of an e-mailed invoice from Building Inspections, which signifies that my electronic permit application and corresponding paperwork have been received, determined complete, entered by an administrative representative, and assigned a permit number, I then have the following four (4) payment options:

- ☐ provide an on-line electronic check or credit/debit card (we now accept American Express, Discover, VISA, and MasterCard) payment (along with applicable fees beginning July 1, 2014),
- ☐ call the Inspections Office at (207) 874-8703 and speak to an administrative representative to provide a credit/debit card payment over the phone,
- ☐ hand-deliver a payment method to the Inspections Office, Room 315, Portland City Hall,
- ☐ deliver a payment method through the U.S. Postal Service, at the following address:

City of Portland, Inspections Division
389 Congress Street, Room 315
Portland, Maine 04101

Once my payment has been received, this then starts the review process of my permit. ***After all approvals have been met and completed, I will then be issued my permit via e-mail.*** No work shall be started until I have received my permit.

Applicant Signature: _____

Date: _____

3/24/15

I have provided digital copies and sent them on: _____

Date: _____

NOTE: All electronic paperwork must be delivered to buildinginspections@portlandmaine.gov or by physical means ie; a thumb drive or CD to the office.



Outdoor Dining Permit Application

If you or the property owner owes real estate or personal property taxes or user charges on any property within the City, payment arrangements must be made before permits of any kind are accepted.

☒ New Application for Outside Dining ☐ Renewal Application for Outside Dining		
City Clerk signature for liquor license approval: _____		
Pending Council Date:		
Location Name & Address: Chef Paul's 54 Washington Ave. 04101	Chart 13-E-7	Block Lot
Owner & Phone #: Paul Lively 774-263-2751	Total Square Footage of Proposed Seating Area: ¹ 370	
Applicant *must* be owner or lessee Name: Paul Lively Address: 28 Fleetwood St. City, State & Zip: Portland, ME 04102 E-Mail: chefpaulstoutfls@live.com	Annual Fee: \$80 Total Sq. Ft.: _____ Sq. Ft. Fee: (sq ft x \$2) \$ _____ (Due when issued) Total Fees: \$ _____ (Permit not issued until all fees are paid)	
Current use: Vacant		
Business name: _____		
Seating area dimensions: 37'7" x 10"		
How many chairs? 6 How many tables? 3		
☒ Yes Alcohol is served. ☐ No Alcohol being served.		
Who should we contact for the pre-inspection: Paul Lively		
Mailing address: 28 Fleetwood St. 04102 Phone: 774-263-2751		

Please submit all of the information outlined in the Outdoor Dining Application Checklist. Failure to do so will result in the automatic denial of your permit.

In order to be sure the City fully understands the full scope of the project, the Planning and Development Department may request additional information prior to the issuance of a permit. For further information visit us on-line at www.portlandmaine.gov, stop by the Building Inspections office, room 315 City Hall or call 874-8703.

I hereby certify that I am the Owner of record of the named property, or that the owner of record authorizes the proposed work and that I have been authorized by the owner to make this application as his/her authorized agent. I agree to conform to all applicable laws of this jurisdiction. In addition, if a permit for work described in this application is issued, I certify that the Code Official's authorized representative shall have the authority to enter all areas covered by this permit at any reasonable hour to enforce the provisions of the codes applicable to this permit.

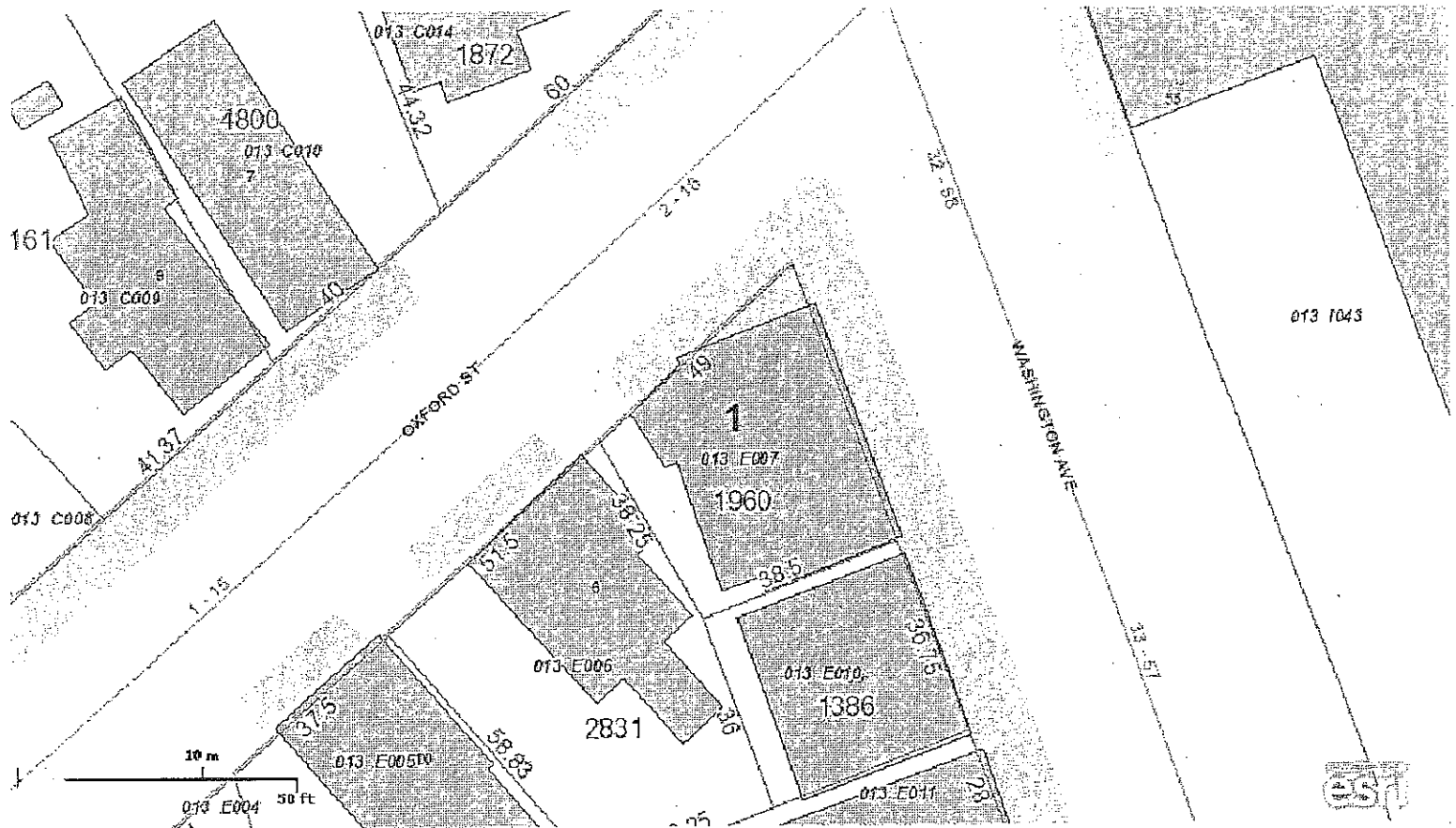
Signature of Applicant: _____

Date: 3/24/15

¹ In no instance shall the total square footage of dining area equal more than 10% of park space, unless the applicant receives a waiver from the Director of Parks and Recreation or his or her designee.

This is not a permit; you may not commence ANY work until the permit is issued.

My Map



Copyright 2011 Esri. All rights reserved. Mon Mar 23 2015 03:45:26 PM.



MAINE STATE BUREAU OF IDENTIFICATION
45 Commerce Drive, Suite 1 / STATE HOUSE STATION # 42
AUGUSTA, ME 04333
(207) 624-7240 (VOICE) (207) 624-4478 (TDD)

JANICE GARDNER
389 CONGRESS STREET
ROOM 203
PORTLAND, ME 04101

Transaction Response #: MIQ99C444416

Criminal History Record

Introduction

This criminal history record was produced in response to the following request
(Produced on 2015-03-26) :

Inquiries Name(s) PAUL LIVELY (1965-11-05)

NO MATCH WAS FOUND FOR YOUR REQUEST.



MAINE STATE BUREAU OF IDENTIFICATION
45 Commerce Drive, Suite 1 / STATE HOUSE STATION # 42
AUGUSTA, ME 04333
(207) 624-7240 (VOICE) (207) 624-4478 (TDD)

JANICE GARDNER
389 CONGRESS STREET
ROOM 203
PORTLAND, ME 04101

Transaction Response #: MIQ99C444417

Criminal History Record

Introduction

This criminal history record was produced in response to the following request
(Produced on 2015-03-26) :

Inquiries Name(s) JEANINE LIVELY (1968-08-13)

NO MATCH WAS FOUND FOR YOUR REQUEST.

Business Licensing - CHEF PAULS Business License Approval

From: Gary Hutcheson
To: Business Licensing
Date: 3/27/2015 1:02 PM
Subject: CHEF PAULS Business License Approval
CC: Gary Rogers

CHEF PAULS is Approved for their Business License Inspection by the Police Dept.

Date: 3/27/2015

Zone:

Comments: Approved.

Lt. Gary L. Hutcheson
Portland Police Department
109 Middle St
Portland, Maine 04101
(207) 756-8295

Portland, Maine



Yes. Life's good here.

Office of the City Clerk

Katherine L. Jones, CCM, City Clerk

April 8, 2015

Chef Paul's

Attn: Paul & Jeanine Lively

28 Fleetwood St.

Portland, ME 04102

Re: Chef Paul's d/b/a Chef Paul's. Application for a Class III & IV (Wine & Beer) License and Entertainment without Dance and Outdoor Dining on Private Property at 54 Washington Ave.

Dear Mr. and Ms. Lively,

Yesterday, I sent a letter confirming that your application for a Class III & IV (Wine & Beer) License would be considered at the Wednesday, April 22nd Council meeting. This meeting has been rescheduled for **Monday, April 27th at 7:00 p.m.**

I apologize for any confusion. Should you have any questions or concerns, please do not hesitate to contact our office directly at (207) 874-8557 or by email, BL@portlandmaine.gov

Sincerely,

Janice Gardner

Business License Administrator

207-874-8557

bl@portlandmaine.gov

Portland Press Herald
Maine Sunday Telegram
pressherald.com

Classified Advertising Proof

Portland, City Of
HR Department

Room 315, 389 Congress Street
Portland, ME 04101

Thank you for advertising in The Portland Press Herald and Maine Sunday Telegram.

Your order information and a preview of your advertisement are below for your review. If there are any changes or questions, please immediately contact the Classified Department at 207-791-6100 or email classified@pressherald.com

Thank you,
Joan Jensen

207-791-6100 | Monday-Friday 8:00 am - 5:00 pm

ORDER INFORMATION:

Order Number: 31537

Title: Portland Press Herald
Class: 1000 Legal Notices
Order Price: \$264.80
PO Number: Chef Paul's / Janice

Start Date: 4/13/2015
Number of Days: 3
Payment Method: Invoice

AD PREVIEW:

Legal Advertisement

**Notice of Public Hearing
City of Portland**

A Public Hearing will be held on April 27th at 7:00 P.M., in City Council Chambers, 389 Congress St., on Chef Paul's d/b/a Chef Paul's. Application for a Class III & IV (Wine & Beer) License and Entertainment without Dance and Outdoor Dining on Private Property at 54 Washington Ave. Sponsored by Katherine L. Jones, City Clerk.

Order 223-14/15
Tab 17 427-15

MICHAEL F. BRENNAN (MAYOR)
KEVIN J. DONOGHUE (1)
DAVID A. MARSHALL (2)
EDWARD J. SUSLOVIC (3)
JUSTIN COSTA (4)

CITY OF PORTLAND
IN THE CITY COUNCIL

DAVID H. BRENERMAN (5)
JILL C. DUSON (A/L)
JON HINCK (A/L)
NICHOLAS M. MAVODONES, JR (A/L)

**ORDER APPROVING STATE/LOCAL EPS FUNDING ALLOCATION
FOR PUBLIC EDUCATION FROM KINDERGARTEN TO GRADE 12
FOR PORTLAND PUBLIC SCHOOLS FOR FY2016**

ORDERED, that under and pursuant to the City's Fiscal Year 2015-2016 Appropriation Resolve [Order No. _____] and applicable state law the City hereby approves the following school budget article for Fiscal Year 2015-2016:

Appropriation for State/Local EPS funding Allocation: That the City appropriates the amount of \$79,352,047 for the total cost of funding public education from kindergarten to grade 12, and raises the amount of \$64,342,989 as the City's contribution to the total cost of funding public education from kindergarten to grade 12, both as described in the Essential Programs and Services Funding Act, in accordance with Maine Revised Statutes, Title 20-A, section 15688.

State mandated Explanation: The City's contribution to the total cost of funding public education from kindergarten to grade 12 as described in the Essential Programs and Services Funding Act is the amount of money determined under state law annually to be the minimum amount that the City must raise in order to receive the full amount of state dollars.

Order 224-14/15
Feb 18 4-27-15

MICHAEL F. BRENNAN (MAYOR)
KEVIN J. DONOGHUE (1)
DAVID A. MARSHALL (2)
EDWARD J. SUSLOVIC (3)
JUSTIN COSTA (4)

**CITY OF PORTLAND
IN THE CITY COUNCIL**

DAVID H. BRENERMAN (5)
JILL C. DUSON (A/L)
JON HINCK (A/L)
NICHOLAS M. MAVODONES, JR (A/L)

**ORDER APPROVING NON-STATE FUNDED SCHOOL CONSTRUCTION DEBT
SERVICE FOR PORTLAND SCHOOLS FOR FY2016**

ORDERED, that under and pursuant to the City's Fiscal Year 2015-2016 Appropriation Resolve [Order No. _____] and applicable state law the City hereby approves the following school budget article for Fiscal Year 2015-2016.

Appropriation for Non-State Funded Debt Service (20-A M.R.S.A. §15690(2)(A)).

That the City raise and appropriate \$561,907 for the annual payments on debt service previously approved by the legislative body for non-state funded school construction projects and non-state funded portions of school construction projects, in addition to the funds appropriated as the local share of the City's contribution to the total cost of funding public education from kindergarten to grade 12.

State Mandated Explanation: *Non-state funded debt service is the amount of money needed for the annual payments on the City's long-term debt for major capital school construction projects that are not approved for state subsidy. The bonding of this long-term debt was previously approved by the voters or the City Council.*

Order 225-14/15
Tab 19 4-27-15

MICHAEL F. BRENNAN (MAYOR)
KEVIN J. DONOGHUE (1)
DAVID A. MARSHALL (2)
EDWARD J. SUSLOVIC (3)
JUSTIN COSTA (4)

**CITY OF PORTLAND
IN THE CITY COUNCIL**

DAVID H. BRENERMAN (5)
JILL C. DUSON (A/L)
JON HINCK (A/L)
NICHOLAS M. MAVODONES, JR (A/L)

**ORDER RAISING AND APPROPRIATING ADDITIONAL LOCAL FUNDS FOR
PORTLAND SCHOOLS FOR FY2016**

ORDERED, that under and pursuant to the City's Fiscal Year 2015-2016 Appropriation Resolve [Order No. _____] and applicable state law the City hereby approves the following school budget article for Fiscal Year 2015-2016:

Authorization to Exceed the Portland School Department's Maximum State and Local Spending Target Established Pursuant to Maine Revised Statutes, Title 20-A § 15671-A(4) and Appropriating Additional Local Funds: That the City raises and appropriates \$13,332,753 in additional local funds, which exceeds the State's Essential Programs and Services allocation model by \$13,880,214 as required to fund the budget recommended by the Portland Board of Public Education.

The Portland Board of Public Education recommends \$13,332,753 for additional local funds and gives the following reasons for exceeding the State's Essential Programs and Services Funding model by \$13,880,214: **That amount is needed to cover the School Department's costs that the state's funding model does not recognize or recognize fully, including costs to maintain class size; Special Education costs; PATHS costs; Regular Instruction costs; Facilities Maintenance costs to address deferred maintenance; technology costs as the School Department implements its technology plan; transportation costs; professional development costs; debt service for pension obligation; and debt service capital renovation costs.**

State Mandated Explanation: *The additional local funds are those locally raised funds over and above the City's local contribution to the total cost of funding public education from kindergarten to grade 12 as described in the Essential Programs and Services Funding Act and local amounts raised for the annual payment on non-state funded debt service that will help achieve the City's budget for educational programs.*

[NOTE: City council approval of this order requires 5 affirmative votes, see 20-A M.R.S.A. section 15671-A(5)(B)(2)(requiring for council approval "a majority of the entire membership of the council") and see Article II, section 11 of the City Charter (requiring 5 affirmative votes for final passage).]

Order 226 - 14/15
Stat 20 4-27-15

MICHAEL F. BRENNAN (MAYOR)
KEVIN J. DONOGHUE (1)
DAVID A. MARSHALL (2)
EDWARD J. SUSLOVIC (3)
JUSTIN COSTA (4)

CITY OF PORTLAND
IN THE CITY COUNCIL

DAVID H. BRENERMAN (5)
JILL C. DUSON (A/L)
JON HINCK (A/L)
NICHOLAS M. MAVODONES, JR (A/L)

**ORDER APPROVING TOTAL SCHOOL OPERATING BUDGET
FOR PORTLAND SCHOOLS FOR FY2016**

ORDERED, that under and pursuant to the City's Fiscal Year 2015-2016 Appropriation Resolve [Order No.] and applicable state law the City hereby approves the following school budget article for Fiscal Year 2015-2016:

Total School Budget Summary (20-A M.R.S.A. §15690(4)(A)): That the City authorizes the School Committee to expend \$ 97,231,508 for the Fiscal Year beginning July 1, 2015 and ending June 30, 2016 from the City's contribution to the total cost of funding public education from kindergarten to grade 12 as described in the Essential Programs and Services Funding Act, non-state funded school construction projects, additional local funds for school purposes under the Maine Revised Statutes, Title 20-A, section 15690, unexpended balances, tuition receipts, state subsidy and other receipts for the support of schools.

Order 227-14/15
Tab 21 4-27-15

MICHAEL F. BRENNAN (MAYOR)
KEVIN J. DONOGHUE (1)
DAVID A. MARSHALL (2)
EDWARD J. SUSLOVIC (3)
JUSTIN COSTA (4)

**CITY OF PORTLAND
IN THE CITY COUNCIL**

DAVID H. BRENERMAN (5)
JILL C. DUSON (A/L)
JON HINCK (A/L)
NICHOLAS M. MAVODONES, JR (A/L)

**ORDER APPROPRIATING AND RAISING FUNDS
FOR ADULT EDUCATION FOR FY 2016 AS REQUIRED
BY THE MAINE REVISED STATUTES, TITLE 20-A M.R.S.A. §8603-A(1)**

ORDERED, that the sum of \$ 1,752,513 is hereby appropriated for Adult Education for Fiscal Year 2015-2016 and that the sum of \$1,063,833 is hereby raised as the local share with authorization to expend any additional, incidental, or miscellaneous receipts in the interest and for the well-being of the adult education program.

***Explanation:** Under state law the appropriation for adult education falls outside the total annual budget for public schools addressed in the prior order when it passes the Appropriation Resolve.*

Order 228-14/15
Tab 22 4-27-15

MICHAEL F. BRENNAN (MAYOR)
KEVIN J. DONOGHUE (1)
DAVID A. MARSHALL (2)
EDWARD J. SUSLOVIC (3)
JUSTIN COSTA (4)

**CITY OF PORTLAND
IN THE CITY COUNCIL**

DAVID H. BRENERMAN (5)
JILL C. DUSON (A/L)
JON HINCK (A/L)
NICHOLAS M. MAVODONES, JR (A/L)

**ORDER TO RAISE LOCAL FUNDS
FOR FOOD SERVICE IN THE PORTLAND PUBLIC SCHOOLS for FY2016**

ORDERED, that the sum of \$471,729 is hereby raised for the Food Service Program for Fiscal Year 2015-2016; and that the Portland School Department is authorized to expend any unexpended balances, and additional, incidental, or miscellaneous receipts in the interest and for the well-being of the food service program.

***Explanation:** This order raises local tax revenues for the food service program.*

MICHAEL F. BRENNAN (MAYOR)
KEVIN J. DONOGHUE (1)
DAVID A. MARSHALL (2)
EDWARD J. SUSLOVIC (3)
JUSTIN COSTA (4)

CITY OF PORTLAND
IN THE CITY COUNCIL

DAVID H. BRENERMAN (5)
JILL C. DUSON (A/L)
JON HINCK (A/L)
NICHOLAS M. MAVODONES, JR (A/L)

Order 204-14/15
~~Feb 31 4-6-15~~
Feb 23 4-27-15

**ORDER APPROVING THE COLLECTIVE BARGAINING AGREEMENT WITH
COMMUNICATIONS EMPLOYEE ASSOCIATION**

ORDERED, that the attached Collective Bargaining Agreement with the
Communications Employee Association for July 1, 2013 through June 30,
2016 is hereby approved.

CITY OF PORTLAND, MAINE
MEMORANDUM

TO: Mayor Brennan and Members of the City Council

FROM: Thomas A. Caiazzo, Labor Relations Manager

DATE: March 25, 2015

RE: Tentative Agreement with:
Communications Employee Association - 1st Reading

Staff has reached a tentative agreement with the Communications Employee Association on a successor one year contract. The prior collective bargaining agreement expired June 30, 2013.

The Communications Employee Association, which is comprised of 30 Telecommunicators, Fire Alarm Specialist, Radio Systems Specialist and Telecommunications Supervisors, has reached a tentative agreement with the City. The Administration is requesting a first reading on April 6, 2015. The tentative agreement is within the guidance received by the City Council on February 23, 2015.

The City and the Communications Unit have reached a tentative agreement on a three (3) year contract with a 1.0% general wage increase for Fiscal Year (FY) 2014 retroactive to July 7, 2013; a 1.0% general wage increase retroactive to July 6, 2014; a 1.0% general wage increase retroactive to January 4, 2015 and a 3.0% general wage increase effective July 5, 2015. The duration of the contract and the COLA recommendations are consistent with the unified bargaining strategy previously discussed with the Council.

Other economic items tentatively agreed to are:

Article 24 - increase hours allowed for court time from 3 hours to 4 hours
Article 25.10.1 – increase EMD stipend from \$.375 to \$1.00 and rolled into base pay after COLA. This will include all Fire and Police protocols, not just Emergency Medical Dispatch.
Article 25.10.2 – increase Field Training stipend from \$.625 to \$1.00 for actual training hours
Article 25.10.5 – increase all shift differentials by \$.05 per hour

The union has further agreed to accept the proposed Health Plan changes in consideration of the above economic agreements.

This Agreement, once approved by Council will govern the rights of the parties from July 1, 2013 through June 30, 2016.

All other provisions of the collective bargaining agreement remain the same until a successor agreement is reached through collective bargaining. The total direct cost for the three year agreement is approximately \$165,000 of which \$79,000 has already been approved and appropriated through the FY 2014 and FY 2015 budget process..

Cc: Sheila Hill-Christian – Acting City Manager
Danielle West-Chuhta – Corporate Counsel
Jennifer Thompson – Associate Corporate Counsel
Michael Sauschuck – Portland Police Chief
Vernon Malloch – Assistant Police Chief
Jerry LaMoria – Fire Chief
Thomas Cavanaugh – Emergency Communications Director
Janice Kimball – Acting Human Resources Director
Brendan O'Connell – Finance Director
Carlene Kessler – Principal Admin Officer
Jennifer Lodge, Asst. Budget Director
Lori Schools, Financial Specialist

MICHAEL F. BRENNAN (MAYOR)
KEVIN J. DONOGHUE (1)
DAVID A. MARSHALL (2)
EDWARD J. SUSLOVIC (3)
JUSTIN COSTA (4)

**CITY OF PORTLAND
IN THE CITY COUNCIL**

Order 205-14/15
Tab 32 4-6-15
Tab 24 4-27-15

DAVID H. BRENERMAN (5)
JILL C. DUSON (A/L)
JON HINCK (A/L)
NICHOLAS M. MAVODONES, JR (A/L)

**ORDER AUTHORIZING GENERAL OBLIGATION BONDS
TO FINANCE A PORTION OF THE CITY'S 2016 CAPITAL IMPROVEMENT PROGRAM
IN AN AMOUNT NOT TO EXCEED \$18,731,000**

WHEREAS, Section 16(a) of the Portland City Charter requires that orders authorizing the issuance of general obligation securities of the City in a principal amount greater than five one-hundredths of one (1) percent of the last certified state valuation of the City for a single capital improvement or item of capital equipment be submitted to a voter referendum; and

WHEREAS, Section 16(b) of the Portland City Charter states that the foregoing referendum requirement is not applicable to any construction or financing of improvements or equipment needed as a result of a declared emergency; and

WHEREAS, for purposes of Section 16(b) of the Portland City Charter, the City Council may by vote of at least seven (7) of its members adopt an emergency order authorizing construction or financing of improvements or equipment needed as a result of such declared emergency and such order shall contain a section in which the emergency is set forth and defined; and

WHEREAS, Section 16(b) of the Portland City Charter, further provides that the declaration of such emergency by the City Council shall be conclusive;

WHEREAS, the City has determined that it must finance and install a replacement public safety radio communication system as part of the City's 2016 Capital Improvement Program (the "Communication System Replacement" project listed on Exhibit A hereto) as soon as practicable and will finance such project by issuing its general obligation bonds in the amount not to exceed \$7,000,000 for such purpose;

NOW THEREFORE, FOLLOWING a public hearing of the City Council of the City of Portland, Maine, held upon due notice pursuant to Article VII, Section 9 of the City Charter, **IT IS HEREBY ORDERED THAT:**

There be and hereby is authorized and approved the incurring of indebtedness by the City of Portland and the issue and sale of general obligation bonds and notes in anticipation thereof in the aggregate principal amount not to exceed Eighteen Million Seven Hundred Thirty-one Thousand Dollars (\$18,731,000) to finance the items identified in the City's 2016 Capital Improvement Program attached hereto as Exhibit A and all other costs (as defined herein) related and ancillary thereto (the "Projects").

BE IT FURTHER ORDERED

1. That the City Council finds, determines and declares, with respect to the Communication System Replacement project, that an emergency exists with respect to the need to acquire and install such Communication System Replacement project within the meaning of Section 16(b)(iii) of the City Charter as follows:

- The current public safety radio communication system was installed approximately 15 years ago and is approaching the end of its useful life;
- These circumstances create an unacceptable public safety risk to the residents of the City and to City public safety personnel and to the residents in the combined dispatch service area;
- There is therefore a substantial public exigency to speedily replace the current system with an up-to-date and more reliable public safety radio communication system in order to meet the needs of the residents of the City and of the combined dispatch service area;
- Because there is an urgent and unavoidable need for a new public safety radio communication system and because a process seeking referendum approval would create uncertainty and an unavoidable and unacceptable delay in the project, the City Council finds, determines and declares that emergency circumstances exist under Section 16(b)(iii) of the City Charter requiring approval of the Communication System Replacement project and issuance of the City's bonds therefore without referendum approval.

BE IT FURTHER ORDERED:

1. That the Director of Finance be and hereby is authorized to prepare, issue, and sell such bonds in the name of and on behalf of the City, in the aggregate amount of \$18,731,000 (the "Bonds") at one time, or from time to time, as one or more separate bond issues, and to determine the date, form, minimum denomination, interest rates (as term bonds or serial bonds or some combination thereof), maturities (with the last maturity not to exceed the maximum term permitted by law) and all other details, terms and provisions, not inconsistent herewith, including the form and manner of their sale and award as he may approve, such approval to be conclusively evidenced by the execution thereof;

2. That the Director of Finance be and hereby is authorized to borrow money in anticipation of said Bonds by the issuance and sale of notes or renewal notes in anticipation of said Bonds ("BANs"), and to determine the date, form, minimum denominations, interest rate, maturities (with the last maturity not to exceed 3 years from its date of issuance) and all other details of each issue of BANs, including the form and manner of their sale and award, subject to the provisions of the law, the City Charter and this Order;

3. That the Director of Finance be and hereby is authorized to provide that any of the Bonds and BANs hereinbefore authorized be made subject to call for redemption, with or without premium, prior to their stated dates of maturity, as provided in 30-A M.R.S.A. §5772(6), as amended;

4. That each bond or note issued hereunder shall be signed by the Director of Finance and by the Mayor, either or both of whose signatures may be by facsimile to the extent permitted by law, attested to by the City Clerk, under the seal of the City, and shall be in such form and contain such terms and provisions not inconsistent herewith as they may approve, their approval to be conclusively evidenced by their execution thereof;

5. That the Director of Finance is authorized to negotiate, execute, and deliver, in the name of and on behalf of the City such contracts, agreements, and other documents, including leases, instruments and certificates as may be necessary or appropriate as determined and approved by the Director of Finance in connection with the financing of the Projects, which documents shall be in such form and contain such terms and conditions, not inconsistent herewith, as may be approved by the Director of Finance such approval to be conclusively evidenced by his execution thereof;

6. That the Director of Finance be and hereby is authorized to select the underwriter for the Bonds or BANs heretofore authorized and the Director of Finance be and hereby is authorized and empowered to execute and deliver such contracts or agreements as may be necessary or appropriate in connection therewith;

7. That the Director of Finance be and hereby is authorized to prepare, or cause to be prepared, a Preliminary Official Statement and an Official Statement for use in the offering and sale of the Bonds or BANs heretofore authorized, such Preliminary Official Statement and Official Statement to be in such form and contain such information as may be approved by the Director of Finance, with the advice of the bond counsel for the City, and that the use and distribution of the Preliminary Official Statement and the Official Statement in the name of and on behalf of the City in connection with offering the Bonds or BANs for sale be and hereby is approved;

8. That the Director of Finance be and hereby is authorized to select the registrar, paying agent and transfer agent (the "Transfer Agent") for the Bonds or BANs heretofore authorized and to execute and deliver such contracts and agreements as may be necessary or appropriate to secure their services;

9. That the Bonds or BANs heretofore authorized shall be transferable only on the registration books of the City kept by the Transfer Agent, and said principal amount of the bonds of the same maturity (but not of other maturity) in minimum denominations of \$5,000 and any integral multiple in excess thereof upon surrender thereof at the principal office of the transfer agent, with a written instrument of transfer satisfactory to the transfer agent duly executed by the registered owner or his attorney duly authorized in writing. Upon each exchange or transfer of a bond the City and the Transfer Agent shall make a charge sufficient to cover any tax, fee or any other governmental charge required to be payable with respect to such exchange or transfer, and with respect to such exchange or transfer, and subsequent to the first exchange or transfer, the cost of preparing new bonds upon exchanges or transfer thereof to be paid by the person requesting the same;

10. That the Director of Finance be and hereby is authorized to undertake all acts necessary to provide for the issuance and transfer of such Bonds or BANs heretofore authorized in book-entry form pursuant to the Depository Trust Company Book-Entry Only System, as an alternative to the provisions of the foregoing paragraph above regarding physical transfer of Bonds or BANs, and the Director of Finance be and hereby is authorized and empowered to enter into a Letter of Representation or any other contract, agreement or understanding necessary or, in his opinion, appropriate in order to qualify the Bonds or BANs for and participate in the Depository Trust Company Book-Entry Only System;

11. That the Director of Finance and Mayor from time to time shall execute such Bonds or BANs as may be required to provide for exchanges or transfers of Bonds or BANs as heretofore authorized, all such Bonds or BANs to bear the original signature of the Director of Finance and Mayor, and in case any officer of the City whose signature appears on any Bond or BAN shall cease

to be such officer before the delivery of said Bond or BAN, such signature shall nevertheless be valid and sufficient for all purposes, the same as if such officer had remained in office until delivery thereof;

12. That if the Bonds or BANs, or any part of them, are issued on a tax-exempt basis, the Director of Finance be and hereby is authorized and directed to covenant and certify on behalf of the City that no part of the proceeds of the issue and sale of the Bonds or BANs authorized to be issued hereunder shall be used directly or indirectly to acquire any securities or obligations, the acquisition of which would cause such Bonds or BANs to be "arbitrage bonds" or "private activity bonds" within the meaning of Sections 148 and 141 of the Internal Revenue Code of 1986, as amended;

13. That if the Bonds or BANs, or any part of them, are issued on a tax-exempt basis, the officers or officials executing the Bonds or BANs be and hereby are individually authorized to covenant and agree, on behalf of the City, for the benefit of the holders of such Bonds or BANs, that the City will file any required reports and take any other action that may be necessary to insure that interest on the notes will remain exempt from federal income taxation, and that the City will refrain from any action that would cause interest on the Bonds or BANs to be subject to federal income taxation;

14. That the officers executing the Bonds or BANs be and hereby are individually authorized to covenant, certify and agree, on behalf of the City, for the benefit of the holders of such Bonds or BANs, that the City will file any required reports, make any annual financial or material event disclosure, and take any other action that may be necessary to insure that the disclosure requirements imposed by Rule 15c2-12 of the Securities and Exchange Commission, if applicable, are met;

15. That any or all of the Bonds or BANs issued hereunder may be consolidated with and become a part of any other issue of temporary notes or general obligation bonds authorized to be issued by any previous or subsequent order of the City Council of the City of Portland;

16. That the term "cost" or "costs" as used herein and applied to the Projects, or any portion thereof, includes, but is not limited to (1) the purchase price or acquisition cost of all or any portion of the Projects; (2) the cost of construction, building, alteration, enlargement, reconstruction, renovation, improvement, and equipping of the Projects; (3) the cost of all appurtenances and other facilities either on, above, or under the ground which are used or usable in connection with the Projects; (4) the cost of landscaping, site preparation and remodeling of any improvements or facilities; (5) the cost of all labor, materials, building systems, machinery and equipment; (6) the cost of land, structures, real property interests, rights, easements, and franchises acquired in connection with the Projects; (7) the cost of all utility extensions and site improvements and development; (8) the cost of planning, developing, preparation of specifications, surveys, engineering, feasibility studies, legal and other professional services associated with the Projects; (9) the cost of environmental studies and assessments; (10) the cost of financing charges and issuance costs, including premiums for insurance, interest for a period not to exceed three years from the issue date of the Bonds, and for any additional period permitted under Section 148 of the Internal Revenue Code of 1986, as amended, underwriters' fees and costs, legal and accounting fees and costs, application fees, and other fees and expenses relating to the financing transaction; and (11) the cost of all other financing authorized hereunder, whether related or unrelated to the foregoing;

17. That if the actual cost of any Project differs from the estimated cost on the attached Exhibit A, the Director of Finance is authorized, in his discretion to reallocate proceeds of the Bonds to any other listed Project.

18. That the Director of Finance, Mayor and Clerk and other proper officials of the City be, and hereby are authorized and empowered in its name and on its behalf to do or cause to be done all such acts and things, not inconsistent herewith, as may be necessary or desirable in order to effect the issuance, sale and delivery of the Bonds or BANs hereinabove authorized;

19. That if any of the officers or officials of the City who have signed or sealed the Bonds shall cease to be such officers or officials before the Bonds or BANs so signed and sealed shall have been actually authenticated or delivered by the City, such Bonds or BANs nevertheless may be authenticated, issued, and delivered with the same force and effect as though the person or persons who signed or sealed such Bonds or BANs had not ceased to be such officer or official; and also any such bonds or notes may be signed and sealed on behalf of the City by those persons who, at the actual date of the execution of such Bonds or BANs, shall be the proper officers and officials of the City, although at the nominal date of such Bonds or BANs any such person shall not have been such officer or official;

20. That if the Director of Finance, Mayor or Clerk are for any reason unavailable to approve and execute the Bonds or BANs or any other documents necessary or convenient to the issuance, execution and delivery of the Bonds or BANs, the person or persons then acting in any such capacity, whether as an assistant, a deputy, or otherwise, is authorized to act for such official with the same force and effect as if such official had performed such act.

21. That the Bonds or BANs authorized by this Order are in addition to any bonds or notes previously authorized for the same or similar purposes;

22. That to the extent not payable from other funds, an amount sufficient for the payment of the annual payments of principal and interest on the Bonds or any BANs issued hereunder shall be included in the tax levy of each year until the debt represented by said Bonds or BANs is extinguished.

23. That during the term any of the Bonds (or bonds issued to refund such Bonds) are outstanding, the Director of Finance be and hereby is authorized to issue and deliver refunding bonds to refund some or all of the Bonds then outstanding, and to determine the date, form, interest rate, maturities and all other details of such refunding bonds, including the form and manner of their sale and award. The Director of Finance be and hereby is further authorized to provide that any of such refunding bonds hereinbefore authorized be made callable, with or without premium, prior to their stated date(s) of maturity, and each refunding bond issued hereunder shall be signed by the Director of Finance and by the Mayor, either or both of whose signatures may be by facsimile to the extent permitted by law, attested to by the City Clerk, under the seal of the City, and shall be in such form and contain such terms and provisions not inconsistent herewith as they may approve, their approval to be conclusively evidenced by their execution thereof.

Exhibit A

Transportation Projects

PACTS/Match

PACTS Regional Transportation Management Systems (RTMS) - Traffic Signals	\$100,000
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Streets/Sidewalks

Paving Preservation and Rehabilitation	1,000,000
Sidewalk Rehabilitation/Accessibility	500,000
Transportation Projects Total	<u>\$1,600,000</u>

Facilities Projects

Buildings/Garages

Fire Alarm & Sprinkler Systems at all Fire Stations	\$75,000
Waterproof Decking Recoat at Temple Street Parking Garage	305,000
Ultra Violet Water Treatment System at Riverton Pool	50,000
Passenger Elevator at City Hall	100,000
Seating at Hadlock Field	190,000
Bleachers at Ice Arena	100,000
Roof Deck at Spring Street Parking Garage	500,000
Library Roof Section	25,000

Marine

Compass Park Pier Stabilization	30,000
Piles at Portland Ocean Terminal	280,000
Steel Piles at Ocean Gateway Pier (engineering)	100,000

Schools

PATHS Paving	450,000
Fire Alarm System at Portland High School	150,000
Windows at Deering High School	250,000
Oil Tanks Removal at Various School Buildings	100,000
Facilities Projects Total	<u>\$2,705,000</u>

Parks, Fields and Trails Projects

Parks, Fields, Trails

Payson Park Softball Field "A" - Amenity and Field Upgrades	\$200,000
Lyman Moore Sports Complex	275,000
Capisic Pond Improvements	565,000
Golf Course Rehabilitation	100,000
Parks, Fields and Trails Projects Total	<u>\$1,140,000</u>

Equipment and Vehicles Projects

Equipment

Communication System Replacement	\$7,000,000
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Vehicles

30 Passenger Bus - School	50,000
Full Size Bus - School	90,000

7 Passenger Van - School	50,000
Medcu Ambulance Replacement - Fire	265,000
Police Cruisers (4) Replacement - Police	160,000
Ladder 1 Replacement - Fire	1,300,000
Bucket Truck Replacement - Forestry 5098	220,000
Equipment and Vehicles Projects Total	<u>\$9,135,000</u>

Sewer / Stormwater Projects

Buildings/Garages

Water Resource Relocation	\$250,000
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Parks, Fields, Trails

Capisic Pond Improvements	560,000
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Sewer

CMOM - Sewer System Renewal	1,100,000
CMOM - Pump Station Rehabilitation	670,000
Rowe Avenue Sewer Separation	210,000

Stormwater

Stormwater Storage and Filtration Systems at Sagamore Village (Engineering)	120,000
Gravel Wetland Stormwater Treatment System in the Capisic Brook Watershed (Engineering)	175,000

Vehicles

Dump Truck Replacement - Public Services 3112	165,000
Dump Truck Replacement - Sewer 3110	165,000
Street Sweepers Replacement	175,000
CCTV Truck - NEW	415,000

Sewer / Stormwater Projects Total	<u>\$4,005,000</u>
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Public Art Projects	\$73,000
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Land Bank Projects	\$73,000
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TOTAL CIP FINANCED	<u><u>\$18,731,000</u></u>
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Merrill's Wharf
254 Commercial Street
Portland, ME 04101
207-791-1100

Memo

To: Suzanne Knight, Interim Director of Finance
From: Jim Saffian, Bond Counsel
Date: February 19, 2015
Re: City Charter Referendum Requirements

This memorandum discusses the Portland Charter referendum requirements as they relate to the proposed City financing of a replacement public safety radio communication system.

Article VII, Section 16(a)(1) of the City Charter, states that:

(a) The city council shall submit the following to voter referendum:

- (1) Orders or resolves authorizing the issuance of general obligation securities of the city in a principal amount greater than five one-hundredths of one (1) percent of the last certified state valuation of the city for a single capital improvement or item of capital equipment; or

Thus, based on the City's current 2015 State Valuation of \$7,707,200,000, a bond order in the amount of \$3,853,600 or more for a single capital improvement or item of capital equipment, unless excepted under Article VII, Section 16(b), would trigger the referendum requirement. Article VII, Section 16(b) provides for the following three exceptions to the referendum requirement: (i) refunding bonds, (ii) street, storm water and sewer bonds and (iii) bonds for a declared emergency.

(b) The provisions of this section shall not be applicable to any order or resolve authorizing (i) the refunding of any securities or other obligations of the city; (ii) the issuance of general obligation securities, or other direct or indirect obligations, of the city for streets, sidewalks, or storm or sanitary sewers; or (iii) any construction or financing of improvements or equipment needed as a result of fire, flood, disaster or other declared emergency. For purposes of this section, the city council may by vote of at least seven (7) of its members adopt emergency orders or resolves authorizing construction or financing of improvements or equipment needed as a result of fire, flood, disaster or other emergency and such orders or resolves shall contain a section in which the

emergency is set forth and defined; provided, however, that the declaration of such emergency by the city council shall be conclusive.

The currently installed public safety radio communication system (now being replaced) financed with a portion of the City's 1998 Bonds was submitted to a referendum vote. In 2002, we concluded that certain additional and unexpected costs of the 1998 project (necessary to fix dead space or black out areas) should be considered as part of the same "single" capital improvement and thus also subject to the City Charter bond referendum requirement. This was so even though the additional amount, standing alone, was less than the then-current referendum triggering threshold. At that time, however, the City Council elected to authorize the additional bonding amount under the "declared emergency" provision of paragraph 16(b), thus avoiding the referendum requirement for the additional financing amount.

I understand that the City is currently confronting a similar situation. The existing public safety communication system is approaching the end of its useful life. Vendor support for repairs and upgrades to the system is also reaching an end point. In addition to any negative impact this may have on Portland residents, the City is now part of a combined dispatch system with South Portland and Cape Elizabeth. Thus, the City Council could conclude that these circumstances create an unsafe environment for City residences and City safety personnel and for the populations in the South Portland and Cape Elizabeth communities as well. Based on this public safety issue, there is therefore an urgent and unavoidable need to replace the current system with an up-to-date system that provides better reliability and coverage. The new system would ameliorate these concerns and would enhance the public safety of both the residents of the City and City public safety personnel as well as the residents in the combined public safety dispatch territory.

If the City Council determines that it would be appropriate to take this action, then the City Council (by a vote of 7 of its members) can define and declare the emergency circumstances that justify the referendum exception when it adopts the bond order for the replacement public safety radio communication system. Based on the discussion above, in this instance the circumstances giving rise to the emergency would be along the lines of the following:

- The current public safety radio communication system is approaching the end of its useful life;
- These circumstances create an unacceptable public safety risk to the residents of the City and to City public safety personnel and to the residents in the combined dispatch service area;
- There is therefore a substantial public exigency to speedily replace the current system with an up-to-date and more reliable public safety radio communication system in order to meet the needs of the residents of the City and of the combined dispatch service area;
- Because there is an urgent and unavoidable need for a new public safety radio communication system and because a process seeking referendum approval would create uncertainty and an unavoidable and unacceptable delay in the project, the

City Council finds and declares that emergency circumstances exist requiring approval of the project and issuance of the City's bonds therefore without referendum approval.

Thus, by an appropriately drafted City Council Order and related City Council findings and declarations, the project and bonds could be approved by the City Council without a referendum vote under the requirements that pertain in the City Charter.

I hope this information is helpful to you as you complete your planning for the project. Please give me a call if you have any further questions.



TO: City Council

FROM: Ian Houseal, Assistant to the City Manager

DATE: April 6, 2015

DISTRIBUTION: Sheila Hill-Christian, Michael Brennan, Danielle West-Chuhta, Sonia Bean, Nancy English

SUBJECT: Capital Improvement Plan FY 2016 – FY 2020

SPONSOR: Nicholas Mavodones, Chair, Finance Committee

I. SUMMARY OF ISSUE

The primary action that the City Council will take related to the Capital Improvement Plan is authorizing general obligations bonds and appropriating bond proceeds to fund the proposed 2016 capital budget. Since payments on the debt will not begin until Fiscal Year 2017, the City Council is making a decision that will not impact this coming year's operating budget (FY2016), but the following year's operating budget (FY2017). The secondary action the City Council will take is declaring that emergency circumstances exist that justifies the referendum exception when it adopts the bond orders for the replacement public safety radio communication system. The system is obsolete and if the system was to fail an emergency situation exists because there would be no emergency communication system in the cities of Portland or South Portland.

Overall, the Capital Improvements Plan (CIP) presents the City's capital needs in the current year and plans for capital needs in future years. It is also a financing plan for public improvement projects that require significant capital investment for the City. The purpose of developing and annually updating a five-year CIP is to inform policy makers and community of both the current and future capital needs of the community and balanced those needs with the City's debt position, public expectations, and the ability of the City's operating budget to fund capital projects.

Approximately half of the General Fund 2016 capital budget (\$14.7 Million) proposed for authorization and appropriation by the City Council is funding for the necessary replacement of the Public Safety Communication System (\$7 Million estimate) which at this point is obsolete and needs to be replaced as an emergency. The remaining capital projects are critical to maintaining the City's assets; however, in an effort to minimize the immediate impact to the FY2017 operating budget from borrowing resulting from the FY2016 CIP and to minimize long-term tax rate increases, there were numerous capital maintenance projects that were deferred for later years including over a \$1 Million in vehicle replacements such as snow plows, police cruisers and parking enforcement vehicles. Additionally, needed street repairs and sidewalk repairs were deferred to later years. Street reconstructions were also deferred as well as important projects such as renovating library facilities and making investment to the waterfront.

Even with deferred maintenance as is proposed in the 2016 Capital Improvement Plan, the net increase to the FY2017 operating budget will be approximately \$450,000 from capital or \$1,220,000 from all debt (i.e. Pension Bond). The resulting tax rate increase in FY2017 from committed to FY2015 and projected FY2016 debt payments is estimated to be an increase of approximately \$0.25 per \$1,000 of value on the tax rate from all forms of debt and \$0.06 per \$1,000 of value from capital borrowing alone.

II. REASON FOR SUBMISSION

These documents are being submitted to finalize the 2016 capital budget.

III. INTENDED RESULT

Action by the City Council will allow for construction of projects necessary to maintain the City's streets, sidewalks, buildings, waterfront, parks, fields, trails, and vehicles, and emergency communication system.

IV. COUNCIL GOAL ADDRESSED

Pursuant to the 2011 amendments to the City Charter (Article VI, Section 5, paragraph (i)), one of the City Manager's duties is to "prepare a five (5) year rolling Capital Improvement Plan for annual presentation to the City Council, which Plan includes the following:

1. A one (1) year plan of specific projects and their costs;
2. A two (2) through five (5) year plan of specific projects and general categories, and amounts of proposed spending and funding sources; and
3. A discussion of the basis for the plan and the factors which went into its development or amendments."

V. FINANCIAL IMPACT

While the decision to fund the 2016 Capital Budget does not impact the upcoming FY2016 budget, it does impact the FY2017 operating budget. And even with deferred maintenance as is proposed in the 2016 Capital Improvement Plan, the net increase to the FY2017 operating budget will be approximately \$450,000 from capital or \$1,220,000 from all debt (i.e. Pension Bond). The resulting tax rate increase in FY 2017 from committed to FY2015 and projected FY 2016 debt payments is estimated to be an increase of approximately \$0.25 per \$1,000 of value on the tax rate from all forms of debt and \$0.06 per \$1,000 of value from capital borrowing alone.

VI. STAFF ANALYSIS

The 2016 capital budget presents a list of projects necessary to maintain critical public assets. Approximately half of the General Fund 2016 capital budget (\$14.7 Million) proposed for authorization by the City Council is funding for the necessary replacement of the Public Safety Communication System (\$7 Million estimate) which at this point is obsolete and needs to be replaced as an emergency. The remaining capital projects are critical to maintaining the City's assets; however, in an effort to minimize the immediate impact to the FY2017 operating budget from borrowing resulting from the FY2016 CIP

and to minimize long-term tax rate increases, there were numerous capital maintenance projects that were deferred for later years including over a \$1 Million in vehicle replacements such as snow plows, police cruisers and parking enforcement vehicles. Additionally, needed street repairs and sidewalk repairs were deferred to later years. Street reconstructions were also deferred as well as important projects such as renovating library facilities and making investment to the waterfront.

This year's Five-year Capital Improvement Plan presents a capital maintenance funding program that balance maintaining roads, sidewalks, facilities (School and City), parks and open space, as well as the City's vehicle fleet with minimizing the impact from capital expenditure on the operating budget and minimizing potential tax rate increases. **The presented five-year Plan, in years two through five, shows the maximum funding-levels available so as not to increase operating budget expenditure.**

In addition, there is an urgent and unavoidable need for a new public safety radio communication system and because a process seeking referendum approval would create uncertainty and an unavoidable and unacceptable delay in the project, the City Council can find and declare that emergency circumstances exists requiring approval of the project and issuance of the City's bonds therefore without referendum approval.

VII. RECOMMENDATION

The Finance Committee voted to recommend the 2016 capital budget to the City Council.

Additionally, the Finance Committee voted to recommend that the City Council declare that emergency circumstances exist that justifies the referendum exception when it adopts the bond orders for the replacement public safety radio communication system. The circumstances giving rise to the emergency include the following:

- The current public safety radio communication system is approaching the end of its useful life;
- These circumstances create an unacceptable public safety risk to the residents of the City and to City public safety personnel and to the residents in the combined dispatch service area;
- There is therefore a substantial public exigency to speedily replace the current system with an up-to-date and more reliable public safety radio communication system in order to meet the needs of the residents of the City and of the combined dispatch service area;

VII. LIST ATTACHMENTS

- Bond Counsel Memorandum – Emergency Communication System Referendum Requirements
- Capital Improvement Plan (FY 2016 – FY 2020) [abbreviated- full document available on the City Manager webpage]
- Finance Committee Material – February 24, 2015
- Finance Committee Material – March 17, 2015
- Finance Committee Workshop Material – March 17, 2015

Finance Committee
Meeting Minutes
Thursday, March 26, 2015

Attendees: Chair Mavodones, Vice Chair Duson, Committee members Hinck and Suslovic; Justin Costa, Sheila Hill-Christian. School board members Superintendent Chaulk, Committee members Seeliger, Trevorrow and Katzenbueler; members of the public and city and school staff

Chair Mavodones opened the meeting – called to order

1. FY '16 School Budget

Superintendent Chaulk provided a detailed outline of the school budget.

2. CIP Budget

CIP Budget discussion. Public comment was taken.

Ian Houseal explained that the CIP Budgets prepared for the Committee's action includes two options, as requested by the Committee, to either include the Capisic Pond Improvement Project funded: 50% General Fund and 50% Sewer Fund or not including the Capisic Pond Improvement Project.

Councilor Suslovic moved to recommend CIP Budget including Capisic Pond as presented to Finance Committee, seconded by Councilor Duson. Motion passed 3-1.

The Emergency Communications System was discussed. Councilor Duson made a motion to declare the Emergency Communications System Project an emergency. Seconded by Councilor Suslovic. Motion was passed 3 – 1.

Meeting adjourned.



Merrill's Wharf
254 Commercial Street
Portland, ME 04101
207-791-1100

Memo

To: Suzanne Knight, Interim Director of Finance
From: Jim Saffian, Bond Counsel
Date: February 19, 2015
Re: City Charter Referendum Requirements

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Article VII, Section 16(a)(1) of the City Charter, states that:

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emergency is set forth and defined; provided, however, that the declaration of such emergency by the city council shall be conclusive.

The currently installed public safety radio communication system (now being replaced) financed with a portion of the City's 1998 Bonds was submitted to a referendum vote. In 2002, we concluded that certain additional and unexpected costs of the 1998 project (necessary to fix dead space or black out areas) should be considered as part of the same "single" capital improvement and thus also subject to the City Charter bond referendum requirement. This was so even though the additional amount, standing alone, was less than the then-current referendum triggering threshold. At that time, however, the City Council elected to authorize the additional bonding amount under the "declared emergency" provision of paragraph 16(b), thus avoiding the referendum requirement for the additional financing amount.

I understand that the City is currently confronting a similar situation. The existing public safety communication system is approaching the end of its useful life. Vendor support for repairs and upgrades to the system is also reaching an end point. In addition to any negative impact this may have on Portland residents, the City is now part of a combined dispatch system with South Portland and Cape Elizabeth. Thus, the City Council could conclude that these circumstances create an unsafe environment for City residences and City safety personnel and for the populations in the South Portland and Cape Elizabeth communities as well. Based on this public safety issue, there is therefore an urgent and unavoidable need to replace the current system with an up-to-date system that provides better reliability and coverage. The new system would ameliorate these concerns and would enhance the public safety of both the residents of the City and City public safety personnel as well as the residents in the combined public safety dispatch territory.

If the City Council determines that it would be appropriate to take this action, then the City Council (by a vote of 7 of its members) can define and declare the emergency circumstances that justify the referendum exception when it adopts the bond order for the replacement public safety radio communication system. Based on the discussion above, in this instance the circumstances giving rise to the emergency would be along the lines of the following:

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- Because there is an urgent and unavoidable need for a new public safety radio communication system and because a process seeking referendum approval would create uncertainty and an unavoidable and unacceptable delay in the project, the

City Council finds and declares that emergency circumstances exist requiring approval of the project and issuance of the City's bonds therefore without referendum approval.

Thus, by an appropriately drafted City Council Order and related City Council findings and declarations, the project and bonds could be approved by the City Council without a referendum vote under the requirements that pertain in the City Charter.

I hope this information is helpful to you as you complete your planning for the project. Please give me a call if you have any further questions.

City of Portland

CAPITAL IMPROVEMENT PLAN

FY 2016 – FY 2020



April 2015

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Introduction

The Capital Improvements Plan (CIP) presents the City's capital needs in the current year and plans for capital needs in future years. It is also a financing plan for **public improvement projects** that require significant capital investment for the City. The purpose of developing and annually updating a five-year CIP is to inform policy makers and community of both the current and future capital needs of the community and balanced those needs with the City's debt position, public expectations, and the ability of the City's operating budget to fund capital projects.

The capital plan is not intended to predetermine that a project will be funded, but is intended to be a living and flexible document that considers capital needs in the community and balances those needs with what the City can afford.

Generally, capital improvements projects consist of purchasing, constructing or renovating structures, acquiring land and/or purchasing major equipment or vehicles that have a total cost of at least \$10,000 and a useful life of more than five years. Common CIP projects include new vehicles, new or improved sidewalks, roads, neighborhood renewal projects and new City facilities, such as schools and other facilities.

The CIP, which is updated annually specifies and describes the City's capital project schedules and priorities for the next five years. The CIP attempts to reflect Government Financial Officer Association (GFOA) best practices for multi-year capital planning and asset assessment, maintenance, and replacement.

This Capital Improvement Plan meets the following requirements. Pursuant to the 2011 amendments to the City Charter (Article VI, Section 5, paragraph (i)), one of the City Manager's duties is to "prepare a five (5) year rolling Capital Improvement Plan for annual presentation to the City Council, which Plan includes the following:

1. A one (1) year plan of specific projects and their costs;
2. A two (2) through five (5) year plan of specific projects and general categories, and amounts of proposed spending and funding sources; and
3. A discussion of the basis for the plan and the factors which went into its development or amendments."

CIP Preparation

City Departments reviewed and developed potential CIP projects (including those submitted by the community) and submitted projects for consideration in the CIP. Each capital project request includes a project description, justification, proposed funding levels and sources and, if applicable, estimated ongoing operating costs. For projects already underway, the description also notes the remaining portion of the project's budget.

Each project was then reviewed by City staff and evaluated as to whether it was critical to maintaining a City asset. Projects that were deemed critical were recommended based on the projected availability of funds in future years.

A list of specific projects and their costs and the Capital Improvement Plan was then prepared and presented to the City Council Finance Committee for consideration. The Finance Committee then recommended the list of specific projects and their costs to the City Council with a recommendation to fund the borrowing portion of the Plan.

Relationship to the Annual Operating Budget

Some projects listed in the CIP are recommended for funding through annual operating funds in the upcoming operating budget while other projects are recommended for funding through borrowing. Projects funded through borrowing impact the operating budget through ongoing debt service expenses. Some CIP projects also directly impact the operating budget in that they will require ongoing expenses for staff and other operating costs.

The projects funded through borrowing in the coming year impact the following year's operating budget dependent on when bonds are issued. From a financial planning standpoint the CIP attempts to balance deferring maintenance and other capital investments with the increased expenditure from borrowing and then debt payments from that borrowing that then needs to be offset by increasing revenue (e.g. property taxes).

In summary, funding for capital projects comes from four general sources:

- Funds received through the sale of bonds including general obligations bonds (repaid through taxes on property) and sometimes revenue supported bonds (repaid through utility charges);
- Money from the City's general fund (annual operating budget); or
- Other loans, grants or other Federal/State aid.

Funding Summary

Given the City's consistently strong financial position, managing the overall debt level and ability to service that debt remain critical factors in maintaining a strong credit rating. At the present time, the City's outstanding authorized and issued debt for city and school funds is approximately \$219 Million.

Outstanding Debt Authorized and Issued as of June 30, 2014

General City	108,760,921
Pension	110,210,000
<u>Sewer</u>	<u>70,005,301</u>
Total	288,976,222

The City's General Fund debt service for the current year and the next five years, **exclusive** of authorized, but not issued debt and reimbursements for School Construction debt service are:

<u>Fiscal Year</u>	<u>CURRENT Principal and Interest Payments</u>	
	<i>Exclusive of POB</i>	<i>Inclusive of POB</i>
2016 (current)	13,986,992	26,062,327
2017	13,010,434	25,862,097
2018	11,471,029	25,145,881
2019	10,482,155	25,030,036
2020	9,058,512	24,530,909

The five year Capital Improvement Plan calls for approximately \$61 Million in city and school projects supported by City resources including the operating budget, fund balance, and the issuance of general obligation bonds. The following table summarizes the proposed use of local resources in the first year (2016) and the total over the full five years (2016-2020):

<u>Funding Source</u>	<u>FY 2016</u>	<u>FY 2016 – FY 2020</u>
City Bond Issue	14,726,000	61,453,700
City Operating Budget	580,000	3,855,000
Sewer Bond Issue	4,005,000	20,155,000
Sewer Operating Budget	375,000	1,240,000

The following table summarizes the proposed **bond issues** over the next five years:

<u>Fund</u>	<u>FY 2016</u>	<u>FY 2017</u>	<u>FY 2018</u>	<u>FY 2019</u>	<u>FY 2020</u>	<u>Total</u>
City	13,440,000	9,479,700	10,485,000	9,430,000	7,050,000	49,884,700
School	1,140,000	3,040,000	1,385,000	4,715,000	695,000	10,975,000
Public Art	73,000	61,000	57,000	69,000	37,000	297,000
<u>Land Bank</u>	<u>73,000</u>	<u>61,000</u>	<u>57,000</u>	<u>69,000</u>	<u>37,000</u>	<u>297,000</u>
Total General Fund	14,726,000	12,641,700	11,984,000	14,283,000	7,819,000	61,453,700
Sewer Fund	4,005,000	9,820,000	2,255,000	2,130,000	1,945,000	20,155,000

As a result of the funding levels for bonds issues over the next five years, the planned City's General Fund debt service for the next five years, including reimbursements for School debt service and **excluding** pension bonds is estimated to be:

<u>Fiscal Year</u>	<u>PROJECTED</u> <u>Principal and Interest Payments</u>	<u>Net Increase/</u> <u>(Decrease)</u>	<u>Tax Rate</u> <u>Increase/(Decrease)</u>
2016 (current)	13,986,992	9,397	0.00
2017	14,431,204	444,212	0.06
2018	14,267,850	(162,354)	(0.02)
2019	14,561,766	293,916	0.04
2020	14,546,627	(15,140)	(0.00)

Inclusive of pension bonds, the estimates are:

<u>Fiscal Year</u>	<u>PROJECTED</u> <u>Principal and Interest Payments</u>	<u>Net Increase/</u> <u>(Decrease)</u>	<u>Tax Rate</u> <u>Increase/(Decrease)</u>
2016 (current)	26,062,327	737,736	0.10
2017	27,282,867	1,220,540	0.16
2018	27,942,702	659,835	0.08
2019	29,109,647	1,166,945	0.04
2020	30,019,024	909,377	0.11

CIP Discussion

In Fiscal Year 2015 the City authorized approximately \$12.5 Million in General Fund borrowing. The decision to authorize \$12.5 Million in borrowing will result in an increase of approximately \$10,000 for capital debt payments in the upcoming FY2016 operating budget. Including pension bond payment increases, the net increase from FY 2015 borrowing will be approximately \$740,000. The tax rate increase from capital borrowing will be approximately \$0.00 or \$0.10 including the pension bond payment.

The FY2015 five-year planning document estimated \$130 Million in borrowing during the five year planning horizon. This would potentially result in annual increases of upwards of \$1.7 Million from capital alone to the operating budget year-after-year from 2016 to 2020. Increases of that size or borrowing in that amount are unrealistic; setting up false expectations for funding projects when there are not the funds to support the debt payments.

In this year's CIP, approximately half of the 2016 capital budget (\$14.7 Million) proposed for authorization by the City Council is funding for the necessary replacement of the Public Safety Communication System (\$7 Million) which at this point is obsolete and needs to be replaced as an emergency. A portion of the Communication System's debt payments will be shared with South Portland because it is a joint city service as specified in an interlocal agreement. The remaining capital projects are critical to maintaining the City's assets; however, in an effort to minimize the immediate impact to the FY2017 operating budget from borrowing resulting from the FY2016 CIP and to minimize long-term tax rate increases, there were numerous capital maintenance projects that were deferred for later years including over a \$1 Million in vehicle replacements such as snow plows, police cruisers and parking enforcement vehicles. Additionally, needed street repairs and sidewalk repairs were deferred to later years. Street reconstructions were also deferred as well as important projects such as renovating library facilities and making investment to the waterfront.

Even with deferred maintenance as is proposed in the 2016 capital budget, the net increase to the FY2017 operating budget will be approximately \$450,000 from capital or \$1,300,000 from all debt (i.e. Pension Bond). The resulting tax rate increase in FY2017 from committed to FY2015 and projected FY2016 debt payments is estimated to be an increase of approximately \$0.25 per \$1,000 of value on the tax rate from all forms of debt and \$0.06 per \$1,000 of value from capital borrowing alone.

This year's Five-year Capital Improvement Plan presents a capital maintenance funding program that balance maintaining roads, sidewalks, facilities (School and City), parks and open space, as well as the City's vehicle fleet with minimizing the impact from capital expenditure on the operating budget and minimizing potential tax rate increases. **The presented five-year Plan, in years two through five, shows the maximum funding-levels available so as not to increase operating budget expenditure.**

However, it is understood that there are upcoming capital projects of great importance to the community that carry with them significant costs. It is recommended that the Capital Improvement Plan be used as the tool that it is will help the City plan for and analyze future capital expenditures. Just as this year's Communication System Replacement project (\$7 Million estimate) carries with it deferred maintenance City-wide and an increase to the FY2017 operating budget; the preparation of future year capital budgets will also need to make similar choices to balance capital maintenance, community investment, and increases to operating budget expenditures and therefore the tax rate.

Capital projects that will be considered by the community over the next five to ten year will have a significant impact upon the operating budget. There will be a need to balance funding the projects with impact to the operating budget, the tax rate and service impacts. The following is the known list of projects that are of importance to the community (in no particular order):

- Continuing to move Public Services from Bayside (estimated additional \$6 Million¹);
- Elementary School Renovations and Expansions (non-State funded \$51 Million²);
- Congress Square Re-design (estimated \$3.4 Million)³;
- Franklin Street Re-design (estimated \$5 Million)⁴;
- Bayside Transportation Improvements (estimated \$1.5 Million)⁵;
- State and High Streets One-way/Two-way (estimated \$3 Million)⁶;
- Forest Avenue Transportation Improvements (\$3.5 Million)⁷;

In planning for the financial impact of funding these projects, the planning horizon has been extended to 2027 to coincide with the expiration of the pension bonds. A draft capital planning schedule and resulting financial impact to the operating budget and tax rate can be found in Section D on page 29 of this document.

¹ Relocated Public Services from Bayside incorporates the consolidation of city facilities. The sale of the Bayside Public Services properties will somewhat offset the purchase new property and facilities.

² ESTIMATE ONLY

³ ESTIMATE ONLY and final estimated cost contingent on other projects.

⁴ ESTIMATE ONLY

⁵ PROJECT SCOPE UNDEVELOPED, ESTIMATE ONLY

⁶ ESTIMATE ONLY

⁷ PROJECT SCOPE UNDEVELOPED, ESTIMATE ONLY

Needs Assessment

The needs assessment is a summary of the City's capital assets, an evaluation of the replacement value of those assets, and estimate of the annual reinvestment needed to maintain those assets. It can be used as a tool for evaluating investment in the City's capital assets and suggests an average annual funding target for future capital investment.

Asset Inventory

The City provides a wide range of services to the community requiring a diverse range of capital assets. In summary those assets include approximately:

- 82 buildings containing 2.5 million square feet (sf) of occupied space
- 1,075 acres of parks area
- 6.3 million sf of sidewalk area
- 43.2 million sf of road area
- 2 million linear feet of underground pipe
- 683 vehicles

Public Facilities Capital Assets

General Fund Buildings

- 33 City Building totaling approx. 486,138 sf
- 25 School Building totaling approx. 1,632,364 sf
- 9 Fire Building totaling approx. 69,621 sf
- 3 Barron Center Building totaling approx. 117,032 sf
- 3 Parking Garages with 1,585 parking garage spaces

Enterprise Fund Buildings

- 5 Golf Course Buildings totaling approximately 17,068 sf
- 1 Ice Arena Building totaling approximately 42,415 sf
- 2 Library Building totaling approximately 82,900 sf¹

Recreation

- 3 Stadium
- 46 Playing Fields
- 23 Tennis Courts
- 9 Basket Ball Courts
- 3 Swimming Pools
- 3 Skating Pond
- 1 Skate Park
- 25 Playgrounds

Open Space and Cemeteries

- 1,075 acres of park area²
- Fort Gorges
- 9,331 linear feet of sea wall
- 38,400 linear feet of walking path
- Unknown number of tombs

¹ The Library is not an enterprise fund, but is subject to the City's debt limit policy. There are additional library locations; however, these locations are located in other buildings.

² This value does not include the islands.

Vehicles and Equipment Capital Assets

General Fund Vehicles

- 55 Fire Vehicles
- 81 Police Vehicles
- 332 Public Service Vehicles
- 50 Recreation and Facilities Vehicles
- 10 Parking Management Vehicles
- 30 School Vehicles
- 3 Health and Human Services Vehicles
- 8 Barron Center Vehicles
- 8 Miscellaneous City Hall Department Vehicles

Enterprise Fund Vehicles

- 104 Golf Course Vehicles
- 1 Ice Arena Vehicle
- 1 Library Vehicle

General Fund Equipment

- 2,560 square feet of Health and Human Services kitchen space
- 685,957 linear feet of Public Safety data cable
- 3 Public Safety transmission towers
- 7 Public safety communication equipment systems
- 22 Information Technology storage and network devices
- Information Technology network wiring
- 28,000 square feet of School kitchen space
- 125 signalized pedestrian intersections
- 97 streetlight poles
- 9,000 square feet of pier area
- 2 pedestrian piers
- Field Irrigation systems
- Field Lighting systems

Enterprise Fund Equipment

- Golf Course irrigation system
- Ice Arena refrigeration system
- Ice Arena skate sharpener
- Library network and storage devices

Roadways and Sewer System Capital Assets

Roadways

- 6,341,751 square feet of sidewalk area
- 1,006,300 linear feet of curbing
- 14,516,986 square feet of arterial and collector area
- 21,753,143 square feet of local street area

Sewer and Stormwater Enterprise Fund

- 2,034,220 linear feet of underground pipe
- 7,966 sewer manholes
- 6223 catch basins
- 859 sewer and stormwater outfalls
- 10 sewer pump stations

Full Replacement Cost

Keeping all of the City's capital assets in functional and working order requires regular reinvestment. Assuming that the City's entire General Fund asset portfolio required replacement tomorrow, the current replacement value (excluding land value) of those capital assets is estimated to be \$830 Million. Approximately 48% of that value is in infrastructure such as roads and sidewalks, 44% in public facilities and the remaining value in vehicles and equipment.

Assuming that the City's entire Sewer Fund asset portfolio required replacement tomorrow, the current replacement value (excluding land value) of those capital assets is estimated to be \$393 Million.

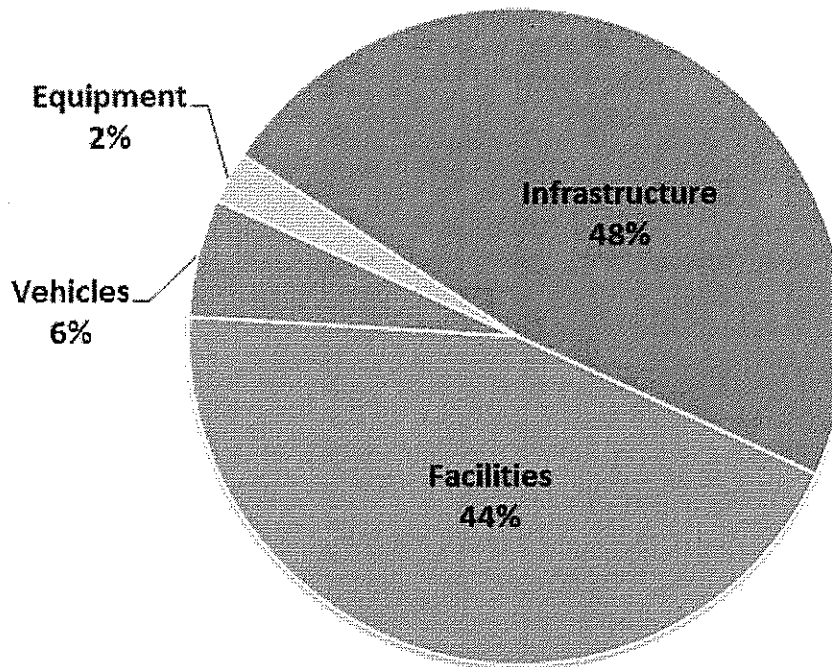


Figure: Full Replacement Cost: General Fund Assets (Approximately \$830,000,000)

Annualized Reinvestment Cost

Assuming regular reinvestment in the City's General Fund capital assets would take place annually through such activities as reconstruction of facilities, repaving of roadways, and replacement of equipment the annualized reinvestment requirement would be approximately \$19 Million.

Given that the estimated lifespan of capital assets varies considerably from asset to asset reinvestment requirements would vary per asset category. Facilities and infrastructure has a much longer estimated lifespan than vehicles; however, given shorter lifespans of some assets and the high cost of replacing those assets, those assets would require a larger proportion of annualized investment requirements.

For example, while vehicles only represented 6% of total replacement value of City assets, maintaining vehicle assets would require 25% of the City's annualized reinvestment.

Assuming regular reinvestment in the City's Sewer Fund capital assets would take place annually through such activities as reconstruction of sewer pipe, catch basins, sewer pump stations, and other sewer and stormwater assets the annualized reinvestment requirement would be approximately \$5.3 Million.

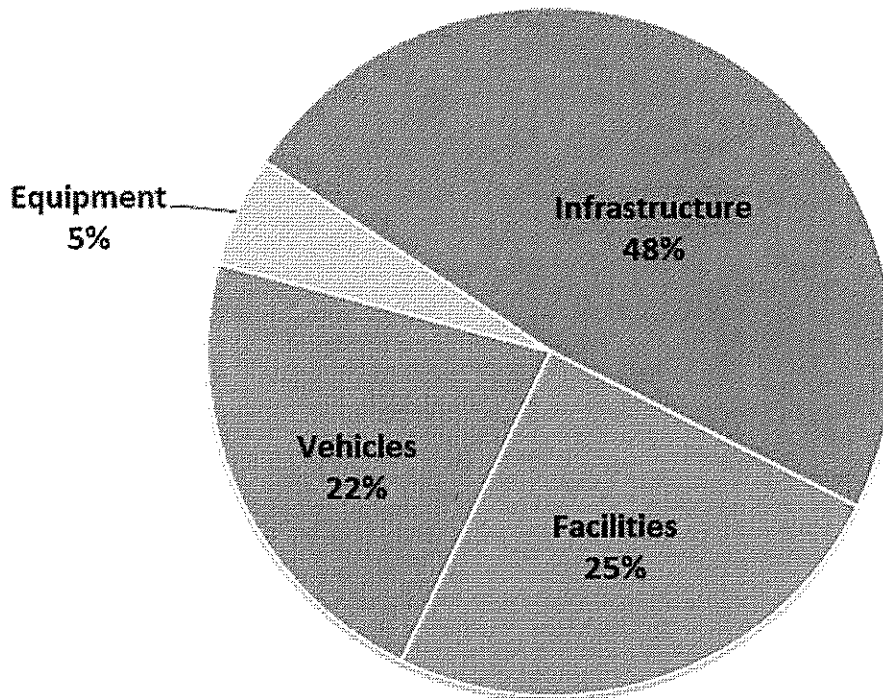
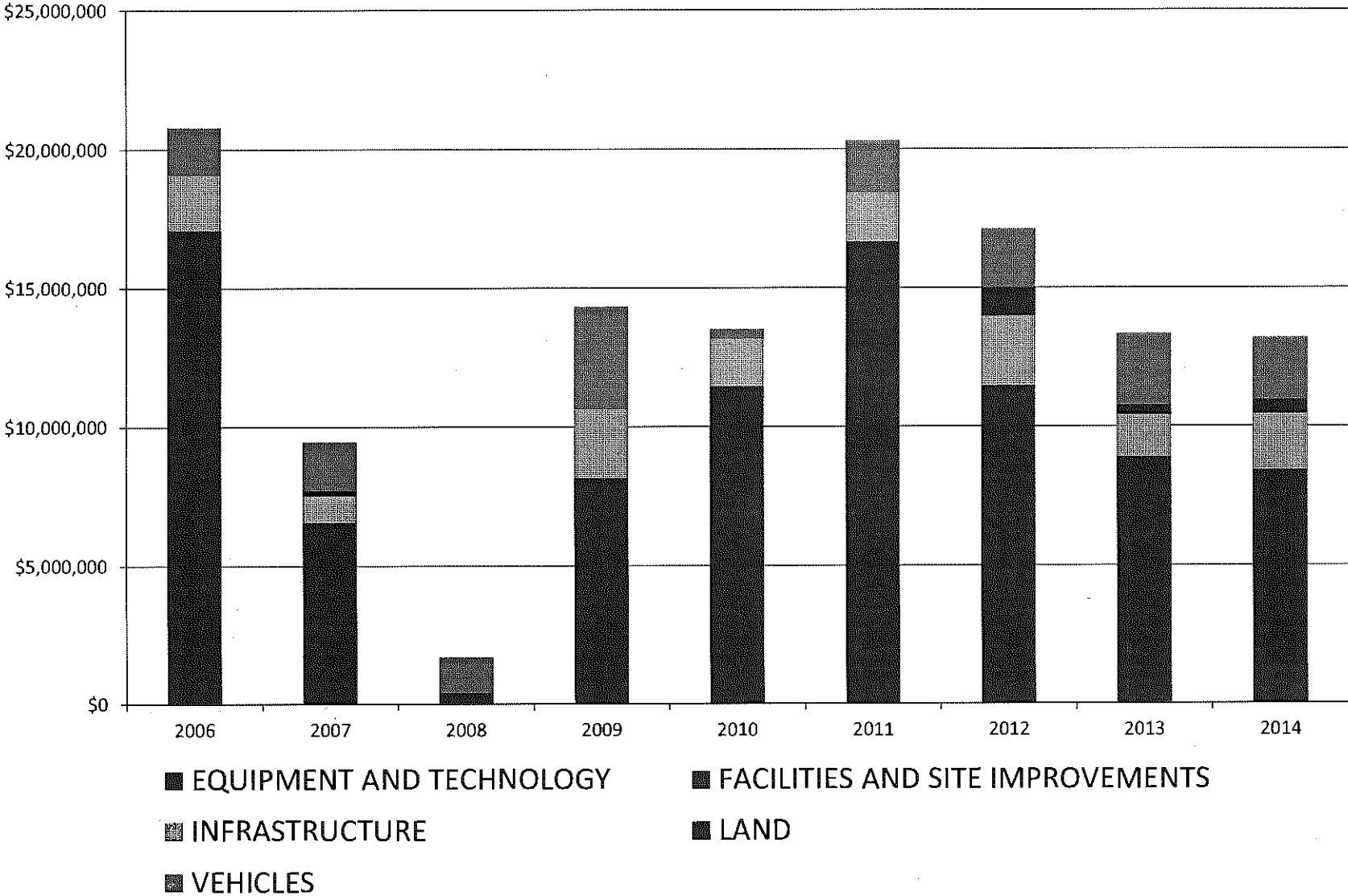


Figure: Annualized Reinvestment Cost: General Fund Assets (Approximately \$19,000,000/year)

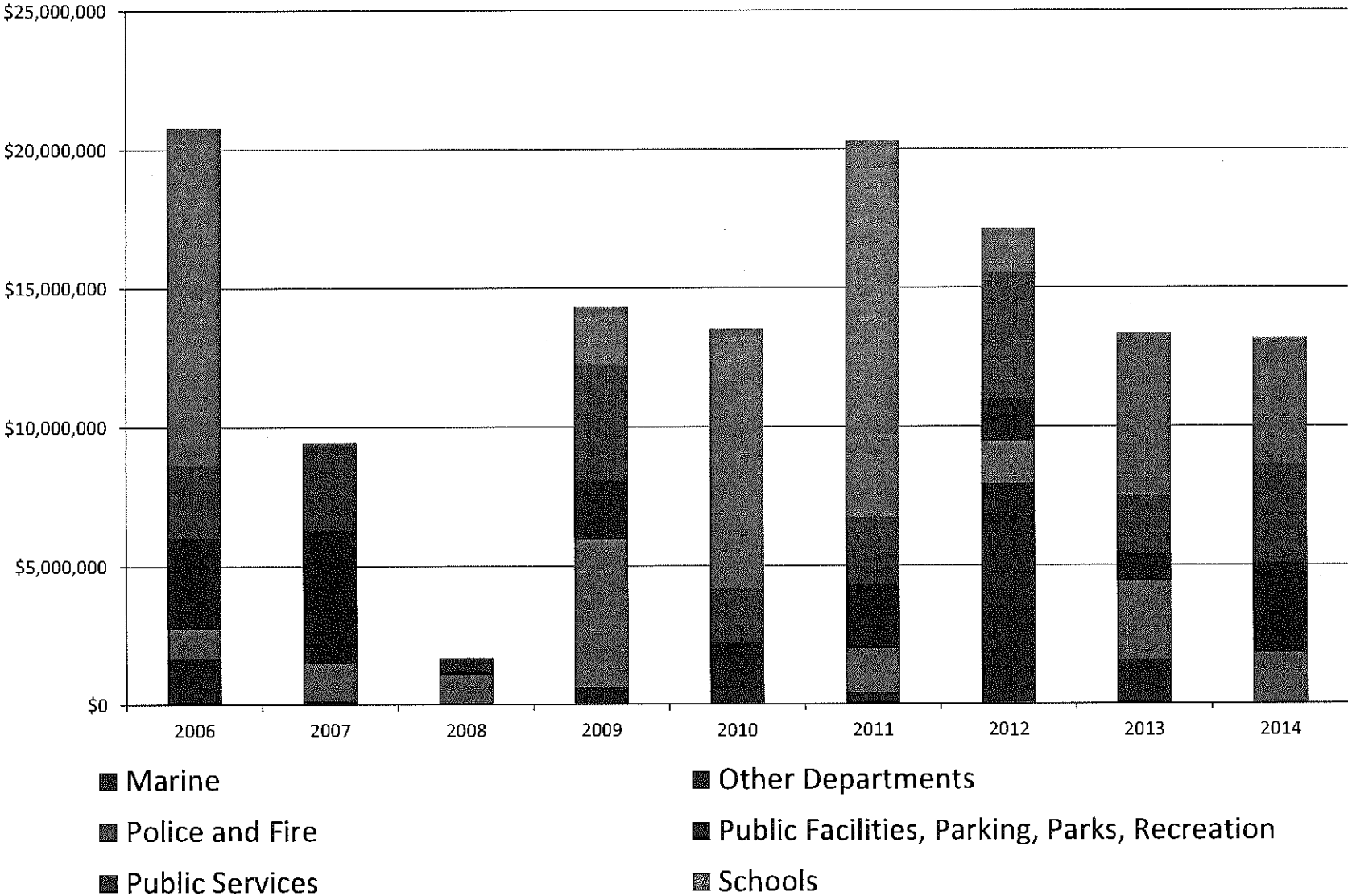
Historic Capital Expenditures

Historic capital expenditures have ranged from approximately \$12 Million to \$30 Million between FY 2006 and FY 2012. On average, expenditure has been approximately \$20 Million per year, roughly corresponding to the estimated annualized reinvestment requirement. This suggests that reinvestment in the City's capital assets has been adequate in aggregate.

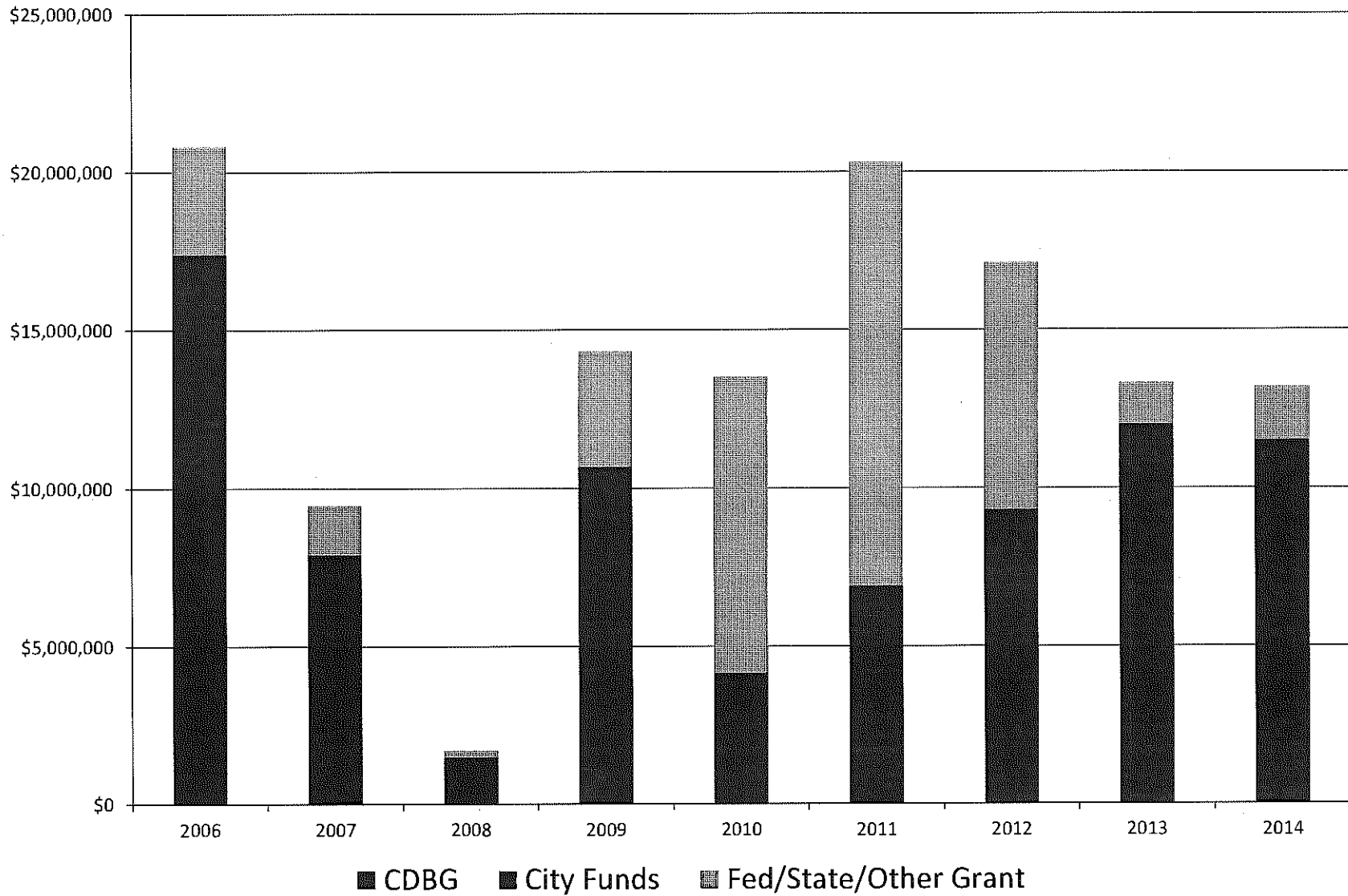
EXPENDED CAPITAL FUNDS



EXPENDED CAPITAL FUNDS



EXPENDED CAPITAL FUNDS



A: FUNDING SUMMARY - GENERAL FUND

	FY15 auth.	FY16	FY17	FY18	FY19	FY20	FY21
Funding Proposed							
Cash							
City	383,000	580,000	1,295,000	935,000	545,000	500,000	
School	-	-	-	-	-	-	
Total General Fund Cash	383,000	580,000	1,295,000	935,000	545,000	500,000	
Borrowing							
City	10,983,000	13,440,000	9,479,700	10,485,000	9,430,000	7,050,000	
School	1,525,000	1,140,000	3,040,000	1,385,000	4,715,000	695,000	
Subtotal General Fund Borrowing	12,508,000	14,580,000	12,519,700	11,870,000	14,145,000	7,745,000	
Public Art	63,000	73,000	61,000	57,000	69,000	37,000	
Land Bank	63,000	73,000	61,000	57,000	69,000	37,000	
Total General Fund Borrowing	12,634,000	14,726,000	12,641,700	11,984,000	14,283,000	7,819,000	
Subtotal - Cash and Borrowing							
City	11,492,000	14,166,000	10,896,700	11,534,000	10,113,000	7,624,000	
School	1,525,000	1,140,000	3,040,000	1,385,000	4,715,000	695,000	
Total General Fund	13,017,000	15,306,000	13,936,700	12,919,000	14,828,000	8,319,000	
Sewer/Stormwater Funds							
Reallocated Bond Proceeds	2,150,000	-	-	-	-	-	
Authorized Tier III CSO LTCP	3,000,000	29,250,000	10,000,000	32,000,000	16,300,000	10,300,000	
Cash	115,000	375,000	240,000	200,000	200,000	225,000	
Borrowing	3,277,000	4,005,000	9,820,000	2,255,000	2,130,000	1,945,000	

A: FUNDING SUMMARY - GENERAL FUND

	FY15 auth.	FY16	FY17	FY18	FY19	FY20	FY21
Valuation (1% est. increase)	7,599,562,660	7,675,558,287	7,752,313,869	7,829,837,008	7,908,135,378	7,987,216,732	8,067,088,899
Current Debt Service							
Current General Fund Debt Service							
City General Obligation	9,981,300	10,295,852	9,373,818	8,545,970	8,079,117	6,909,667	6,314,987
City Loans	123,002	123,002	123,002	123,002	123,002	123,002	123,002
School General Obligation	5,558,364	5,228,302	4,814,125	4,110,377	3,549,514	3,260,566	3,108,376
School Capital Leases	186,843	93,086	46,996	4,180	4,319	-	-
Total GF (Non-POB) Debt Service	15,849,509	15,740,242	14,357,941	12,783,529	11,755,952	10,293,234	9,546,365
Pen. Obligation Bond - City	9,985,356	10,626,295	11,309,463	12,033,870	12,802,135	13,615,710	14,474,866
Pen. Obligation Bond - School	1,361,640	1,449,040	1,542,200	1,640,982	1,745,746	1,856,688	1,973,845
Total POB Debt Service	11,346,996	12,075,335	12,851,663	13,674,852	14,547,881	15,472,397	16,448,711
Total Current GF Debt Service	27,196,505	27,815,577	27,209,604	26,458,381	26,303,833	25,765,632	25,995,076
Authorized, Not Borrowed--est. debt service							
Public Services Canco Road			274,500	268,401	262,302	256,203	250,100
Capisic Pond (CIP 2015)			53,675	52,404	51,133	49,861	48,590
Other (CIP 2015)			38,000	37,100	36,200	35,300	34,400
Total Authorized, Not Borrowed--est. debt service			366,175	357,905	349,635	341,364	333,090
Less State reimbursed School Debt Service (est)	(1,871,914)	(1,753,250)	(1,713,682)	(1,670,405)	(1,623,432)	(1,576,087)	(1,527,410)
Current GF Debt Service Est.	25,324,591	26,062,327	25,862,097	25,145,881	25,030,036	24,530,909	24,800,756
increase from prior year	1,409,049	737,736	(200,230)	(716,216)	(115,845)	(499,126)	269,847
Current GF Debt Service Est. (less POB)	13,977,595	13,986,992	13,010,434	11,471,029	10,482,155	9,058,512	8,352,045
increase from prior year	718,048	9,397	(976,558)	(1,539,405)	(988,874)	(1,423,643)	(706,467)
Current Debt Service Available		(737,736)	(537,506)	178,710	294,555	793,682	523,835
Current FY15 Comparative Est. Tax Rate Increase from	-	0.10	0.07	(0.02)	(0.04)	(0.10)	(0.06)
Projected Debt Service							
Projected New Issue Debt Service--est. debt service							
City			1,297,970	2,383,939	3,545,302	4,518,435	5,205,612
School			122,800	412,883	534,310	969,680	986,948
General Fund--est. debt service			1,420,770	2,796,822	4,079,612	5,488,115	6,192,559
Projected GF Debt Service Est.	25,324,591	26,062,327	27,282,867	27,942,702	29,109,647	30,019,024	30,993,315
increase from prior year	1,409,049	737,736	1,220,540	659,835	1,166,945	909,377	974,291
Projected GF Debt Service Est. (less POB)	13,977,595	13,986,992	14,431,204	14,267,850	14,561,766	14,546,627	14,544,604
increase from prior year	718,048	9,397	444,212	(163,354)	293,916	(15,140)	(2,022)
Projected Debt Service Available		(737,736)	(1,958,276)	(2,618,112)	(3,785,057)	(4,694,433)	(5,668,725)
Proj FY15 Comparative Est. Tax Rate Increase	-	0.10	0.25	0.33	0.48	0.59	0.70
Proj Est. Tax Rate Increase from Prior Year GF Debt	-	0.10	0.16	0.08	0.15	0.11	0.12
Proj Est. Tax Rate Increase from Prior Year Capital Borrowing	-	0.00	0.06	(0.02)	0.04	(0.00)	(0.00)

B. RECOMMENDED 2016 CAPITAL PROJECTS - GENERAL FUND CASH

Facilities

Buildings/Garages

Peaks Island Exhaust Removal System	30,000
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<i>Buildings/Garages Total</i>	<i>30,000</i>
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Facilities Total	30,000
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Parks, Fields, Trails

Parks, Fields, Trails

Western Promenade Walkways	50,000
----------------------------	--------

Complete Dead House Restoration	20,000
---------------------------------	--------

<i>Parks, Fields, Trails Total</i>	<i>70,000</i>
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Parks, Fields, Trails Total	70,000
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Equipment and Vehicles

Equipment

Phonemail System Replacement	45,000
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Ticket Dispensers at Spring Street Parking Garage	45,000
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Virtualization, Storage and Redundancy Upgrade	65,000
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Ticket Dispenser at Elm Street Parking Garage	15,000
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<i>Equipment Total</i>	<i>170,000</i>
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Vehicles

1/2 Ton Pickup Replacement - Playgrounds 2188	40,000
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Replace 1 Ton Stake Body - 4970 School Maintenance	50,000
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3/4 Ton Pickup Replacement - Solid Waste 2033	25,000
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Staff Car Replacement - Fire	40,000
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Replace Pickup Riverside Golf 2017	30,000
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1/2 Ton Pickup Replacement - Trades 2084	25,000
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Compact Pickup Replacement - Barron Center 2209	20,000
---	--------

Replace Parking Enforcement Truck 2154	25,000
--	--------

1/2 Ton Truck Replacement - Forestry 2038	30,000
---	--------

Solid Waste Inspections Pickup Replacement - Solid Waste 2155	25,000
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<i>Vehicles Total</i>	<i>310,000</i>
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Equipment and Vehicles Total	480,000
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GENERAL FUND CASH TOTAL	580,000
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B. 2016 CAPITAL PROJECTS - GENERAL FUND FINANCED

Transportation

PACTS/Match

PACTS Regional Transportation Management Systems (RTMS) - Traffic Signals	100,000
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<i>PACTS/Match Total</i>	<i>100,000</i>
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Streets/Sidewalks

Paving Preservation and Rehabilitation	1,000,000
--	-----------

Sidewalk Rehabilitation/Accessibility	500,000
---------------------------------------	---------

<i>Streets/Sidewalks Total</i>	<i>1,500,000</i>
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Transportation Total	1,600,000
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Facilities

Buildings/Garages

Fire Alarm & Sprinkler Systems at all Fire Stations	75,000
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Waterproof Decking Recoat at Temple Street Parking Garage	305,000
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Ultra Violet Water Treatment System at Riverton Pool	50,000
--	--------

Passenger Elevator at City Hall	100,000
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Seating at Hadlock Field	190,000
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Bleachers at Ice Arena	100,000
------------------------	---------

Roof Deck at Spring Street Parking Garage	500,000
---	---------

Library Roof Section	25,000
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<i>Buildings/Garages Total</i>	<i>1,345,000</i>
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Marine

Compass Park Pier Stabilization	30,000
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Piles at Portland Ocean Terminal	280,000
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Steel Piles at Ocean Gateway Pier (engineering)	100,000
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<i>Marine Total</i>	<i>410,000</i>
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Schools

PATHS Paving	450,000
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Fire Alarm System at Portland High School	150,000
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Windows at Deering High School	250,000
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Oil Tanks Removal at Various School Buildings	100,000
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<i>Schools Total</i>	<i>950,000</i>
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Facilities Total	2,705,000
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B. 2016 CAPITAL PROJECTS - GENERAL FUND FINANCED

Parks, Fields, Trails

Parks, Fields, Trails

Payson Park Softball Field "A" - Amenity and Field Upgrades	200,000
Lyman Moore Sports Complex	275,000
Capisic Pond Improvements	565,000
Golf Course Rehabilitation	100,000

Parks, Fields, Trails Total 1,140,000

Parks, Fields, Trails Total 1,140,000

Equipment and Vehicles

Equipment

Communication System Replacement	7,000,000
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Equipment Total 7,000,000

Vehicles

30 Passenger Bus - School	50,000
Full Size Bus - School	90,000
7 Passenger Van - School	50,000
Medcu Ambulance Replacement - Fire	265,000
Police Cruisers (4) Replacement - Police	160,000
Ladder 1 Replacement - Fire	1,300,000
Bucket Truck Replacement - Forestry S098	220,000

Vehicles Total 2,135,000

Equipment and Vehicles Total 9,135,000

GENERAL FUND FINANCED TOTAL 14,580,000

Public Art	73,000
Land Bank	73,000

GENERAL FUND FINANCED TOTAL 14,726,000

B. RECOMMENDED 2016 CAPITAL PROJECTS - SEWER FUND CASH

Equipment and Vehicles

Equipment

Wastewater Server	50,000
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<i>Equipment Total</i>	<i>50,000</i>
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Vehicles

3/4 Ton Extended Cab Pickup Replacement - Sewer 2513	40,000
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<i>Vehicles Total</i>	<i>40,000</i>
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Equipment and Vehicles Total	90,000
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Stormwater

Stormwater

Neighborhood Stormwater Drainage	200,000
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Greenleaf Street Stormwater Facilities	85,000
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<i>Stormwater Total</i>	<i>285,000</i>
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Stormwater Total	285,000
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SEWER FUND CASH TOTAL	375,000
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B. 2016 CAPITAL PROJECTS - SEWER FUND FINANCED

Buildings/Garages

Water Resource Relocation	250,000
Buildings/Garages Total	250,000

Parks, Fields, Trails

Capisic Pond Improvements	560,000
Parks, Fields, Trails Total	560,000

Sewer

CMOM - Sewer System Renewal	1,100,000
CMOM - Pump Station Rehabilitation	670,000
Rowe Avenue Sewer Separation	210,000
Sewer Total	1,980,000

Stormwater

Stormwater Storage and Filtration Systems at Sagamore Village (Engineering)	120,000
Gravel Wetland Stormwater Treatment System in the Capisic Brook Watershed (Engineering)	175,000
Stormwater Total	295,000

Vehicles

Dump Truck Replacement - Public Services 3112	165,000
Dump Truck Replacement - Sewer 3110	165,000
Street Sweepers Replacement	175,000
CCTV Truck - NEW	415,000
Vehicles Total	920,000

SEWER FUND FINANCED TOTAL	4,005,000
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C. RECOMMENDED CAPITAL IMPROVEMENT PLAN - GENERAL FUND

	2016	2017	2018	2019	2020
<i>Transportation</i>					
PACTS/Match					
- MaineDOT Arterial Paving Riverside St (Brighton Av to Home Depot entrance) - ineligibles/system upgrades	-	-	-	-	-
- PACTS Regional Transportation Management Systems (RTMS) - Traffic Signals	100,000	100,000	100,000	100,000	-
- PACTS/Match GENERAL	-	1,974,700	3,075,000	320,000	-
PACTS/Match Total	100,000	2,074,700	3,175,000	420,000	-
 Streets/Sidewalks					
- Paving Preservation and Rehabilitation	1,000,000	1,500,000	1,500,000	1,750,000	1,500,000
- Street Reconstruction	-	500,000	500,000	500,000	500,000
- Sidewalk Rehabilitation/Accessibility	500,000	700,000	850,000	850,000	850,000
- Streets/Sidewalks GENERAL	-	50,000	500,000	250,000	280,000
Streets/Sidewalks Total	1,500,000	2,750,000	3,350,000	3,350,000	3,130,000
 Traffic/Streetlights					
- Traffic/Streetlights GENERAL	-	790,000	400,000	445,000	830,000
Traffic/Streetlights Total	-	790,000	400,000	445,000	830,000
 Transportation Total	1,600,000	5,614,700	6,925,000	4,215,000	3,960,000

C. RECOMMENDED CAPITAL IMPROVEMENT PLAN - GENERAL FUND

	2016	2017	2018	2019	2020
<i>Facilities</i>					
Buildings/Garages					
- Ultra Violet Water Treatment System at Riverton Pool	50,000	-	-	-	-
- Roof Deck at Spring Street Parking Garage	500,000	720,000	-	-	-
- Bleachers at Ice Arena	100,000	-	-	-	-
- Fire Alarm & Sprinkler Systems at all Fire Stations	75,000	-	-	-	-
- Seating at Hadlock Field	190,000	-	-	-	-
- Library Roof Section	25,000	-	-	-	-
- Waterproof Decking Recoat at Temple Street Parking Garage	305,000	-	-	-	-
- Passenger Elevator at City Hall	100,000	-	-	-	-
- Peaks Island Exhaust Removal System	30,000	-	-	-	-
- Buildings/Garages GENERAL	-	1,105,000	915,000	2,000,000	1,150,000
<i>Buildings/Garages Total</i>	<i>1,375,000</i>	<i>1,825,000</i>	<i>915,000</i>	<i>2,000,000</i>	<i>1,150,000</i>
Marine					
- Compass Park Pier Stabilization	30,000	350,000	-	-	-
- Steel Piles at Ocean Gateway Pier (engineering)	100,000	400,000	500,000	500,000	-
- Piles at Portland Ocean Terminal	280,000	-	-	-	-
- Marine GENERAL	-	-	-	325,000	155,000
<i>Marine Total</i>	<i>410,000</i>	<i>750,000</i>	<i>500,000</i>	<i>825,000</i>	<i>155,000</i>
Schools					
- Windows at Deering High School	250,000	250,000	250,000	-	-
- Fire Alarm System at Portland High School	150,000	-	-	-	-
- Hall School Replacement (Engineering)	-	500,000	-	-	-
- Oil Tanks Removal at Various School Buildings	100,000	100,000	-	-	-
- PATHS Paving	450,000	-	-	-	-
- Schools GENERAL	-	2,100,000	1,000,000	4,580,000	560,000
<i>Schools Total</i>	<i>950,000</i>	<i>2,950,000</i>	<i>1,250,000</i>	<i>4,580,000</i>	<i>560,000</i>
Facilities Total	2,735,000	5,525,000	2,665,000	7,405,000	1,865,000

C. RECOMMENDED CAPITAL IMPROVEMENT PLAN - GENERAL FUND

	2016	2017	2018	2019	2020
<i>Parks, Fields, Trails</i>					
Parks, Fields, Trails					
- Complete Dead House Restoration	20,000	-	-	-	-
- Capisic Pond Improvements	565,000	-	-	-	-
- Western Promenade Walkways	50,000	-	-	-	-
- Golf Course Rehabilitation	100,000	100,000	100,000	100,000	100,000
- Lyman Moore Sports Complex	275,000	-	-	-	-
- Payson Park Softball Field "A" - Amenity and Field Upgrades	200,000	-	-	-	-
- Parks, Fields, Trails GENERAL	-	250,000	735,000	1,395,000	745,000
<i>Parks, Fields, Trails Total</i>	<i>1,210,000</i>	<i>350,000</i>	<i>835,000</i>	<i>1,495,000</i>	<i>845,000</i>
Parks, Fields, Trails Total	1,210,000	350,000	835,000	1,495,000	845,000
<i>Equipment and Vehicles</i>					
Equipment					
- Ticket Dispensers at Spring Street Parking Garage	45,000	-	-	-	-
- Communication System Replacement	7,000,000	-	-	-	-
- Virtualization, Storage and Redundancy Upgrade	65,000	75,000	55,000	-	-
- Phonemail System Replacement	45,000	-	-	-	-
- Ticket Dispenser at Elm Street Parking Garage	15,000	-	-	-	-
- Equipment GENERAL	-	720,000	605,000	-	-
<i>Equipment Total</i>	<i>7,170,000</i>	<i>795,000</i>	<i>660,000</i>	<i>-</i>	<i>-</i>

C. RECOMMENDED CAPITAL IMPROVEMENT PLAN - GENERAL FUND

	2016	2017	2018	2019	2020
Vehicles					
- 7 Passenger Van - School	50,000	-	-	-	-
- Rubbish Packer Replacement	-	265,000	265,000	265,000	265,000
- 1/2 Ton Pickup Replacement - Trades 2084	25,000	-	-	-	-
- Medcu Ambulance Replacement - Fire	265,000	265,000	265,000	265,000	265,000
- 1/2 Ton Truck Replacement - Forestry 2038	30,000	-	-	-	-
- Solid Waste Inspections Pickup Replacement - Solid Waste 2155	25,000	-	-	-	-
- 3/4 Ton Pickup Replacement - Solid Waste 2033	25,000	-	-	-	-
- Vehicle Replacement GENERAL	-	500,000	500,000	500,000	500,000
- 30 Passenger Bus - School	50,000	-	-	-	-
- Replace 1 Ton Stake Body - 4970 School Maintenance	50,000	-	-	-	-
- Replace Parking Enforcement Truck 2154	25,000	-	-	-	-
- Replace Pickup Riverside Golf 2017	30,000	-	-	-	-
- Sidewalk Tractors Replacement	-	145,000	290,000	145,000	145,000
- Bucket Truck Replacement - Forestry 5098	220,000	-	-	-	-
- Staff Car Replacement - Fire	40,000	-	-	-	-
- Compact Pickup Replacement - Barron Center 2209	20,000	-	-	-	-
- Police Cruisers (4) Replacement - Police	160,000	265,000	265,000	265,000	265,000
- Full Size Bus - School	90,000	90,000	135,000	135,000	135,000
- 1/2 Ton Pickup Replacement - Playgrounds 2188	40,000	-	-	-	-
- Ladder 1 Replacement - Fire	1,300,000	-	-	-	-
<i>Vehicles Total</i>	<i>2,445,000</i>	<i>1,530,000</i>	<i>1,720,000</i>	<i>1,575,000</i>	<i>1,575,000</i>
Equipment and Vehicles Total	9,615,000	2,325,000	2,380,000	1,575,000	1,575,000
General Fund Capital Funding Total	15,160,000	13,814,700	12,805,000	14,690,000	8,245,000
Public Art	73,000	61,000	57,000	69,000	37,000
Land Bank	73,000	61,000	57,000	69,000	37,000
General Fund Capital Funding Grand Total	15,306,000	13,936,700	12,919,000	14,828,000	8,319,000

C. RECOMMENDED CAPITAL IMPROVEMENT PLAN - SEWER FUND

	2016	2017	2018	2019	2020
Buildings/Garages					
Water Resource Relocation	250,000	-	-	-	-
Buildings/Garages Total	250,000	-	-	-	-
Equipment					
Wastewater Server	50,000	-	-	-	-
Equipment Total	50,000	-	-	-	-
Sewer					
CMOM - Pump Station Rehabilitation	670,000	1,100,000	670,000	670,000	670,000
CMOM - Sewer System Renewal	1,100,000	1,100,000	1,100,000	1,100,000	1,100,000
Sewer Replacement - Somerset Street Extension	-	300,000	-	-	-
USM Roundabout Sewer Separation	-	400,000	-	-	-
Rowe Avenue Sewer Separation	210,000	-	-	-	-
Sewer Total	1,980,000	2,900,000	1,770,000	1,770,000	1,770,000
Stormwater					
Neighborhood Stormwater Drainage	200,000	200,000	200,000	200,000	200,000
Stormwater Retrofits on Riverside Street	-	-	-	185,000	-
Canco Road Storm Drain	-	580,000	-	-	-
Warren Ave Storm Drain - 517 Warren Ave to 659 Warren Ave	-	750,000	-	-	-
Greenleaf Street Stormwater Facilities	85,000	-	-	-	-
Stormwater Storage and Filtration Systems at Sagamore Village (Engineering)	120,000	1,245,000	-	-	-
Gravel Wetland Stormwater Treatment System in the Capisic Brook Watershed (Engineering)	175,000	2,000,000	-	-	-
Stormwater Total	580,000	4,775,000	200,000	385,000	200,000

C. RECOMMENDED CAPITAL IMPROVEMENT PLAN - SEWER FUND

	2016	2017	2018	2019	2020
Vehicles					
Replace Stormwater Staff Car	-	-	-	-	25,000
Street Sweepers Replacement	175,000	175,000	235,000	175,000	175,000
TV Truck Replacement - Sewer 2516	-	-	250,000	-	-
1 Ton Crew Cab Pickup Replacement - Sewer 2511	-	40,000	-	-	-
3/4 Ton Extended Cab Pickup Replacement - Sewer 2513	40,000	-	-	-	-
Dump Truck Replacement - Sewer 3110	165,000	-	-	-	-
Dump Truck Replacement - Public Services 3112	165,000	-	-	-	-
Catch Basin Cleaning Vehicle Replacement - Sewer 3127	-	170,000	-	-	-
CCTV Truck - NEW	415,000	-	-	-	-
Vehicles Total	960,000	385,000	485,000	175,000	200,000
Parks, Fields, Trails					
Capisic Pond Improvements	560,000	-	-	-	-
Parks, Fields, Trails Total	560,000	-	-	-	-
CSO					
CSO - Close CSO #42 and #43	-	2,000,000	-	-	-
CSO Total	-	2,000,000	-	-	-
Grand Total	4,380,000	10,060,000	2,455,000	2,330,000	2,170,000

D. DEBT STRATEGY - CAPITAL PROJECT PLANNING WORKSHEET - GENERAL FUND

	FY15 auth.	FY16	FY17	FY18	FY19	FY20	FY21	FY22	FY23	FY24	FY25	FY26	FY27
Funding Proposed													
Capital Maintenance Borrowing	12,634,000	13,716,000	12,641,700	11,984,000	14,283,000	7,819,000	12,000,000	12,000,000	12,000,000	12,000,000	12,000,000	12,000,000	12,000,000
Projected GF Debt Service Est.	25,324,591	26,062,327	27,282,867	27,942,702	29,109,847	30,019,024	30,993,315	32,361,784	33,571,739	34,801,913	36,138,197	37,292,809	14,994,495
increase from prior year	1,682,449	737,736	1,220,540	659,835	1,166,945	909,377	974,291	1,368,469	1,209,954	1,230,175	1,336,284	1,154,812	(22,298,314)
Projected GF Debt Service Est. (less POB)	13,977,595	13,986,992	14,431,204	14,267,850	14,561,766	14,546,627	14,544,604	14,875,989	14,986,339	15,049,420	15,148,380	14,994,920	14,994,495
increase from prior year	991,448	9,397	444,212	(163,354)	293,916	(15,140)	(2,022)	331,385	110,349	63,082	98,960	(153,460)	(423)
Projected Debt Service Available	-	(737,736)	(1,958,278)	(2,618,112)	(3,785,057)	(4,694,433)	(5,668,725)	(7,037,194)	(8,247,148)	(9,477,323)	(10,813,606)	(11,868,218)	10,336,096
Projected FY15 Comparative Est. Tax Rate Increase		0.10	0.25	0.33	0.47	0.58	0.70	0.89	0.99	1.13	1.28	1.40	(1.20)
Potential CIP Major Project	SELECT YEAR												
Elementary Schools	18	-	-	11,257,319	15,339,060	12,337,789	12,183,505	-	-	-	-	-	-
Public Services Relocation	17	-	6,000,000	-	-	-	-	-	-	-	-	-	-
Congress Square Re-Design	24	-	-	-	-	-	-	-	2,000,000	1,370,000	-	-	-
Franklin Street Redesign	23	-	-	-	-	-	-	-	500,000	4,500,000	-	-	-
Libbytown	22	-	-	-	-	-	-	600,000	500,000	-	-	-	-
Spring Street	25	-	-	-	-	-	-	-	-	2,000,000	1,500,000	-	-
Bayside Transportation	25	-	-	-	-	-	-	-	-	500,000	2,000,000	1,000,000	-
State St & High St	25	-	-	-	-	-	-	-	-	1,500,000	1,500,000	-	-
Forest Avenue	21	-	-	-	-	500,000	2,000,000	500,000	500,000	-	-	-	-
Total Potential Projects		6,000,000	11,257,319	15,339,060	12,337,789	12,683,505	2,600,000	1,500,000	7,000,000	5,370,000	5,000,000	1,000,000	
Potential GF Debt Service Est.	25,324,591	26,062,327	27,282,867	28,512,702	30,722,093	32,999,193	34,968,694	37,329,954	38,514,579	39,716,664	41,555,458	42,939,605	20,840,851
increase from prior year	1,682,449	737,736	1,220,540	1,229,835	2,209,390	2,277,101	1,969,501	2,361,260	1,184,625	1,202,085	1,838,794	1,384,147	(22,098,754)
Potential GF Debt Service Est. (le:	13,977,595	13,986,992	14,431,204	14,837,850	16,174,212	17,526,796	18,519,983	19,844,159	19,929,179	19,964,171	20,565,641	20,641,716	20,840,851
increase from prior year	991,448	9,397	444,212	406,646	1,336,361	1,352,584	993,187	1,324,176	85,020	34,992	601,470	76,075	199,135
Potential Debt Service Available	-	(737,736)	(1,958,278)	(3,188,112)	(5,397,502)	(7,674,602)	(9,644,103)	(12,005,363)	(13,189,988)	(14,392,073)	(16,230,867)	(17,615,014)	4,483,740
FY15 Comparative Est. Tax Rate Increase (m	0.10	0.25	0.40	0.58	0.95	1.19	1.46	1.59	1.72	1.92	2.06	(0.52)	
Comparative Tax Rate Increase (% from \$20 per 1,000 of value)	0.5%	1.3%	2.0%	3.4%	4.8%	5.9%	7.3%	7.9%	8.6%	9.6%	10.3%	-2.6%	
Prior Year Est. Tax Rate Increase (mil rate)	0.10	0.16	0.16	0.28	0.28	0.24	0.29	0.14	0.14	0.22	0.16	(2.56)	
Project Tax Rate Increase (mil rate)			0.07	0.20	0.37	0.49	0.60	0.60	0.59	0.64	0.66	0.68	



To: Finance Committee

From: Ian Houseal, Assistant to the City Manager

Date: February 24, 2015

RE: **Capital Improvement Plan 2016**

Please see the attached material regarding questions and information requested at the February 12, 2015 meeting by the Finance Committee with regard to the 2016 Capital Improvement Plan:

1. Provide a copy of the debt management policy (attached)
2. Provide a copy of the debt management policy indicators as presented in the 2015 CIP (attached)
3. Provide historic increases in the tax rate from capital borrowing (attached)
4. Add percentages (provided on workshop working document)
5. Provide more detail on the following projects:
 - a. Capisic Pond with regard to cost share between Enterprise Fund and General Fund (project update and response attached)
 - b. Public Safety Communication System (see update and attached legal opinion on referendum and discussion of options, cost-share, and shared service)
 - c. Relocating Public Services from Bayside
 - d. Ladder 1 replacement (attached)
 - e. Other projects that would influence long-term capital planning (see attached memo provided as a Plan and CIP consistency document from 2013 CIP)

**City of Portland, Maine
Debt Management Policy**

Policy Statement

The City borrows money to finance its Capital Improvement Program and other capital assets. It also borrows money to fund workers' compensation settlements, loan programs, non-recurring extraordinary circumstances (such as funding pension obligations) and economic development activities. The City's ability to achieve the lowest possible financing costs is tied directly to its fiscal management, including the existence and adherence to formal fiscal policies. Because of the significant annual cost of debt service, and to assure both taxpayers and bond rating agencies that debt levels and ability to pay debt service are actively managed, the City of Portland adopts this policy.

Purpose

The purpose of this policy is to provide the City with a guide to manage debt levels by evaluating the need for capital investment against the capacity to pay for financing the costs of meeting that need. The primary focus of this policy is to measure debt secured by the full faith and credit of the City (general obligation, or GO), for which the debt service is supported. The goal of this policy is to equip the City Council, administration, and taxpayers with guidelines and information that can inform good decisions on borrowing money to accomplish the fiscal and operational mission of the City.

The City currently has limited instances of debt issuance that is not supported by taxes. The Jetport issues debt that is secured solely by the revenues generated by the Jetport operations. These types of borrowings are not covered by this policy, as they are analyzed using commercially-based methods, such as debt service coverage ratios and other financial covenants.

The City also has instances of debt requirements that, while ultimately backed by a GO pledge of the City, is by its nature self-supporting through user fees or other non-tax sources of revenue.

Governing Factors

The City shall maintain an outstanding GO debt total that complies with State law, which currently limits long-term debt outstanding to 15% of the State assessed valuation of the City. The City Charter describes conditions that require a referendum vote to borrow funds. It also contains the conditions under which financing can be used. Issuance of General Obligation debt requires affirmative votes of seven members of the City Council.

It is understood, and imperative, that the School Department capital investment financing is included in this policy, as it is also GO debt of the City and debt service is supported by tax dollars. All

calculations within this policy will also include debt service that is all or partially reimbursed, such as State School Funding.

The City shall not issue debt to fund current or ongoing operations of the City or Schools, except in the form of Tax Anticipation Notes (TANs) when applicable; in compliance with State law and in conformance with Internal Revenue Service (IRS) regulations.

The City shall not lend its borrowing capacity to or guarantee debt of any other entity.

Maturity of debt obligations must be no more than the useful life of the capital investment being financed, or than the final maturity of refunded debt; pursuant to Maine law which may not exceed 30 years from issuance.

Refunding opportunities will be evaluated annually to achieve future interest cost savings.

Rules of borrowing and this Policy also cover lease purchases, as they are secured by the general obligation of the City.

Debt Limitations

The City's Capital Improvement Program is based on a Capital Plan . This Plan includes projections for replacement of assets as well as anticipating investment in new assets that may be needed. The Plan is expected to be updated periodically to reflect additions, deletions and other changes in assets or circumstances. It is expected that investment in operating equipment, fleet and technology will be transitioned such that acquisitions will be made through annual budget appropriations when applicable, as determined by management and City Council.

Borrowing capacity will be evaluated first by the Governing Principles, and then using a number of factors, specifically:

1. *Demand*—what is the need for borrowing
 - a. Demand is measured by the needs presented by the Capital Plan. It can also be based on opportunities that arise from time to time which require capital investment by the City.
2. *Capacity*—what is the maximum amount to borrow
 - a. The maximum amount to be borrowed at any given time will be determined by evaluating the following factors:
 1. Current and projected annual debt service level, based on current outstanding debt.
 2. Market conditions (ability to access the financing market, interest rates, etc.).
 3. Economic conditions, including cost of construction.

4. Opportunity for participation in low interest financing programs, debt service reimbursement, grant opportunities, or other situations beneficial to the City.
3. *Affordability*—what is the fiscal impact
 - a. A projection of annual debt service impact for each borrowing will be done, incorporating the elements of Capacity. It will include budgetary impact, as well as a projection of tax impact. Debt service will be calculated as annual amount needed to satisfy principal and interest payments, net of any applicable revenue.
 1. Net debt service* payments should not exceed 15% of general fund expenditures.
 2. Net debt service payments should not exceed 1.5% of per capita income.**
 3. Debt per capita should not exceed the “moderate” range by Moody’s, currently at \$5,000.
 4. Total outstanding debt should not exceed 5% of the State equalized valuation of the City.
4. *Term*—length of payback period
 - a. Financing shall be secured with the goal of paying back the debt in the shortest term that is economically feasible.
5. *Payment Structure*—how payments are applied
 - a. Payments will be structured with level principal and declining interest over the life of the debt, except
 - b. In instances where level debt service payments offer economic benefit, such as for rate stabilization.
6. *Advance Refundings*— bond issuance used to pay off another outstanding bond, issued at a lower rate
 - a. Opportunities for advance refunding will be reviewed when issuing other GO bonds in order to package issues.
 - b. Opportunities for advance refunding will be considered independently for issues where the net savings, after costs of issuance, is estimated to be at least \$50,000 annually for the new financing period.

Pension Obligation Bonds (POB’s)

In 2002, the city refinanced its unfunded pension liability with the Maine State Retirement system through Variable Rate Demand Obligation (VRDO) financing. This saves and estimated \$21 million in interest costs over the 25 year term.

The VRDO structure bears interest at a floating rate that is adjusted at specified intervals (daily, weekly, monthly) and can be redeemed at the holder’s option when the rate changes. This structure requires a Standby Bond Purchase Agreement (SBPA), and is managed by a remarketing agent.

While this financing offered the City significant savings, it is the goal of the City to refinance this obligation into a more standard and predictable debt. However, refinancing of this type of debt is

costly to do because of the buyout requirements. The Finance Director will periodically review the status of the cost of buyout and refinancing, and pursue any reasonable opportunity.

Bond Ratings

Debt issuance is rated by agencies specializing in the analysis of organizations' ability to pay off their debt. The City is rated for each bond issue, and also during an annual affirmation of ratings. As of 2011, the City is rated AA by Standard & Poor's and Aa1 by Moody's.

It is the goal of the City to maintain these ratings, as it allows easy entry into the bond sale market and favorable interest rates. This policy, in conjunction with other fiscal policies of the City and overall good fiscal management are critical in rating maintenance.

Debt Issuance

The City relies on the sale of bonds for the majority of its financing needs. These sales are conducted through the use of a financial advisory firm and recognized bond counsel. This allows the City continued access to the bond market and ensures compliance with all Securities and Exchange Commission (SEC), Municipal Securities Rulemaking Board (MSRB) and IRS regulations. The City may also enter into lease purchase agreements if it is determined to be cost effective.

Each issuance of general obligation debt will be evaluated to determine compliance with this policy, and that information will be submitted to the City Council as they deliberate actions on financing approvals.

Reporting

The City's debt information is part of the Comprehensive Annual Financial Report (CAFR). Annual debt service requirements are budgeted as part of the annual budget approval process. Bond ratings received by rating agencies are published and available for public review.

The City Council will receive an annual report on the overall debt status of the City. This will include a specific discussion on the status of the Pension Obligation Bonds.

The City is required to provide certain information to investors periodically and financial information annually. This information is filed through the Electronic Municipal Market Access system (EMMA), provided by the MSRB.

Administration

This Policy is for use in guiding financing decisions of the City, and can be interpreted by the City Council as part of overall discussions related to debt issuance. It is administered in conjunction with the City's other fiscal policies, including Investment and Fund Balance policies. It may be amended or revised from time to time as determined by the City.

**Net Debt Service equals budgeted debt service net of Enterprise Funds and State reimbursed School Debt Service*

***Per Capita Personal Income, as published by the U.S. Bureau of Economic Analysis (BEA), Bearfacts, for Portland-South Portland-Biddeford region.*

*Recommended by City Council Finance Committee, October 6, 2011
Order 64-11/12 – Given first reading on 11/7/2011, and passage on 11/21/2011.*

A: FUNDING SUMMARY - GENERAL FUND
CIP 2015

	FY14 auth.	FY15	FY16	FY17	FY18	FY19	Five YR Total
Funding Requested (FY15-FY19)							
City	32,101,496	44,710,561	44,184,681	40,997,601	16,505,500	14,241,500	160,639,843
School	8,170,000	4,640,094	13,470,215	26,696,445	5,946,250	2,760,000	53,513,004
Total General Fund	40,271,496	49,350,655	57,654,896	67,694,046	22,451,750	17,001,500	214,152,847
Sewer Enterprise Fund	5,105,000	2,832,000	3,450,000	4,561,060	1,500,000	1,460,000	13,803,060
Funding Recommendation							
Cash							
City	667,000	383,000	80,000	100,000	-	345,000	908,000
School	-	-	-	-	-	-	-
Total General Fund Cash	667,000	383,000	80,000	100,000	-	345,000	908,000
Sewer Enterprise Fund	1,060,000	115,000	35,000	40,000	-	-	190,000
Borrowing							
City	15,155,000	10,983,000	16,785,000	16,680,000	11,050,000	25,195,000	80,693,000
School	5,935,000	1,525,000	2,905,000	10,040,000	26,055,000	5,765,000	46,290,000
Subtotal General Fund Borrowing	21,090,000	12,508,000	19,690,000	26,720,000	37,105,000	30,960,000	126,983,000
Public Art	73,000	63,000	99,000	134,000	186,000	155,000	637,000
Land Bank	73,000	63,000	99,000	134,000	186,000	155,000	637,000
Total General Fund Borrowing	21,236,000	12,634,000	19,888,000	26,988,000	37,477,000	31,270,000	128,257,000
Sewer Enterprise Fund	4,045,000	3,277,000	3,415,000	4,520,000	1,500,000	1,460,000	14,172,000
Subtotal - Cash and Borrowing							
City	15,968,000	11,492,000	17,063,000	17,048,000	11,422,000	25,850,000	82,875,000
School	5,935,000	1,525,000	2,905,000	10,040,000	26,055,000	5,765,000	46,290,000
Total General Fund	21,903,000	13,017,000	19,968,000	27,088,000	37,477,000	31,615,000	129,165,000
Sewer Enterprise Fund	5,105,000	3,392,000	3,450,000	4,560,000	1,500,000	1,460,000	14,362,000
Sewer Fund							
Reallocated Bond Proceeds		2,150,000	-	-	-	-	2,150,000
Authorized Tier III CSO LTCF		3,000,000	8,900,000	11,800,000	16,300,000	10,300,000	50,300,000
Total Grants, Fed/State	7,579,143	1,880,000	3,520,000	20,000	3,520,000	20,000	8,960,000
Total Funding Recommendation							
City	23,547,143	13,246,000	20,385,000	16,800,000	14,570,000	25,560,000	90,561,000
School	5,935,000	1,525,000	2,905,000	10,040,000	26,055,000	5,765,000	46,290,000
Total General Fund	29,482,143	14,771,000	23,290,000	26,840,000	40,625,000	31,325,000	136,851,000
Sewer Enterprise Fund	5,105,000	8,542,000	12,350,000	16,360,000	17,800,000	11,760,000	66,812,000

A: FUNDING SUMMARY - GENERAL FUND
CIP 2015

	FY14 auth.	FY15	FY16	FY17	FY18	FY19	Five YR Total
<u>Debt Service</u>							
Current General Fund Debt Service							
City General Obligation	9,890,834	10,019,919	9,172,383	8,351,893	7,539,174	7,169,173	
City Loans	123,002	123,002	123,002	123,002	123,002	123,002	
School General Obligation	4,972,096	5,793,145	5,076,951	4,696,180	3,990,113	3,425,063	
School Capital Leases	182,662	182,662	88,905	42,816	-	-	
Total GF (Non-POB) Debt Service	15,168,594	16,118,728	14,461,241	13,213,891	11,652,289	10,717,238	
Pen. Obligation Bond - City	9,377,276	9,985,356	10,626,295	11,309,463	12,033,870	12,802,135	
Pen. Obligation Bond - School	1,278,719	1,361,640	1,449,040	1,542,200	1,640,982	1,745,746	
Total POB Debt Service	10,655,995	11,346,996	12,075,335	12,851,663	13,674,852	14,547,881	
Total Current GF Debt Service	25,824,589	27,465,724	26,536,576	26,065,554	25,327,141	25,265,119	
Current GO Enterprise Fund Debt Service							
Sewer Enterprise	6,694,475	6,636,133	6,442,431	6,279,168	6,154,087	5,909,942	
Fish Pier Enterprise	77,560	74,408	61,559	54,724	27,958	17,467	
Total Current GO Ent Debt Service	6,772,035	6,710,541	6,503,990	6,333,892	6,182,045	5,927,409	
Authorized, Not Borrowed--est. debt service							
General Fund			-	289,750	282,888	276,025	
Enterprise Funds			285,000	1,123,750	2,217,975	3,713,150	
Projected New Issue Debt Service--est. debt service							
City			1,434,605	3,604,679	5,754,772	7,141,135	
School			275,375	700,296	1,841,135	4,261,359	
General Fund--est. debt svc			1,709,980	4,304,975	7,595,907	11,402,494	
Sewer Enterprise--est. debt svc			364,565	737,471	1,173,046	1,321,620	
Total Debt Service Est.	32,596,624	34,176,265	35,400,111	38,855,391	42,779,002	47,905,817	
Total Debt Service Est. (less POB)	21,940,629	22,829,269	23,324,776	26,003,728	29,104,150	33,357,936	
Less Ent. Fund Debt Svc, Current and Projected	(6,772,035)	(6,710,541)	(7,153,555)	(8,195,113)	(9,573,066)	(10,962,179)	
Less State reimbursed School Debt Service (est)	(1,909,047)	(1,871,914)	(1,830,799)	(1,764,834)	(1,744,931)	(1,696,255)	
Net Debt Service Est.	23,915,542	25,593,810	26,415,757	28,895,444	31,461,005	35,247,383	
Net Debt Service Est. (less POB)	13,259,547	14,246,814	14,340,422	16,043,781	17,786,153	20,699,502	
increase from prior year		987,267	93,608	1,703,359	1,742,371	2,913,350	

A: FUNDING SUMMARY - GENERAL FUND CIP 2015

	FY14 auth.	FY15	FY16	FY17	FY18	FY19	Five YR Total
General Fund Debt Policy Indicators							
Gen. Fund Rev. Projections	269,045,351	277,948,142	282,561,297	287,306,848	292,185,906	297,199,776	
		3.2%	1.6%	1.7%	1.7%	1.7%	
Total Debt Service as % of GF Rev	12.1%	12.3%	12.5%	13.5%	14.6%	16.1%	
Net Debt Service as % of GF Rev	8.9%	9.2%	9.3%	10.1%	10.8%	11.9%	
Moody's Selected Indicator** (total debt service)	7.9%	7.9%	7.9%	7.9%	7.9%	7.9%	
S&P "moderate" range (total debt service)	8%-15%	8%-15%	8%-15%	8%-15%	8%-15%	8%-15%	
Population (1% increase every year)	66,810	67,478	68,153	68,834	69,523	70,218	
Per capita net debt service	\$ 358	\$ 379	\$ 388	\$ 420	\$ 453	\$ 502	
Per Capita Income (2% increase every 2 years)	\$ 41,522	\$ 42,352	\$ 42,352	\$ 43,200	\$ 43,200	\$ 44,065	
1.5% of Per Capita Income	\$ 623	\$ 635	\$ 635	\$ 648	\$ 648	\$ 661	
Total Outstanding debt (June 30 prior year)	\$ 288,015,985	\$ 295,729,222	\$ 278,909,459	\$ 276,709,146	\$ 279,810,433	\$ 288,111,622	
Total debt per capita	\$ 4,311	\$ 4,383	\$ 4,092	\$ 4,020	\$ 4,025	\$ 4,103	
Net Outstanding Debt (June 30 prior year)	\$ 213,581,238	\$ 222,889,999	\$ 223,018,306	\$ 228,636,104	\$ 238,972,464	\$ 256,856,941	
Net debt per capita	\$ 3,197	\$ 3,303	\$ 3,272	\$ 3,322	\$ 3,437	\$ 3,658	
Moody's "moderate" indicator (net debt)	\$ 5,000	\$ 5,000	\$ 5,000	\$ 5,000	\$ 5,000	\$ 5,000	
S&P "moderate" range (net debt)	\$2,000-\$5,000	\$2,000-\$5,000	\$2,000-\$5,000	\$2,000-\$5,000	\$2,000-\$5,000	\$2,000-\$5,000	
State equalized valuation (1% est. increase)	7,552,150,000	7,551,450,000	7,626,964,500	7,703,234,145	7,780,266,486	7,858,069,151	
Total Debt %, total debt OS	3.8%	3.9%	3.7%	3.6%	3.6%	3.7%	
Net Debt %, non-ent debt OS	2.8%	3.0%	2.9%	3.0%	3.1%	3.3%	
Net debt %	2.83%	2.95%	2.92%	2.97%	3.07%	3.27%	
S&P "moderate" range (net debt)	3%-6%	3%-6%	3%-6%	3%-6%	3%-6%	3%-6%	

* As of February 6, 2014

**For Aa rated cities

Historic Debt Service

	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015
Taxable Valuation	4,201,396,820	5,691,984,880	6,749,780,910	7,654,632,048	7,408,990,350	7,449,628,820	7,439,890,180	7,446,064,220	7,489,882,580	7,495,433,220	7,662,000,000
Net Debt (Budget less POB)	13,492,233	13,453,004	13,886,009	14,480,975	14,037,564	14,783,589	14,198,008	13,322,321	13,700,656	13,710,476	14,660,827
<i>increase from Prior Year</i>		(39,229)	433,005	594,966	(443,411)	746,025	(585,581)	(875,687)	378,335	9,820	950,351
Tax Rate increase from prior year		(0.01)	0.06	0.08	(0.06)	0.10	(0.08)	(0.12)	0.05	0.00	0.12



Michael J. Bobinsky
Director of Public Services

To: Finance Committee Members
From: Michael J. Bobinsky, Director of Public Services
Date: February 20, 2015
Subject: Background on Capisic Pond Park Project; Funding and CIP Ranking

Project Background and current status

Over the past 15 years, the City has made significant investment in improving the Capisic Brook watershed through combined sewer overflow abatement and stormwater management and planning. With recent Capisic Pond Park habitat enhancements through the West Side Interceptor Sewer Separation project and planned improvements to watershed quality under the Capisic Brook Watershed Management Plan, a Capisic Pond enhancement project will allow the community to realize the full benefits of this resource. The goal of the enhancement project is to improve the existing habitat for the variety of species that currently utilize the pond and improve the aesthetic quality of the pond, while balancing the concerns of local residents and maintaining the existing character of the park. This will be achieved by sediment removal in portions of the pond to increase pond water depth, removal of the current population of cattails in selected areas and increasing the open water component of the pond.

Permits Received:

- Level III City Site Plan; April 16, 2014
- MaineDEP Individual Natural Resource Protection Act Permit; May 23, 2014
- United States Army Corps of Engineers Individual Permit; July 1, 2014

The remaining required permit is a one (1) page form to be filed in advance of construction (minimum two-weeks in advance). It is a MaineDEP Stormwater Permit by Rule and Notice of Intent to comply with the Maine Construction General Permit. Not filed at this time as it would expire before work began.

Anticipated Construction Timeframe:

Due to permitting restrictions, from our regulating agencies, dewatering of the pond shall begin in May, and excavation activities shall be limited to August 15 through November 1. All work shall be substantially complete by November 15, with Final Completion by November 30. Given funding status, I did not specify an exact year when the work would start, rather the construction period and month when work would occur.

Funding to date

Below is info on Contracts/Costs to date:

- Capisic Pond Sediment Evaluation \$11,000 – Final Memorandum Delivered in December 2011
- Phase 1 Capisic Pond Sustainability Plan (Evaluation and Management Options) \$30,000 – Final Report Delivered in July 2012
- Phase 2 Capisic Pond Sustainability Plan (Permit Scoping, Basis of Design, 30&80% Design) \$100,000 – Completed June 2013
- Phase 3 Capisic Pond Sustainability Plan (Permitting & Final 100% Design) \$80,000 – Completed February 2015

Total expended to Date: \$221,000 (including forthcoming February invoice). Note that Phase 1 & 2 costs listed above included Rockland Ave Outfall evaluation and design, which was integral to those efforts and cannot easily be broken out. Final design and permitting for Rockland Ave was completed in Phase 3 (\$35k cost, not included above).

Final Opinion of Probable Construction Cost for Pond Enhancement (including Construction Administration): \$2.1M

The Department sought outside grants to fund the balance of the project not approved for funding yet (\$1,125,000) and have not been successful as of this time. See attached memorandum from Doug Roncarati, Stormwater Coordinator summarizing grant application/status work to date and prior year memo on grants being sought. The City Council Resolution (attached) indicates that the City would know the status of the grants being sought by the Spring of 2015. While staff is continuing to research possibilities, alternative funding sources outside the City resources is not looking favorable.

CIP Funding Request

The Department did consider splitting the funding request between the General Fund and Sewer Fund. While there is a basis for assessing the balance of the project 50% between Sewer and the General Fund, the Department submitted the balance of the funding as part of the FY16 CIP project request under General Fund since it was not a mandated water quality plan as part of the \$10-15 million master plan for Capisic Brook; given funding limits and concerns in the Sewer Fund, other mandated water quality projects were rated higher. However, it can be justified that up to 50% of the project can be funded through the sewer/stormwater fund (see attached memo). This is a Council policy decision and staff is prepared to discuss.

Resolve 1-14/15

Passage: 9-0 on 7/21/2014

MICHAEL F. BRENNAN (MAYOR)
KEVIN J. DONOGHUE (1)
DAVID A. MARSHALL (2)
EDWARD J. SUSLOVIC (3)
CHERYL A. LEEMAN (4)

**CITY OF PORTLAND
IN THE CITY COUNCIL**

Effective 7/31/2014

JOHN R. COYNE (5)
JILL C. DUSON (A/L)
JON HINCK (A/L)
NICHOLAS M. MAVODONES, JR (A/L)

**RESOLUTION REGARDING THE CITY COUNCIL'S INTENTION TO FUND
CAPISIC POND IMPROVEMENT PROJECT**

WHEREAS, the Fiscal Year 2014 Capital Improvement Plan and Fiscal Year 2015 Capital Improvement Plan recommend funding for the Capisic Pond Improvement Project; and

WHEREAS, the permitting work for this project will not be completed until late 2014; and

WHEREAS, the City has identified several possible grant sources that might be able to offset the estimated cost of this project; and

WHEREAS, the City Council authorized funding in Fiscal Year 2014 for engineering and permitting and plans to authorize partial funding of the project in the Fiscal Year 2015 Capital Improvement Plan; and

WHEREAS, the City intends to apply for various grants identified and others that may be available during the summer and fall of 2014 and the winter of 2015; and

WHEREAS, by the spring of 2015 the City should know what grants it has succeeded in being awarded,

NOW, THEREFORE BE IT RESOLVED BY THE PORTLAND CITY COUNCIL, that the Council intends to fund those portions of the project that are not covered by grant funds in a future Capital Improvement Plan.

**COMMITMENT & INTEGRITY
DRIVE RESULTS**

41 Hutchins Drive
Portland, Maine 04102
www.woodardcurran.com

T 800.426.4262
T 207.774.2112
F 207.774.6635



June 13, 2014

Michael Bobinsky, Director
Department of Public Services
55 Portland Street
Portland, Maine 04101

Re: Capisic Pond Improvements – Construction Cost Percentages, Sewer/Drainage Maintenance versus Pond Enhancement

Dear Mike:

At your request, we have evaluated the Capisic Pond Enhancement project to identify an approximate breakdown of cost (on a percentage basis) that can be attributed to: 1) maintenance associated with the impacts of sewer and drainage on the pond; and 2) enhancements to satisfy the public's interest in habitat restoration and preservation of the pond as a recreational and aesthetic resource in the park. To perform this evaluation, we made the assumption that the costs for dredging (removal of sediments) from the pond is wholly a maintenance cost associated with sedimentation of the pond as a result of the City's drainage and sewer systems in the heavily developed Capisic Brook and Rockland Ave Outfall watersheds. We refer to this as sewer/drainage maintenance costs. We further made the assumption that enhancements associated with creating new habitat buffer areas on the edge of the pond, including edge stabilization and plantings, is wholly an enhancement cost to benefit the public's interests in habitat restoration and park preservation. We refer to this as pond enhancement costs. All other miscellaneous costs that are incurred to perform the work (ex. – office trailer, erosion controls, stabilized matting) were allocated on a relative percentage basis of the sewer/drainage maintenance costs and the pond enhancement costs.

Based on these breakdowns, we have determined that 50% of the total construction costs for the project can be attributed to sewer/drainage maintenance costs and 50% of the total construction costs can be attributed to pond enhancement costs.

Sincerely,

WOODARD & CURRAN INC.

A handwritten signature in dark ink, appearing to read "D. Senus", is written over a horizontal line.

David Senus, P.E.
Project Manager

225672.77



Michael J. Bobinsky
Director of Public Services

To: Michael Bobinsky, Director of Public Services

From: Douglas Roncarati, Stormwater Program Coordinator

Date: November 24, 2014

RE: Summary of efforts to identify grants and apply for funding for the Capisic Pond Wetland Enhancement project

Staff from the Department of Public Services and our consultant, Woodard & Curran, identified a number of potential grant opportunities that might provide funding for a wetland enhancement project like the one envisioned for Capisic Pond. The following is a summary of the potential funding sources that were identified and explored and an update on the status of each.

Maine Natural Resources Conservation Program (MNRCP): Staff submitted a summary proposal for this grant, which is funded through State wetlands mitigation contributions. The City was then asked to submit a full proposal and did so, requesting \$162,000 toward the Capisic Pond Wetland Enhancement project. The grant review committee met on November 6, 2014 to evaluate the proposals and the project was met with mixed reviews, but was not outright rejected. Some committee members do not like the fact that the pond and wetland habitat are manmade, while others questioned the sustainability of the project, because ongoing sediment and invasive plant management will be necessary for habitat maintenance. The committee asked if the City would accept a much smaller grant award and was told that the full amount of the request was necessary given the overall project cost and the overall administrative and legal burdens associated with the grant. The grant approval committee met on November 17, 2014 to make final decisions about which projects to fund and subsequently informed the City that the project would not be awarded a grant.

Maine Land & Water Conservation Fund: Staff did not apply for this grant because it was past deadline for a pre-application site inspection. Also, the focus of this grant is on recreation, rather than wetland invasive plant management to restore and enhance wading bird and waterfowl habitat. Shifting the goals of the project from the wetland enhancement to recreation in order to accommodate this grant would likely jeopardize our State & local project approvals.

National Fish & Wildlife Foundation Pulling Together Initiative: Staff did not apply for this grant because it was past deadline for a pre-proposal submission. Grant awards are small (up to \$75,000). Staff will contact the program manager to determine if there will be additional grant offerings next year and if this project would qualify.

U.S. Fish & Wildlife North American Wetlands Conservation Act (NAWCA) Small Grants Program: Staff did not apply for this grant due to the limited size of the award (up to \$75,000), in favor of applying for the larger version of this grant, the North American Wetlands Conservation Act Grants Program (U.S. Fish & Wildlife Service Bird Habitat Conservation), which provides grants up to \$1 million. While the two deadlines had passed for 2014, future rounds of this larger grant program are anticipated in 2015 and we will contact program staff for more information. It is important to note that at the MNRCP grant review committee meeting, one of the most vocal opponents of the pond enhancement project on the basis that it is not a natural wetland, was a representative of the U.S. Fish and Wildlife Service who would likely be involved with the local grant process. Given this situation, staff will need to determine if it is worth the cost and effort to apply for this grant next year.

Funders' Network for Smart Growth & Livable Communities – Partners for Places: Staff did not apply for this grant because it was past deadline for applications. We need to contact program staff to determine if this project will qualify, since the application states that they will not support local government staff or major capital projects.

Gordon & Betty Moore Foundation Marine Microbiology Initiative: There is no RFP process for this grant; Foundation staff seeks organizations whose research or projects would contribute to the Foundation's overall goals/existing projects and will ask for a formal proposal from that organization. Based on the marine research-oriented nature of projects funded to date and the very clear admonishment against submitting unsolicited proposals, no further action will be pursued.

Maine Outdoor Heritage Fund: Staff needs to explore this grant in more detail and could possibly apply for the March 1, 2015 round. This grant requires the support of a "Qualified Sponsoring Agency" and therefore some relationship-building around the pond enhancement project in advance of the application.

Five Star and Urban Waters Restorative Program: Staff did not apply for this grant because it was past deadline for application submission. Additional investigation will need to be done to determine if new funding will be available in 2015 and if the project meets the grant criteria.



MEMORANDUM

To: Finance Committee

From: Mark Rees, City Manager

Date: June 26, 2014

RE: Capisic Pond: Grant Options

For the June 26 Finance Committee meeting the Finance Committee requested responses to the following question:

What grants are being considered for the Capisic Pond Improvement project?

The following grants are being considered for the Capisic Pond Project:

1. Land and Water Conservation Fund - \$200,000
2. National Fish and Wildlife Foundation Pulling Together Initiative - \$25,000 - \$75,000
3. U.S. Fish & Wildlife Small Grants Program - \$75,000
4. Funders' Network for Smart Growth and Livable Communities, Partners for Places - \$150,000
5. Gordon and Betty Moore Foundation Marine Microbiology Initiative – unspecified
6. Surdna Foundation, Sustainable Environments – unspecified

From: Zach Henderson <zhenderson@woodardcurran.com>
To: "Michael Bobinsky (mbobinsky@portlandmaine.gov)" <mbobinsky@portlandmaine.gov>
Date: 6/24/2014 1:12 PM
Subject: FW: Capisic Pond - Possible Grant Opportunities

See options below. These may be viable.

Zach Henderson
Project Scientist - CPSWQ
1.800.426.4262
1.207.650.2576 (c)

-----Original Message-----

From: Lauren Swett
Sent: Friday, June 20, 2014 2:06 PM
To: Bobinsky Michael
Cc: 'Doug Roncarati (DAR@portlandmaine.gov)'; Zach Henderson; David Senus
Subject: Capisic Pond - Possible Grant Opportunities

Hi Mike,

Zach asked me to send you some information on grants that may be applicable for the Capisic Pond project. As Zach had sent in an email last week, we are working on the initial application for the Maine Natural Resource Conservation Program. We have come up with these additional grants that are currently accepting applications and may be options to consider for the Capisic project.

Land and Water Conservation Fund

http://www.maine.gov/dacf/parks/grants/land_water_conservation_fund.html

Funding administered by the National Park Service and the Maine Bureau of Parks and Lands, and intended for assistance with acquisition and/or development of public outdoor recreation facilities.

Pre-Inspection deadline July 28

Awards up to \$200,000, matching funds required

National Fish and Wildlife Foundation Pulling Together Initiative

<http://www.nfwf.org/pti/Pages/home.aspx>

Funding program for the management of weeds and invasives on public lands, natural areas, and private working lands.

Pre-Proposal application deadline July 1

Typical awards \$25,000-\$75,000, matching funds required

U.S. Fish & Wildlife Small Grants Program

<http://www.fws.gov/birdhabitat/Grants/NAWCA/Small/index.shtm>

Grant program for projects that further the goals of the North American Wetlands Conservation Act, including long-term protection, restoration, and/or enhancement of wetland and associated uplands habitats for the benefit of all wetlands-associated migratory birds.

Application deadline November 7

Maximum grant request \$75,000, matching funds required

Another current grant opportunity that doesn't quite fit with the Capisic project is through the Recreational Trails Program:

http://www.maine.gov/dacf/parks/grants/recreational_trails_program.shtml

This may be something to consider for other projects. It may also apply to educational programs that might be done in association with the Capisic project, if also related to the trails that run around the pond.

We'd need to do some additional research to verify the applicability of each program, but it's possible they could provide funding to certain parts of the project. If you'd like us to look into any of these grants further, please let us know.

Thanks, and have a nice weekend!

Lauren

Lauren Swett, P.E.

Project Engineer

Woodard & Curran

41 Hutchins Drive

Portland, Maine 04102

Phone: (800)426-4262 ext. 3303

Fax: (207)774-6635

**Funders' Network for Smart Growth and Livable Communities
Partners for Places**

This program creates opportunities for cities and counties in the United States and Canada to improve communities by building partnerships between local government sustainability offices and place-based foundations. National funders invest in local projects to promote a healthy environment, a strong economy, and well-being of all residents. Through these projects, Partners for Places fosters long-term relationships that make our urban areas more prosperous, livable, and vibrant. Successful proposals are for projects that the local government sustainability office and local, place-based funder(s) consider important to the community. The project must advance at least one of the following: a key aspect of a community-focused sustainability, climate action, comprehensive plan provision that specifically addresses sustainability; a key aspect of any plan endorsed by the mayor or city manager that states the goal of balancing economic development, environmental quality, and equity; an area identified for performance improvement or implementation for Certified STAR Communities.

Award max.: \$150,000

Eligibility: Local, place-based foundation, a public charity (501c3) created by a city or county government to accept grants, or a partnering nonprofit organization. The proposal must be submitted by a team of at least two partners who are: (1) the sustainability director of a city (municipality) or a county and, (2) the local, place-based foundation(s).

<http://www.fundersnetwork.org/participate/green-building/partners-for-places/>

**Gordon and Betty Moore Foundation
Marine Microbiology Initiative**

Summary: The aim of the Marine Microbiology Initiative is to uncover the principles that govern the interactions among microbes (who interacts with whom, how, when, where, and the consequences thereof) and that influence the microbially mediated nutrient flow in the marine environment (who consumes and excretes what, where, how much, when, and the consequences thereof). To achieve high scientific impact through these strategies, MMI employs four grantmaking approaches: A) Single Investigator awards (MMI Investigator portfolio) that support individual current and emerging leaders in the field; B) Multi-disciplinary Team Research Projects that support collaborations to address interdisciplinary challenges; C) Community Resource Projects that fund development of tools and infrastructure of broad utility to the entire research community; and D) Instrumentation and Technology Development grants that advance the community's capabilities through development of novel technology. The annual grant budget is roughly \$250 million.

The Foundation does not accept unsolicited proposals. Foundation staff research organizations as potential contributors to fill specific niches and achieve the outcomes within the Foundation's program areas. Once potential projects and grantees have been identified, the Foundation may request a formal proposal.

650-213-3000

<http://www.moore.org/programs/science/marine-microbiology-initiative>

**Surdna Foundation
Sustainable Environments**

The Sustainable Environments Program is working to overhaul our country's outdated and crumbling infrastructure with a new approach that will foster healthier, sustainable, and just communities. We believe in the potential of what we call "next generation infrastructure" to improve transit systems, make buildings more energy efficient, better manage our water systems and rebuild regional food systems. Focusing on urban areas and their surrounding suburbs, we seek solutions that connect and improve these infrastructure systems in ways that maximize positive impacts and minimize negative environmental, economic and social consequences. The Sustainable Environments Program seeks to create just and sustainable economies in four ways. (1) SUSTAINABLE TRANSPORTATION NETWORKS & EQUITABLE DEVELOPMENT PATTERNS. We support clean, affordable, equitable, high-quality and efficient transportation and land use development that better connects critical services, jobs, schools, housing and other regional destinations. (2) ENERGY EFFICIENCY IN THE BUILT ENVIRONMENT. We support efforts to help people make homes, businesses and other buildings more energy efficient. (3) URBAN WATER MANAGEMENT. We support efforts to capture storm water and slowly release it into the existing network of drains, pipes and sewers, or reuse it where it falls to cultivate natural green spaces. (4) REGIONAL FOOD SUPPLY. We support ways to make it easier to get local, sustainably produced food from our farms to the markets closest to where it's grown, and to better connect food producers and consumers.

212-557-0010

<http://www.surdna.org/what-we-fund/sustainable-environments.html>

To: Finance Committee Members
From: Michael J. Sauschuck, Police Chief
Date: February 20, 2015
Re: Communications System Replacement: 800 MHz Project-25 Trunked Radio Network

Portland's Communication System needs to be replaced as an emergency. In preparation for Council authorization of the FY16 projects in the annual Capital Improvement Plan, the City issued a Request for Proposals (RFP) on January 28, 2015. Responses to the RFP are due on March 24.

The RFP seeks to acquire and implement a new ten channel 800 MHz Project-25 simulcast trunked radio system that will replace the existing Motorola 800 MHz Smartnet system that is currently being utilized by the Cities of Portland and South Portland.

BACKGROUND

In 1999, the City of Portland began use of its citywide 800 MHz Motorola SmartNet Trunked Simulcast system for emergency services: dispatch, 911 service, and operations. The system integrated radio communications for all city departments onto a single technology platform for emergency service and day-to-day use. Since that time some upgrades and modifications to the system have taken place in an effort to meet the communications needs of Portland's First Responders. The City of South Portland is also a system participant using the 800 MHz communications infrastructure for their public safety communications.

In December of 2013, a report solicited by the City of Portland was submitted by Communications Design Consulting Group, LLC. discussing the eminent need to replace the system. The report revealed the communication system was categorized as being at the "end of its life" and its manufacturer, Motorola, would no longer be providing support for system components and software. Effectively, parts and service are longer available. This report estimated the basic upgrade cost at \$6.7 million with an additional \$3.85 million in potential options.

Authorizing the replacement was postponed during the FY15 budget process to allow for additional research. A peer review report on the initial consultant's review was conducted by RCC Consultants Inc. and was received in September of 2014. This report reached similar conclusions to the initial report.

OPTIONS

Two basic replacement options have been discussed: full system "turnkey" replacement and a phased-in approach. The full system replacement is the only viable option. The phased-in approach requires working with a single vendor exclusively and by-passing the city's purchasing ordinance. Under this option, some spending would be deferred, but the total cost of the system would increase because some components of the system would have to be purchased

to facilitate the phase-in that would be obsolete when finished. Nonetheless, with either approach, authorizing the full funding amount for the project is necessary.

ALTERNATIVES

The only alternative known is continuing to use the current system and replacing parts as they fail, if parts can be found. This alternative puts the public and city operations at risk for emergency services and day-to-day operations.

The Cumberland County Regional Communication's Center operates on several different communication frequencies that are each licensed to individual municipalities. These frequencies are older technology that are not compatible with the Portland/South Portland system and not a technology that will be supported into the future. Investing in the 800 MHz Project-25 simulcast trunked radio system is in support of the National Emergency Communication Plan released by the Department of Homeland Security in 2014. Cumberland County's system is a different communications platform than the Cities of Portland and South Portland used for different purposes. The systems are not compatible from an operational standpoint and would require a considerable investment on the County's and other municipalities' standpoint to make them so.

COST SHARE

With the exception of the handheld radios and mobile mounted radios, the project is a shared expense between Portland and South Portland. The plan is for Portland to authorize and borrow the full amount for the project and bid and build the project. South Portland will share approximately 30% of the debt payments according to the inter-local agreement signed by Council Order in 2007.

SCHEDULE

Given that more certain pricing will not become available until March 24, the final recommended authorization for the communication system, for the estimated full cost of the project cannot be finalized until after that date. The current schedule for the City Council to authorize the communication system project as part of the CIP is scheduled for the two Council meetings in April. According to Bond Counsel, a referendum is not necessary and also not recommended due to the emergency status this project has. See the attached memorandum from Bond Counsel.



Merrill's Wharf
254 Commercial Street
Portland, ME 04101
207-791-1100

Memo

To: Suzanne Knight, Interim Director of Finance
From: Jim Saffian, Bond Counsel
Date: February 19, 2015
Re: City Charter Referendum Requirements

This memorandum discusses the Portland Charter referendum requirements as they relate to the proposed City financing of a replacement public safety radio communication system.

Article VII, Section 16(a)(1) of the City Charter, states that:

(a) The city council shall submit the following to voter referendum:

- (1) Orders or resolves authorizing the issuance of general obligation securities of the city in a principal amount greater than five one-hundredths of one (1) percent of the last certified state valuation of the city for a single capital improvement or item of capital equipment; or

Thus, based on the City's current 2015 State Valuation of \$7,707,200,000, a bond order in the amount of \$3,853,600 or more for a single capital improvement or item of capital equipment, unless excepted under Article VII, Section 16(b), would trigger the referendum requirement. Article VII, Section 16(b) provides for the following three exceptions to the referendum requirement: (i) refunding bonds, (ii) street, storm water and sewer bonds and (iii) bonds for a declared emergency.

(b) The provisions of this section shall not be applicable to any order or resolve authorizing (i) the refunding of any securities or other obligations of the city; (ii) the issuance of general obligation securities, or other direct or indirect obligations, of the city for streets, sidewalks, or storm or sanitary sewers; or (iii) any construction or financing of improvements or equipment needed as a result of fire, flood, disaster or other declared emergency. For purposes of this section, the city council may by vote of at least seven (7) of its members adopt emergency orders or resolves authorizing construction or financing of improvements or equipment needed as a result of fire, flood, disaster or other emergency and such orders or resolves shall contain a section in which the

emergency is set forth and defined; provided, however, that the declaration of such emergency by the city council shall be conclusive.

The currently installed public safety radio communication system (now being replaced) financed with a portion of the City's 1998 Bonds was submitted to a referendum vote. In 2002, we concluded that certain additional and unexpected costs of the 1998 project (necessary to fix dead space or black out areas) should be considered as part of the same "single" capital improvement and thus also subject to the City Charter bond referendum requirement. This was so even though the additional amount, standing alone, was less than the then-current referendum triggering threshold. At that time, however, the City Council elected to authorize the additional bonding amount under the "declared emergency" provision of paragraph 16(b), thus avoiding the referendum requirement for the additional financing amount.

I understand that the City is currently confronting a similar situation. The existing public safety communication system is approaching the end of its useful life. Vendor support for repairs and upgrades to the system is also reaching an end point. In addition to any negative impact this may have on Portland residents, the City is now part of a combined dispatch system with South Portland and Cape Elizabeth. Thus, the City Council could conclude that these circumstances create an unsafe environment for City residences and City safety personnel and for the populations in the South Portland and Cape Elizabeth communities as well. Based on this public safety issue, there is therefore an urgent and unavoidable need to replace the current system with an up-to-date system that provides better reliability and coverage. The new system would ameliorate these concerns and would enhance the public safety of both the residents of the City and City public safety personnel as well as the residents in the combined public safety dispatch territory.

If the City Council determines that it would be appropriate to take this action, then the City Council (by a vote of 7 of its members) can define and declare the emergency circumstances that justify the referendum exception when it adopts the bond order for the replacement public safety radio communication system. Based on the discussion above, in this instance the circumstances giving rise to the emergency would be along the lines of the following:

- The current public safety radio communication system is approaching the end of its useful life;
- These circumstances create an unacceptable public safety risk to the residents of the City and to City public safety personnel and to the residents in the combined dispatch service area;
- There is therefore a substantial public exigency to speedily replace the current system with an up-to-date and more reliable public safety radio communication system in order to meet the needs of the residents of the City and of the combined dispatch service area;
- Because there is an urgent and unavoidable need for a new public safety radio communication system and because a process seeking referendum approval would create uncertainty and an unavoidable and unacceptable delay in the project, the

City Council finds and declares that emergency circumstances exist requiring approval of the project and issuance of the City's bonds therefore without referendum approval.

Thus, by an appropriately drafted City Council Order and related City Council findings and declarations, the project and bonds could be approved by the City Council without a referendum vote under the requirements that pertain in the City Charter.

I hope this information is helpful to you as you complete your planning for the project. Please give me a call if you have any further questions.



Economic Development Department
Gregory A. Mitchell, Director

MEMORANDUM

TO: Finance Committee

FROM: Greg Mitchell, Economic Development Director

DATE: February 23, 2015

SUBJECT: Relocation Plan for Public Services Bayside and other City Departments

I. SUMMARY OF ISSUE

It has been the policy direction of the City, over a number of years, to relocate the Department of Public Services Bayside activities and combine other City Department activities to a single centralized location to support on peninsula City government service delivery. This memorandum will outline approaches to address City policy.

The DPS Bayside Relocation Plan is to remove all DPS activities from 44, 65, 71, and 82 Hanover Street and 56 Parris Street to properties that are currently being evaluated by City staff subject to City Council approval. It is noted that the DPS Administrative Office Building, located at 55 Portland Street, will continue to be owned by the City and occupied by DPS. See attached map.

Property Address/Acreage	City Use	New Location Status	Efficiency Results	Actions
44 Hanover St.	DPS Fleet Services	Under evaluation by City staff.	Puts uses under one roof/single site. Property available for sale.	HCDC to oversee RFP process to sell properties and negotiate purchase and sale agreements subject to City Council approval.
82 Hanover St.	DPS Lower Garage	Under evaluation by City staff.		
56 Parris St.	DPS Employee Parking	Under evaluation by City staff.		
71 Hanover St.	Satellite Sand/Salt Operation	Under evaluation by City staff.		Pending City Council Vote on 2/23/2015 for sale.
65 Hanover St./ 52 Alder Street	Trades/Traffic	212 Canco Road		Pending RFP Issuance

II. REASON FOR SUBMISSION

Housing and Community Development Committee and Finance Committee recommendations are needed to advance discussion and required real acquisition and financial appropriation actions to develop an action plan to address this policy.

III. INTENDED RESULT

Housing and Community Development Committee and Finance Committee actions (in the form of recommendations to the City Council) on specific actions outlined in this memorandum.

IV. COUNCIL GOAL ADDRESSED

It is the goal of the *Bayside* Vision 2000 Plan to relocate Public Services Bayisde operations out of Bayside to support mixed use development.

Promote Economic Development in the City in a manner that provides for increased property values, diversification across industry sectors, and high paying jobs.

(Reminder of this page intentionally left blank)

V. FINANCIAL IMPACT

An overview of the financial impacts of past City Council actions/appropriations and future staff recommended City Council Committee/City Council actions are provided below. It is noted that the City attorney and possibly City bond counsel need to approve this financial approach to ensure it complies with City Charter limitations related City Council debt authorization.

Source of Funds Table

Amount	Source	City Council Committee/City Council Required Action	Status
\$2.0 Million	Sale of City Somerset Street property, net broker commission	Requires City Council financial appropriation.	Awaiting closing of sale Spring, 2015.
\$0.2 Million	Sale of Riverside Street property	City Council approved Purchase and Sale Agreement (PSA).	Awaiting closing of sale before 7-1-15.
\$0.2 Million	Sale of 71 Hanover Street property	City Council authorization of PSA; followed by City Council financial appropriation.	City Council authorization of PSA set for 2/23/2015.
\$0.6 Million	Past City property sales.		Funds available
\$3.2 Million	New real estate purchase and new City debt to acquire add'l property and facilities under evaluation by City staff.	Requires Finance and HCDC Committee recommendations to City Council, followed by City Council financial appropriation.	Pending Committee review.
\$2.1-\$3.0 Million	Future Sale of DPS Fleet and Central Services properties, including 3.0 +/- acres at an estimated value of \$.700-\$1.0 million per acre based upon use	Requires HCDC approval of RFPs; then requires City Council authorization of PSAs.	Final estimate requires staff/consultant due diligence work
Total: \$8.3 - \$9.2 Mil.			

Uses of Funds Table

Amount	Use	City Council Committee/City Council Action	Status
\$3.2 Million	Acquisition of additional property and facilities under evaluation by City staff.	Requires Finance Committee recommendation to City Council, followed by City Council financial appropriation.	Pending review by Finance Committee.
\$2.1-\$3.0 Million	Renovation of facilities and new construction. Final estimate requires staff/consultant due diligence work.	Requires Finance Committee recommendation to City Council, followed by City Council financial appropriation.	
Total: \$5.3 - \$6.2 Million			

\$3 million Source and Use Table Difference. It is noted that this difference largely relates to uncertain future revenue associated with selling remaining DPS Bayside property.

VI. STAFF ANALYSIS

City staff has been working on evaluating real estate and facility options, over a number of years, to accomplish the complete relocation of most or all of Public Service Bayside Department activities combined with other departments to a single centralized location to provide city services on or near the Peninsula where a majority of demand for city governmental services are needed.

VII. RECOMMENDATION

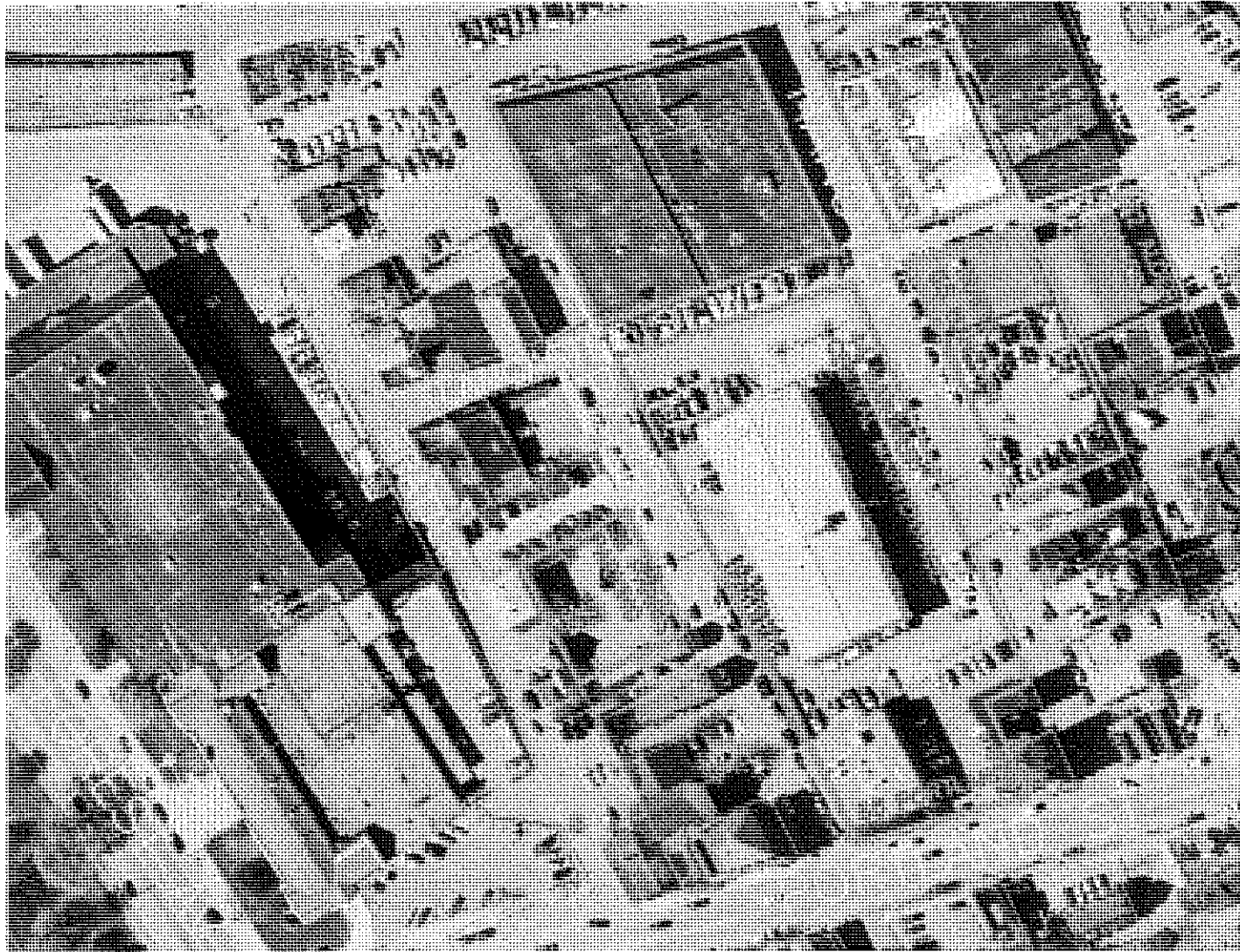
This memorandum outlines recommended City Council Committee and City Council actions required to move forward with the DPS Bayside Relocations Plan.

VIII. LIST ATTACHMENTS

- Map of DPS Bayside Property

Bayside City Properties

Public Services Main Facilities – Portland St to Kennebec St



Interoffice Memorandum

To: Ian Houseal, Assistant to the City Manager
From: Kevin Austin, Fleet Manager
Date: February 19, 2015
Re: Ladder 1

Ladder 1 is currently the oldest piece of front line apparatus in service for the fire department. The apparatus itself is a specialty aerial device that supplements our (3) 100' aerials devices. This piece of equipment allows us the ability to accomplish some major operational tactics including a safe platform in which fire personnel can work at high elevations, the ability to manage master streams at the source within the platform and allows for the ability to operate over wires that might otherwise prohibit normal aerial operations.

Ladder 1 is stationed atop Munjoy Hill at 134 Congress Street and services all the peninsula as well as the North and East Deering neighborhoods. It is 1 of 2 aerial devices serving the metropolitan downtown area and its unique capabilities are utilized on the majority of our more serious fires, regardless of the location in the city. Ladder 1 is staffed daily with 2 firefighters and 1 officer. It responded on 1281 total calls in 2014 including 322 EMS calls.

Ladder 1 is a model year 1993 Peirce ladder truck with an 85' Snorkel articulating boom. The engine has logged 15,273 service hours and the aerial has 2,190 service hours. The City purchases fire apparatus with an expected useful life of 20 years and Ladder 1 is currently 22 years old. Fleet mechanics have noted significant corrosion inside the upper and lower booms. Sizable sheets of delaminated and corroded steel are dropping out of the internal section of both booms causing concern around the structural integrity of the booms. Given the age of the truck and the environment that it operates in this type of corrosion is to be expected.

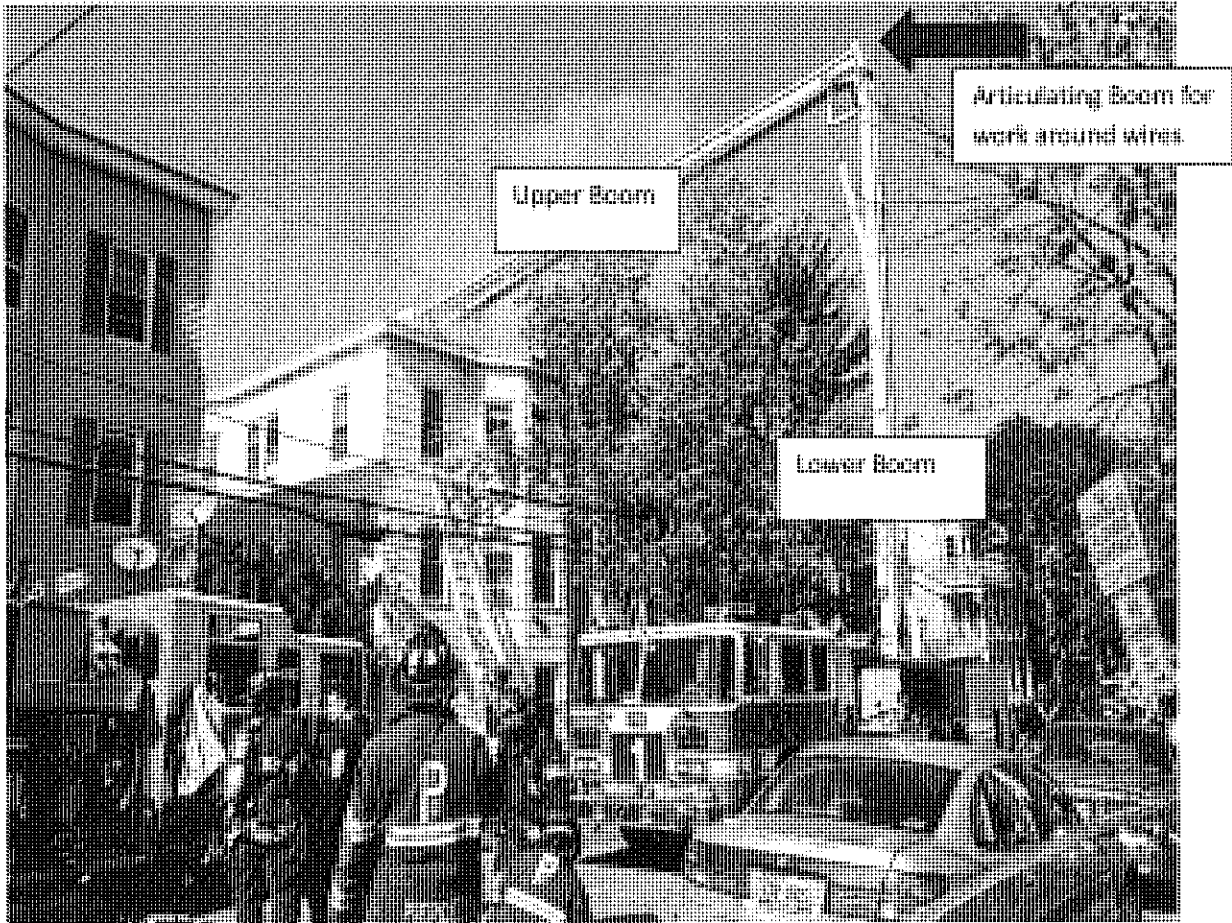
Given the safety sensitive nature of working on Fire Aerials, the age of the unit, and our knowledge of corrosion inside the boom, it is in the City's best interest to ensure safety sensitive equipment is replaced before unsafe conditions develop. Much of the City's fleet is "run to failure", however running a safety sensitive piece of equipment to failure is not an option.

Due to the 6 – 12 month lead time to build an aerial truck, Ladder 1 will have to remain in service for another year. Corrosion, by nature, worsens over time and Fleet Services has very low confidence that Ladder 1 can continue in front line service safely. Given the corrosion concerns and at the request of the Fire Fighter's Union, a "non-destructive" test has been scheduled to occur on February 23 to determine if we can safely continue to use Ladder 1 for the immediate future. Results will be shared immediately.

CC: Michael Bobinsky, Director Public Services
Jerry Lamoria, Fire Chief
Scott Thomes, Assistant Fire Chief
John Brooks, President Local 740

Ladder 1

Portland Fire Department

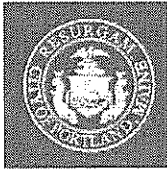


Equipment Type – Ladder Truck w/ 85' Snorkel type Boom

Model Year – 1993 Age – 22 years

Engine Hours – 15,273 Aerial Hours – 2,190

Service Calls in 2014 – 1,281 including 322 for EMS calls



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MEMORANDUM

To: Finance Committee

From: Ian Houseal, Sustainability Coordinator

Date: May 10, 2012

Re: Consistency of the Capital Improvement Plan (FY 2013 – FY 2017) (CIP) with Council Adopted Master Plans, Studies, or Reports from 2009 to 2012

The following reviews Council adopted master plans, studies, or reports from 2009 to 2012 for references to specific capital projects and verifies that referenced projects appear in the CIP (FY 2013 – FY 2017). Only recommendations proposing specific capital projects have been reviewed.

1. Athletic Facilities Task Force Report
 - a. All cited capital projects in the Report are listed in the CIP.
2. Portland Economic Development Plan
 - a. No specific capital projects are cited in the Plan.
 - b. The Rand Road Technology Park is a capital project listed in the CIP which is a suggested investment mentioned in the Plan.
3. Solid Waste Task Force Report
 - a. The Report cites exploring and suggests switching to cart-based recycling collection and co-locating recycling containers with public trash receptacles by December 2016.
 - b. The Report cites finding a permanent location for the silver bullet recycling containers.
 - c. The CIP lists relocation of the silver bullet recycling containers.
4. West Commercial Street Trail Feasibility Study
 - a. The Study cites numerous improvements.
 - b. The Study is referenced in the CIP and the CIP lists the first phase of the Study's recommendations.
5. St. John/Valley Streetscape Improvement Plan
 - a. The Plan cites numerous improvements and those improvements were funded by CDBG funding in previous years.
 - b. The CIP lists reconfiguring St. John Street under another project which includes streetscape improvements.

6. Sustainable Portland

- a. No specific capital projects are cited in the Plan.

7. Peninsula Transit Study

- a. The Plan cites specific pedestrian crossing, sidewalk improvements, bicycle facilities, highway entrance facilities, park-and-ride, and transit facility improvements.
- b. The CIP lists sidewalk and pedestrian crossing improvements, but does not reference specific crossing listed in the Plan other than projects in the Bayside neighborhood.
- c. The CIP does not list transit facility improvements; specific improvements are under consideration by GPCOG and METRO.
- d. The CIP lists highway Exit 6 improvements and other Forest Avenue corridor improvements and paving of the Washington Avenue corridor.
- e. The CIP does not list bicycle lane stripping, but those costs are in the lane stripping budget.
- f. The CIP does not list Park-and-Ride expansions.
- g. The CIP does not list installing bicycle storage stations.

8. Franklin Street Arterial Study

- a. No specific capital projects are cited in the Study.

ADOPTED MASTER PLANS, STUDIES, AND REPORTS

2009-2010

- 8-03-09 Order Amending Comprehensive Plan to Include Peninsula Transit Study
Transportation - Sponsored by Transportation Committee
- 11/16/09 Order Adopting Franklin Street Arterial Study Committee Report –
Sponsored by Councilor Donoghue
- 6/07/10 Order Amending Comprehensive Plan Re: Sustainable Portland –
Sponsored by the Energy & Environmental Sustainability Committee

2010-2011

- 8-02-10 Order Accepting West Commercial Street Trail Feasibility Study and
Approving Recommendation of Study – Sponsored by Transportation Committee
- 9-13-10 Order Approving St. John/Valley Streetscape Improvement Plan – Sponsored by
Transportation Committee

2011-2012

- 11-21-11 Order Adopting Portland Economic Development Plan – Sponsored by
Community Development Committee
- 11-21-11 Order Approving Athletic Facilities Task Force Report – Sponsored by
Athletic Facilities Task Force

COMMUNICATIONS 2011-2012

- 9-07-11 Solid Waste Task Force Report
- 10-03-11 Portland Economic Development Plan
- 11-21-11 Congress Square Redesign Study Group

CAPITAL PROJECT PLANNING WORKSHEET - GENERAL FUND

	FY15 auth.	FY16	FY17	FY18	FY19	FY20	FY21	FY22	FY23	FY24	FY25	FY26	FY27
Funding Recommendation													
Capital Maintenance Borrowing	12,634,000	14,257,000	12,641,700	11,984,000	14,283,000	7,819,000	12,000,000	12,000,000	12,000,000	12,000,000	12,000,000	12,000,000	12,000,000
Projected New Issue Debt Service--est. debt service													
General Fund--est. debt service			1,477,165	2,851,775	4,133,122	5,540,183	6,243,185	7,108,534	7,837,438	8,535,627	9,182,202	9,765,236	10,176,696
Projected GF Debt Service Est.	25,597,991	26,382,363	27,659,955	28,290,711	29,161,625	30,059,249	31,034,811	32,403,250	33,613,151	34,843,185	36,024,236	37,397,314	38,063,216
increase from prior year	1,682,449	784,372	1,277,592	630,756	870,915	897,624	975,562	1,366,438	1,209,901	1,230,034	1,181,050	1,373,079	(22,334,098)
Projected GF Debt Service Est. (less POB)	14,250,995	14,307,028	14,808,292	14,615,859	14,613,744	14,586,852	14,586,100	14,917,455	15,027,751	15,090,692	15,034,418	15,099,425	15,063,216
increase from prior year	991,448	56,033	501,264	(192,434)	(2,114)	(26,892)	(752)	331,354	110,296	62,941	(56,274)	65,007	(36,209)
Projected Debt Service Available		(784,372)	(2,061,964)	(2,692,720)	(3,563,634)	(4,461,258)	(5,436,820)	(6,805,258)	(8,015,160)	(9,245,194)	(10,426,245)	(11,796,323)	10,634,775
Projected FY13 Comparative Est. Tax Rate Increase		0.10	0.26	0.34	0.45	0.55	0.67	0.83	0.97	1.10	1.23	1.38	(1.22)

Potential CIP Major Project	SELECT YEAR
Elementary Schools	18
Public Services Relocation	17
Congress Square Re-Design	24
Capisc Pond Improvements	18
Franklin Street Redesign	23
Libbytown	22
Spring Street	25
Bayside Transportation	25
State St & High St	25
Forest Avenue	21

WORKING DOCUMENT

Total Potential Projects			6,000,000	12,382,319	15,339,060	12,337,789	12,683,505	2,600,000	1,500,000	7,000,000	5,370,000	5,000,000	1,000,000
Potential GF Debt Service Est.	25,597,991	26,382,363	27,659,955	28,860,711	30,880,946	33,138,700	35,106,940	37,465,638	38,647,679	39,847,092	41,528,121	43,128,204	20,991,135
increase from prior year	1,682,449	784,372	1,277,592	1,200,756	2,020,235	2,257,754	1,958,240	2,358,698	1,182,041	1,199,413	1,681,029	1,600,083	(22,137,069)
Potential GF Debt Service Est. (le:	14,250,995	14,307,028	14,808,292	15,185,859	16,333,065	17,666,302	18,658,229	19,979,843	20,062,279	20,094,599	20,538,304	20,830,315	20,991,135
increase from prior year	991,448	56,033	501,264	377,567	1,147,206	1,333,238	991,926	1,321,614	82,436	32,320	443,705	292,011	160,820
Potential Debt Service Available	-	(784,372)	(2,061,964)	(3,262,720)	(5,282,955)	(7,540,709)	(9,508,949)	(11,867,647)	(13,049,688)	(14,249,101)	(15,930,130)	(17,530,213)	4,606,856
FY15 Comparative Est. Tax Rate Increase (mi		0.10	0.26	0.41	0.66	0.94	1.17	1.44	1.57	1.70	1.88	2.05	(0.53)
Comparative Tax Rate Increase (% from \$20 per 1,000 of value)		0.5%	1.3%	2.1%	3.3%	4.7%	5.8%	7.2%	7.9%	8.5%	9.4%	10.3%	-2.7%
Prior Year Est. Tax Rate Increase (mil rate)		0.10	0.16	0.15	0.25	0.27	0.23	0.28	0.13	0.13	0.18	0.17	(2.58)
Project Tax Rate Increase (mil rate)		-		0.07	0.22	0.38	0.50	0.52	0.61	0.60	0.65	0.67	0.69

Capital Planning for Future/Potential Major CIP Projects

Project Detail

Elementary Schools is for the construction/renovation of the five mainland elementary schools which have not had significant improvements in recent memory. The cost estimates were generated by a school planning effort commonly referred to as "Buildings for Our Future". Resources expended to date include \$300,000 in the FY13 CIP to assess the 5 buildings, gather community input and produce preliminary design concepts and cost estimates. The project estimates contained in the proposed 5 year CIP will need to be refined as each design is developed.

The Hall Elementary School project will receive State funding and therefore costs are not represented on the working schedule. An additional \$400,000 was allocated, again in the FY13 CIP, for further design work.

All of these projects (including Hall School) will need voter approval via a referendum.

Public Services Relocation More detail will be provided by separate memorandum. Future capital cost estimates provided are estimates **ONLY**.

Congress Square Re-design is to re-design the intersection, plaza, and its surrounding sidewalks and public spaces in coordination with the State/High two-way conversion study. One component of the Congress Square Re-design includes the conceptual design of the entire square and design development and construction specifications for Congress Square Plaza. The other component includes the design development and construction specifications for the square/intersection outside of the plaza.

Funding for design of this project was approved in the FY 07 CIP at \$50,000, which was supplemented by \$50,000 from RockBridge when the concept included the events center. Costs incurred to date amount to \$82,750, including \$10,000 expended to evaluate competing options of a rooftop park and a ground plane plaza design. Design is on hold pending direction from the City Council. We estimate that \$50,000 - \$75,000 is needed to complete the design for the entire project scope.

Construction estimates have been provided by the Planning Office based on advice from the KMDG design team and a more detailed cost estimate for the plaza area provided by Wright-Ryan in November, 2014. Wright-Ryan's cost estimate for a ground level plaza is \$1,367,400. Our estimate for the renovation of the square, exclusive of the plaza, provided in a memorandum to the City Council in July, 2014, is a range of \$2m to \$2.5m. The current CIP request reflects these cost estimates, with \$2m requested in FY 18 and \$1.375 requested in FY19.

Capisic Pond Improvements is to improve the existing habitat for the variety of species that currently utilize the pond and improve the aesthetic quality of the pond, while balancing the concerns of local residents and maintaining the existing character of the park. This will be achieved by sediment removal in portions of the pond to increase pond water depth, removal of the current population of cattails in selected areas and increasing the open water component of the pond.

Total expended to date: \$221,000.

Final Opinion of Probable Construction Cost for Pond Enhancement (including Construction Administration): \$2.1M

More detail is provided in memorandum under separate agenda item.

Bayside Transportation implements the overarching A New Vision for Bayside plan (2000) that is part of the city's Comprehensive Plan. The plan identifies land use/redevelopment, infrastructure and transportation opportunities within Bayside to transform the industrial-oriented area into an active urban mixed use neighborhood. Additional area studies influencing transportation investments in Bayside include the Peninsula Traffic Study (not adopted), Marginal Way Master Plan (2006), Peninsula Transit Study (2008), Reclaiming Franklin Street (2009), Franklin Street Study Phase 2 (underway), Somerset Street Re-connection Study (underway) and the State-High Street Two-way Studies (2012 and underway). A Bayside Transportation Master Plan study will begin in April 2015.

Capital projects in the Bayside area to date include:

- the Bayside Trail (city, state, federal and private funds) for approximately \$2.5M
- Chestnut Street extension and sidewalk/lighting
- Marginal Way at Chestnut Street pedestrian crossing (2013), \$60,000
- Elm Street sidewalk phase 1 and 2 (2014 and to be constructed in 2015), \$70,000 and \$250,000 respectively from CDBG funds
- Cumberland Avenue sidewalk and lighting, Preble St – Forest Avenue (construction in 2015) for \$450,000 and Washington Avenue to Franklin St.
- Oxford Street Paving (MaineDOT, 2014),
- Back Cove South (Marginal Way) Storage Conduit project (to be constructed beginning 2016) for \$29,000,000 not including streetscape improvements.

Future capital cost estimates provided are broad estimates **ONLY**.

State St. & High St. is to convert State and High Streets from one-way to two-way. The study has a City Council appointed Project Advisory Committee (PAC) made up of a broad group of stakeholders, co-chaired by Councilors Donoghue and Marshall. The project design team includes City staff, PACTS representative, project consultant, and MDOT officials. Work on the study is approximately 50% complete. PAC meetings have been held and another PAC meeting to be held in early March. *Engineered opinion of costs is still being developed at this time.* The basis for the evaluation builds off a Phase I assessment of the feasibility of converting these two major street corridors from one-way to two-way to improve overall safety for vehicles, and pedestrians.

The study funding to-date (\$200,000) includes the evaluation and consideration of design requirements to accommodate this new travel movement including intersection changes, parking removal to accommodate intersection turning movements and traffic modeling to assess overall feasibility.

Capital costs include converting State and High Streets to two-way flow between Marginal Way and York Street, upgrade 15 traffic signals, intersection geometry adjustments at 12 intersections, and median adjustments on the Casco Bay Bridge. Planning Level Cost Estimate **ONLY**: 15 Signals x \$100,000 (average per intersection) = \$1,500,000, 12 Intersection Geometry Changes x \$100,000 (average per intersection) = \$1,200,000, Casco Bay Bridge Median Change = \$250,000, Total Concept Cost = \$2,950,000

Forest Avenue implements the Transforming Forest Avenue study (\$90,000, 2012) adopted as part of the city's Comprehensive Plan. The plan identifies significant opportunities to greatly improve the infill/redevelopment context of the street, pedestrian accessibility along and across Forest Avenue, the quality of the Forest Avenue streetscape, traffic operations, bikeways, and transit facilities and operations to increase ridership.

Additional area studies influencing transportation investments on Forest Avenue include the Peninsula Traffic Study (not adopted), the State-High Street Two-way Studies (2012 and underway), Somerset Street Re-connection (underway) and an upcoming Bayside Trail Extension/Libbytown Trail Study and Design (to begin in June 2015).

Capital projects impacting Forest Avenue to date include:

- the Regional Traffic Management System signal coordination project (MaineDOT, 2012) for \$750,000
- I-295 Exit 6 Safety project (MaineDOT, to be constructed in 2015) for \$1.0M
- Woodford's Corner Intersection Project (to be constructed in 2016) for \$1.6M
- Forest Avenue/Dartmouth intersection project (to be constructed in 2016/2017) for \$105,000.
- Additional CIP funds totaling \$650,000 have been allocated for bicycle-pedestrian, streetscape and intersection improvements, yet to be designed.

Future capital cost estimates provided are broad estimates **ONLY**.

Libbytown further implements the Libbytown Circulation and Streetscape Study (80% completed, begun in 2012). The study is evaluating the benefits of conversion of the one-way sections of Park Avenue and Congress Street to contribute to improved safety for all street users and to improve neighborhood livability and accessibility.

Study funding to-date is approximately \$115,000.

Capital projects to date impacting Libbytown include:

- Multiple Libbytown sidewalk and streetscape projects on Congress Street and Park Avenue (EDA, CIP, CDBG and developer contribution funded) totaling approximately \$350,000.
- Fore River Parkway Trail Extension from Thompson's Point Road to/across Congress St (PACTS and CIP) for \$275,000.

Spring Street implements the Spring Street-Free Street Area Streetscape Plan (2012) which has been adopted as part of the city's Comprehensive Plan. The plan seeks to make Spring Street a more urban street to improve pedestrian accessibility along and across Spring Street, improve the visual quality of the streetscape and stimulate infill/redevelopment of vacant and underutilized parcels. Study costs to date are \$15,000. Phase 1 is to be constructed in 2015 as part of a MaineDOT-administered, PACTS-funded Collector paving project.

Study funding to-date is approximately \$125,000 with 67% expended.

Capital projects to date include:

- Spring Street Redesign project, Phase 1 (\$800,000 CIP, \$100,000 Unifund, \$275,000 MaineDOT, to be constructed in 2015).

Full implementation of the Spring Street portion of the adopted master plan is estimated to be an additional \$3.5M total.

Franklin Street Phase II involves recommending the preferred redesign plans for the Franklin Street Corridor from Exit 7/Marginal Way to Commercial Street. Extensive public process has been a characteristic of this project starting in the Phase I concept planning to the current Phase II work with an active Project Advisory Committee (PAC), partnering agreement with PACTS and MDOT, and City for project management and funding. Current project is progressing with final design recommendations; presentations tentatively scheduled with the Transportation Sustainability and Energy Committee for this March, and City Council in April or May.

Funding for Phase II study was approximately \$500,000 and is 75% expended; engineered costs estimates are being prepared and are not finalized at this time.

Future capital cost estimates provided are estimates **ONLY**.



To: Finance Committee

From: Ian Houseal, Assistant to the City Manager

Date: March 17, 2015

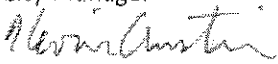
RE: Capital Improvement Plan 2016

Please see the attached material requested at the February 24, 2015 meeting by the Finance Committee with regard to the 2016 Capital Improvement Plan:

1. Provide the results of the Ladder 1 non-destructive test. (attached)
2. Provide two financial impact scenarios for the Capisic Pond project. (attached)

Interoffice Memorandum

To: Ian Houseal, Assistant to the City Manager

From: Kevin Austin, Fleet Manager 

Date: March 4, 2015

Re: Ladder 1 Non Destructive Test Results

The intent of this memorandum is to summarize the results of a "non-destructive test" completed during the week of February 23rd, 2015 by Underwriter Laboratories. A non-destructive test verifies that the equipment meets the requirements of Chapter 19 of the National Fire Protection Association; standard # 1911, "Standard for the Inspection, Maintenance, Testing, and Retirement of In-Service Automotive Fire Apparatus." This test was conducted due to concerns around the structural integrity of the aerial on Ladder 1 which is now twenty two years old and showing signs of corrosion inside the upper and lower booms.

A non-destructive test involves a thorough inspection of all automotive apparatus systems including pumps, foam systems, and ladders. The test also includes ultrasonic measurements of metal thickness and evaluation of all welds and bolts.

Ladder 1 was found to not be in compliance with NFPA standard 1911 due to leaks in the water system and improperly seated hydraulic cylinder seals which are repairable. Once the water system leaks and cylinder seals are repaired Ladder 1 will be compliant with NFPA standard 1911.

Ultrasonic measurement of metal thickness in the upper and lower booms indicates that the metal has gained 50% in thickness. This increase in thickness can be attributed to an extra layer of paint as the aerial was repainted ten years ago as well as delamination of the corroded metal inside the booms. These test results were shared with the Ladder 1 aerial manufacturer, Snorkel. Snorkel recommended that we video the inside of the booms to get a better look at the corrosion. The Water Resources Division of Public Services videoed the upper boom on March 10th, 2015 with a black and white sewer camera. The camera was unable to fit inside the lower boom, but delaminated corrosion was present on the inside of the upper boom. The video results have been sent to the aerial manufacturer. Due to the presence of corrosion inside the booms, Fleet Services remains concerned about the structural integrity of the aerial.

To summarize, Ladder 1 will be in compliance with NFPA standard 1911 once the water leaks are repaired. Due to the visible presence of corrosion on the booms and the age of the unit, Fleet remains concerned about the structural integrity of the boom. We may reach a point in the next year or two where we must down Ladder 1 around these safety concerns.

CC: Michael Bobinsky, Director Public Services



To: Finance Committee

From: Ian Houseal, Assistant to the City Manager

Date: March 17, 2015

RE: **Financial Impact of Capisic Pond Restoration Project**

At the March 24, 2015 Finance Committee meeting, the Finance Committee requested additional information regarding the financial impact of two funding scenarios for the Capisic Pond Restoration Project.

1. Splitting remaining project costs between the Sewer Fund and the General Fund; or
2. Fund the remaining project costs to the General Fund.

Project Funding To-Date	General Fund	Sewer Fund	Total
2014 CIP Appropriation	80,000		80,000
2015 CIP Appropriation	563,000	562,000	1,125,000
Total	\$643,000	\$562,000	\$1,205,000

1. Split Funding Scenario

	General Fund	Sewer Fund	Total
Prior Appropriations	643,000	562,000	1,205,000
Additional Appropriation	563,000	562,000	1,125,000
Total Debt	\$1,206,000	\$1,124,000	\$2,330,000
First Year Debt Service ¹	\$115,000	\$107,000	
First Year Rate Impact ²	0.015 tax rate	0.040 sewer rate	

2. General Fund Only Funding Scenario

	General Fund	Sewer Fund	Total
Prior Appropriations	643,000	562,000	1,205,000
Additional Appropriation	1,125,000		1,125,000
Total Debt	\$1,768,000	\$562,000	\$2,330,000
First Year Debt Service	\$168,000	\$54,000	
First Year Rate Impact	0.022 tax rate	0.020 sewer rate	

¹ Assumes 20 year term and 4.5% interest rate

² Assumes the FY2015 local property tax valuation of 7,662,000,000 and FY2015 sewer rate of \$8.81/HCF

MICHAEL F. BRENNAN (MAYOR)
KEVIN J. DONOGHUE (1)
DAVID A. MARSHALL (2)
EDWARD J. SUSLOVIC (3)
JUSTIN COSTA (4)

**CITY OF PORTLAND
IN THE CITY COUNCIL**

Order 206 - 14/15
~~Tab 33 4-6-15~~
Tab 25 4-27-15

DAVID H. BRENNERMAN (5)
JILL C. DUSON (A/L)
JON HINCK (A/L)
NICHOLAS M. MAVODONES, JR (A/L)

**ORDER APPROPRIATING \$18,731,000 OF BOND PROCEEDS FOR THE
CITY'S 2016 CAPITAL IMPROVEMENT PROGRAM**

IT IS HEREBY ORDERED THAT:

1. Subject to paragraphs 2 and 3 below, the sum of \$18,731,000 is hereby appropriated for the projects more particularly described in the project list for the City's 2016 Capital Improvement Program attached hereto as Exhibit A (the "2016 CIP Project List"):
 - a. The sum of \$1,600,000 is hereby appropriated for the projects more particularly described as the **Transportation Projects** on the 2016 CIP Project List.
 - b. The sum of \$2,705,000 is hereby appropriated for the projects more particularly described as the **Facilities Projects** on the 2016 CIP Project List.
 - c. The sum of \$1,140,000 is hereby appropriated for projects more particularly described as the **Parks, Fields and Trails Projects** on the 2016 CIP Project List.
 - d. The sum of \$9,135,000 is hereby appropriated for the projects more particularly described as the **Equipment and Vehicles Projects** on the 2016 CIP Project List.
 - e. The sum of \$4,005,000 is hereby appropriated for the projects more particularly described as the **Sewer / Stormwater Projects** on the 2016 CIP Project List.
 - f. The sum of \$73,000 is hereby appropriated for the projects more particularly described as the **Public Art Projects** on the 2016 CIP Project List.
 - g. The sum of \$73,000 is hereby appropriated for the projects more particularly described as the **Land Bank Projects** on the 2016 CIP Project List.
2. The appropriations set forth in paragraph 1 above are and shall be contingent upon the approval by the City Council of general obligation bonds for such purposes (the amount appropriated to be adjusted to reflect the principal amount of bonds or notes so authorized) and the issuance and delivery of such bonds or notes in anticipation thereof for such purposes. The foregoing appropriations shall also be applied to issuance costs for such bonds (or notes in anticipation thereof).
3. That if the actual cost of any project differs from the estimated cost on the attached Exhibit A, the Director of Finance is authorized, in his discretion to reallocate proceeds of the bonds issued therefore to any other project listed on the 2016 CIP Project List.

Exhibit A

Transportation Projects

PACTS/Match

PACTS Regional Transportation Management Systems (RTMS) -
Traffic Signals

\$100,000

Streets/Sidewalks

Paving Preservation and Rehabilitation

1,000,000

Sidewalk Rehabilitation/Accessibility

500,000

Transportation Projects Total

\$1,600,000

Facilities Projects

Buildings/Garages

Fire Alarm & Sprinkler Systems at all Fire Stations

\$75,000

Waterproof Decking Recoat at Temple Street Parking Garage

305,000

Ultra Violet Water Treatment System at Riverton Pool

50,000

Passenger Elevator at City Hall

100,000

Seating at Hadlock Field

190,000

Bleachers at Ice Arena

100,000

Roof Deck at Spring Street Parking Garage

500,000

Library Roof Section

25,000

Marine

Compass Park Pier Stabilization

30,000

Piles at Portland Ocean Terminal

280,000

Steel Piles at Ocean Gateway Pier (engineering)

100,000

Schools

PATHS Paving

450,000

Fire Alarm System at Portland High School

150,000

Windows at Deering High School

250,000

Oil Tanks Removal at Various School Buildings

100,000

Facilities Projects Total

\$2,705,000

Parks, Fields and Trails Projects

Parks, Fields, Trails

Payson Park Softball Field "A" - Amenity and Field Upgrades

\$200,000

Lyman Moore Sports Complex

275,000

Capisic Pond Improvements

565,000

Golf Course Rehabilitation

100,000

Parks, Fields and Trails Projects Total

\$1,140,000

Equipment and Vehicles Projects

Equipment

Communication System Replacement

\$7,000,000

Vehicles

30 Passenger Bus - School

50,000

Full Size Bus - School

90,000

7 Passenger Van - School	50,000
Medcu Ambulance Replacement - Fire	265,000
Police Cruisers (4) Replacement - Police	160,000
Ladder 1 Replacement - Fire	1,300,000
Bucket Truck Replacement - Forestry 5098	220,000
Equipment and Vehicles Projects Total	<u>\$9,135,000</u>

Sewer / Stormwater Projects

Buildings/Garages

Water Resource Relocation	\$250,000
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Parks, Fields, Trails

Capisic Pond Improvements	560,000
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Sewer

CMOM - Sewer System Renewal	1,100,000
CMOM - Pump Station Rehabilitation	670,000
Rowe Avenue Sewer Separation	210,000

Stormwater

Stormwater Storage and Filtration Systems at Sagamore Village (Engineering)	120,000
Gravel Wetland Stormwater Treatment System in the Capisic Brook Watershed (Engineering)	175,000

Vehicles

Dump Truck Replacement - Public Services 3112	165,000
Dump Truck Replacement - Sewer 3110	165,000
Street Sweepers Replacement	175,000
CCTV Truck - NEW	415,000

Sewer / Stormwater Projects Total	<u>\$4,005,000</u>
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Public Art Projects	\$73,000
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Land Bank Projects	\$73,000
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TOTAL CIP FINANCED	<u>\$18,731,000</u>
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MICHAEL F. BRENNAN (MAYOR)
KEVIN J. DONOGHUE (1)
DAVID A. MARSHALL (2)
EDWARD J. SUSLOVIC (3)
JUSTIN COSTA (4)

**CITY OF PORTLAND
IN THE CITY COUNCIL**

DAVID H. BRENERMAN (5)
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Order 207-14/15
Tab 34 4-6-15
Tab 26 4-27-15

**AMENDMENT TO PORTLAND CITY CODE
CHAPTER 17 (OFFENSES, MISCELLANEOUS PROVISIONS)
ARTICLE V (REGULATION OF TOBACCO)**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PORTLAND,
MAINE IN CITY COUNCIL ASSEMBLED AS FOLLOWS:**

1. *That Chapter 17, Article V of the Portland City Code is hereby amended to read as follows:*

ARTICLE V. REGULATION OF TOBACCO*

DIVISION 1. GENERALLY

Sec. 17-70. Findings; purposes.

- (a) The city council hereby finds as follows:
 - (1) There is no risk-free level of contact with secondhand smoke; even brief exposure can be harmful to health;
 - (2) Secondhand smoke contains over 4,000 chemicals, more than 60 of which are known to cause cancer;
 - (3) The smoking of other substances may also cause serious health problems and risks to those who smoke; and
 - (4) The purpose of this regulation is to decrease the exposure of individuals, and children in particular, to secondhand smoke in their outdoor environment.

~~In children, secondhand smoke causes ear infections, more frequent and severe asthma attacks, respiratory symptoms (e.g., coughing, sneezing, shortness of breath), respiratory infections (i.e., bronchitis, pneumonia) and a greater risk for sudden infant death syndrome (SIDS). In adults who have never smoked, a secondhand smoke can cause heart disease and/or lung cancer. Even brief exposure can be harmful; breathing~~

~~secondhand smoke has immediate harmful effects on the cardiovascular system that can increase the risk of heart attack. People who already have heart disease are at especially high risk.~~

~~Recent outdoor research from Stanford University and Repace Associates demonstrates that, when measured up to 20 feet from a person actively smoking, toxicity levels can reach those similar to indoor smoking levels.~~

(b) The city council hereby finds that it is in the public health, safety and welfare to supplement state regulation of the use of tobacco, tobacco products and other substances that emit smoke that is used and intended customarily for inhalation into the lungs in outdoor locations and the free distribution and self-service displays of tobacco and tobacco products.

Sec. 17-71. Definitions.

Words used in this chapter shall have their common meanings, except that definitions set forth in 22 M.R.S.A. Chapter 262-A, or this section shall apply unless the context clearly indicates that a different meaning is intended:

Designated city trail means the traveled portion of all city-owned or controlled trails open to use by the public that have been designated as a nonsmoking trail by order of the city council.

Outdoor eating areas shall mean patios, decks, public property permitted for outdoor dining and other outdoor areas under the control of a restaurant or bar for the use of its patrons.

Owner means and includes the proprietor, manager, lessee, lessor licensee or any other person exercising control over any facility or location.

Private function is a room or a hall in which the sponsor of the private function and not the owner or proprietor has control over the seating arrangements.

Smoking means the lighting, inhaling, exhaling, burning or carrying of any cigar, cigarette, pipe, electronic cigarette, electronic cigar, electronic pipe, other similar product that relies on vaporization or aerosolization, or other tobacco product, or carrying or having in one's possession any lighted object giving off smoke from tobacco or any other substance that

emits smoke that is customarily used and intended for inhalation into the lungs.

Tobacco or tobacco product means any form of tobacco, including but not limited to cigarettes, cigars, pipe tobacco, chewing tobacco or snuff, and any material or device used in the smoking, chewing or other form of tobacco consumption, including but not limited to cigarette papers, ~~—and—~~pipes, electronic cigarette, electronic cigar, electronic pipe, other similar product that relies on vaporization or aerosolization.

Traveled portion means that area of a trail covered by material such as concrete, pavement, stone dust, or cedar mulch, designed to bear traffic from individuals or vehicles powered by individuals.

...

DIVISION 4. SECONDHAND SMOKE ON PLAYGROUNDS, BEACHES, AND ATHLETIC FACILITIES

Sec. 17-90. Purposes.

The purpose of this regulation is to decrease the exposure of individuals, and children in particular, to secondhand smoke in their outdoor environment. ~~Exposure to secondhand smoke is the third leading cause of preventable death in America, killing 6,000 children every year. Recent outdoor research from Stanford University and Repace Associates demonstrates that, when measured up to 20 feet from a person actively smoking, toxicity levels can reach those similar to indoor smoking levels. Secondhand smoke disproportionately affects vulnerable populations such as children and the elderly, causing asthma, chronic lung disease, ear infections heart disease and Sudden Infant Death Syndrome (SIDS). In fact, secondhand smoke can triple an infant's risk of dying from SIDS. The U.S. Surgeon General's 2006 report declared that "The debate is over. The science is clear; secondhand smoke is not a mere annoyance, but a serious health hazard...for which there is no safe level of exposure."~~

...

DIVISION 5. SECONDHAND SMOKE INDOOR AND OUTDOOR EATING AREAS

Sec. 17-94. Smoking Prohibited in Indoor and Outdoor Eating Areas.

(a) ~~Notwithstanding anything in division 2 of this chapter~~

~~to the contrary, smoking~~ Smoking is prohibited until 10:00 p.m. within the indoor and outdoor eating areas provided by restaurants and bars while such indoor or outdoor eating areas, or any portion thereof, are open and available for dining and beverage service.

(b) "Indoor eating areas" shall mean indoor areas permitted for dining that are under the control of a restaurant or bar for the use of its patrons.

(c) "Outdoor eating areas" shall mean patios, decks, public property permitted for outdoor dining and other outdoor areas under the control of a restaurant or bar for the use of its patrons.

~~(c) "Smoking" as used herein shall mean inhaling, exhaling, burning, carrying or having in one's possession any lighted cigar, cigarette, pipe, weed, plant or other combustible substance in any manner or in any form.~~

Sec. 17-95. Enforcement.

(a) It shall be the responsibility of restaurants and bars to notify its customers of this prohibition and to request that customers comply with it.

(b) Prior to issuing a citation for a violation of this section, a police officer or any law enforcement or code enforcement officer shall issue one verbal warning to an individual and the restaurant. If the individual or restaurant or bar fails to comply after one warning, said individual or restaurant or bar shall be given a citation. Failure to comply after one warning is cause for citation whether or not the failure or subsequent failures are contemporaneous in time with the initial warning.

~~Sec. 17-94. Reserved.~~

~~Sec. 17-95. Reserved.~~

DIVISION 56. SMOKING PROHIBITED IN CITY PARKS AND PUBLIC GROUNDS

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MEMORANDUM
City Council Agenda Item

TO: Mayor and City Council

FROM: Bethany Sanborn, Chronic Disease Prevention Program Manager, Public Health,
HHS Departments

DATE: March 25, 2015

DISTRIBUTION: City Manager, Mayor, Sonia Bean, Danielle West-Chuhta,
Nancy English, Julie Sullivan

SUBJECT: Changes to Code of Ordinances, Chapter 17 – Regulation of Tobacco

SPONSOR:

Public Safety, Health and Human Services Committee, passed unanimously for full Council review on March 10, 2015

COUNCIL MEETING DATE ACTION IS REQUESTED:

1st reading April 6, 2015 Final Action May 4

Can action be taken at a later date: ☒ Yes ☐ No (If no why not?)

PRESENTATION: (List the presenter(s), type and length of presentation): Bethany Sanborn, verbal overview, 5 minutes

I. SUMMARY OF ISSUE (Agenda Description)

We would like to change parts of Chapter 17 – Regulation of Tobacco, to include electronic nicotine delivery systems (ENDS) to better protect public health.

II. REASON FOR SUBMISSION (Summary of Issue/Background)

The Public Safety, Health and Human Services Committee asked the Public Health Division to compile information regarding electronic nicotine delivery systems (ENDS) for consideration by the committee to include ENDS in the definition of smoking products in City ordinance. Staff reviewed the City's existing ordinances related to smoking in public spaces, the actions of other states, local municipalities and health organizations, and the information behind the potential dangers of this relatively new tobacco product.

III. INTENDED RESULT

If City Council were to pass the changes in Chapter 17, ENDS would be prohibited in all locations where smoking is already prohibited.

IV. COUNCIL GOAL ADDRESSED

This item was specified in the Public Safety, Health and Human Services Committee's 2015 Workplan.

V. FINANCIAL IMPACT

There is a potential for additional revenue when fines are levied against businesses or individuals who do not comply with this ordinance. Staff time to communicate these changes will also have a financial impact, although not significant.

VI. STAFF ANALYSIS

ENDS are currently not regulated by the US Food and Drug Administration (FDA), nor have they been fully studied for their content and health effects. Concerns about their potential impact on youth tobacco use are also emerging.

Title 22 Chapter 262-A *Maine's Retail Tobacco Sales* laws define electronic cigarettes as tobacco products, which clarifies that e-cigarettes cannot be sold to any person under 18 years of age, and possession and use by minors is prohibited. Maine law does not currently prohibit the use of e-cigarettes in any location.

In 2014, more teens used e-cigarettes than traditional cigarettes, or any other tobacco product. Over 90% of lifetime smokers start before age 18, thus, youth use of a tobacco product and intention to use cigarettes are important public health data.

There is also concern that the use of ENDS in public places such as restaurants, hospitals, and workplaces may cause confusion and thus hinder enforcement of existing smoke-free laws, perhaps even renormalizing smoking in places that were traditionally smoke-free.

As of January 1, 2015, 274 municipalities have passed laws restricting e-cigarette use in 100% smoke-free venues.

VII. RECOMMENDATION

Approve.

VIII. LIST ATTACHMENTS

Amended Chapter 17 language.

Original to Public Safety, Health and Human Services Committee, March 6, 2015.

US State and Local Laws Regulating Use of Electronic Cigarettes

Prepared by: Bethany Sanborn, Chronic Disease Prevention Program Manager, Public Health, HHS Departments

Date: March 25, 2015

TO: Public Safety, Health and Human Services Committee

FROM: Public Health Division, Health and Human Services Department Staff

DATE: March 6, 2015

RE: Ordinance Changes, Smoking

On January 13th, the Public Safety, Health and Human Services Committee of the Portland City Council asked Public Health Division to compile information regarding electronic nicotine delivery systems (ENDS), including public health implications and draft language for consideration of the committee regarding including ENDS in the definition of smoking products in City ordinance. In preparation, staff reviewed the City's existing ordinances related to smoking in public spaces, the actions of other states, local municipalities and health organizations and the information behind the potential dangers of this relatively new tobacco product.

Health Implications

Scientific evidence regarding the human health effects of ENDS is limited. In addition to limited studies, these products are not currently regulated by the US Food and Drug Administration (FDA).

According to the FDA, "E-cigarettes have not been fully studied so consumers currently don't know:

1. the potential risks of e-cigarettes when used as intended
2. how much nicotine or other potentially harmful chemicals are being inhaled during use, or
3. whether there are any benefits associated with using these products."

Concerns about e-cigarettes and their potential impact on youth tobacco use are also emerging. In 2014, more teens used e-cigarettes than traditional cigarettes, or any other tobacco product. Additionally, a CDC study showed that youth who used e-cigarettes were more than twice as likely to have an intention to smoke conventional cigarettes. Over 90% of lifetime smokers start before age 18, thus, youth use of a tobacco product and intention to use cigarettes are important public health data.

There is also concern that the use of electronic smoking devices in public places such as restaurants, hospitals and workplaces may cause confusion and thus hinder enforcement of existing smoke-free laws, perhaps even renormalizing smoking in places which were traditionally smoke-free. In its workplace smoking and e-cigarette use restriction regulation, Boston states that "e-cigarettes and their use in the workplace seriously compromise current laws and regulations governing indoor smoking bans and have the potential to undermine the positive health and behavioral impacts associated therewith."

Finally, Poison Centers around the nation are reporting a recent uptick in calls about exposures to e-cigarette devices and liquid nicotine. In 2014, there were 3,381 call to Poison Centers compared to 271 in 2011. Slightly more than half of these reported exposures have occurred in young children under the age of 6. CDC Director Dr. Tom Frieden has said “e-cigarette liquids as currently sold are a threat to small children because they are not required to be childproof, and they come in candy and fruit flavors that are appealing to children.”

Actions of States, Municipalities and Health Organizations

Title 22 Chapter 262-A *Maine's Retail Tobacco Sales* laws define electronic cigarettes as tobacco products, which clarifies that e-cigarettes cannot be sold to any person under 18 years of age, and possession and use by minors is prohibited. Maine law does not currently prohibit the use of e-cigarettes in any location.

According to Americans for Nonsmokers' Rights, which tracks state and local legislation, as of January 1, 2015, the following laws were currently in effect related to e-cigarettes and/or ENDS:

- State Laws Restricting E-cigarette Use in 100% Smokefree Venues: 3 (Utah, New Jersey and North Dakota)
- State Laws Restricting E-cigarette Use in Other Venues: 15
- Local Laws Restricting E-cigarette Use in 100% Smokefree Venues: 274
- In addition, 162 local laws restrict E-cigarette Use in Other Venues

The detailed list provided by Americans for Nonsmokers' Rights is attached.

Staff identified numerous health organizations that have position statements supporting the inclusion of ENDS in smoke-free environment laws and/or expressing concerns about the lack of scientific data available these products, including the World Health Organization, American Lung Association, American Heart Association, American Cancer Society and the American Academy of Pediatrics.

City of Portland Ordinance

As requested by the Committee, attached is draft language which has been prepared by Corporation Counsel. The definition of smoking has been changed to include electronic smoking devices and previously removed language referring to smoke-free indoor and outdoor dining has been added back. This language was removed after the passage of state legislation regulating smoke-free indoor and outdoor dining.

U.S. State and Local Laws Regulating Use of Electronic Cigarettes

As of January 1, 2015

The following list includes states and municipalities with **laws currently in effect** that regulate where use of electronic cigarettes (e-cigarettes) is prohibited. E-cigarettes are battery-powered devices that are designed to mimic cigarettes by vaporizing a nicotine-laced liquid that is inhaled by the user. The use of e-cigarettes in workplaces and public places is a significant public health concern, not only because of their unregulated constituents and the potential health impact of the vapor on users and bystanders, but also because e-cigarette use causes public confusion as to where smoking is allowed, resulting in compliance problems with smokefree laws.

Most local and state smokefree laws were enacted before e-cigarettes were on the market, so while such laws do not explicitly mention e-cigarettes, it should not be assumed that their use is permitted. Existing smokefree laws are often interpreted to prohibit e-cigarette use in their smokefree provisions.

NOTE: In the 100% Smokefree Venues column, the following abbreviations are used: W=non-hospitality workplaces; R=restaurants; B=bars; G=gambling facilities.

For more information, please visit [ANR's e-cigarettes page](#).

State Laws Regulating Use of E-cigarettes

State Laws Restricting E-cigarette Use in 100% Smokefree Venues

Other state laws that do not explicitly address e-cigarettes might be interpreted as prohibiting the use of e-cigarettes in existing smokefree provisions.

State	100% Smokefree Venues in Which Use of E-cigarettes Prohibited	Use of E-cigarettes Specifically Permitted	Permitted In:
1. North Dakota	WRBG	No	
2. New Jersey	WRB	No	
3. Utah	WRB	Yes	Retailers that sell e-cigarettes, until 7/1/17.

State Laws Regulating E-cigarette Use in Other Venues

State	Prohibited In:	Use of E-cigarettes Specifically Permitted	If Partial, Permitted In:
1. Arkansas	Use of e-cigarettes prohibited on school district property.	No	

State	Prohibited In:	Use of E-cigarettes Specifically Permitted	If Partial, Permitted In:
2. Colorado	Definition of tobacco product for purposes of prohibition of use on school property amended to include e-cigarettes, unless approved by FDA as cessation devices.	No	
3. Delaware	Tobacco use, including use of e-cigarettes and hookahs, prohibited in all State workplaces, including all buildings, facilities, indoor and outdoor spaces and surrounding grounds, as well as parking lots and state vehicles operated on State workplace property.	No	
4. Georgia	Tobacco use, including use of e-cigarettes and hookahs, prohibited everywhere on campuses of University System of Georgia, with limited exceptions for educational purposes and research.	No	
5. Hawaii	Use of e-cigarettes prohibited on all Dept. of Health property where smoking is prohibited.	No	
6. Kansas	Tobacco use, including use of e-cigarettes, prohibited on all Dept. of Corrections property and grounds, by both employees and inmates. Per opinion of Attorney General, Indoor Clean Air Act of 2010 does not apply to e-cigarettes.	Partial	All places where smoking is prohibited per 3/12/10 law, including workplaces, restaurants, bars, gambling facilities, and public places generally.
7. Kentucky	Tobacco use, including use of e-cigarettes, prohibited on all properties of State Executive Branch, including buildings, vehicles, and land, but excluding specific outdoor areas such as parks, Kentucky Horse Park, and Kentucky State Fairgrounds. Per Governor's Office, does not apply to State colleges and universities.	No	
8. Maryland	Smoking, including use of e-cigarettes prohibited on MARC commuter rail system trains.	No	
9. New Hampshire	Use of e-cigarettes prohibited in public educational facilities and on grounds thereof.	No	

State	Prohibited In:	Use of E-cigarettes Specifically Permitted	If Partial, Permitted In:
10. Oklahoma	Tobacco use, including use of e-cigarettes, prohibited in all Dept. of Corrections facilities, including vehicles and grounds.	No	
11. Oregon	State agency employees prohibited from using tobacco products, including e-cigarettes, in State agency buildings and on State agency grounds adjacent to buildings.	No	
12. South Dakota	Tobacco use, including use of e-cigarettes, prohibited in Dept. of Corrections facilities and on grounds thereof, by both employees and inmates.	No	
13. Virginia	Smoking, including use of e-cigarettes, prohibited on Virginia Railway Express trains and limited to 100 feet on north end of station platforms.	No	
14. Vermont	Smoking, including use of e-cigarettes, prohibited on school grounds and at child care facilities, both indoors and outdoors.	No	
15. Wisconsin	Smoking, including use of e-cigarettes, prohibited at indoor facilities of State Fair and at main stage area.	No	

Local Laws Regulating Use of E-cigarettes

Laws Restricting E-cigarette Use in 100% Smokefree Venues

Note: The jurisdiction(s) affected by county-level laws vary widely. Look for a plus symbol (+) next to each county with a law that includes both incorporated and unincorporated areas. A county without a symbol means that the county law covers unincorporated areas only.

State	City/County	100% Smokefree Venues in Which Use of E-cigarettes Prohibited	Use of E-cigarettes Specifically Permitted	If Partial, Permitted In:
1. AK	Juneau	RBG	No	
2. AK	Palmer	WRB	No	
3. AL	Anniston	WRBG	No	
4. AL	Bessemer	WRG	No	

State	City/County	100% Smokefree Venues in Which Use of E-cigarettes Prohibited	Use of E-cigarettes Specifically Permitted	If Partial, Permitted In:
5. AL	Clay	WRBG	No	
6. AL	Creola	WRBG	No	
7. AL	Foley	WRG	No	
8. AL	Fultondale	WRBG	No	
9. AL	Gadsden	WRBG	No	
10. AL	Midfield	WRBG	No	
11. AL	Monroeville	WRBG	No	
12. AL	Opelika	WR	No	
13. AL	Troy	WRBG	No	
14. AL	Vestavia Hills	WRBG	No	
15. AZ	Coconino County	WR	No	
16. AZ	Tempe	WRB	No	
17. CA	Arcata	WRB	No	
18. CA	Berkeley	WRBG	No	
19. CA	Beverly Hills	RBG	No	
20. CA	Campbell	RBG	No	
21. CA	Carlsbad	RBG	No	
22. CA	Contra Costa County	WRBG	No	
23. CA	Corte Madera	WRB	No	
24. CA	Davis	WRBG	No	
25. CA	Del Mar	WRB	No	
26. CA	Dublin	RBG	No	
27. CA	El Cajon	RBG	No	
28. CA	El Cerrito	WRBG	No	
29. CA	Eureka	WRBG	No	
30. CA	Fairfax	WRBG	No	
31. CA	Folsom	RBG	No	
32. CA	Foster City	RB	No	
33. CA	Fremont	WRB	No	
34. CA	Goleta	RB	No	
35. CA	Laguna Hills	WRBG	No	
36. CA	Long Beach	WRBG	No	
37. CA	Los Angeles	RBG	Partial	Retail e-cigarette stores and theatrical production sites.
38. CA	Manhattan Beach	WRBG	No	

State	City/County	100% Smokefree Venues in Which Use of E-cigarettes Prohibited	Use of E-cigarettes Specifically Permitted	If Partial, Permitted In:
39. CA	Marin County	WRB	Partial	Individual apartment units in multi-unit residences.
40. CA	Mill Valley	WRB	No	
41. CA	Morgan Hill	WRB	No	
42. CA	Mountain View	WRB	No	
43. CA	Oroville	W	No	
44. CA	Petaluma	W	No	
45. CA	Richmond	WRBG	No	
46. CA	San Bernardino	W	No	
47. CA	San Diego	WRBG	Partial	E-cigarette lounges and shops.
48. CA	San Francisco	WRB	No	
49. CA	San Mateo County	W	No	
50. CA	Santa Clara County	WRB	No	
51. CA	Santa Maria	RB	No	
52. CA	Santa Monica	WRB	Partial	Two existing e-cigarette lounges/businesses.
53. CA	Seal Beach	RBG	No	
54. CA	Sebastopol	WRBG	No	
55. CA	Solana Beach	RB	No	
56. CA	Temecula	WRBG	No	
57. CA	Tiburon	WRB	No	
58. CA	Union City	WRB	No	
59. CA	Walnut Creek	RBG	No	
60. CO	Edgewater	WRBG	No	
61. CO	Lakewood	RBG	No	
62. FL	Alachua County	WRG	No	
63. FL	Belleview	WRG	No	
64. FL	Clay County	WR	No	
65. FL	Hawthorne	WRG	No	
66. FL	High Springs	WRG	No	
67. FL	Lighthouse Point	WRG	No	
68. FL	Marion County	WRG	No	
69. FL	Newberry	WRG	No	
70. FL	Orange Park	WRG	No	
71. FL	Waldo	WRG	No	
72. GA	Chatham County	WRBG	No	

State	City/County	100% Smokefree Venues in Which Use of E-cigarettes Prohibited	Use of E-cigarettes Specifically Permitted	If Partial, Permitted In:
73. GA	DeKalb County	W	No	
74. GA	Pooler	WRBG	No	
75. GA	Savannah	WRBG	No	
76. ID	Ketchum	WRBG	No	
77. IL	Arlington Heights	WR	No	
78. IL	Chicago	WRBG	Partial	Theater performances; retail tobacco stores.
79. IL	Elk Grove Village	WRB	No	
80. IL	Evanston	WRB	No	
81. IL	Schaumburg	WRBG	No	
82. IN	Indianapolis/Marion	WRB	No	
83. KS	Overland Park	WRBG	No	
84. KY	Bardstown	WRBG	No	
85. KY	Berea	WRBG	No	
86. KY	Glasgow	RBG	No	
87. KY	Kenton County ⁺	W	No	
88. KY	Lexington/Fayette	WRBG	No	
89. KY	Madison County ⁺	WRBG	No	
90. KY	Manchester	WRBG	No	
91. KY	Richmond	WRBG	No	
92. KY	Versailles	WRB	No	
93. LA	Abbeville	WRBG	No	
94. LA	Cheneyville	WRBG	No	
95. LA	Monroe	WRBG	No	
96. LA	Ouachita Parish	WRBG	No	
97. LA	West Monroe	WRBG	No	
98. MA	Acton	WRBG	No	
99. MA	Adams	WRBG	No	
100. MA	Amherst	WRBG	No	
101. MA	Arlington	WRBG	No	
102. MA	Athol	WRBG	No	
103. MA	Auburn	WRBG	No	
104. MA	Barre	WRBG	No	
105. MA	Billerica	WRBG	No	
106. MA	Bolton	WRBG	No	
107. MA	Boston	WRB	No	

State	City/County	100% Smokefree Venues in Which Use of E-cigarettes Prohibited	Use of E-cigarettes Specifically Permitted	If Partial, Permitted In:
108. MA	Bourne	WRB	No	
109. MA	Bridgewater	WRBG	No	
110. MA	Buckland	WRBG	No	
111. MA	Burlington	WRBG	No	
112. MA	Cohasset	WRBG	No	
113. MA	Concord	WRBG	No	
114. MA	Dartmouth	WRBG	No	
115. MA	Dedham	WRB	No	
116. MA	Deerfield	WRBG	No	
117. MA	Dighton	WRBG	No	
118. MA	Dover	RB	No	
119. MA	Dracut	WRBG	No	
120. MA	Easthampton	WRBG	No	
121. MA	Fitchburg	WRBG	No	
122. MA	Foxborough	WRBG	No	
123. MA	Franklin	WRBG	No	
124. MA	Gardner	WRBG	No	
125. MA	Gill	WRBG	No	
126. MA	Grafton	WRBG	No	
127. MA	Great Barrington	WRBG	No	
128. MA	Greenfield	WRBG	No	
129. MA	Hatfield	WRBG	Partial	Smoking bars and hotels/motels.
130. MA	Haverhill	WRBG	No	
131. MA	Hubbardston	WRBG	No	
132. MA	Hudson	WRBG	No	
133. MA	Lee	WRBG	No	
134. MA	Leicester	WRBG	No	
135. MA	Lenox	WRBG	No	
136. MA	Lynn	WRBG	No	
137. MA	Marblehead	WRBG	No	
138. MA	Mashpee	WRBG	No	
139. MA	Medway	WRBG	No	
140. MA	Montague	WRBG	No	
141. MA	Needham	WRB	No	
142. MA	New Bedford	WRBG	No	
143. MA	Newton	WRBG	No	

State	City/County	100% Smokefree Venues in Which Use of E-cigarettes Prohibited	Use of E-cigarettes Specifically Permitted	If Partial, Permitted In:
144. MA	North Attleborough	WRBG	No	
145. MA	Northampton	WRBG	No	
146. MA	Orleans	WRBG	No	
147. MA	Oxford	WRBG	No	
148. MA	Pittsfield	WRBG	No	
149. MA	Provincetown	WRBG	No	
150. MA	Salem	WRBG	No	
151. MA	Saugus	WRBG	No	
152. MA	Sharon	WRBG	No	
153. MA	Shelburne	WRB	No	
154. MA	Sherborn	WRBG	No	
155. MA	Somerset	WRBG	No	
156. MA	South Hadley	WRBG	No	
157. MA	Stockbridge	WRBG	No	
158. MA	Sunderland	WRBG	No	
159. MA	Sutton	WRBG	No	
160. MA	Swampscott	WRBG	No	
161. MA	Taunton	WRBG	No	
162. MA	Tewksbury	WRBG	No	
163. MA	Townsend	WRBG	No	
164. MA	Wendell	WRBG	No	
165. MA	Westminster	WRBG	No	
166. MA	Westport	WRBG	No	
167. MA	Westwood	WRBG	No	
168. MA	Weymouth	WRBG	No	
169. MA	Whately	WRBG	No	
170. MA	Winchendon	WRBG	No	
171. MA	Winchester	WRBG	No	
172. MD	Baltimore	W	Partial	Restaurants, bars, video lottery facilities, retail e-cigarette stores.
173. MN	Duluth	WRBG	No	
174. MN	Eden Prairie	WRBG	No	
175. MN	Edina	RBG	No	
176. MN	Ely	WRBG	No	
177. MN	Hermantown	WRB	No	
178. MN	Houston County	WRBG	No	

State	City/County	100% Smokefree Venues in Which Use of E-cigarettes Prohibited	Use of E-cigarettes Specifically Permitted	If Partial, Permitted In:
179. MN	Mankato	WRB	No	
180. MN	Sleepy Eye	WRBG	No	
181. MN	St. Anthony	WRB	No	
182. MN	Waseca	WRBG	No	
183. MO	Creve Coeur	WRB	No	
184. MO	Gainesville	RB	No	
185. MO	Jefferson City	WRBG	No	
186. MO	St. Joseph	WRBG	No	
187. MO	Washington	WRBG	No	
188. MS	Anguilla	WRBG	No	
189. MS	Arcola	WRBG	No	
190. MS	Baldwyn	WRBG	No	
191. MS	Bassfield	WRBG	No	
192. MS	Bruce	WRBG	No	
193. MS	Byram	WRBG	No	
194. MS	Calhoun City	WRBG	No	
195. MS	Centreville	WRBG	No	
196. MS	Coahoma County	WRB	No	
197. MS	Crawford	WRBG	No	
198. MS	Duncan	WRBG	No	
199. MS	Durant	WRBG	No	
200. MS	Ethel	WRBG	No	
201. MS	Farmington	WRBG	No	
202. MS	Flowood	WRG	No	
203. MS	Forest	WRBG	No	
204. MS	Friars Point	WRBG	No	
205. MS	Georgetown	WRBG	No	
206. MS	Indianola	WRBG	No	
207. MS	Itta Bena	WRBG	No	
208. MS	Louisville	WRBG	No	
209. MS	Magee	WRBG	No	
210. MS	Mendenhall	WRBG	No	
211. MS	Monticello	RBG	No	
212. MS	Moorhead	WRBG	No	
213. MS	New Augusta	WRBG	No	
214. MS	Plantersville	WRBG	No	

State	City/County	100% Smokefree Venues in Which Use of E-cigarettes Prohibited	Use of E-cigarettes Specifically Permitted	If Partial, Permitted In:
215. MS	Prentiss	WRBG	No	
216. MS	Rolling Fork	WRBG	No	
217. MS	Sledge	WRBG	No	
218. MS	Southaven	WRB	No	
219. MS	Sumner	WRBG	No	
220. MS	Tupelo	WRB	Yes	Retail e-cigarette stores.
221. MS	Walnut	WRBG	No	
222. MS	Wesson	WRBG	No	
223. MS	Woodville	WRBG	No	
224. ND	Bismarck	WRBG	No	
225. ND	Dickinson	WRBG	No	
226. ND	Walhalla	WRBG	No	
227. ND	Williston	WRBG	No	
228. NJ	Newark	WRBG	No	
229. NM	Carlsbad	W	No	
230. NM	Santa Fe	WRB	No	
231. NY	Cattaraugus County	RBG	No	
232. NY	New York City	WRB	Partial	Retail e-cigarette stores.
233. NY	Suffolk County ⁺	WRB	No	
234. NY	Tompkins County ⁺	WRB	No	
235. OH	Oberlin	WRB	No	
236. OR	Benton County	WRB	No	
237. OR	Corvallis	WRB	No	
238. PA	Philadelphia	R	Partial	Specialty e-cigarette establishments; tobacco products distribution businesses.
239. SC	Denmark	WRB	No	
240. SC	Estill	WRBG	No	
241. SC	West Pelzer	WRB	No	
242. SC	Yemassee	WRB	No	
243. TX	Frisco	WRB	No	
244. TX	Harlingen	WRBG	No	
245. TX	Joshua	WR	No	
246. TX	Lufkin	WRBG	No	
247. TX	San Angelo	WRB	No	
248. TX	San Marcos	WRB	No	
249. TX	Socorro	WRB	No	

State	City/County	100% Smokefree Venues in Which Use of E-cigarettes Prohibited	Use of E-cigarettes Specifically Permitted	If Partial, Permitted In:
250. TX	Waxahachie	WRBG	No	
251. TX	Weatherford	R	No	
252. TX	Wichita Falls	WRB	No	
253. WA	King County ⁺	WRBG	No	
254. WA	Pasco	WRBG	No	
255. WI	Ashwaubenon	WRBG	No	
256. WI	Greenfield	WRBG	No	
257. WI	Onalaska	WRBG	No	
258. WV	Barbour County ⁺	WRBG	No	
259. WV	Berkeley County ⁺	WRBG	No	
260. WV	Calhoun County ⁺	WRBG	No	
261. WV	Greenbrier County ⁺	WRBG	No	
262. WV	Lewis County ⁺	WRBG	No	
263. WV	Marshall County ⁺	W	No	
264. WV	Mineral County ⁺	WRBG	No	
265. WV	Nicholas County ⁺	WRBG	No	
266. WV	Pleasants County ⁺	WRBG	No	
267. WV	Randolph County ⁺	WRBG	No	
268. WV	Ritchie County ⁺	WRBG	No	
269. WV	Roane County ⁺	WRBG	No	
270. WV	Taylor County	WRBG	No	
271. WV	Upshur County ⁺	WRB	No	
272. WV	Webster County ⁺	WR	No	
273. WV	Wirt County ⁺	WRBG	No	
274. WV	Wood County ⁺	WRBG	No	

⁺Law pertains to both incorporated and unincorporated areas of county.

Laws Currently in Effect

State Laws Restricting E-cigarette Use in 100% Smokefree Venues: 3

State Laws Restricting E-cigarette Use in Other Venues: 15

Local Laws Restricting E-cigarette Use in 100% Smokefree Venues: 274

In addition, 162 local laws restrict E-cigarette Use in Other Venues (not listed above)

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[LS-44]

ARTICLE V. REGULATION OF TOBACCO*

*Editor's note--Ord. No. 241-98, § 1, adopted Apr. 7, 1998, amended this chapter by adding provisions as herein set out; such ordinance was approved at referendum on Nov. 3, 1998, with an effective date of Dec. 5, 1998.

*Editor's note--Pursuant to Council Order 39-12/13, passed by City Council on 2/4/13 repealed Article V in its entirety and replaced it with a new Article V.

DIVISION 1. GENERALLY

Sec. 17-70. Findings; purposes.

- (a) The city council hereby finds as follows:
- (1) There is no risk-free level of contact with secondhand smoke; even brief exposure can be harmful to health;
 - (2) Secondhand smoke contains over 4,000 chemicals, more than 60 of which are known to cause cancer;
 - (3) The smoking of other substances may also cause serious health problems and risks to those who smoke; and
 - (4) The purpose of this regulation is to decrease the exposure of individuals, and children in particular, to secondhand smoke in their outdoor environment.

~~In children, secondhand smoke causes ear infections, more frequent and severe asthma attacks, respiratory symptoms (e.g., coughing, sneezing, shortness of breath), respiratory infections (i.e., bronchitis, pneumonia) and a greater risk for sudden infant death syndrome (SIDS). In adults who have never smoked, a secondhand smoke can cause heart disease and/or lung cancer. Even brief exposure can be harmful; breathing secondhand smoke has immediate harmful effects on the cardiovascular system that can increase the risk of heart attack. People who already have heart disease are at especially high risk.~~

~~Recent outdoor research from Stanford University and~~

~~Repace Associates demonstrates that, when measured up to 20 feet from a person actively smoking, toxicity levels can reach those similar to indoor smoking levels.~~

(b) The city council hereby finds that it is in the public health, safety and welfare to supplement state regulation of the use of tobacco, tobacco products and other substances that emit smoke that is used and intended customarily for inhalation into the lungs in outdoor locations and the free distribution and self-service displays of tobacco and tobacco products.

(Ord. No. 39-12/13, 2-4-13)

Sec. 17-71. Definitions.

Words used in this chapter shall have their common meanings, except that definitions set forth in 22 M.R.S.A. Chapter 262-A, or this section shall apply unless the context clearly indicates that a different meaning is intended:

Designated city trail means the traveled portion of all city-owned or controlled trails open to use by the public that have been designated as a nonsmoking trail by order of the city council.

Outdoor eating areas shall mean patios, decks, public property permitted for outdoor dining and other outdoor areas under the control of a restaurant or bar for the use of its patrons.

Owner means and includes the proprietor, manager, lessee, lessor licensee or any other person exercising control over any facility or location.

Private function is a room or a hall in which the sponsor of the private function and not the owner or proprietor has control over the seating arrangements.

Smoking means the lighting, inhaling, exhaling, burning or carrying of any cigar, cigarette, pipe, electronic cigarette, electronic cigar, electronic pipe, other similar product that relies on vaporization or aerosolization, or other tobacco product, or carrying or having in one's possession any lighted object giving off smoke from tobacco or any other substance that emits smoke that is customarily used and intended for inhalation into the lungs.

Tobacco or tobacco product means any form of tobacco, including but not limited to cigarettes, cigars, pipe tobacco, chewing tobacco or snuff, and any material or device used in the smoking, chewing or other form of tobacco consumption, including but not limited to cigarette papers, ~~and pipes,~~ electronic cigarette, electronic cigar, electronic pipe, other similar product that relies on vaporization or aerosolization.

Traveled portion means that area of a trail covered by material such as concrete, pavement, stone dust, or cedar mulch, designed to bear traffic from individuals or vehicles powered by individuals.

(Ord. No. 39-12/13, 2-4-13)

Sec. 17-72. Reserved.

Sec. 17-73. Reserved.

Sec. 17-74. Reserved.

Sec. 17-75. Reserved.

Sec. 17-76. Reserved.

Sec. 17-77. Reserved.

Sec. 17-78. Reserved.

Sec. 17-79. Reserved.

Sec. 17-80. Reserved.

DIVISION 2. MISCELLANEOUS PROVISIONS

Sec. 17-81. Free distribution; sampling.

The free distribution or sampling of tobacco is prohibited in the City of Portland. A violation of this section shall be a civil violation subject to the general penalty provisions of section 1-15 of this Code.

(Ord. No. 241-98, § 1, 4-7-98; Ord. No. 39-12/13, 2-4-13)

Sec. 17-82. Self-service displays.

(a) Self-service displays of tobacco products, from which individual packages, cartons, or items may be selected by the customer, are prohibited in the City of Portland.

(b) The foregoing shall not apply in a retail tobacco store which specializes in the sale of tobacco and tobacco products only.

(c) A violation of this section shall be a civil violation subject to the general penalty provisions of section 1-15 of this Code.

(Ord. No. 39-12/13, 2-4-13)

Sec. 17-83. Nonretaliation.

No person or employer shall discharge, refuse to hire or in any manner retaliate against any employee or applicant for employment because such employee or applicant exercises any right to smoke-free environment afforded by this article. A violation of this section shall be a civil violation subject to the general penalty provisions of section 1-15 of this code.

(Ord. No. 39-12/13, 2-4-13)

Sec. 17-84. Reserved.

Sec. 17-85. Reserved.

DIVISION 3. NONSMOKING ON DESIGNATED CITY TRAILS

Sec. 17-86. Purpose.

This ordinance is enacted to protect, preserve, and promote the health, safety, welfare, and quality of life of the children and other people that use designated city trails.

(Ord. No. 39-12/13, 2-4-13)

Sec. 17-87. Smoking prohibited.

It shall be unlawful for any person to smoke on a designated city trail at any time.

(Ord. No. 39-12/13, 2-4-13)

Sec. 17-88. Enforcement.

The parks and recreation department shall place signs at the beginning and end point of any city trail as well as in such other locations that, in its sole discretion, the parks and recreation department deems necessary to notify the public of this ordinance. Prior to issuing a citation for a violation of this section, a police officer or any law enforcement or code enforcement officer or park ranger shall issue one verbal warning to an individual. If the individual fails to immediately comply after one warning, individual shall be given a citation.

(Ord. No. 39-12/13, 2-4-13)

Sec. 17-89. Reserved.

**DIVISION 4. SECONDHAND SMOKE ON
PLAYGROUNDS, BEACHES, AND ATHLETIC FACILITIES**

Sec. 17-90. Purposes.

The purpose of this regulation is to decrease the exposure of individuals, and children in particular, to secondhand smoke in their outdoor environment. ~~Exposure to secondhand smoke is the third leading cause of preventable death in America, killing 6,000 children every year. Recent outdoor research from Stanford University and Repace Associates demonstrates that, when measured up to 20 feet from a person actively smoking, toxicity levels can reach those similar to indoor smoking levels. Secondhand smoke disproportionately affects vulnerable populations such as children and the elderly, causing asthma, chronic lung disease, ear infections heart disease and Sudden Infant Death Syndrome (SIDS). In fact, secondhand smoke can triple an infant's risk of dying from SIDS. The U.S. Surgeon General's 2006 report declared that "The debate is over. The science is clear; secondhand smoke is not a mere annoyance, but a serious health hazard...for which there is no safe level of exposure."~~

(Ord. No. 39-12/13, 2-4-13)

Sec. 17-91. Smoking prohibited at playgrounds, beaches and outdoor athletic facilities.

(a) Smoking is prohibited both at, or within, twenty (20) feet of the following outdoor areas: playgrounds, beaches and outdoor athletic facilities owned and maintained by the city where members of the general public of any age assemble to engage in physical exercise, participate in athletic competition, play or recreational activity, or to witness sports, or other outdoor recreational events.

(b) The foregoing prohibition shall not apply in an area which has been designated prior to passage of this ordinance as a designated smoking area at Hadlock Field, but such area shall not be expanded.

(Ord. No. 39-12/13, 2-4-13)

Sec. 17-92. Enforcement.

(a) The health and human services department shall work with the public services department to place signs notifying the public of this prohibition at or near playgrounds and athletic facilities, as well as in such other locations that, in its sole discretion, the health and human services department deems necessary to notify the public of this ordinance.

(b) Prior to issuing a citation for a violation of this section, a police officer or any law enforcement or code enforcement officer or park ranger shall issue one verbal warning to an individual. If the individual fails to comply after one warning, said individual shall be given a citation. Failure to comply after one warning is cause for citation whether or not the failure or subsequent failures are contemporaneous in time with the initial warning.
(Ord. No. 39-12/13, 2-4-13)

Sec. 17-93. Reserved.

DIVISION 5. SECONDHAND SMOKE
INDOOR AND OUTDOOR EATING AREAS

Sec. 17-94. Smoking Prohibited in Indoor and Outdoor Eating Areas.

(a) ~~Notwithstanding anything in division 2 of this chapter to the contrary, smoking~~ Smoking is prohibited until 10:00 p.m. within the indoor and outdoor eating areas provided by restaurants and bars while such indoor or outdoor eating areas, or any portion thereof, are open and available for dining and beverage service.

(b) "Indoor eating areas" shall mean indoor areas permitted for dining that are under the control of a restaurant or bar for the use of its patrons.

(c) "Outdoor eating areas" shall mean patios, decks, public property permitted for outdoor dining and other outdoor areas under the control of a restaurant or bar for the use of

its patrons.

~~(c) "Smoking" as used herein shall mean inhaling, exhaling, burning, carrying or having in one's possession any lighted cigar, cigarette, pipe, weed, plant or other combustible substance in any manner or in any form.~~

Sec. 17-95. Enforcement.

(a) It shall be the responsibility of restaurants and bars to notify its customers of this prohibition and to request that customers comply with it.

(b) Prior to issuing a citation for a violation of this section, a police officer or any law enforcement or code enforcement officer shall issue one verbal warning to an individual and the restaurant. If the individual or restaurant or bar fails to comply after one warning, said individual or restaurant or bar shall be given a citation. Failure to comply after one warning is cause for citation whether or not the failure or subsequent failures are contemporaneous in time with the initial warning.

~~Sec. 17-94.Reserved.~~

~~Sec. 17-95.Reserved.~~

DIVISION 56. SMOKING PROHIBITED IN CITY PARKS AND PUBLIC GROUNDS

Sec. 17-96. Smoking prohibited in all city-owned or maintained parks.

(a) Smoking is prohibited in the City's public parks and grounds.

(b) The Council shall define by order the public parks and grounds to which this requirement shall apply and such order shall be kept on file in the Department of Public Services.
(Ord. No. 39-12/13, 2-4-13)

***Editor's Note:** Pursuant to Council Order 38-12/13, passed on 2/4/13 the following is the list of public parks to which 17-96(b) applies:

ORDERED, that smoking shall be prohibited in the following parks and public grounds as described in Section 17-96 of the Portland City Code:

Back Cove Park	Lobsterman Park
Baxter Woods	Longfellow Square
Bayside Park	Marginal Way Field
Bedford Park	Monument Square
Bell Buoy Park	Oatnuts Park
Belmeade Park	Payson Park
Boothby Square	Pleasant Street Park
Capisic Pond Park	Post Office Park
Congress Square	Presumpscot Park
Deering Oaks Park	Presumpscot River Preserve
Dougherty Field	Quarry Run Dog Park
Eastern Promenade	Riverton Park
Fessenden Park	Stroudwater Park
Fort Allen Park	Tommy's Park
Fort Sumner Park	University Park
Ganley Plaza	Valley Street Dog Park
Harbor View Park	Western Promenade
Heseltine Park	
Lincoln Park	

Sec. 17-97. Enforcement.

(a) The health and human services department shall work with the public services department to place signs notifying the public of this prohibition at or near playgrounds and athletic facilities, as well as in such other locations that, in its sole discretion, the health and human services department deems necessary to notify the public of this ordinance.

(b) Prior to issuing a citation for a violation of this section, a police officer or any law enforcement or code

enforcement officer or park ranger shall issue one verbal warning to an individual. If the individual fails to comply after one warning, said individual shall be given a citation. Failure to comply after one warning is cause for citation whether or not the failure or subsequent failures are contemporaneous in time with the initial warning.
(Ord No. 39-12/13, 2-4-13)

Order 208-14/15
~~Tab 35 4-6-15~~
Tab 21 4-27-15

MICHAEL F. BRENNAN (MAYOR)
KEVIN J. DONOGHUE (1)
DAVID A. MARSHALL (2)
EDWARD J. SUSLOVIC (3)
JUSTIN COSTA (4)

**CITY OF PORTLAND
IN THE CITY COUNCIL**

DAVID H. BRENERMAN (5)
JILL C. DUSON (A/L)
JON HINCK (A/L)
NICHOLAS M. MAVODONES, JR (A/L)

**AMENDMENT TO PORTLAND CITY CODE
CHAPTER 11 FOOD AND FOOD HANDLERS
ARTICLE I. and ARTICLE II. FOOD SERVICE ESTABLISHMENTS**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PORTLAND, MAINE IN
CITY COUNCIL ASSEMBLED AS FOLLOWS:**

- 1. That Articles I and II, Sections 11-1 through 11-49 of the Portland City Code are hereby amended to read as follows:*

Chapter 11 FOOD AND FOOD HANDLERS*

...

ARTICLE I. IN GENERAL

| Sec. 11-1. Adoption of Maine State Food Code 20013: Food Code.

There is hereby adopted for the purpose of prescribing regulations to safeguard public health and provide to consumers food that is safe, unadulterated, and honestly presented, a code known as the Maine State Food Code 20013 (hereinafter "Food Code") recommended by the health authority, being particularly the 20013 edition thereof and the whole thereof except for such portions, as are deleted, modified or amended by section 11-4 and which code shall be controlling within the limits of the City.

Sec. 11-2. Copies on file with the Clerk.

Pursuant to Title 30-A M.R.S.A. §3003, at least three (3) copies of the Maine State Food Code as adopted by reference by Section 11-1 above, have been and shall be on file in the office of the City Clerk for public inspection and use.

Sec. 11-3. Definitions.

Wherever the words "regulatory authority" are used in the Food Code, they should be held to mean the health inspector of the City of Portland or his or her duly authorized representative.

Wherever the word "municipality" is used in the Food Code, it shall

mean the City of Portland.

ARTICLE II. FOOD SERVICE ESTABLISHMENTS

DIVISION 1. GENERALLY

Sec. 11-4. Amendments.

The Maine State Food Code 2001~~3~~13: Food Code adopted by section 11-1 is amended and modified in the following respects.

(a) Section 1.201.10.B shall be amended as follows:

Approved shall mean acceptable to the city health inspector as meeting the requirements of this article and conforming to good public health practices.

Food service establishment shall include any permanent, temporary or mobile establishment including any restaurant; caterer; innholder; buffet; lunchroom; grill room; lunch counter; tavern; dining room of a hotel; coffee shop; cafeteria; sandwich shop; soda fountain; in plant feeding establishment; private club; church feeding facility; school feeding facility; institutional feeding establishment; tea room; theater refreshment stand; grocery store; meat market; retail bakery store; delicatessen; bottle club; community kitchen; shelter; food pantry; or any other establishment where food or drink is prepared, served, kept, or stored for retail sale on-site. This definition shall not include as food service establishments private homes with permanent guests.

Imminent health hazard means a significant threat or danger to health that is considered to exist when there is evidence sufficient to show that a product, practice, circumstance, or event creates a situation that requires immediate correction or cessation of operation to prevent injury based on: (a) The number of potential injuries, and (b) The nature, severity, and duration of the anticipated injury. Imminent Health Hazard includes, but is not limited to, the following: (1) an extended loss of water supply, (2) an extended power outage, (3) flood water or sewer back-up into the establishment, (4) fire, (5) a lack of hot water (minimum temperature of 100F for handwashing and 110F for warewashing) or (6) any other violation(s) that has/have the potential to pose an imminent threat to public health. Maine Food Code October 2013 Page 11 Failure to include other violations in this definition shall not be construed as a

determination that other violations may not, in light of the circumstances, be found to pose an imminent health hazard.

Temporary food service establishment shall mean any food service establishment which operates for a temporary period of time in connection with a fair, carnival, circus, public exhibition or similar transitory gathering. There shall be two (2) types of temporary food service establishment licenses: one (1) shall be for those establishments that sell unopened prepackaged food, with a license period not to exceed three (3) months, and the other license shall be for establishments that sell or serve either food that is not prepackaged or prepackaged food that is opened prior to its sale, including the opening of one (1) or more prepackaged items for the purpose of providing free samples, with a license period not to exceed two (2) weeks.

- (b) Section 1.201.10.B shall be amended to add the following:

Base station shall mean a location used by a mobile food service establishment which shall be considered part of the food service establishment for the purpose of determining compliance with this article. The mobile unit and base station shall comply with all of the requirements of this article except those relating to toilet facilities, and the additional requirements herein set forth except as herein prescribed.

Food pantries shall mean an organization or entity that acquires, stores and distributes food to the needy in their community. Food pantries are typically supported by community food drives, umbrella organizations, as well as grocery stores, local agriculture, food manufacturers and other distributors. All items are pre-packaged, properly labeled, and no food preparation occurs. If bulk food packages are divided, they shall be in properly labeled, food safe containers.

Food processing establishment shall mean a commercial establishment in which food is processed or otherwise prepared and packaged only for sale to food service establishments and other retail outlets.

Ice cream truck shall mean a motorized vehicle utilized for the sale of prewrapped or prepackaged ice cream or frozen yogurt or ice cream or frozen yogurt products or novelties.

Innholder shall mean and include any person offering to the

public, generally, lodgings and food as the occasion requires where the person rents out four (4) or more rooms or cottages.

Mobile food service establishment shall mean and include only a food service establishment capable of movement over public or private ways which has all utilities and facilities contained within the unit regardless of whether it needs an outside power source or not which has no fixed location for the operation or transaction of business; and which is moved from one (1) location to a different location not less frequently than once every twelve (12) hours in any twenty-four (24) hour period in order to serve persons otherwise present at such locations at such times. For purposes of this ordinance, mobile food service establishments include, but are not limited to, pushcarts, food vending trucks and ice cream trucks.

Shelters shall mean an establishment providing temporary housing and meals for those in difficult domestic situations, as well as for homeless families and individuals. In addition many shelters provide referrals to other social service agencies. Shelters are often considered agencies of larger food banks or food share operations.

Stationary food vending unit shall mean any vending unit from which food products are sold and which is licensed for one (1) location on private property and conducts all of its sales from that one (1) location.

- (c) Section 1.201.10.B shall be amended to delete the following definitions:

Adulterated, ~~Certified food protection manager, Easily cleanable, Employee, Equipment, Food, Food-contact surface, Kitchenware, Poisonous or toxic materials, Potentially hazardous food, Sealed, Molluscan shellfish, Single-service articles, Tableware, and Utensil.~~

- (d) Section 3-603.11.B shall be amended as follows:

(B) Disclosure shall include:

(1) A description of the animal-derived Foods, such as "oysters on the halfshell (raw oysters)," "raw-Egg Caesar salad," and "hamburgers (can be cooked to order)" with an asterisk to a footnote that states that the items are served

raw or undercooked, or contain (or may contain) raw or undercooked ingredients; or

(2) Identification of the animal-derived Foods by asterisking them to a footnote that states that the items are served raw or undercooked, or contain (or may contain) raw or undercooked ingredients.

(C) A reminder shall include asterisking the animal-derived Foods requiring Disclosure to a footnote that states:

(2) Consuming raw or undercooked Meats, Poultry, seafood, shellfish, or Eggs may increase your Risk of foodborne illness.

Sec. 11-5. Contaminated items of food or drink.

No person shall knowingly sell, offer for sale, or hold for sale in the city any unwholesome, stale, putrid, diseased, or otherwise contaminated items of food or drink, and shall make such immediate disposition of all items found in such condition as shall be ordered by the health authority.

State law reference(s)--Sale or possession of unwholesome food or drink, 17 M.R.S.A. § 3451 et seq.

Sec. 11-6. Application to food prepared outside city.

No person shall sell or bring into the city food prepared outside the city for sale by a food service establishment unless such food is prepared and handled in accordance with the requirements of this article. In determining whether such food is prepared or handled in accordance with the requirements of this article, the health inspector, shall accept reports from responsible authorities in such jurisdiction that such location complies with the provisions of this article.

Sec. 11-7. Right to enter.

The health inspector shall be permitted to enter any food service establishment during business hours for the purpose of making inspections and of copying any and all records of food purchases and payrolls. It shall be the duty of every person responsible for the management or control of such establishment to afford free access to every part of such establishment and to render all aid and assistance necessary to enable the health authority to make a full, thorough and complete examination thereof to determine compliance with this article. Records of purchases of food shall be held for a period of

three (3) months following the date of purchase either at the food service establishment or at another place where they are customarily kept and shall be made available to the health authority at the food service establishment within a reasonable time upon request.

Sec. 11-8. Handwashing facilities.

Handwashing sinks with hot and cold running water shall be provided in or convenient to toilet rooms and in no instance more than twenty five (25) feet from and easily accessible to the toilet room. Soap and sanitary towels or other approved drying facilities in suitable holders or dispensers shall be provided. Common towels are prohibited. No person shall resume work after using the toilet room without first washing his or her hands. If such handwashing sink is not located within ten (10) feet of the entrance to all food preparation rooms or areas, additional handwashing sinks with hot and cold running water, soap, and sanitary towels shall be provided in or within twenty five (25) feet and easily accessible to such food preparation rooms or areas. Durable, legible signs shall be posted conspicuously at each handwashing facility used by employees directing them to wash their hands before returning to work. Dishwashing vats, vegetable sinks and pot sinks shall not be approved as handwashing facilities for employees. Any self-closing, or metered faucet used shall be designed to provide a flow of water for at least fifteen (15) seconds without the need to reactivate the faucet. Steam mixing valves are prohibited. Spring type faucets which require two (2) hands to operate are prohibited.

Sec. 11-9. Three-bay sink.

A three-bay sink shall be provided for such manual cleaning; each compartment shall be equipped with hot and cold running water and large enough to permit complete immersion of the largest utensil, and must be within twenty five (25) feet of and easily accessible to the food preparation area.

Sec. 11-10. Certified Food Protection Managers.

(a) A food service establishment must have at least one employee granted supervisory and management responsibility designated a Certified Food Protection Manager (CFPM) as defined in Section 1.201.10.B of Maine State Food Code 2013: Food Code adopted in Section 11-1, above. Proof of CFPM certification is required as follows:

- (1) Prior to the issuance of any new license required by Chapter 15;
- (2) Prior to the renewal of any license required by Chapter

15.

(3) Within 60 days of the date when a CFPM leaves employment;

(4) At the time of any inspection by the City's Health Inspector.

(b) Proof of compliance with the requirements of this section shall be provided to the City Food Inspector. Prior to the issuance of any license required by Chapter 15, the City Food Inspector must certify to the City Clerk's Office that the requirements of this Section have been met. Failure to provide proof of compliance with the requirements of this Section will be subject to a denial, suspension or revocation of a license in accordance with the provisions of Chapter 15. In addition to license suspension or revocation, violations of subsection 11-10(a)(3) & (4), above, shall result in a penalty to the violator of \$150.00.

Sec. 11-~~11~~0. Ice cream trucks.

All ice cream trucks shall comply with the following:

- (a) *General regulations.* All ice cream trucks shall comply with all requirements of section 11-35, including the requirements for a base station, and all other requirements of this article except those relating to toilet facilities, in addition to the requirements set forth in this section.
- (b) *Permitted sales locations.* Ice cream trucks shall be limited to sales on or from public rights-of-way in city parks where vending is allowed or in residential zones only, where such public rights-of-way have a posted speed limit of twenty-five (25) miles per hour or less.
- (c) *Sales prohibited.* No ice cream truck shall stop at any time for the purpose of making sales if such stop is located within five hundred (500) feet of a licensed food service establishment.
- (d) *Length of stop.* No ice cream truck shall stop on a public right-of-way in a residential zone for more than fifteen (15) minutes. An ice cream truck shall operate its four-way flashers whenever stopped.
- (e) *Manner of stops.* Ice cream trucks shall pull over to the side of the public right-of-way as far as practicable when stopping for the purpose of selling. In no event shall an

ice cream truck stop for the purpose of selling if such a stop prevents the passage of other motor vehicles on the public right-of-way.

- (f) *Hours of operation.* Ice cream trucks shall only operate from 11:00 a.m. until 8:00 p.m.
- (g) *License, insurance required.* Each ice cream truck shall be required to be separately licensed under this article and to provide to the City Clerk evidence of public liability insurance in an amount of not less than four hundred thousand dollars (\$400,000.00) as amended, with the city named as an additional insured on the policy.
- (h) *Cost of licenses and expiration date.* The cost of a license for an ice cream truck and base station and the expiration date for such licenses shall be the same as those established in section 15-12 for a mobile food service establishment license and a base station license. Each base station shall be required to have one (1) base station license, even if more than one (1) truck utilizes the same base station.
- (i) *Passengers prohibited.* No ice cream truck shall carry any passenger not employed by or related to the license holder or driver.

| Sec. 11-112. Stationary food vending unit.

A stationary food vending unit shall be subject to the following regulations:

- (a) Only nonalcoholic beverages and prepackaged foods shall be sold from a stationary food vending unit, and there shall be no cooking in or near the unit.
- (b) An applicant for a stationary food vending unit license shall provide the City Clerk, in addition to any other information required by chapter 15, with acceptable proof of ownership or control of the property upon which the unit will be located. Such proof shall consist of a deed, lease or other written agreement.
- (c) An applicant for a stationary food vending unit license shall submit the following information for review by the health authority:
 - 1. A plan for waste disposal;

2. A plan for disposal of liquid waste, which shall not be allowed to run into the ground; and
 3. A plan for provision of restrooms for employees;
 4. The precise location and manner of proposed or existing electrical hookups, which must be done by a licensed master electrician, or the type and location of other proposed or existing power sources.
- (d) No stationary food vending unit shall be located within sixty-five (65) feet of any other licensed food establishment, including street vending units and mobile food service units.
- (e) The fees and the expiration date for a stationary food vending unit license shall be the same as those established in chapter 15 of this Code for mobile food service establishments, except that no base station or fee for a base station shall be required.
- (e) The location of any stationary food vending unit shall be subject to the applicable requirements of articles III and V of chapter 14 of this Code.

Sec. 11-123. Community kitchens.

- (a) A community kitchen shall mean a kitchen, licensed pursuant to this chapter, that is utilized by two or more entities at differing times for preparation of food to serve to the public off-site.
- (b) Not more than one entity may utilize the community kitchen at one time. Any time more than one entity is utilizing a kitchen licensed pursuant to this chapter, there must be a reasonable amount of time built in to the schedule to ensure the kitchen is cleaned prior to the next use.
- (c) Schedule and records: The schedule of the use of the community kitchen shall be prominently displayed in a conspicuous location at all times and all associated records shall be available for review by the health inspector at all times.
- (d) License required: Each entity utilizing a community kitchen shall procure a community kitchen license from the City Clerk's office.

Sec. 11-134. Penalties.

Following the issuance of a failed inspection notice and an order to correct violations, the health inspector will reinspect the premises at a fee of seventy five dollars (\$75.00); if the followup inspection results in another failed inspection, the violator will be charged a second re-inspection fee of one hundred fifty dollars (\$150.00). If the third reinspection results in a failed inspection, the third and each subsequent follow-up reinspection will result in a three hundred dollar (\$300.00) per reinspection charge. In addition, upon the third failed reinspection, the health inspector may order the establishment closed until the establishment yields a passing inspection.

The requirements set forth in this section shall apply to the entire chapter.

Sec. 11-145. Reserved.

Sec. 11-165. Reserved.

Sec. 11-176. Reserved.

Sec. 11-187. Reserved.

Sec. 11-198. Reserved.

Sec. 11-2019. Reserved.

Sec. 11-210. Reserved.

DIVISION 2. LICENSE*

Sec. 11-212. License Required.

No person shall operate any food service establishment within the city unless licensed to do so by the city.

Sec. 11-23. Pre-Operational Inspection.

~~Prior to applying for~~ All applications for food service establishment licenses must be accompanied by a certification, issued by the Health Inspector, certifying that the food service establishment has undergone a Pre-Operational Inspection and successfully demonstrated compliance with the provisions of this Chapter. The fee for the Pre-Operational Inspection required by this section shall be \$150.00. ~~a food service establishment license, and before any such license may be granted under Chapter 15, a food service establishment must~~

11-224. Hearing.

A hearing shall be held upon any original and any renewal application for a license required by this division.

Sec. 11-235. Suspensions and revocations.

Licenses shall be suspended or revoked pursuant to chapter 15, except that a license which has been suspended may be reinstated by the clerk upon application, in writing, from the holder if the health inspector certifies to the clerk that he or she has reinspected the premises and the condition for which the suspension was imposed has been corrected.

Sec. 11-246. General provisions to apply.

Except to the extent that this division contains a contrary provision, all provisions of chapter 15 shall be additional to the provisions of this division.

Sec. 11-257 thru 11-457 Reserved.

~~DIVISION 2. LICENSE*~~

~~**Sec. 11-46. Required.**~~

~~No person shall operate any food service establishment within the city unless licensed to do so by the city.
(Code 1968, § 905.1; Ord. No. 231-80, 12-22-80)~~

~~**Sec. 11-47. Hearing.**~~

~~A hearing shall be held upon any original and any renewal application for a license required by this division.~~

~~**Sec. 11-48. Suspensions and revocations.**~~

~~Licenses shall be suspended or revoked pursuant to chapter 15, except that a license which has been suspended may be reinstated by the clerk upon application, in writing, from the holder if the health inspector certifies to the clerk that he or she has reinspected the premises and the condition for which the suspension was imposed has been corrected.~~

~~**Sec. 11-49. General provisions to apply.**~~

~~Except to the extent that this division contains a contrary provision, all provisions of chapter 15 shall be additional to the provisions of this division.~~

MEMORANDUM
City Council Agenda Item

TO: Mayor and City Council

FROM: Michael Russell, Environmental Health and Safety Program Manager, Public Health Division, HHSD

DATE: 3/17/15

DISTRIBUTION: City Manager, Mayor, Sonia Bean, Danielle West-Chuhta,
Nancy English, Julie Sullivan

SUBJECT: Changes to Code of Ordinances, Chapter 11 – Food and Food Handlers

SPONSOR: Passed unanimously at the March 10th Public Safety, Health and Human Services Committee meeting.

COUNCIL MEETING DATE ACTION IS REQUESTED:

1st reading___April 6th___ **Final Action**___May 4th___

Can action be taken at a later date: ___X___ Yes ___ No (If no why not?)

PRESENTATION: Michael Russell, verbal overview, 5 minutes.

I. SUMMARY OF ISSUE

We would like to adopt the 2013 Maine Food Code and make a few changes to Chapter 11 – Food and Food Handlers to better protect public health.

II. REASON FOR SUBMISSION

The reasons for submission are to: 1) Adopt the most recent version of the Maine Food Code, 2) specify the loss of hot water as an example of an Imminent Health Hazard (IHH), 3) clearly link raw food menu items and the reminder of the health risks, and 4) require businesses to show proof of a Certified Food Protection Manager (CFPM) before operating and during subsequent inspections.

III. INTENDED RESULT

The intended results are as follows: 1) adherence to the most current Maine Food Code; 2) clarification that the loss of hot water is an IHH to avoid confusion during an emergency; 3) visible linkage of raw food menu items to their potential health risks; and 4) maintenance of a common basic level of food safety knowledge throughout the life of a food business. These changes may also lower the number of related new foodborne illness cases, enhance the level of food safety, and reduce the amount of city staff time to pursue compliance.

IV. COUNCIL GOAL ADDRESSED

GOAL: Intergovernmental Collaboration – Adopting the most recent Maine Food Code will keep us in coordination with the Maine Center for Disease Control and Prevention. The other items will better protect public health, including visitors.

V. FINANCIAL IMPACT

Requiring new businesses to show proof of CFPM documentation prior to opening and during subsequent inspections will save the City Clerk's Office and the Public Health Division personnel hours and associated costs from pursuing compliance after the business opened and the certification has expired.

VI. STAFF ANALYSIS

Adopting the 2013 Maine Food Code will keep us current with the education and enforcement of food code regulations. Specifying the loss of hot water as an IHH will prevent any further confusion if an extended loss of water requires a complete loss of hot and cold water. More visibly linking the presence of raw food items on restaurant menus and the reminder of increased health risks from their consumption will raise the public's awareness and may lead to a decrease in the number of new foodborne illness cases. Finally, requiring proof of a CFPM before businesses opens and during subsequent inspections will save city staff time and assures that all new businesses start and maintain at least a common basic level of food safety knowledge.

VII. RECOMMENDATION

Approve.

VIII. LIST ATTACHMENTS

Amended Chapter 11 language.

Prepared by: Michael Russell, Environmental Health and Safety Program Manager, Public Health Division, HHSD

Date: 3/17/15

Chapter 11 FOOD AND FOOD HANDLERS*

*Cross reference(s)--Reinspection fees, Ch. 15; Farmers markets, Ch. 21.
State law reference(s)--Foods and drugs, 22 M.R.S.A. § 2151 et seq.

Art. I. In General, §§ 11-1--11-15

Art. II. Food Service Establishments, §§ 11-16--11-49

Div. 1. Generally, §§ 11-16--11-45

Div. 2. License, §§ 11-46--11-49

*Editor's Note: Pursuant to Council Order 94-12/13 passed on 11/19/12 Chapter 11 was repealed in its entirety and replaced with the following language.

ARTICLE I. IN GENERAL

Sec. 11-1. Adoption of Maine State Food Code 2001³: Food Code.

There is hereby adopted for the purpose of prescribing regulations to safeguard public health and provide to consumers food that is safe, unadulterated, and honestly presented, a code known as the Maine State Food Code 2001³ (hereinafter "Food Code") recommended by the health authority, being particularly the 2001³ edition thereof and the whole thereof except for such portions, as are deleted, modified or amended by section 11-4 and which code shall be controlling within the limits of the City.

(Ord. No. 94-12/13, 11-19-12)

Sec. 11-2. Copies on file with the Clerk.

Pursuant to Title 30-A M.R.S.A. §3003, at least three (3) copies of the Maine State Food Code as adopted by reference by Section 11-1 above, have been and shall be on file in the office of the City Clerk for public inspection and use.

(Ord. No. 94-12/13, 11-19-12)

Sec. 11-3. Definitions.

Wherever the words "regulatory authority" are used in the Food Code, they should be held to mean the health inspector of the City of Portland or his or her duly authorized representative.

Wherever the word "municipality" is used in the Food Code, it shall mean the City of Portland.

(Ord. No. 94-12/13, 11-19-12)

ARTICLE II. FOOD SERVICE ESTABLISHMENTS

DIVISION 1. GENERALLY

Sec. 11-4. Amendments.

The Maine State Food Code 2001³: Food Code adopted by section 11-1 is amended and modified in the following respects.

(a) Section 1.201.10.B shall be amended as follows:

Approved shall mean acceptable to the city health inspector as meeting the requirements of this article and conforming to good public health practices.

Food service establishment shall include any permanent, temporary or mobile establishment including any restaurant; caterer; innholder; buffet; lunchroom; grill room; lunch counter; tavern; dining room of a hotel; coffee shop; cafeteria; sandwich shop; soda fountain; in plant feeding establishment; private club; church feeding facility; school feeding facility; institutional feeding establishment; tea room; theater refreshment stand; grocery store; meat market; retail bakery store; delicatessen; bottle club; community kitchen; shelter; food pantry; or any other establishment where food or drink is prepared, served, kept, or stored for retail sale on-site. This definition shall not include as food service establishments private homes with permanent guests.

"Imminent health hazard" means a significant threat or danger to health that is considered to exist when there is evidence sufficient to show that a product, practice, circumstance, or event creates a situation that requires immediate correction or cessation of operation to prevent injury based on: (a) The number of potential injuries, and (b) The nature, severity, and duration of the anticipated injury. Imminent Health Hazard includes, but is not limited to, the following: (1) an extended loss of water supply, (2) an extended power outage, (3) flood water or sewer back-up into the establishment, (4) fire, (5) a lack of hot water (minimum temperature of 100F for handwashing and 110F for warewashing) or (6) any other violation(s) that has/have the potential to pose an imminent threat to public health. Maine Food Code October 2013 Page 11 Failure to include other violations in this definition shall not be construed as a determination that other violations may not, in light of the circumstances, be found to pose an imminent health hazard. -

Temporary food service establishment shall mean any food service establishment which operates for a temporary period of time in connection with a fair, carnival, circus, public exhibition or similar transitory gathering. There shall be two (2) types of temporary food service establishment licenses: one (1) shall be for those establishments that

Chapter 11 FOOD AND FOOD HANDLERS*

*Cross reference(s)--Reinspection fees, Ch. 15; Farmers markets, Ch. 21.
State law reference(s)--Foods and drugs, 22 M.R.S.A. § 2151 et seq.

Art. I. In General, §§ 11-1--11-15

Art. II. Food Service Establishments, §§ 11-16--11-49

Div. 1. Generally, §§ 11-16--11-45

Div. 2. License, §§ 11-46--11-49

*Editor's Note: Pursuant to Council Order 94-12/13 passed on 11/19/12 Chapter 11 was repealed in its entirety and replaced with the following language.

ARTICLE I. IN GENERAL

Sec. 11-1. Adoption of Maine State Food Code 20013: Food Code.

There is hereby adopted for the purpose of prescribing regulations to safeguard public health and provide to consumers food that is safe, unadulterated, and honestly presented, a code known as the Maine State Food Code 20013 (hereinafter "Food Code") recommended by the health authority, being particularly the 20013 edition thereof and the whole thereof except for such portions, as are deleted, modified or amended by section 11-4 and which code shall be controlling within the limits of the City.

(Ord. No. 94-12/13, 11-19-12)

Sec. 11-2. Copies on file with the Clerk.

Pursuant to Title 30-A M.R.S.A. §3003, at least three (3) copies of the Maine State Food Code as adopted by reference by Section 11-1 above, have been and shall be on file in the office of the City Clerk for public inspection and use.

(Ord. No. 94-12/13, 11-19-12)

Sec. 11-3. Definitions.

Wherever the words "regulatory authority" are used in the Food Code, they should be held to mean the health inspector of the City of Portland or his or her duly authorized representative.

Wherever the word "municipality" is used in the Food Code, it shall mean the City of Portland.

(Ord. No. 94-12/13, 11-19-12)

ARTICLE II. FOOD SERVICE ESTABLISHMENTS

DIVISION 1. GENERALLY

Sec. 11-4. Amendments.

The Maine State Food Code 2001¹³: Food Code adopted by section 11-1 is amended and modified in the following respects.

(a) Section 1.201.10.B shall be amended as follows:

Approved shall mean acceptable to the city health inspector as meeting the requirements of this article and conforming to good public health practices.

Food service establishment shall include any permanent, temporary or mobile establishment including any restaurant; caterer; innholder; buffet; lunchroom; grill room; lunch counter; tavern; dining room of a hotel; coffee shop; cafeteria; sandwich shop; soda fountain; in plant feeding establishment; private club; church feeding facility; school feeding facility; institutional feeding establishment; tea room; theater refreshment stand; grocery store; meat market; retail bakery store; delicatessen; bottle club; community kitchen; shelter; food pantry; or any other establishment where food or drink is prepared, served, kept, or stored for retail sale on-site. This definition shall not include as food service establishments private homes with permanent guests.

"Imminent health hazard" means a significant threat or danger to health that is considered to exist when there is evidence sufficient to show that a product, practice, circumstance, or event creates a situation that requires immediate correction or cessation of operation to prevent injury based on: (a) The number of potential injuries, and (b) The nature, severity, and duration of the anticipated injury. Imminent Health Hazard includes, but is not limited to, the following: (1) an extended loss of water supply, (2) an extended power outage, (3) flood water or sewer back-up into the establishment, (4) fire, (5) a lack of hot water (minimum temperature of 100F for handwashing and 110F for warewashing) or (6) any other violation(s) that has/have the potential to pose an imminent threat to public health. Maine Food Code October 2013 Page 11 Failure to include other violations in this definition shall not be construed as a determination that other violations may not, in light of the circumstances, be found to pose an imminent health hazard. -

Temporary food service establishment shall mean any food service establishment which operates for a temporary period of time in connection with a fair, carnival, circus, public exhibition or similar transitory gathering. There shall be two (2) types of temporary food service establishment licenses: one (1) shall be for those establishments that

sell unopened prepackaged food, with a license period not to exceed three (3) months, and the other license shall be for establishments that sell or serve either food that is not prepackaged or prepackaged food that is opened prior to its sale, including the opening of one (1) or more prepackaged items for the purpose of providing free samples, with a license period not to exceed two (2) weeks.

(b) Section 1.201.10.B shall be amended to add the following:

Base station shall mean a location used by a mobile food service establishment which shall be considered part of the food service establishment for the purpose of determining compliance with this article. The mobile unit and base station shall comply with all of the requirements of this article except those relating to toilet facilities, and the additional requirements herein set forth except as herein prescribed.

Food pantries shall mean an organization or entity that acquires, stores and distributes food to the needy in their community. Food pantries are typically supported by community food drives, umbrella organizations, as well as grocery stores, local agriculture, food manufacturers and other distributors. All items are pre-packaged, properly labeled, and no food preparation occurs. If bulk food packages are divided, they shall be in properly labeled, food safe containers.

Food processing establishment shall mean a commercial establishment in which food is processed or otherwise prepared and packaged only for sale to food service establishments and other retail outlets.

Ice cream truck shall mean a motorized vehicle utilized for the sale of prewrapped or prepackaged ice cream or frozen yogurt or ice cream or frozen yogurt products or novelties.

Innholder shall mean and include any person offering to the public, generally, lodgings and food as the occasion requires where the person rents out four (4) or more rooms or cottages.

Mobile food service establishment shall mean and include only a food service establishment capable of movement over public or private ways which has all utilities and facilities contained within the unit regardless of whether it needs an outside power source or not which has no fixed location for the operation or transaction of business; and which is moved from one (1) location to a different location not less frequently than once every twelve (12) hours in any twenty-four (24) hour period in order to serve persons otherwise present at such locations at such times. For purposes of this ordinance,

mobile food service establishments include, but are not limited to, pushcarts, food vending trucks and ice cream trucks.

Shelters shall mean an establishment providing temporary housing and meals for those in difficult domestic situations, as well as for homeless families and individuals. In addition many shelters provide referrals to other social service agencies. Shelters are often considered agencies of larger food banks or food share operations.

Stationary food vending unit shall mean any vending unit from which food products are sold and which is licensed for one (1) location on private property and conducts all of its sales from that one (1) location.

(c) Section 1.201.10.B shall be amended to delete the following definitions:

~~Adulterated, Certified food protection manager, Easily cleanable, Employee, Equipment, Food, Food-contact surface, Kitchenware, Poisonous or toxic materials, Potentially hazardous food, Sealed, Molluscan shellfish, Single-service articles, Tableware, and Utensil.~~
(Ord. No. 94-12/13, 11-19-12)

(d) Section 3-603.11.B shall be amended as follows:

(B) Disclosure shall include:

(1) A description of the animal-derived Foods, such as "oysters on the halfshell (raw oysters)," "raw-Egg Caesar salad," and "hamburgers (can be cooked to order)" with an asterisk to a footnote that states that the items are served raw or undercooked, or contain (or may contain) raw or undercooked ingredients; or

(2) Identification of the animal-derived Foods by asterisking them to a footnote that states that the items are served raw or undercooked, or contain (or may contain) raw or undercooked ingredients.

(C) A reminder shall include asterisking the animal-derived Foods requiring Disclosure to a footnote that states:

(2) Consuming raw or undercooked Meats, Poultry, seafood, shellfish, or Eggs may increase your Risk of foodborne illness.

Sec. 11-5. Contaminated items of food or drink.

No person shall knowingly sell, offer for sale, or hold for sale in the city any unwholesome, stale, putrid, diseased, or otherwise contaminated items of food or drink, and shall make such immediate disposition of all items found in such condition as shall be ordered by the health authority.
(Ord. No. 94-12/13, 11-19-12)

State law reference(s) -- Sale or possession of unwholesome food or drink, 17 M.R.S.A. § 3451 et seq.

Sec. 11-6. Application to food prepared outside city.

No person shall sell or bring into the city food prepared outside the city for sale by a food service establishment unless such food is prepared and handled in accordance with the requirements of this article. In determining whether such food is prepared or handled in accordance with the requirements of this article, the health inspector, shall accept reports from responsible authorities in such jurisdiction that such location complies with the provisions of this article.
(Ord. No. 94-12/13, 11-19-12)

Sec. 11-7. Right to enter.

The health inspector shall be permitted to enter any food service establishment during business hours for the purpose of making inspections and of copying any and all records of food purchases and payrolls. It shall be the duty of every person responsible for the management or control of such establishment to afford free access to every part of such establishment and to render all aid and assistance necessary to enable the health authority to make a full, thorough and complete examination thereof to determine compliance with this article. Records of purchases of food shall be held for a period of three (3) months following the date of purchase either at the food service establishment or at another place where they are customarily kept and shall be made available to the health authority at the food service establishment within a reasonable time upon request.
(Ord. No. 94-12/13, 11-19-12)

Sec. 11-8. Handwashing facilities.

Handwashing sinks with hot and cold running water shall be provided in or convenient to toilet rooms and in no instance more than twenty five (25) feet from and easily accessible to the toilet room. Soap and sanitary towels or other approved drying facilities in suitable holders or dispensers shall be provided. Common towels are prohibited. No person shall resume work after using the toilet room without first washing his or her hands. If such handwashing sink is not located within ten (10) feet of the entrance to all food preparation rooms or areas, additional handwashing sinks with hot and cold running water, soap, and sanitary towels shall be provided in or within twenty five (25) feet and easily accessible to such food preparation rooms or areas. Durable, legible signs shall be posted conspicuously at each handwashing facility used by employees directing them to wash their hands before returning to work. Dishwashing vats, vegetable sinks and pot sinks shall not be approved as handwashing facilities for employees. Any self-closing, or metered faucet used shall be designed to provide a flow of water for at least fifteen (15) seconds without the need to reactivate the faucet. Steam mixing valves are prohibited. Spring type faucets which require two (2) hands to operate are prohibited.

(Ord. No. 94-12/13, 11-19-12)

Sec. 11-9. Three-bay sink.

A three-bay sink shall be provided for such manual cleaning; each compartment shall be equipped with hot and cold running water and large enough to permit complete immersion of the largest utensil, and must be within twenty five (25) feet of and easily accessible to the food preparation area.

(Ord. No. 94-12/13, 11-19-12)

Sec. 11-10. Certified Food Protection Managers.

(a) A food service establishment must have at least one employee granted supervisory and management responsibility designated a Certified Food Protection Manager (CFPM) as defined in Section 1.201.10.B of Maine State Food Code 2013: Food Code adopted in Section 11-1, above. Proof of CFPM certification is required as follows:

- (1) Prior to the issuance of any new license required by Chapter 15;
- (2) Prior to the renewal of any license required by Chapter 15.
- (3) Within 60 days of the date when a CFPM leaves employment;
- (4) At the time of any inspection by the City's Health Inspector.

(b) Proof of compliance with the requirements of this section shall be provided to the City Food Inspector. Prior to the issuance of any license required by Chapter 15, the City Food Inspector must certify to the City Clerk's Office that the requirements of this Section have been met. Failure to provide proof of compliance with the requirements of this Section will be subject to a denial, suspension or revocation of a license in accordance with the provisions of Chapter 15. In addition to license suspension or revocation, violations of subsection 11-10(a)(3) & (4), above, shall result in a penalty to the violator of \$150.00.

Sec. 11-110. Ice cream trucks.

All ice cream trucks shall comply with the following:

(a) *General regulations.* All ice cream trucks shall comply with all requirements of section 11-35, including the requirements for a base station, and all other requirements of this article except those relating to toilet facilities, in addition to the requirements set forth in this section.

(b) *Permitted sales locations.* Ice cream trucks shall be limited to sales on or from public rights-of-way in city parks where vending is allowed or in residential zones only, where such public rights-of-way have a posted speed limit of twenty-five (25) miles per hour or less.

(c) *Sales prohibited.* No ice cream truck shall stop at any time for the purpose of making sales if such stop is located within five hundred (500) feet of a licensed food service establishment.

(d) *Length of stop.* No ice cream truck shall stop on a public right-of-way in a residential zone for more than fifteen (15) minutes. An ice cream truck shall operate its four-way flashers whenever stopped.

(e) *Manner of stops.* Ice cream trucks shall pull over to the side of the public right-of-way as far as practicable when stopping for the purpose of selling. In no event shall an ice cream truck stop for the purpose of selling if such a stop prevents the passage of other motor vehicles on the public right-of-way.

(f) *Hours of operation.* Ice cream trucks shall only operate from 11:00 a.m. until 8:00 p.m.

(g) *License, insurance required.* Each ice cream truck shall be required to be separately licensed under this article and to provide to the City Clerk evidence of public liability insurance in an amount of not less than four hundred thousand dollars (\$400,000.00) as amended, with the city named as an additional insured on the policy.

(h) *Cost of licenses and expiration date.* The cost of a license for an ice cream truck and base station and the expiration date for such licenses shall be the same as those established in section 15-12 for a mobile food service establishment license and a base station license. Each base station shall be required to have one (1) base station license, even if more than one (1) truck utilizes the same base station.

(i) *Passengers prohibited.* No ice cream truck shall carry any passenger not employed by or related to the license holder or driver.
(Ord. No. 94-12/13, 11-19-12)

Sec. 11-142. Stationary food vending unit.

A stationary food vending unit shall be subject to the following regulations:

(a) Only nonalcoholic beverages and prepackaged foods shall be sold from a stationary food vending unit, and there shall be no cooking in or near the unit.

(b) An applicant for a stationary food vending unit license shall provide the City Clerk, in addition to any other information required by chapter

15, with acceptable proof of ownership or control of the property upon which the unit will be located. Such proof shall consist of a deed, lease or other written agreement.

(c) An applicant for a stationary food vending unit license shall submit the following information for review by the health authority:

1. A plan for waste disposal;
2. A plan for disposal of liquid waste, which shall not be allowed to run into the ground; and
3. A plan for provision of restrooms for employees;
4. The precise location and manner of proposed or existing electrical hookups, which must be done by a licensed master electrician, or the type and location of other proposed or existing power sources.

(d) No stationary food vending unit shall be located within sixty-five (65) feet of any other licensed food establishment, including street vending units and mobile food service units.

(e) The fees and the expiration date for a stationary food vending unit license shall be the same as those established in chapter 15 of this Code for mobile food service establishments, except that no base station or fee for a base station shall be required.

(f) The location of any stationary food vending unit shall be subject to the applicable requirements of articles III and V of chapter 14 of this Code.

(Ord. No. 94-12/13, 11-19-12)

Sec. 11-123. Community kitchens.

(a) A community kitchen shall mean a kitchen, licensed pursuant to this chapter, that is utilized by two or more entities at differing times for preparation of food to serve to the public off-site.

(b) Not more than one entity may utilize the community kitchen at one time. Any time more than one entity is utilizing a kitchen licensed pursuant to this chapter, there must be a reasonable amount of time built in to the schedule to ensure the kitchen is cleaned prior to the next use.

(c) Schedule and records: The schedule of the use of the community kitchen shall be prominently displayed in a conspicuous location at all times and all associated records shall be available for review by the health inspector at all times.

(d) License required: Each entity utilizing a community kitchen shall procure a community kitchen license from the City Clerk's office.

(Ord. No. 94-12/13, 11-19-12)

Sec. 11-134. Penalties.

Following the issuance of a failed inspection notice and an order to correct violations, the health inspector will reinspect the premises at a fee of seventy five dollars (\$75.00); if the followup inspection results in another failed inspection, the violator will be charged a second re-inspection fee of one hundred fifty dollars (\$150.00). If the third reinspection results in a failed inspection, the third and each subsequent follow-up reinspection will result in a three hundred dollar (\$300.00) per reinspection charge. In addition, upon the third failed reinspection, the health inspector may order the establishment closed until the establishment yields a passing inspection.

The requirements set forth in this section shall apply to the entire chapter.

(Ord. No. 94-12/13, 11-19-12)

Sec. 11-145. Reserved.

Sec. 11-165. Reserved.

Sec. 11-176. Reserved.

Sec. 11-187. Reserved.

Sec. 11-198. Reserved.

Sec. 11-2019. Reserved.

Sec. 11-210. Reserved.

DIVISION 2. LICENSE*

*Cross reference(s) --Licenses and permits generally, Ch. 15.

Sec. 11-212. License Required.

No person shall operate any food service establishment within the city unless licensed to do so by the city.

(Ord. No. 94-12/13, 11-19-12)

Sec. 11-23. Pre-Operational Inspection.

~~Prior to applying for~~ All applications for food service establishment licenses must be accompanied by a certification, issued by the Health Inspector, certifying that the food service establishment has undergone a Pre-Operational Inspection and successfully demonstrated compliance with the provisions of this Chapter. The fee for the Pre-Operational Inspection required by this section shall be \$150.00. ~~a food service establishment license, and before any such license may be granted under Chapter 15, a food service establishment must~~

11-224. Hearing.

A hearing shall be held upon any original and any renewal application for a license required by this division.

(Ord. No. 94-12/13, 11-19-12)

Sec. 11-235. Suspensions and revocations.

Licenses shall be suspended or revoked pursuant to chapter 15, except that a license which has been suspended may be reinstated by the clerk upon application, in writing, from the holder if the health inspector certifies to the clerk that he or she has reinspected the premises and the condition for which the suspension was imposed has been corrected.

(Ord. No. 94-12/13, 11-19-12)

Sec. 11-246. General provisions to apply.

Except to the extent that this division contains a contrary provision, all provisions of chapter 15 shall be additional to the provisions of this division.

(Ord. No. 94-12/13, 11-19-12)

Sec. 11-257 thru 11-457 Reserved.

~~DIVISION 2. LICENSE*~~

~~*Cross reference(s) -- Licenses and permits generally, Ch. 15.~~

~~Sec. 11-46. Required.~~

~~No person shall operate any food service establishment within the city unless licensed to do so by the city.~~

~~(Code 1968, § 905.1; Ord. No. 231-80, 12-22-80)~~

~~Sec. 11-47. Hearing.~~

~~A hearing shall be held upon any original and any renewal application for a license required by this division.~~

~~(Code 1968, § 905.1; Ord. No. 231-80, 12-22-80)~~

~~Sec. 11-48. Suspensions and revocations.~~

~~Licenses shall be suspended or revoked pursuant to chapter 15, except that a license which has been suspended may be reinstated by the clerk upon application, in writing, from the holder if the health inspector certifies to the clerk that he or she has reinspected the premises and the condition for which the suspension was imposed has been corrected.~~

~~(Code 1968, § 905.3; Ord. No. 231-80, 12-22-80; Ord. No. 94-12/13, 11-19-12)~~

~~Sec. 11-49. General provisions to apply.~~

~~Except to the extent that this division contains a contrary provision, all provisions of chapter 15 shall be additional to the provisions of this~~

division.—

~~(Code 1968, § 905.23, Ord. No. 231 80, 12 22 80)~~

DRAFT

Order 309-14/15
Tab 36 4-6-15
Tab 28 4-27-15

MICHAEL F. BRENNAN (MAYOR)
KEVIN J. DONOGHUE (1)
DAVID A. MARSHALL (2)
EDWARD J. SUSLOVIC (3)
JUSTIN COSTA (4)

**CITY OF PORTLAND
IN THE CITY COUNCIL**

DAVID H. BRENERMAN (5)
JILL C. DUSON (A/L)
JON HINCK (A/L)
NICHOLAS M. MAVODONES, JR (A/L)

**AMENDMENT TO PORTLAND CITY CODE
CHAPTER 14. LAND USE
Re: R-6 and R-6A Zones**

**I. BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PORTLAND,
MAINE IN CITY COUNCIL ASSEMBLED AS FOLLOWS:**

That Chapter 14, Article III, Sections 14-47, 14-136, 14-139, 14-140, 14-332, 14-332.1, 14-433, and Article V., Section 14-526, of the Portland City Code are hereby amended to read as follows:

DIVISION 1. GENERALLY

Sec. 14-47. Definitions.

The following words shall be defined as set forth below for use in this article. Definitions set forth in the building code of the city shall apply to words not herein defined:

...

~~Lot: Except when reference is made herein to a lot of record, a lot is a single tract of land located within a single block which at the time of filing for a building permit or certificate of occupancy is designated by its owner or developer as a tract to be used, developed, or built upon as a unit under single ownership or control. A parcel or area of land that is designated as an individual unit for use, development or ownership that is either a) a lot of record, recorded in the Cumberland County Registry of Deeds; or b) a contiguous combination of such lots of record under common ownership; or c) a newly established parcel meeting all the dimensional requirements of the zone in which it is located.~~

...

Sec. 14-136. Permitted uses.

The following uses are permitted in the R-6 and R-6A residential zones:

(a) *Residential:*

1. Single- and two-family dwellings. No building reviewed as a two-family dwelling in accordance with section article V (site plan) of this chapter shall be altered to include any additional dwelling unit within five (5) years from the date of issuance of the building permit. Any building reviewed as a two-family dwelling in accordance with article V (site plan) of this chapter or not reviewed under article V, which is altered or enlarged to include any additional dwelling unit after this five-year period, shall be reviewed as a pursuant to article V of this chapter.
2. Multifamily dwellings. ~~___, provided that any alteration of a structure in residential use on December 2, 1987:~~
 - ~~a. Shall not result in the creation of any additional dwelling unit of less than six hundred (600) square feet of floor area, exclusive of common hallways and storage in basement and attic; and~~
 - ~~b. Shall not result in any existing dwelling unit being reduced in size to less than one thousand (1,000) square feet of floor area, exclusive of common areas and storage in basement and attic;~~
 - ea. Parking shall be provided in compliance with Division 20 of this Article.

- ~~db.~~ No unaccompanied minors under the age of eighteen (18) shall be permitted in the facility.
- ~~ec.~~ The length of stay for transient guests shall not exceed fifteen (15) days out of any sixty-day period.
- ~~fd.~~ An owner, manager or operator shall live in the building as a permanent resident.
- ~~ge.~~ The building shall meet the applicable occupant load requirements as defined by the International Building Code and the NFPA Life Safety Code, as such codes are amended or adopted by the city.

10. Wind energy systems, as defined and allowed in Article X, Alternative Energy.

...

Sec. 14-139. Dimensional requirements.

(a) In addition to the provisions of division 25 (space and bulk regulations and exceptions) of this article, lots in the R-6 and R-6A zones shall meet or exceed the following minimum requirements:

~~1. Minimum lot size:~~

- ~~a. Residential in the R-6: Forty five hundred (4,500) square feet, except as provided for lots of record in section 14-433 (lots of record and accessory structure setbacks for existing buildings) of this article.~~
- ~~b. Residential in the R-6A: Four (4) acres.~~
- ~~c. Long term and extended care facilities: Ten thousand (10,000) square feet for the first nine~~

~~(9) residents plus seven hundred fifty (750) square feet for each additional resident, up to a total of two (2) acres.~~

~~d. Intermediate care facility: One (1) acre.~~

~~e. School: Thirty thousand (30,000) square feet.~~

~~f. Places of assembly:~~

Large	30,000 sq. ft.
Medium	15,000 sq. ft.
Small	7,500 sq. ft.

~~g. Municipal use: Forty-five hundred (4,500) square feet.~~

~~h. Hospital: Two (2) acres.~~

~~i. All other uses: Forty-five hundred (4,500) square feet.~~

~~j. Lodging house: Four thousand five hundred (4,500) square feet.~~

~~2. a. Minimum area per dwelling unit: One thousand (1,000) square feet per dwelling unit; and in the case of building additions and new construction, one thousand two hundred (1,200) square feet for each dwelling unit after the first three (3) units. This requirement may be reduced by up to twenty (20) percent for a special needs independent living unit.~~

~~b. Minimum rooming unit areas for lodging houses: Two hundred (200) square feet of combined rooming unit and common area for each rooming unit. Each individual rooming unit shall be a minimum of eighty (80) square feet.~~

~~c. Minimum land area per lodging house rooming unit: Two hundred fifty (250) square feet.~~

~~d. Minimum land area per intermediate care facility resident: Eight thousand (8,000) square feet for the first thirty-five (35) residents, plus three~~

~~hundred fifty (350) square feet for each additional resident.~~

~~3. Minimum street frontage: Forty (40) feet.~~

~~4. Minimum yard dimensions: (Yard dimensions include setbacks of structures from property lines and setbacks of structures from one another. No structure shall occupy the minimum yard of another structure.)~~

~~a. Front yard:~~

~~Principal or accessory structures: Ten (10) feet.~~

~~A front yard need not exceed the average depth of front yards on either side of the lot. A lot of record existing as of June 5, 1957, and less than one hundred (100) feet deep need not be deeper than twenty (20) percent of the depth of the lot.~~

~~b. Rear yard:~~

~~i. Principal and attached accessory structures with ground coverage greater than one hundred (100) square feet: Twenty (20) feet.~~

~~ii. Detached accessory structures with a ground coverage of one hundred and forty-four (144) square feet or less: Five (5) feet.~~

~~iii. Setbacks for swimming pools shall be as provided for in section 14-432 (swimming pools) of this article.~~

~~c. Side yard:~~

~~i. Side yard in R-6: Principal and attached accessory structures with ground coverage greater than one hundred (100) square feet:~~

~~Height of Structure Required Side Yard~~

~~1 story 10 feet~~

~~2 stories 10 feet~~

~~3 stories 10 feet~~

~~4 stories 12 feet~~

~~5 stories 15 feet~~

~~The width of one (1) side yard may be reduced one (1) foot for every foot that the other side yard is correspondingly increased, but no side yard shall be less than ten (10) feet. In the case of a lot of record existing as of June 5, 1957, and held under separate and distinct ownership from adjacent lots, the required side yard may be reduced in order to provide a buildable width of up to twenty-four (24) feet, but in no case shall the resulting side yards be less than ten (10) feet.~~

~~ii. Detached accessory structures with ground coverage of one hundred and forty-four (144) square feet or less: Five (5) feet.~~

~~iii. Setbacks for swimming pools shall be as provided for in section 14-432 (swimming pools) of this article.~~

~~iv. Side yard in R-6A: Principal structure height up to forty-five (45 feet): 10 feet. Principal structure height greater than forty-five (45 feet): 15 feet.~~

~~d. Side yard on side streets:~~

~~i. Principal or accessory structures: Ten (10) feet.~~

~~5. Maximum lot coverage: Forty (40) percent of lot area for lots which contain twenty (20) or more dwelling units; fifty (50) percent for lots which contain fewer than twenty (20) dwelling units.~~

~~6. Minimum lot width: Forty (40) feet.~~

~~7. Maximum structure height:~~

~~2. Maximum structure height R-6: Principal and attached accessory structure: Forty-five (45) feet.~~

~~Accessory detached structure: Eighteen (18) feet.~~

~~b. Maximum structure height in R-6A: Principal and attached accessory structure: Sixty-five (65) feet on off-peninsula parcels.~~

~~Accessory detached structure: Eighteen (18) feet~~

~~8. Open space ratio:~~

~~a. Uses other than bed and breakfast. Twenty (20) percent. This area shall not include parking areas or other impervious surfaces as defined in section 14-47.~~

~~b. Bed and breakfasts. A bed and breakfast that is located on a lot that has at least twenty (20) percent open space on the date of filing of the application for site plan shall not reduce the open space on the lot below twenty (20) percent of the lot area. A bed and breakfast located on a lot that does not have at least twenty (20) percent open space on the date of filing of the application for site plan review, and that is legally nonconforming as to the open space requirement of this section, shall not reduce the open space on the lot below the level in existence on the date of the application for site plan review. Open space areas shall not include parking areas or other impervious surface areas as defined in section 14-47.~~

~~9. A below-grade dwelling unit shall be permitted only if the primary access for the dwelling unit is provided directly to the outside of the building.~~

~~10. Minimum gross floor area for bed and breakfasts: Two thousand (2,000) square feet of gross floor area for the first three (3) guest rooms and five hundred (500) square feet of floor area for each additional guest room.~~

~~11. Maximum floor area for places of assembly on a collector or arterial road:~~

Large	Not limited
Medium	4,500 sq. ft.
Small	2,250 sq. ft.

~~12. Maximum floor area for places of assembly not on a collector or arterial road:~~

Large	4,500 sq. ft.
Medium	2,250 sq. ft.
Small	1,125 sq. ft.

~~(b) Small residential lot development: Residential uses on small, vacant lots located in the R-6 are subject to site plan review and may use the dimensional requirements below if all of the following conditions are met:~~

~~The lot is:~~

~~Vacant or is used exclusively for parking or contains structure not used for residential purposes as of January 1, 2005; and the lot existed as of January 1, 2005.~~

~~1. Minimum lot size: None~~

~~2. Maximum lot size: Ten thousand (10,000) square feet.~~

~~3. Yard dimensions:~~

~~a. Front yard:~~

~~No more than ten (10) feet.~~

~~b. Rear yard:~~

~~None, except that rear yards between two (2) buildings on the same or different lots shall maintain a minimum ten (10) foot setback between buildings or the sum of the heights of the abutting~~

~~buildings and proposed buildings divided by five (5), whichever is greater; and that either the rear~~

~~yard or one of the side yards shall be at least fifteen (15) feet; provided, however, detached accessory structures with a ground floor area of one hundred (100) square feet or less need not have a setback more than five (5) feet from the property line. Notwithstanding the foregoing, no structure shall be closer than four (4) feet to side property line.~~

~~c. Side yard:~~

~~None, except that side yards between two (2) buildings on the same or different lots shall maintain a minimum ten (10) foot setback between buildings or the sum of the heights of the existing buildings and proposed buildings divided by five (5), whichever is greater and that either the rear yard or one of the side yards shall be at least fifteen (15) feet; Provided, however, detached accessory structures with a ground floor area of one hundred (100) square feet or less need not have a setback more than five (5) feet from the property line. Notwithstanding the foregoing, no structure shall be closer than four (4) feet to side property line. On a corner lot no side yard is required on that side of the lot which abuts any street. A principal structure on a corner lot shall not be more than ten (10) feet from the street.~~

~~4. Minimum principal structure height: Two (2) stories of living space above the grade of the adjacent street frontage, except for porches, entryways, attached garages and accessory detached structures.~~

~~5. Maximum principal structure height: Forty five (45) feet.~~

~~6. Open space requirement: All lots used for residential purposes shall provide an attached exterior deck, porch, patio or balcony for each dwelling unit, except where a designated open space equal to ten (10) percent or more of the lot area is located on site and maintained as open space, then the number of exterior decks, porches, patios or balconies may be reduced by up to fifty (50) percent. The designated open space, if provided, shall have a minimum width and length of at least fifteen (15) feet, a slope of no greater than ten (10) percent and shall be used exclusively as recreational open space i.e. it shall not be used for vehicular circulation, parking, etc.. All required decks, porches, patios or balconies shall meet the requirements of the Planning and Development Design Manual.~~

~~7. Minimum lot width: None.~~

8. ~~Minimum land area per dwelling: Seven hundred and twenty five (725) square feet.~~

R-6 Dimensional Requirements	
Minimum Lot Size	Residential Uses: 2,000 sf, except that in R-6A the min. residential lot size is four (4) acres.
	Long-term and extended care facilities: Ten thousand (10,000) square feet for the first nine (9) residents plus seven hundred fifty (750) square feet for each additional resident, up to a total of two (2) acres.
	Intermediate care facility: One (1) acre.
	School: Thirty thousand (30,000) square feet.
	Places of assembly: Large, 15,000 sf; Medium, 10,000 sf; Small, 5,000 sf.
	Hospital: Two (2) acres
	All other uses: 2,000 sf
Min. Lot Area/Dwelling Unit	725 s.f.
Minimum Lot Area/Lodging House Rooming Unit	250 s.f
Minimum land area per intermediate care facility resident	250 s.f
Minimum land area per permitted hostel guest when maximum	250 s.f
Street Frontage	20 feet
Minimum Front Yard Setback for Principal and Accessory Structures	5 ft, or no more than average depths of adjacent front yards.
Minimum Rear Yard Setback for Principal and Accessory Structures	10 feet, except that accessory structures with a ground coverage of one hundred and forty-four (144) square feet or less: Five (5) feet.
	All setbacks for swimming pools shall be as provided for in section 14-432, Swimming pools, of this article.
Minimum Side Yard Setback for Principal and Accessory Structures	5 ft, except that a side yard in the R-6 zone may be reduced to zero, provided that the cumulative side yard setbacks are not less than 10 ft. A permanent maintenance easement a minimum of 5 ft. in width shall be provided on the parcel adjacent to the lot line with the reduced side setback.
	Side yards in R-6A shall be 10 ft. for principal structures up to 45 ft. in height and 15 ft. for principal structures greater than 45 ft. in height.
Side Yard on Side Street	None
Structure Stepbacks	Portions of a structure above 35 ft shall be no closer than 10 ft from the side property line and no closer than 15 feet from the rear property line when such property line abuts a residential zone. <i>Does not apply to side yards on side streets.</i>
Maximum Lot Coverage	60%
Minimum Lot Width	20 feet
Maximum Height	Principal and attached accessory structure: 45 ft
	Detached accessory structure: 18 ft
	In R-6A the maximum principal and attached accessory structure height shall be 65 ft.
Landscaped Open Space	20%. This area shall not include parking areas or other impervious surfaces as defined in section 14-47.
Minimum gross floor area for bed and breakfasts	Two thousand (2,000) square feet of gross floor area for the first three (3) guest rooms and five hundred (500) square feet of floor area for each additional guest room.
Maximum floor area for places of Assembly	<i>On a collector or arterial road:</i>
	Large: Not limited
	Medium: 4,500 s.f.
	Small: 2,250 s.f.
	<i>Not on a collector or arterial road:</i>
	Large: 4,500 s.f.
	Medium: 2,250 s.f.
Maximum Garage Opening	Small: 1,125 s.f.
	Garage openings on front façades shall not exceed the greater of nine (9) feet or forty (40) percent of the front façade, and in no case shall a garage opening on a front façade exceed 20 feet.

(b) Townhouse Subdivisions

Subdivisions consisting of horizontally attached dwellings on individual lots are not required to have side yards between such dwellings where a party wall condition will exist. Horizontally attached dwellings located within a single lot shall be required to meet the applicable side yard requirements at the external lot boundaries of the subdivision and internal lot boundaries between such dwellings that are not attached to each other. No minimum lot size, width shall be required for individual lots underlying townhouse (horizontally attached) dwelling types. The applicable minimum lot area per dwelling shall apply to each lot.

E.(c) Alterations to Single-family, two-family, and multi-family dwellings in existence as of (date of enactment) shall not result in the creation of any additional dwelling unit of less than six hundred (600) square feet of floor area, exclusive of common hallways and storage in basement and attic; and Shall not result in any existing dwelling unit being reduced in size to less than one thousand (1,000) square feet of floor area, exclusive of common areas and storage in basement and attic.

Sec. 14-140. Other requirements.

(a) *Off-street parking:* Off-street parking is required as provided in division 20 (off-street parking) of this article, except that required parking for residential building additions shall be located on the same lot.

~~For small, vacant lots which meet, and are developed under, the dimensional standards of 14-139(2) above, the following off-street parking requirements shall apply:~~

- ~~1. One (1) parking space per dwelling unit is required and shall be located on the same lot; and~~
- ~~2. The technical and Design Standards for driveway design for one and two-family buildings (Section II, Traffic Design Standards and Guidelines) shall apply to projects with up to four units and with no more than four parking spaces;~~

(b) *Storage of vehicles:* Only one (1) unregistered motor vehicle may be stored outside on the premises for a period not exceeding thirty (30) days.

(c) *Shoreland and flood plain management regulations:* Any lot or portion of a lot located in a shoreland zone as identified on the city shoreland zoning map or in a flood hazard zone shall be subject to the requirements of division 26 and/or division 26.5.

~~(d) Small residential lot development shall conform to the Site Plan standards of §14-526.~~

...

Sec. 14-332. Uses requiring off-street parking.

Except as provided in Section 14-332.1, 14-332.2 (exceptions) and 14-345 (fee in-lieu of parking) of this division, for the uses listed below the following minimum off-street parking requirements shall be provided and maintained in the case of new construction, alterations which increase the number of units, and changes of use:

(a) *Residential structures:*

1. For new construction, two, (2) parking spaces for each dwelling unit, ~~plus one (1) additional parking space for every six (6) units or fraction thereof.~~
2. For alterations or changes of use in existing structures, which create new or additional dwelling units in such structures, and for accessory units pursuant to §§14-68,78,88, one (1) additional parking spaces for each such unit. Existing parking spaces shall not be used to meet the parking requirements of this paragraph, unless the existing parking spaces exceed one (1) space for each dwelling unit.

~~3. For residential development on the peninsula (southerly of I-295) and in R-6 and R-6A zones:~~

~~a. One (1) space per unit;~~

~~b. The required parking for multi-unit residential buildings may be partially met through provision of shared-use vehicles, which are vehicles owned and maintained by the owner/manager of the building and available for use on a fee basis to the residents of the building. One shared-use vehicle shall be deemed to satisfy eight (8) required car spaces, but in no case shall more than 50% of the parking requirement be satisfied by shared vehicle use; and~~

~~c. The planning board may establish a parking requirement that is less than the normally required number of spaces upon a finding of unique conditions that result in a lesser parking demand, such as housing for persons who cannot drive, housing that participates in a travel demand management program, availability of transit, or housing which includes permanent restrictions on automobile usage, and which is permanently restricted from utilizing resident on-street parking stickers.~~

43. For residential development in the B-2, B-2b, B-2c zones:

a. One (1) parking space per dwelling unit.

(b) *Motel*: One (1) parking space for each sleeping room.

(c) *Hotels*: One (1) parking space for each four (4) guest rooms.

...

Sec. 14-332.1. Zone specific off-street parking exceptions and modifications.

The off-street parking requirements established for uses, established above in section 14-332 of this division, are hereby modified for the following zones ~~a~~ according to the provisions described below.

...

(k) R-6 and R-6A zones: residential development, including new construction, alterations increase the number of units, and changes of use on the peninsula (southerly of I-295 and Tukey's Bridge).

1. Except as provided below, there shall be one (1) space per unit
2. The required parking for multi-unit residential buildings may be partially met through provision of shared-use vehicles, which are vehicles owned and maintained by the owner/manager of the building and available for use on a fee basis to the residents of the building. One shared use vehicle shall be deemed to satisfy eight (8) required car spaces, but in no case shall more than 50% of the parking requirement be satisfied by shared vehicle use.
3. The planning board may establish a parking requirement that is less than the normally required number of spaces upon a finding of unique conditions that result in a lesser parking demand, such as housing for persons who cannot drive, housing that participates in a travel demand management program, availability of transit, or housing which includes permanent restrictions on automobile usage, and which is permanently restricted from utilizing resident on-street parking stickers.
- 4.4. No parking shall be required for the first three units in the R-6 Residential Zone.
5. For alterations of buildings containing three or more dwelling units in the R-6 zone no

parking shall be required for the creation of one additional dwelling unit above existing conditions as of [effective date of this amendment]. This exemption may be utilized one time.

...

Sec. 14-433. Lots of record and accessory structure setbacks for existing buildings.

(a) Lots of Record.

Lots of record that meet the minimum standards provided below shall be considered buildable lots.

1. Any lot~~Lots~~ of record as of June 5, 1957, may be considered a buildable lot in any residential zone provided the applicable yard dimensions can be met; and held under separate and distinct ownership from adjacent lots and provided that a minimum having a street frontage of forty (40) feet can be met, or to which a means of access has been previously approved by the city council as provided elsewhere in this article; ~~, may be considered a buildable lot in any residential zone except as provided below for island residential zones, and provided such lots have~~ with a minimum lot size of five thousand (5,000) square feet, ~~except that a lot in the R-6 zone may have a minimum lot size of three thousand (3,000) square feet, or the applicable minimum lot size and frontage in that zone, whichever is less provided that the applicable yard dimensions can be met.~~
2. A lot in the R-1, R-2, R-3, R-4, R-5, R-5A or R-6 zones that was described in a subdivision plat approved by the Planning Board after June 5, 1981, or a lot of record that conformed to the applicable lot size requirement, lot width and street frontage as of June 5, 1984, shall be considered a buildable lot, provided that the applicable yard dimensions can be met.

3. Any lot of record as of July 15, 1985, and held under separate and distinct ownership from adjacent lots and meeting the applicable street frontage requirements of that time may be considered a buildable lot in the IR-1 and IR-2 zones, provided that the applicable yard dimensions can be met and provided further that a lot in the IR-1 zone shall have a minimum area of ten thousand (10,000) square feet and a lot of the IR-2 zone shall have a minimum area of six thousand five hundred (6,500) square feet unless it is served by both public sewer and public water, in which case it shall have a minimum area of five thousand (5,000) square feet.
4. A lot in the IR-1, IR-2 and I-B zones that was described in a subdivision plat approved by the Planning Board after July 15, 1982, shall be considered a buildable lot, provided that the applicable yard dimensions can be met.
5. Contiguous lots of record under common ownership shall be deemed to be separate lots, provided that they either meet the minimum lot area and minimum frontage of the zone in which they are located, or the minimum applicable standards of 14-433 (a-d).

(b) Accessory Structures and Building Additions.

Where such a lot has a principal structure which existed as of July 19, 1988, an accessory structure or building addition may be located within the following side and rear yards, provided that the normal applicable yard requirements cannot be met ~~provided, however, that less restrictive zoning requirements which meet the requirements contained within 14-139(b) for residential small lot development shall apply:~~

a1. R-1, R-2:

Rear yard: Ten (10) feet.

Side yard: Five (5) feet.

b2. R-3, R-4, R-5, R-5A, R-6:

Rear yard: Five (5) feet.

Side yard: Five (5) feet.

(c) Conversion of Accessory Structures to Dwelling Units:

Any detached or accessory structure in the R-4 or R-6 zones, with a ground coverage exceeding two hundred fifty (250) square feet and which was in existence on January 1, 1940, may be converted to dwelling uses without meeting front, side or rear yard set-backs, provided there is no enlargement of any nonconforming portion of the existing building footprint and provided the conversion will conform to the minimum land area per dwelling unit.

Any such conversion in the R-3 zone or on a nonconforming lot in the R-5 zone shall be a conditional use subject to the requirements of section 14-88(a)2 for lots in the R-3 zone, or to the requirements of section 14-118(a)5 for nonconforming lots in the R-5 zone, and shall be in lieu of any additional dwelling units authorized under sections 14-88 or 14-118.

~~Any lot of record as of July 15, 1985, and held under separate and distinct ownership from adjacent lots and meeting the applicable street frontage requirements of that time may be considered a buildable lot in the IR-1 and IR-2 zones, provided that the applicable yard dimensions can be met and provided further that a lot in the IR-1 zone shall have a minimum area of ten thousand (10,000) square feet and a lot of the IR-2 zone shall have a minimum area of six thousand five hundred (6,500) square feet unless it is served by both public sewer and public water, in which case it shall have a minimum area of five thousand (5,000) square feet.~~

~~A lot in the IR-1, IR-2 and I-B zones that was described in a subdivision plat approved by the Planning Board after July 15, 1982, shall be considered a buildable lot, provided that the applicable yard dimensions can be met.~~

...

Sec. 14-526. Site plan standards.

Requirements for approval. The Planning Board or Planning Authority shall not approve a site plan application unless the development proposal meets the following criteria:

...

9. *Zoning Related Design Standards:*

- a. Development of certain types and/or proposed in certain zones, as specified below, are subject to design standards in addition to the provisions of Section 14-526 (a) in order to ensure designs that contribute to and enhance the goals and policies for specific districts of the City. The City of Portland Design Standards is listed in the City of Portland Design Manual, which is included by reference. If the development is located in a historic district or associated with a historic landmark, City of Portland Historic Preservation standards shall supersede:

...

(vi) Residential Development in the following districts:

- (a) Planned Residential Unit Developments (PRUDS) in the R3, R5 and R5a residential zones;
- (b) Multiple family and multiplex developments in the R5 zone;
- (c) Small residential lot development of single family homes in the R5 zone;
- (d) ~~Multiple family and multiplex~~All residential development in the R6 zone ~~on lots of 10,000 square feet or less.~~

MEMORANDUM
City Council Agenda Item

TO: City Council

FROM: Alex Jaegerman, Planning Division Director

DATE: March 25, 2015

DISTRIBUTION: City Manager, Mayor, Sonia Bean, Danielle West-Chuhta,
Nancy English, Julie Sullivan

SUBJECT: R-6 Residential Zone Text Amendments

SPONSOR: Stuart O'Brien, Chair, Planning Board

COUNCIL MEETING DATE ACTION IS REQUESTED:

1st reading__April 6th **Final Action**__April 22nd__

Can action be taken at a later date: ☒ **Yes** ☐ **No (If no why not?)**

PRESENTATION: Planning Board Chair Stuart O'Brien will make a five minute presentation.

I. SUMMARY OF ISSUE (Agenda Description)

The Planning Board recommends text amendments to the R-6 Residential zone. These include changes to the existing dimensional standards, parking standards, clarifying language linking the R-6 standards to the Design Manual for review of residential projects; standards regarding lots of record, and elimination of the small residential lot development provision. Changes also include a conversion of the dimensional requirements from a descriptive listing to a table format, shortening and simplifying the overall text of the ordinance.

II. REASON FOR SUBMISSION (Summary of Issue/Background)

As the dominant on-peninsula residential zone, R-6 encompasses all or portions of Munjoy Hill, Parkside, the West End, East Bayside, Bayside, and Libbytown. These neighborhoods, varied though they are, embody successful pre-war development patterns – patterns that are not mirrored in the current dimensional requirements of the R-6 zone. Though the pattern of the peninsula's built environment is largely established, incremental changes to that pattern are ongoing, and the parameters of current zoning affect urban character today and into the future. Current zoning renders the vast majority of parcels in the R-6 zone non-conforming. These changes bring Portland's zoning closer into alignment with desirable patterns of development than is currently the case, as well as offering greater flexibility to existing and future property owners.

III. INTENDED RESULT

The objectives of these changes are to allow for a pattern of development that provides for greater housing opportunities, enables infill development on small parcels, and to have standards in place that make it possible for new construction to be consistent with the historic pattern of development on the peninsula.

IV. COUNCIL GOAL ADDRESSED

These amendments are consistent with the City Council Common Goals and Objectives for 2014, which calls for the zoning ordinance to allow for greater housing opportunities: *Promote Housing Availability: Provide increased availability in all segments of the housing market while insuring that there is suitable balance of housing opportunities among those sectors.* A specific housing objective states: *Complete draft rewrites of the R-6, R-7 and B-2 portions of the zoning ordinance to allow for greater housing opportunities and present to Planning Board and Housing and Community Development Committee for review and recommendations to City Council.*

V. FINANCIAL IMPACT

There are no known municipal financial impacts associated with this amendment.

VI. STAFF ANALYSIS

The review found the proposed text amendments consistent with the Comprehensive Plan.

VII. RECOMMENDATION

On March 10, 2015, the Planning Board voted unanimously, 6-0 (Dundon absent) to recommend the proposed R-6 zoning and related amendments to the Land Use Code to the City Council, incorporating parking option 1 (first three spaces exempt) and option 4 (one additional space exempt), finding them consistent with the Comprehensive Plan and recommending adoption of the proposed amendment.

VIII. LIST ATTACHMENTS

1. Planning Board Report to City Council

Prepared by: Christine Grimando

Date: March 25, 2015



CITY COUNCIL REPORT from PLANNING BOARD PORTLAND, MAINE

REVISIONS TO R-6 RESIDENTIAL ZONING TEXT CITY OF PORTLAND, APPLICANT

Submitted to: Portland City Council First Reading: April 6, 2015 Second Reading: April 22, 2015	Prepared by: Portland Planning Board Date: March 25, 2015
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I. INTRODUCTION

On March 10, 2014, the Planning Board voted unanimously (6-0, Dundan absent) to recommend text amendments to the R-6 zone to the City Council. These changes are primarily concerned with the dimensional requirements of the zone and parking standards. The provision for *small residential lot development*, enacted in 2005, is also proposed for elimination. Changes are also proposed to clarify standards for lots of record. Finally, an important aspect of the changes is to convert the dimensional requirements from a descriptive listing to a table format, shortening and simplifying the overall text of the ordinance. The Planning Board held three workshops on this topic in addition to the Public Hearing, on October 28th, November 25th, and January 20th.

Legal notice for the April 22nd City Council hearing will be posted in the *Portland Press Herald* on April 6th and April 13th. Notices will be sent to the interested citizen list and posted on the city's web page.

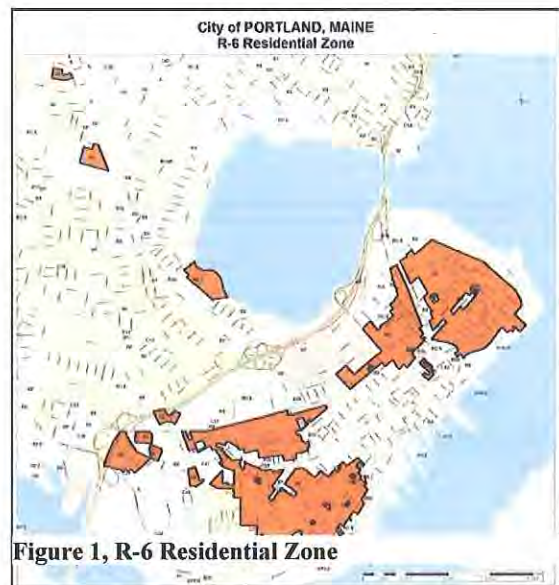


Figure 1, R-6 Residential Zone

II. BACKGROUND

The objective of these changes is provide for greater housing opportunities while enabling infill development on small parcels and greater flexibility for alterations of existing properties, and to have standards in place that make it possible for new construction to be consistent with the historic pattern of development on the peninsula.

In Spring of 2014 the Planning Department proposed an area of East Bayside be rezoned from R-6 to R-7, in response to repeated feedback that R-6 was not conducive to many new construction proposals. Staff at the time

felt R-7 could be more widely implemented in certain areas to preempt some applications for zone changes. Staff also discussed the fact that they were also looking into changes to the R-6 zone to make it a more viable zone to work within. Ultimately the Planning Board endorsed a more circumscribed area of R-7 in association with that particular application. Feedback at that same meeting urged amending the R-6 *before* applying the R-7 with a broad brush. That feedback also contributed to the changes currently being reviewed. The R-6 zone as proposed allows greater flexibility and higher density than the existing zoning, but is still substantially more restrictive than the R-7 zone in terms of frontage, density, lot coverage (0 frontage requirement, 435 square feet of land area/dwelling unit, and 100% in the R-7 zone). As the dominant on-peninsula residential zone, R-6 encompasses all or portions of Munjoy Hill, Parkside, the West End, and East Bayside, Bayside, and Libbytown. These neighborhoods, varied though they are, embody successful pre-war development patterns – patterns that are not mirrored in the current dimensional requirements of the R-6 zone. Though the pattern of the peninsula's built environment is largely established, incremental changes to that pattern are ongoing, and the parameters of current zoning affect urban character today and into the future. These changes bring Portland's zoning closer into alignment with desirable patterns of development than is currently the case, as well as offering greater flexibility to existing and future property owners. As an example of the disparity between development patterns and current dimensional requirements, the current minimum lot size of 4,500 square feet renders 71% of existing parcels non-conforming. Similarly, the current minimum front setback of ten feet does not reflect the predominant pattern of Portland's residential neighborhoods, and if met or exceeded would produce a place of a significantly different urban character from the historic and much loved pattern there today. A minimum lot size of 2,000 square feet results in 14% of existing R-6 lots being non-conforming in the category of minimum lot size (see Figures 2 & 3).

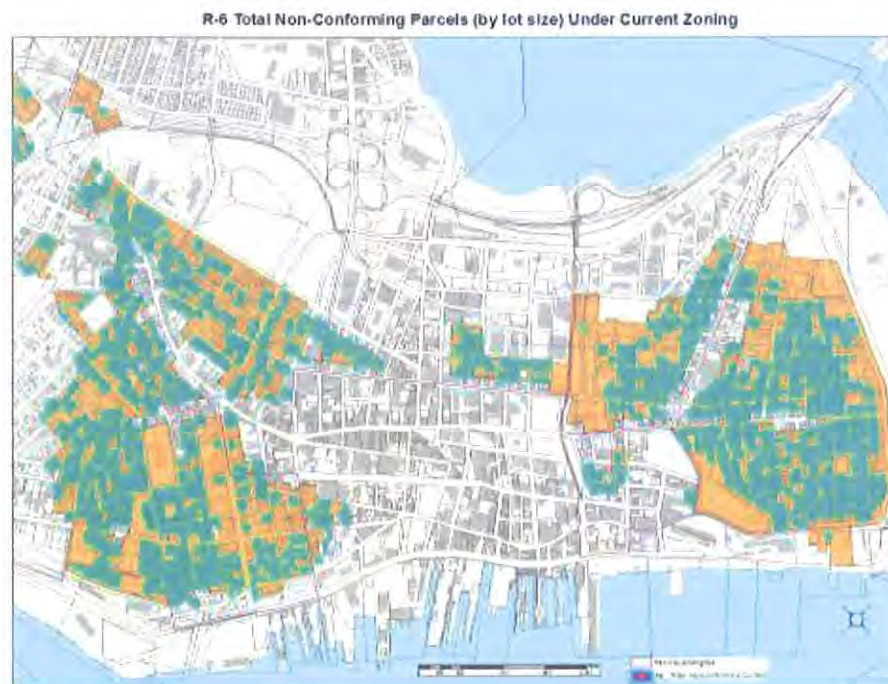


Figure 2, Existing Non-Conforming Lots Under Current Zoning

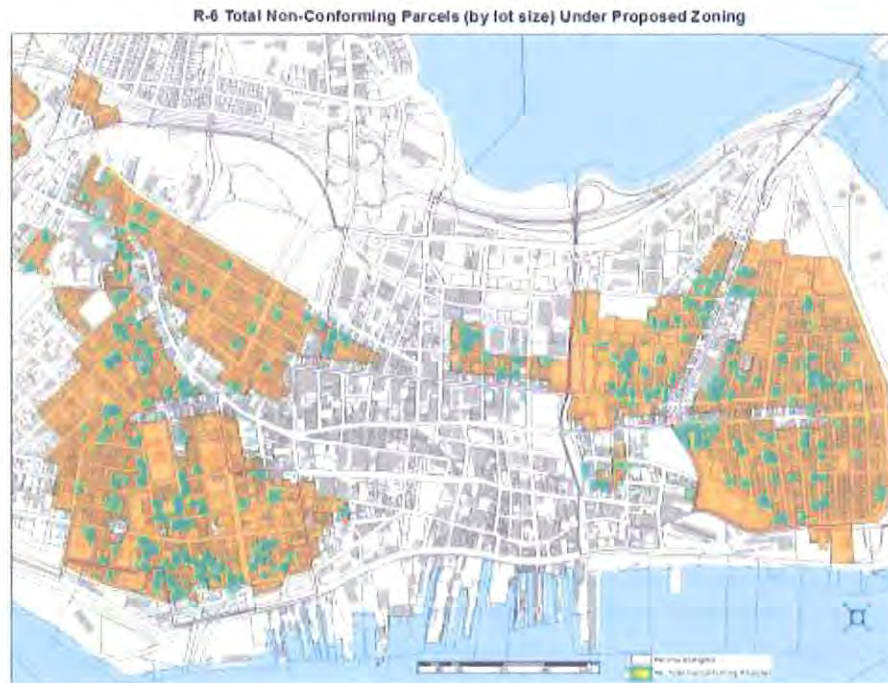


Figure 3, Non-Conforming Lots Under Proposed Zoning

III. Comprehensive Plan Policies

Numerous recommendations in Housing: Sustaining Portland's Future, support these text changes. Policy 1 indicates zoning should encourage all types of high quality and compatible housing to enhance neighborhoods, encourages high density, small lot infill, and allowing for a range of housing types. Policy 3 (*Maintain and enhance the livability of Portland's neighborhoods as the city grows and evolves through careful land use regulation, design and public participation that respects neighborhood integrity*) recommends updating codes to encourage new residential development that: *Offer diverse and quality living options; Encourages traditional neighborhood elements, Promotes a walkable city; Are Compatible with Portland's existing neighborhoods*. It also recommends ensuring the integrity and economic value of Portland's neighborhoods, working to find productive uses for vacant and underutilized lots, and increasing density where appropriate to achieve neighborhood diversity.

IV. City Council Goals.

These amendments are consistent with the City Council Common Goals and Objectives for 2014, which calls for zoning ordinance to allow for greater housing opportunities. A specific housing objective states: *Complete draft rewrites of the R-6, R-7 and B-2 portions of the zoning ordinance to allow for greater housing opportunities and present to Planning Board and Housing and Community Development Committee for review and recommendations to City Council.*

V. Proposed Text Amendments

Table 1, Existing and Proposed Dimensional Requirements

R-6 Dimensional Requirements		
	<i>Existing</i>	<i>Proposed</i>
Minimum Lot Size	Residential Uses: 4,500 sf	Residential Uses: 2,000 sf, except that in R-6A the min. residential lot size is four (4) acres.
	Long-term and extended care facilities: Ten thousand (10,000) square feet for the first nine (9) residents plus seven hundred fifty (750) square feet for each additional resident, up to a total of two (2) acres.	Long-term and extended care facilities: Ten thousand (10,000) square feet for the first nine (9) residents plus seven hundred fifty (750) square feet for each additional resident, up to a total of two (2) acres.
	Intermediate care facility: One (1) acre.	Intermediate care facility: One (1) acre.
	School: Thirty thousand (30,000) square feet.	School: Thirty thousand (30,000) square feet.
	Places of assembly: Large, 30,000 sf; Medium, 15,000 sf; Small, 7,500 sf.	Places of assembly: Large, 15,000 sf; Medium, 10,000 sf; Small, 5,000 sf.
	Municipal Use: 4,500 sf	Municipal Use: 2,000 sf
	Hospital: Two (2) acres	Hospital: Two (2) acres
	Lodging house: Four thousand five hundred (4,500) sf	Lodging house: Four thousand five hundred 2,000 sf
	All other uses: Forty-five hundred (4,500) square feet.	All other uses: 2,000 sf
Min. Lot Area/Dwelling Unit	<i>Minimum land area per dwelling unit:</i> One thousand (1,000) square feet per dwelling unit; and in the case of building additions and new construction, one thousand two hundred (1,200) square feet for each dwelling unit after the first three (3) units. This requirement may be reduced by up to twenty (20) percent for a special needs independent living unit.	725 s.f.
Minimum Lot Area/Lodging House Rooming Unit	250 s.f	250 s.f
Minimum land area per intermediate care facility resident	Eight thousand (8,000) square feet for the first thirty-five (35) residents, plus three hundred fifty (350) square feet for each additional resident.	250 s.f
Minimum land area per permitted hostel guest when maximum permitted guests is greater than 10	None	250 s.f
Street Frontage	40 feet	20 feet

Minimum Front Yard Setback for Principal and Accessory Structures	Principal or accessory structures: Ten (10) feet. A front yard need not exceed the average depth of front yards on either side of the lot. A lot of record existing as of June 5, 1957, and less than one hundred (100) feet deep need not be deeper than twenty (20) percent of the depth of the lot.	5 ft, or no more than average depths of adjacent front yards.
Minimum Rear Yard Setback for Principal and Accessory Structures	i. Principal and attached accessory structures with ground coverage greater than one hundred (100) square feet: Twenty (20) feet.	10 feet, except that accessory structures with a ground coverage of one hundred and forty-four (144) square feet or less: Five (5) feet.
	ii. Detached accessory structures with a ground coverage of one hundred and forty-four (144) square feet or less: Five (5) feet.	
	iii. Setbacks for swimming pools shall be as provided for in section 14-432 (swimming pools) of this article.	All setbacks for swimming pools shall be as provided for in section 14-432, Swimming pools, of this article.
Minimum Side Yard Setback for Principal and Accessory Structures	i. Principal and attached accessory structures with ground coverage greater than one hundred (100) square feet: Twenty (20) feet.	5 ft, except that a side yard in the R-6 zone may be reduced to zero, provided that the cumulative side yard setbacks are not less than 10 ft. A permanent maintenance easement a minimum of 5 ft. in width shall be provided on the parcel adjacent to the lot line with the reduced side setback. Side yards in R-6A shall be 10 ft. for principal structures up to 45 ft. in height and 15 ft. for principal structures greater than 45 ft.in height.
	ii. Detached accessory structures with a ground coverage of one hundred and forty-four (144) square feet or less: Five (5) feet.	
	iii. Setbacks for swimming pools shall be as provided for in section 14-432 (swimming pools) of this article.	
	i. Principal and attached accessory structures with ground coverage greater than one hundred (100) square feet:	
	<i>Height of Structure Required Side Yard</i>	
	1 story 10 feet	
	2 stories 10 feet	
	3 stories 10 feet	
	4 stories 12 feet	
	5 stories 15 feet	

	The width of one (1) side yard may be reduced one (1) foot for every foot that the other side yard is correspondingly increased, but no side yard shall be less than ten (10) feet. In the case of a lot of record existing as of June 5, 1957, and held under separate and distinct ownership from adjacent lots, the required side yard may be reduced in order to provide a buildable width of up to twenty-four (24) feet, but in no case shall the resulting side yards be less than ten (10) feet.	
	ii. Detached accessory structures with ground coverage of one hundred and forty-four(144) square feet or less: Five (5) feet.	
	iii. Setbacks for swimming pools shall be as provided for in section 14-432 (swimming pools) of this article.	
Side Yard on Side Street	10 feet	None
Structure Stepbacks		Portions of a structure above 35 ft shall be no closer than 10 ft from the side property line and no closer than 15 feet from the rear property line when such property line abuts a residential zone. <i>Does not apply to side yards on side streets.</i>
Maximum Lot Coverage	Forty (40) percent of lot area for lots which contain twenty (20) or more dwelling units; fifty (50) percent for lots which contain fewer than twenty (20) dwelling units.	60%
Minimum Lot Width	50 feet	20 feet
Maximum Height	Principal and attached accessory structure: Forty-five (45) feet.	Principal and attached accessory structure: 45 ft
	Accessory detached structure: Eighteen (18) feet.	Detached accessory structure: 18 ft
		In R-6A the maximum principal and attached accessory structure height shall be 65 ft.
Landscaped Open Space	<i>Uses other than bed and breakfast.</i> Twenty (20) percent for those lots which contain fewer than twenty (20) dwelling units; thirty (30) percent for those lots which contain twenty (20) or more dwelling units. This area shall not include parking areas or other impervious surfaces as defined in section 14-47.	20%. This area shall not include parking areas or other impervious surfaces as defined in section 14-47.

	<i>Bed and breakfasts.</i> A bed and breakfast that is located on a lot that has at least twenty (20) percent open space on the date of filing of the application for site plan shall not reduce the open space on the lot below 20% of the lot area. A bed and breakfast located on a lot that does not have at least 20% open space on the date of filing of the application for site plan review, and that is legally nonconforming as to the open space requirement of this section, shall not reduce the open space on the lot below the level in existence on the date of the application for site plan review. Open space areas shall not include parking areas or other impervious surface areas as defined in section 14-47.	
Minimum gross floor area for bed and breakfasts	Two thousand (2,000) square feet of gross floor area for the first three (3) guest rooms and five hundred (500) square feet of floor area for each additional guest room.	Two thousand (2,000) square feet of gross floor area for the first three (3) guest rooms and five hundred (500) square feet of floor area for each additional guest room.
Maximum floor area for places of Assembly	<i>On a collector or arterial road:</i>	<i>On a collector or arterial road:</i>
	Large: Not limited	Large: Not limited
	Medium: 4,500 sf	Medium: 4,500 s.f.
	Small: 2,250 sf	Small: 2,250 s.f.
	<i>Not on a collector or arterial road:</i>	<i>Not on a collector or arterial road:</i>
	Large: 4,500 sf	Large: 4,500 s.f.
	Medium: 2,250 sf	Medium: 2,250 s.f.
	Small: 1,125 sf	Small: 1,125 s.f.
Maximum Garage Opening		Garage openings on front façades shall not exceed the greater of nine (9) feet or forty (40) percent of the front façade, and in no case shall a garage opening on a front façade exceed 20 feet.

The changes are meant to simplify the ordinance, provide opportunities for additional housing construction, and allow for greater flexibility on lots. To that end the density standard, currently a variable 1,000 sf per dwelling unit for the first three units, and 1,200 sf per dwelling unit thereafter (36 units per acre) is being proposed to be changed to 725 sf per dwelling unit (60 units per acre). Table 2 illustrates the implications of the proposed change to the density

	Current R-6 Density (1000-1200 sf/du)	Proposed R-6 Density (725 sf/du)
2000 sf lot	2 units	2 units
3000 sf lot	3 units	4 units
4500 sf lot	4 units	6 units

Table 2

standard on three lot sizes. Minimum lot size is proposed to change from 4,500 sf to 2,000 sf, better matching the dense, small lot fabric of residential neighborhoods on the peninsula. Setbacks are reduced to also better match traditional building patterns, reducing the front setback from 10 feet to 5 feet. Side and rear setbacks are similarly reduced. The changes to lot coverage and setback standards have implications for existing as well as future homeowners and property developers, allowing small additions, decks, or accessory structures to be built where they currently are not allowed, allowing greater flexibility for existing properties, and also allowing for the possibility of existing neighborhood patterns to be replicated.

Other changes included in these amendments:

- A provision to allow townhouse style, horizontally attached dwelling units to occur through the elimination of the side setback (Sec. 14-139.b).
- The Small Residential Lot Development (current Sec. 14-139.2) will be eliminated. This standard is in place to allow for small, non-conforming lots to be developed, as the current minimum lot size renders so many small lots unbuildable. It is the goal of these changes to have a lot size sufficiently small as to eliminate the need for this provision.
- A maximum portion of the front façade that can be garage opening has been set to the lesser of 9 feet or 40 percent, with a maximum of 20 feet, so as not to have residential facades be disproportionately dominated by vehicle storage.

- Cumulative Side Setbacks. Five foot side setbacks are proposed for the R-6 zone. The dimensional standards proposed are made with the needs and viability of small lots in mind, so that they may accommodate both a building and a driveway. Existing residential patterns in the R-6 zone show a preponderance of houses hugging one property line, and a driveway along the other (Figure 1, a sketch to illustrate existing and proposed setbacks, shows this common existing non-conforming condition of a lot on Spring Street). To make this configuration a possibility in the future, the amendment includes the following side setback requirement: *5 ft, except that a side*



Figure 4

yard in the R-6 zone may be reduced to zero, provided that the cumulative side yard setbacks are not less than 10 ft. A permanent maintenance easement a minimum of 5 ft. in width shall be provided on the parcel adjacent to the lot line with the reduced side setback.

- Parking Standards. Included in these amendments are parking exemptions for the first three units as well as a one time exemption for one additional unit for existing buildings. Parking exemptions have always been included in this amendments, as a critical component of both offering the possibility of freeing a portion of land area for housing units that would otherwise be devoted to parking, and as a means to lower development costs, both issues working to increase the variety and quantity housing choices. This is not a proposal for a prohibition on providing off-street parking, and we expect that a majority of proposals for new residential development will continue to incorporate off-street parking. The proposal is made in the hope it grants some flexibility for small lots that might otherwise be challenged to have lot dimensions

provide for both a new structure and new parking spaces, both.

Lot Mergers/Lots of Record. Changes to the definition of Lot, as well as to 14-433, *Lots of Record and accessory structure setbacks for existing buildings* are attached. Organizational, structural changes to the section are included, in addition to substantive changes to the section. These changes maintain minimum standards for existing non-conforming lots, both for contiguous lots under common ownership and individual lots, while granting them relief from meeting all current dimensional standards.

Under current zoning, contiguous lots of record under common ownership are interpreted as a single tract of land. By changing the dimensional standards to include smaller lot sizes and reduced setbacks, many of these previously unbuildable small lots will return to the pool of buildable property. To account for the inability of many existing lots to meet all dimensional standards - a lot that contains an existing building that does not meet existing setbacks, for instance, would not qualify as meeting all dimensional requirements, and would still merge with an adjacent lot under common ownership – such contiguous lots are only required to meet minimum lot size and frontage requirements to maintain their separate, buildable status. The changes to 14-433 states that *Contiguous lots of record under common ownership shall be deemed to be separate lots, provided that they either meet the minimum lot area and minimum frontage of the zone in which they are located, or the minimum applicable standards of 14-433 (a-d)*. In the R-6 this would mean contiguous lots under common ownership would need to be a minimum of 2,000 square feet in lot size, and have a minimum street frontage of 20 feet. Maintaining a basic standard of a small minimum lot size and minimum street frontage allows for small, nonconforming lots of record to function as buildable lots, without disqualifying them for the other possible dimensional non-conformities that may exist, such as existing buildings at lot lines.

VI. Public Process

In addition to the several Planning Board workshops and Public Hearing, over the course of several months, staff met with each impacted neighborhood organization to discuss the proposed changes, on the following dates:

- June 11. West End Neighborhood Association
- June 16. Western Promenade Neighborhood Association
- July 7. St. John Valley Neighborhood Association
- July 14. Libbytown Neighborhood Association
- July 16. Parkside Neighborhood Association
- August 5. Bayside Neighborhood Association
- August 11. Munjoy Hill Neighborhood Association
- August 19. East Bayside Neighborhood Association

Planning staff also met with the Southern Maine Landlord Association, and numerous individuals who requested meetings on the topic.

The feedback received at the Neighborhood Association meetings, as well as at the Planning Board's workshops was lively and varied, and much of it was supportive. The overall goals of zoning standards that better align with historic and desired patterns of development, the need to allow for greater housing production, and greater flexibility for property owners on small lots were received well. Feedback on the details of the proposal was far from uniform or entirely positive, though, and there were several recurrent themes of concern and critique that emerged at the meetings and at the workshops:

- *That five foot minimum side setbacks combined with a 45 foot height limit will create light and air impacts for adjacent properties.* In response, the text amendments were changed to include stepbacks of an additional five feet beyond rear and side yard requirements for portions of building above 35 feet.
- *That allowing higher densities in residential zones will hasten a loss of larger housing units and families that occupy them, including the conversion of single family homes and multi-bedroom apartments to 1-bedrooms and efficiencies.* There is an existing zoning provision that speaks to this concern, placing size limits on the conversion of existing buildings into additional dwelling units. Sec. 14-136.2 requires that the creation of new multifamily dwellings originating from the alteration of an existing residential structure not result in the creation of any new dwelling unit of less than 600 square feet of floor area, and shall not result in any existing dwelling unit being reduced in size to less than one thousand (1,000) square feet of floor area. This does not prohibit division of existing units, but it does aid in the retention of a varied housing stock. In the proposed amendments this section is strengthened to apply to single family and duplex dwellings, as well.
- *That the proposed parking exemption for the first three units will have negative impacts on the livability of the impacted neighborhoods.* This has been the aspect of the changes that has received the most scrutiny and caused the most vocal concern. There has been criticism of this aspect of the changes, as well some enthusiastic and in some cases qualified support.
- *What is the relationship of these changes to affordable housing?* The question of the relationship of the proposed zoning changes to affordable housing has been asked at recent workshops. To clarify this point, these text amendments don't include affordability requirements. The R-6 proposal also does not limit the construction of housing that is not considered affordable, just as the current R-6 as it currently is written not do this. The City is considering various tools and strategies to address affordability for the entirety of Portland, including recently having a housing study completed (<http://www.portlandmaine.gov/AgendaCenter/ViewFile/Item/1369?fileID=5581>), and considering the development of an inclusionary zoning provision. Changing the requirements of the R-6 zone is one tool among many, and these changes do encourage affordability in allowing greater numbers of housing units to be created than is currently permitted, and by proposing to reduce parking requirements which impact affordability in both lowering total construction costs and in allowing more land to be dedicated to housing. By lowering the minimum lot size the possibility for small increments of development increases, and with it the potential for owner-occupied duplexes and triplexes. These changes support a diversity of housing choices, and with them the potential to add to the housing supply in a context that is consistent with the existing neighborhood patterns that would be impossible to replicate under the current zoning standards.
- *Have these changes been brought forward at the request of developers?* These amendments are not at the request of a private developer, and will benefit individual property owners, and small, non-professional property developers as much as developers of larger scale projects.
- *Lot sizes.* There has been feedback that there should be no minimum lot size and also that 2,000 sf is much too small of a minimum lot size. The Planning Board determined it is a size that will make the vast majority of lots developable, while still maintaining dimensional thresholds when paired with lot coverage, setback, and frontage requirements.
- *Concern with the impact on neighborhood character of garage doors as part of a front façade.* Feedback was received that all garage doors in front facades should be prohibited. A maximum percentage of the front façade that can be devoted to a garage door is proposed, so as to limit how much garage doors may

dominate a façade, while still allowing the possibility for this to occur.

- *Sumner Court Street Frontage and Lot Access.* There is currently no proposal before the City to develop any lots off of Sumner Court, but the issue was raised by concerned abutters as to whether there is any possibility further development could occur. Sumner Court, a private way, would not qualify for street frontage due to its status and width, however contiguous property owned by the same individual has street frontage on Cumberland Avenue. The three contiguous lots comprise approximately 15,000 sf. Please see Attachment 3 for a GIS map showing Sumner Court and the property in question. Planning Staff evaluated Sumner Court in light of the proposed amendments to the R-6 zone, and concluded that although none of the properties in question currently meet street frontage requirements, they also could not conclusively eliminate the possibility that some still unknown configuration of land could be brought forward and potentially be approved. The abutters of Sumner Court have requested consideration of a zoning amendment to require that the access to a lot be provided on the street frontage. There are situations where a driveway not being located on the frontage street is not problematic, and where such flexibility is desirable, such as corner lots, lots that have frontage on both front and rear boundaries, and lots with street frontage and alternative access rights to another street.

Associated with this issue is the neighbors' concern about the adequacy of driveway access, which is a site plan/subdivision issue. The physical adequacy (width, stability, condition, etc.) of a lane such as Sumner Court for access would be evaluated during the course of review. The access would need to meet Technical Manual standards, with advice from Fire Safety, our consulting traffic engineer, and staff from the Department of Public Services in reviewing any proposed access in a site plan or subdivision. More recent comments from abutters have suggested that an alternate amendment would require that any access that is not direct to a street frontage shall be required to meet all technical manual specifications with no chance for waivers.

The concerns over Sumner Court's development potential transcend the R-6 zoning amendments, and are circumstances that may occur City-wide. This item was discussed by the Planning Board, but no proposal was made to amend the ordinance to require that access be provided from the street where the street frontage is located, or to prohibit such a scenario from receiving waivers. If the Council wishes to consider changes that would not allow Sumner Court from being further developed in the future, Planning staff will be glad to these discuss alternatives and take the direction of the Council.

VII. PLANNING BOARD DELIBERATION AND RECOMMENDATION

The Planning Board deliberated the R-6 and associated amendments during three workshops and a public hearing, over a six month period, receiving public input and making adjustments and modifications to these changes throughout the process. The Board gave the issue of parking policy and exemptions particular attention, and reviewed a range of alternatives. At the public hearing a menu of four distinct parking choices and their implications was discussed, exempting from 1-3 spaces. Their final recommendation included a combination of the exemption of the first three required spaces, and a one time exemption of parking for the creation of one additional dwelling unit. The latter grants flexibility to existing development, and further enables small increments of infill development, consistent with the overall goals of amending the R-6 zone. The Board's final motion reflects these two option (numbered 1 and 4 at the March 10th Public Hearing).

On March 10, 2015, the Planning Board voted unanimously (6-0, Dundan absent) as follows: On the basis of information contained in this report, testimony presented at the public hearing, and a review of applicable policies, the Board finds:

The proposed R-6 and related zoning amendments are in conformance with the City of Portland Comprehensive

Plan and therefore recommends approval of the proposed zoning amendments to the City Council, including parking alternative 1 (exemptions of first three spaces) and 4 (exemption of one new space).

VIII. Attachments

1. Proposed Text Amendments to Portland Land Use Code, Div. 7, R-6 Residential Zone, 14-47, 14-332, 14-433.
2. Table of Existing and Proposed Dimensional requirements
3. Sumner Ct.

Public Comment

PC 1 Alexander
PC 2 Pringle
PC 3 McManamy
PC 4 Jack & Platte
PC 5 PHA
PC 6 Snyder
PC 7 Yarnold
PC 8 Davey
PC 9 Parsons
PC 10 Cowie
PC 11 Barowitz
PC 12 Burwell
PC 13 Barowitz
PC 14 Cowie
PC 15 Cowie
PC 16 Jack
PC17 WPNA

Amendments to Section 14-47. Definitions

~~Lot: Except when reference is made herein to a lot of record, a lot is a single tract of land located within a single block which at the time of filing for a building permit or certificate of occupancy is designated by its owner or developer as a tract to be used, developed, or built upon as a unit under single ownership or control. A parcel or area of land that is designated as an individual unit for use, development or ownership that is either a) a lot of record, recorded in the Cumberland County Registry of Deeds; or b) a contiguous combination of such lots of record under common ownership; or c) a newly established parcel meeting all the dimensional requirements of the zone in which it is located.~~

Amendments to Sections 14-135, 14-136, 14-139, 14-140

DIVISION 7. R-6 AND R-6A RESIDENTIAL ZONES*

Sec. 14-135. Purpose.

The purpose of the R-6 residential zone is:

(a) To set aside areas on the peninsula for housing characterized primarily by multifamily dwellings at a high density providing a wide range of housing for differing types of households; and to conserve the existing housing stock and residential character of neighborhoods by controlling the scale and external impacts of professional offices and other nonresidential uses.

(b) In cases of qualifying small, vacant, underutilized lots located in the urban residential and business zone, to encourage new housing development consistent with the compact lot development pattern typically found on the peninsula.

The purpose of the R-6A residential zone is:

(c) To encourage neighborhood livability with higher density multi-family housing on large parcels located off the peninsula. The zone is appropriate in areas that are along major public transportation routes, near service areas, and in redevelopment (underutilized) or infill areas.

Sec. 14-136. Permitted uses.

The following uses are permitted in the R-6 and R-6A residential zones:

(a) *Residential:*

1. Single- and two-family dwellings. No building reviewed as a two-family dwelling in accordance with section article V (site plan) of this chapter shall be altered to include any additional dwelling unit within five (5) years from the date of issuance of the building permit. Any building reviewed as a two-family dwelling in accordance with article V (site plan) of this chapter or not reviewed under article V, which is altered or enlarged to include any additional dwelling unit after this five-year period, shall be reviewed as a pursuant to article V of this chapter.
2. Multifamily dwellings, ~~provided that any alteration of a structure in residential use on December 2, 1987:~~
 - a. ~~Shall not result in the creation of any additional dwelling unit of less than six hundred (600) square feet of floor area, exclusive of common hallways and storage in basement and attic; and~~
 - b. ~~Shall not result in any existing dwelling unit being reduced in size to less than one thousand (1,000) square feet of floor area, exclusive of common areas and storage in basement and attic;~~

Sec. 14-139. Dimensional requirements.

- a. In addition to the provisions of division 25 (space and bulk regulations and exceptions) of this article, lots in the R-6 and R-6A zones shall meet or exceed the following minimum requirements:

March 25, 2015. R-6 and Associated Text Edits

R-6 Dimensional Requirements	
Minimum Lot Size	Residential Uses: 2,000 sf, except that in R-6A the min. residential lot size is four (4) acres.
	Long-term and extended care facilities: Ten thousand (10,000) square feet for the first nine (9) residents plus seven hundred fifty (750) square feet for each additional resident, up to a total of two (2) acres.
	Intermediate care facility: One (1) acre.
	School: Thirty thousand (30,000) square feet.
	Places of assembly: Large, 15,000 sf; Medium, 10,000 sf; Small, 5,000 sf.
	Hospital: Two (2) acres
	All other uses: 2,000 sf
Min. Lot Area/Dwelling Unit	725 s.f.
Minimum Lot Area/Lodging House Rooming Unit	250 s.f
Minimum land area per intermediate care facility resident	250 s.f
Minimum land area per permitted hostel guest when maximum	250 s.f
Street Frontage	20 feet
Minimum Front Yard Setback for Principal and Accessory Structures	5 ft, or no more than average depths of adjacent front yards.
Minimum Rear Yard Setback for Principal and Accessory Structures	10 feet, except that accessory structures with a ground coverage of one hundred and forty-four (144) square feet or less: Five (5) feet.
	All setbacks for swimming pools shall be as provided for in section 14-432, Swimming pools, of this article.
Minimum Side Yard Setback for Principal and Accessory Structures	5 ft, except that a side yard in the R-6 zone may be reduced to zero, provided that the cumulative side yard setbacks are not less than 10 ft. A permanent maintenance easement a minimum of 5 ft. in width shall be provided on the parcel adjacent to the lot line with the reduced side setback.
	Side yards in R-6A shall be 10 ft. for principal structures up to 45 ft. in height and 15 ft. for principal structures greater than 45 ft.in height.
Side Yard on Side Street	None
Structure Stepbacks	Portions of a structure above 35 ft shall be no closer than 10 ft from the side property line and no closer than 15 feet from the rear property line when such property line abuts a residential zone. <i>Does not apply to side yards on side streets.</i>
Maximum Lot Coverage	60%
Minimum Lot Width	20 feet
Maximum Height	Principal and attached accessory structure: 45 ft
	Detached accessory structure: 18 ft
	In R-6A the maximum principal and attached accessory structure height shall be 65 ft.
Landscaped Open Space	20%. This area shall not include parking areas or other impervious surfaces as defined in section 14-47.
Minimum gross floor area for bed and breakfasts	Two thousand (2,000) square feet of gross floor area for the first three (3) guest rooms and five hundred (500) square feet of floor area for each additional guest room.
Maximum floor area for places of Assembly	<i>On a collector or arterial road:</i>
	Large: Not limited
	Medium: 4,500 s.f.
	Small: 2,250 s.f.
	<i>Not on a collector or arterial road:</i>
	Large: 4,500 s.f.
	Medium: 2,250 s.f.
	Small: 1,125 s.f.
Maximum Garage Opening	Garage openings on front façades shall not exceed the greater of nine (9) feet or forty (40) percent of the front façade, and in no case shall a garage opening on a front façade exceed 20 feet.

b. Townhouse Subdivisions

Subdivisions consisting of horizontally attached dwellings on individual lots are not required to have side yards between such dwellings where a party wall condition will exist. Horizontally attached dwellings located within a single lot shall be required to meet the applicable side yard requirements at the external lot boundaries of the subdivision and internal lot boundaries between such dwellings that are not attached to each other. No minimum lot size; width shall be required for individual lots underlying townhouse (horizontally attached) dwelling types. The applicable minimum lot area per dwelling shall apply to each lot.

C. Alterations to Single-family, two-family, and multi-family dwellings in existence as of (date of enactment) shall not result in the creation of any additional dwelling unit of less than six hundred (600) square feet of floor area, exclusive of common hallways and storage in basement and attic; and Shall not result in any existing dwelling unit being reduced in size to less than one thousand (1,000) square feet of floor area, exclusive of common areas and storage in basement and attic.

~~(a) — Minimum lot size:~~

- ~~1. — Residential: Forty five hundred (4,500) square feet, except as provided for lots of record in section 14-433 (lots of record and accessory structure setbacks for existing buildings) of this article.~~
- ~~2. — Reserved.~~
- ~~3. — Long term and extended care facilities: Ten thousand (10,000) square feet for the first nine (9) residents plus seven hundred fifty (750) square feet for each additional resident, up to a total of two (2) acres.~~
- ~~4. — Intermediate care facility: One (1) acre.~~
- ~~5. — School: Thirty thousand (30,000) square feet.~~
- ~~6. — Places of assembly;~~

Large	30,000-sq. ft.
Medium	15,000-sq. ft.
Small	7,500-sq. ft.

- ~~7. — Municipal use: Forty five hundred (4,500) square feet.~~
- ~~8. — Hospital: Two (2) acres.~~

9. ~~— All other uses: Forty-five hundred (4,500) square feet.~~
10. ~~— Lodging house: Four thousand five hundred (4,500) square feet.~~
- (b) ~~— 1. *Minimum area per dwelling unit:* One thousand (1,000) square feet per dwelling unit; and in the case of building additions and new construction, one thousand two hundred (1,200) square feet for each dwelling unit after the first three (3) units. This requirement may be reduced by up to twenty (20) percent for a special needs independent living unit.~~
- ~~2. *Minimum rooming unit areas for lodging houses:* Two hundred (200) square feet of combined rooming unit and common area for each rooming unit. Each individual rooming unit shall be a minimum of eighty (80) square feet.~~
- ~~3. *Minimum land area per lodging house rooming unit:* Two hundred fifty (250) square feet.~~
- ~~4. *Minimum land area per intermediate care facility resident:* Eight thousand (8,000) square feet for the first thirty-five (35) residents, plus three hundred fifty (350) square feet for each additional resident.~~
- (c) ~~— *Minimum street frontage:* Forty (40) feet.~~
- (d) ~~— *Minimum yard dimensions:* (Yard dimensions include setbacks of structures from property lines and setbacks of structures from one another. No structure shall occupy the minimum yard of another structure.)~~
- ~~1. *Front yard:*~~
 - ~~Principal or accessory structures: Ten (10) feet.~~
 - ~~A front yard need not exceed the average depth of front yards on either side of the lot. A lot of record existing as of June 5, 1957, and less than one hundred (100) feet deep need not be deeper than twenty (20) percent of the depth of the lot.~~
- ~~2. *Rear yard:*~~
 - ~~a. *Principal and attached accessory structures with ground coverage greater than one hundred (100) square feet:* Twenty (20) feet.~~

b. ~~Detached accessory structures with a ground coverage of one hundred and forty-four (144) square feet or less: Five (5) feet.~~

e. ~~Setbacks for swimming pools shall be as provided for in section 14-432 (swimming pools) of this article.~~

3. ~~Side yard:~~

a. ~~Principal and attached accessory structures with ground coverage greater than one hundred (100) square feet:~~

~~Height of Structure—Required Side Yard~~

~~1-story 10 feet~~

~~2-stories 10 feet~~

~~3-stories 10 feet~~

~~4-stories 12 feet~~

~~5-stories 15 feet~~

~~The width of one (1) side yard may be reduced one (1) foot for every foot that the other side yard is correspondingly increased, but no side yard shall be less than ten (10) feet. In the case of a lot of record existing as of June 5, 1957, and held under separate and distinct ownership from adjacent lots, the required side yard may be reduced in order to provide a buildable width of up to twenty-four (24) feet, but in no case shall the resulting side yards be less than ten (10) feet.~~

b. ~~Detached accessory structures with ground coverage of one hundred and forty-four (144) square feet or less: Five (5) feet.~~

e. ~~Setbacks for swimming pools shall be as provided for in section 14-432 (swimming pools) of this article.~~

4. ~~Side yard on side streets:~~

a. ~~Principal or accessory structures: Ten (10) feet.~~

(e) ~~Maximum lot coverage: Forty (40) percent of lot area for lots which contain twenty (20) or more dwelling units; fifty (50) percent for lots which contain fewer than twenty (20) dwelling units.~~

~~(f) — Minimum lot width: Fifty (50) feet.~~

~~(g) — Maximum structure height:~~

~~Principal and attached accessory structure: Forty-five (45) feet.~~

~~Accessory detached structure: Eighteen (18) feet.~~

~~(h) — Open space ratio:~~

~~1. — Uses other than bed and breakfast. Twenty (20) percent for those lots which contain fewer than twenty (20) dwelling units; thirty (30) percent for those lots which contain twenty (20) or more dwelling units. This area shall not include parking areas or other impervious surfaces as defined in section 14-47.~~

~~2. — Bed and breakfasts. A bed and breakfast that is located on a lot that has at least twenty (20) percent open space on the date of filing of the application for Site Plan shall not reduce the open space on the lot below twenty (20) percent of the lot area. A bed and breakfast located on a lot that does not have at least twenty (20) percent open space on the date of filing of the application for Site Plan review, and that is legally nonconforming as to the open space requirement of this section, shall not reduce the open space on the lot below the level in existence on the date of the application for Site Plan review. Open space areas shall not include parking areas or other impervious surface areas as defined in section 14-47.~~

~~(i) — A below-grade dwelling unit shall be permitted only if the primary access for the dwelling unit is provided directly to the outside of the building.~~

~~(j) — Minimum gross floor area for bed and breakfasts: Two thousand (2,000) square feet of gross floor area for the first three (3) guest rooms and five hundred (500) square feet of floor area for each additional guest room.~~

~~(k) — Maximum floor area for places of assembly on a collector or arterial road:~~

Large	Not limited
Medium	4,500 sq. ft.
Small	2,250 sq. ft.

~~(1) — Maximum floor area for places of assembly not on a collector or arterial road:~~

Large	4,500 sq. ft.
Medium	2,250 sq. ft.
Small	1,125 sq. ft.

~~(2) — Small residential lot development: Residential uses on small, vacant lots located in the R-6 are subject to Site Plan review and may use the dimensional requirements below if all of the following conditions are met:~~

~~———— The lot is:~~

~~Vacant or is used exclusively for parking or contains structure not used for residential purposes as of January 1, 2005; and the lot existed as of January 1, 2005.~~

~~———— (a) — Minimum lot size: None~~

~~———— (b) — Maximum lot size: Ten thousand (10,000) square feet.~~

~~———— (c) — Yard dimensions:~~

~~———— 1. — Front yard:~~

~~———— No more than ten (10) feet.~~

~~———— 2. — Rear yard:~~

~~None, except that rear yards between two (2) buildings on the same or different lots shall maintain a minimum ten (10) foot setback between buildings or the sum of the heights of the abutting buildings and proposed buildings divided by five (5), whichever is greater; and that either the rear yard or one of the side yards shall be at least fifteen (15) feet; provided, however, detached accessory structures with a ground floor area of one hundred (100) square feet or less need not have a setback more than five (5) feet from the property line. Notwithstanding the foregoing, no structure shall be closer than four (4) feet to side property line.~~

~~———— 3. — Side yard:~~

~~None, except that side yards between two (2) buildings on the same or different lots shall maintain a minimum ten (10) foot setback between buildings or the sum of the heights of the existing buildings and proposed buildings divided by five (5), whichever is greater and that either the rear yard or one of the side yards shall be at least fifteen (15) feet; Provided, however, detached accessory structures with a ground floor area of one hundred (100) square feet or less need not have a setback more than five (5) feet from the property line. Notwithstanding the foregoing, no structure shall be closer than four (4) feet to side property line. On a corner lot no side yard is required on that side of the lot which abuts any street. A principal structure on a corner lot shall not be more than ten (10) feet from the street.~~

~~(d) Minimum principal structure height: Two (2) stories of living space above the grade of the adjacent street frontage, except for porches, entryways, attached garages and accessory detached structures.~~

~~(e) Maximum principal structure height: Forty five (45) feet.~~

~~(f) Open space requirement: All lots used for residential purposes shall provide an attached exterior deck, porch, patio or balcony for each dwelling unit, except where a designated open space equal to ten (10) percent or more of the lot area is located on site and maintained as open space, then the number of exterior decks, porches, patios or balconies may be reduced by up to fifty (50) percent. The designated open space, if provided, shall have a minimum width and length of at least fifteen (15) feet, a slope of no greater than ten (10) percent and shall be used exclusively as recreational open space i.e. it shall not be used for vehicular circulation, parking, etc.. All required decks, porches, patios or balconies shall meet the requirements of the Planning and Development Design Manual.~~

~~(g) Minimum lot width: None.~~

~~(h) Minimum land area per dwelling: Seven hundred and twenty five (725) square feet.~~

Sec. 14-140. Other requirements.

(a) *Off-street parking:* Off-street parking is required as provided in division 20 (off-street parking) of this article, except that required parking for residential building additions shall be located on the same lot.

~~For small, vacant lots which meet, and are developed under, the dimensional standards of 14-139(2) above, the following off-street parking requirements shall apply:~~

- ~~1. One (1) parking space per dwelling unit is required and shall be located on the same lot; and~~
- ~~2. The technical and Design Standards for driveway design for one and two family buildings (Section II, Traffic Design Standards and Guidelines) shall apply to projects with up to four units and with no more than four parking spaces;~~

(b) *Storage of vehicles:* Only one (1) unregistered motor vehicle may be stored outside on the premises for a period not exceeding thirty (30) days.

(c) *Shoreland and flood plain management regulations:* Any lot or portion of a lot located in a shoreland zone as identified on the city shoreland zoning map or in a flood hazard zone shall be subject to the requirements of division 26 and/or division 26.5.

~~(d) Small residential lot development shall conform to the Site Plan standards of §14-526.~~

Amendments to Section 14-332, Parking

Sec. 14-332. Uses requiring off-street parking.

Except as provided in Section 14-332.1, 14-332.2 (exceptions) and 14-345 (fee in-lieu of parking) of this division, for the uses listed below the following minimum off-street parking requirements shall be provided and maintained in the case of new construction, alterations which increase the number of units, and changes of use:

(a) *Residential structures:*

1. For new construction, two, (2) parking spaces for each dwelling unit, ~~plus one (1) additional parking space for every six (6) units or fraction thereof.~~
2. For alterations or changes of use in existing structures, which create new or additional dwelling units in such structures, and for accessory units pursuant to §§14-68,78,88, one (1) additional parking spaces for each such unit. Existing parking spaces shall not be used to meet the parking requirements of this paragraph, unless the existing parking spaces exceed one (1) space for each dwelling unit.

~~3. For residential development on the peninsula (southerly of I-295 and Tukey's Bridge) and R-6 and R-6A zones:~~

~~a. One (1) space per unit;~~

~~b. The required parking for multi-unit residential buildings may be partially met through provision of shared-use vehicles, which are vehicles owned and maintained by the owner/manager of the building and available for use on a fee basis to the residents of the building. One shared-use vehicle shall be deemed to satisfy eight (8) required car spaces, but in no case shall more than 50% of the parking requirement be satisfied by shared vehicle use.~~

~~c. The planning board may establish a parking requirement that is less than the normally required number of spaces upon a finding of unique conditions that result in a lesser parking demand, such as housing for persons who cannot drive, housing that participates in a travel demand management program, availability of transit, or housing which includes permanent restrictions on automobile usage, and which is permanently restricted from utilizing resident on-street parking stickers.~~

Sec. 14-332.1. Zone specific off-street parking exceptions and modifications.

The off-street parking requirements established for uses, established above in section 14-332 of this division, are hereby modified for the following zones a according to the provisions described below.

....

(k) For residential development, including of new construction, alterations which increase the number of units, and changes of use on the peninsula (southerly of I-295 and Tukey's Bridge)and R-6 and R-6A zones.

1. One (1) space per unit.
2. The required parking for multi-unit residential buildings may be partially met through provision of shared-use vehicles, which are vehicles owned and maintained by the owner/manager of the building and available for use on a fee basis to the residents of the building. One shared use vehicle shall be deemed to satisfy eight (8) required car spaces, but in no case shall more than 50% of the parking requirement be satisfied by shared vehicle use.
3. The planning board may establish a parking requirement that is less than the normally required number of spaces upon a finding of unique conditions that result in a lesser parking demand, such as housing for persons who cannot drive, housing that participates in a travel demand management program, availability of transit, or housing which includes permanent restrictions on automobile usage, and which is permanently restricted from utilizing resident on-street parking stickers.
4. No parking shall be required for the first three units in the R-6 Residential Zone.
5. For alterations of buildings containing three or more dwelling units in the R-6 zone no parking shall be required for the creation of one additional dwelling unit above existing conditions as of (date of enactment). This exemption may be utilized one time.

Amendments to Section 14-433. Lots of record and accessory structure setbacks for existing buildings

Sec. 14-433. Lots of record and accessory structure setbacks for existing buildings.

I. Lots of Record.

Lots of record that meet the minimum standards provided below shall be considered buildable lots.

(a) Notwithstanding any other language in this ordinance, Any lot of record as of June 5, 1957, may be considered a buildable lot in any residential zone provided the applicable yard dimensions can be met; and held under separate and distinct ownership from adjacent lots and provided that a minimum having a street frontage of forty (40) feet can be met, or to which a means of access has been previously approved by the city council as provided elsewhere in this article; may be considered a buildable lot in any residential zone except as provided below for island residential zones, and provided such lots have with a minimum lot size of five thousand (5,000) square feet, except that a lot in the R-6 zone may have a minimum lot size of three thousand (3,000) square feet, or the applicable minimum lot size and frontage in that zone, whichever is less provided that the applicable yard dimensions can be met.

(b) A lot in the R-1, R-2, R-3, R-4, R-5, R-5A or R-6 zones that was described in a subdivision plat approved by the Planning Board after June 5, 1981, or a lot of record that conformed to the applicable lot size requirement, lot width and street frontage as of June 5, 1984, shall be considered a buildable lot, provided that the applicable yard dimensions can be met.

(c) 1. Any lot of record as of July 15, 1985, and held under separate and distinct ownership from adjacent lots and meeting the applicable street frontage requirements of that time may be considered a buildable lot in the IR-1 and IR-2 zones, provided that the applicable yard dimensions can be met and provided further that a lot in the IR-1 zone shall have a minimum area of ten thousand (10,000) square feet and a lot of the IR-2 zone shall have a minimum area of six thousand five hundred (6,500) square feet unless it is served by both public sewer and public water, in which case it shall have a minimum area of five thousand (5,000) square feet.

~~(a) —~~

~~(d) — A lot in the IR-1, IR-2 and I-B zones that was described in a subdivision plat approved by the Planning Board after July 15, 1982, shall be considered a buildable lot, provided that the applicable yard dimensions can be met.~~

~~(e) — Contiguous lots of record under common ownership shall be deemed to be separate lots, provided that they either meet the minimum lot area and minimum frontage of the zone in which they are located, or the minimum applicable standards of 14-433 (a-d).~~

~~2. —~~

~~2. Accessory Structures and Building Additions.~~ Where such a lot has a principal structure which existed as of July 19, 1988, an accessory structure or building addition may be located within the following side and rear yards, provided that the normal applicable yard requirements cannot be met ~~provided, however, that less restrictive zoning requirements which meet the requirements contained within 14-139(b) for residential small lot development shall apply:~~

a. ~~R-1, R-2:~~

~~Rear yard: Ten (10) feet.~~

~~Side yard: Five (5) feet.~~

b. ~~R-3, R-4, R-5, R-5A, R-6:~~

~~Rear yard: Five (5) feet.~~

~~Side yard: Five (5) feet.~~

~~(3). Conversion of Accessory Structures to Dwelling Units:~~ Any detached or accessory structure in the R-4 or R-6 zones, with a ground coverage exceeding two hundred fifty (250) square feet and which was in existence on January 1, 1940, may be converted to dwelling uses without meeting front, side or rear yard set backs, provided there is no enlargement of any nonconforming portion of the existing building footprint and provided the conversion will conform to the minimum land area per dwelling unit.

~~Any lot of record as of July 15, 1985, and held under separate and distinct ownership from adjacent lots and meeting the applicable street frontage requirements of that time may be considered a buildable lot in the IR-1 and IR-2 zones, provided that the applicable yard dimensions can be met and provided further that a lot in the IR-1 zone shall have a minimum area of ten thousand (10,000) square feet and a lot of the IR-2 zone shall have a minimum area of~~

~~six thousand five hundred (6,500) square feet unless it is served by both public sewer and public water, in which case it shall have a minimum area of five thousand (5,000) square feet.~~

~~3. — A lot in the IR-1, IR-2 and I-B zones that was described in a subdivision plat approved by the Planning Board after July 15, 1982, shall be considered a buildable lot, provided that the applicable yard dimensions can be met.~~

Amendments to Section 14-526. Site Plan Standards

Sec. 14-526. Site plan standards.

Requirements for approval. The Planning Board or Planning Authority shall not approve a site plan application unless the development proposal meets the following criteria:

...

9. Zoning Related Design Standards:

- a. Development of certain types and/or proposed in certain zones, as specified below, are subject to design standards in addition to the provisions of Section 14-526 (a) in order to ensure designs that contribute to and enhance the goals and policies for specific districts of the City. The City of Portland Design Standards is listed in the City of Portland Design Manual, which is included by reference. If the development is located in a historic district or associated with a historic landmark, City of Portland Historic Preservation standards shall supersede:

...

(vi) **Residential Development in the following districts:**

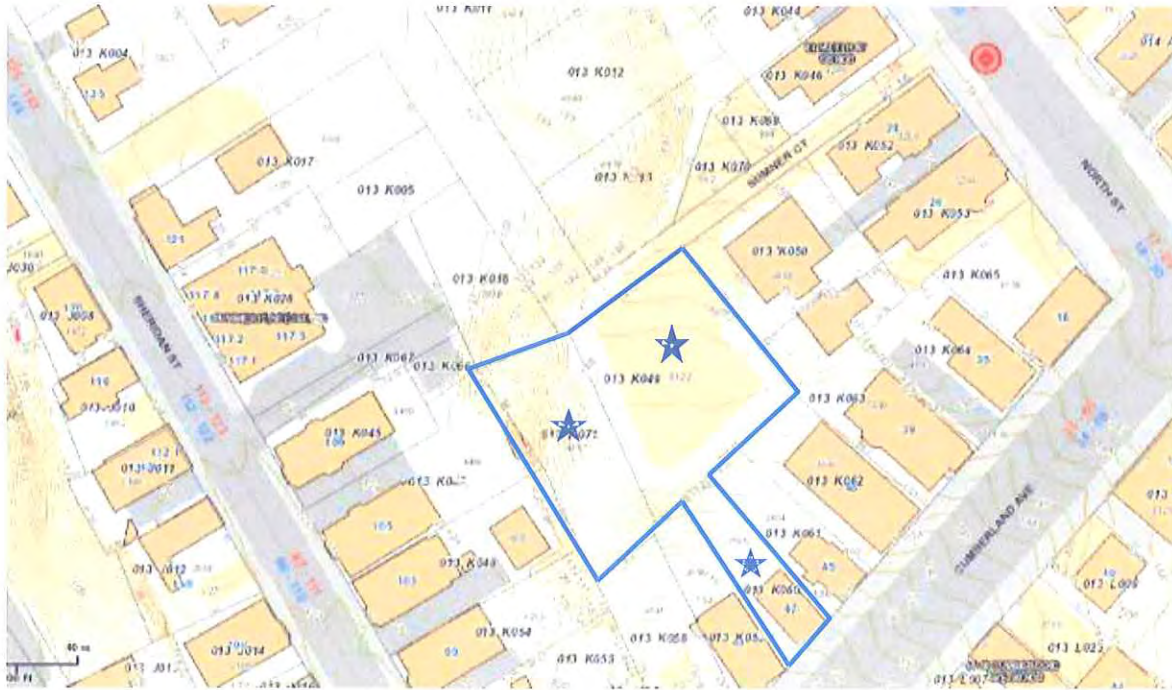
...

- (d) ~~Multiple family and multiplex~~All residential development in the R6 zone ~~on lots of 10,000 square feet or less.~~

R-6 Dimensional Requirements		
	Existing	Proposed
Minimum Lot Size	Residential Uses: 4,500 sf	Residential Uses: 2,000 sf, except that in R-6A the min. residential lot size is four (4) acres.
	Long-term and extended care facilities: Ten thousand (10,000) square feet for the first nine (9) residents plus seven hundred fifty (750) square feet for each additional resident, up to a total of two (2) acres.	Long-term and extended care facilities: Ten thousand (10,000) square feet for the first nine (9) residents plus seven hundred fifty (750) square feet for each additional resident, up to a total of two (2) acres.
	Intermediate care facility: One (1) acre.	Intermediate care facility: One (1) acre.
	School: Thirty thousand (30,000) square feet.	School: Thirty thousand (30,000) square feet.
	Places of assembly: Large, 30,000 sf; Medium, 15,000 sf; Small, 7,500 sf.	Places of assembly: Large, 15,000 sf; Medium, 10,000 sf; Small, 5,000 sf.
	Municipal Use: 4,500 sf	Municipal Use: 2,000 sf
	Hospital: Two (2) acres	Hospital: Two (2) acres
	Lodging house: Four thousand five hundred (4,500) sf	Lodging house: Four thousand five hundred 2,000 sf
	All other uses: Forty-five hundred (4,500) square feet.	All other uses: 2,000 sf
Min. Lot Area/Dwelling Unit	Minimum land area per dwelling unit: One thousand (1,000) square feet per dwelling unit; and in the case of building additions and new construction, one thousand two hundred (1,200) square feet for each dwelling unit after the first three (3) units. This requirement may be reduced by up to twenty (20) percent for a special needs independent living unit.	725 s.f.
Minimum Lot Area/Lodging House Rooming Unit	250 s.f	250 s.f
Minimum land area per intermediate care facility resident	Eight thousand (8,000) square feet for the first thirty-five (35) residents, plus three hundred fifty (350) square feet for each additional resident.	250 s.f
Minimum land area per permitted hostel guest when maximum permitted guests is greater than 10	None	250 s.f
Street Frontage	40 feet	20 feet
Minimum Front Yard Setback for Principal and Accessory Structures	Principal or accessory structures: Ten (10) feet. A front yard need not exceed the average depth of front yards on either side of the lot. A lot of record existing as of June 5, 1957, and less than one hundred (100) feet deep need not be deeper than twenty (20) percent of the depth of the lot.	5 ft, or no more than average depths of adjacent front yards.
Minimum Rear Yard Setback for Principal and Accessory Structures	i. Principal and attached accessory structures with ground coverage greater than one hundred (100) square feet: Twenty (20) feet.	10 feet, except that accessory structures with a ground coverage of one hundred and forty-four (144) square feet or less: Five (5) feet.
	ii. Detached accessory structures with a ground coverage of one hundred and forty-four (144) square feet or less: Five (5) feet.	
	iii. Setbacks for swimming pools shall be as provided for in section 14-432 (swimming pools) of this article.	All setbacks for swimming pools shall be as provided for in section 14-432, Swimming pools, of this article.
Minimum Side Yard Setback for Principal and Accessory Structures	i. Principal and attached accessory structures with ground coverage greater than one hundred (100) square feet: Twenty (20) feet.	5 ft, except that a side yard in the R-6 zone may be reduced to zero, provided that the cumulative side yard setbacks are not less than 10 ft. A permanent maintenance easement a minimum of 5 ft. in width shall be provided on the parcel adjacent to the lot line with the reduced side setback. Side yards in R-6A shall be 10 ft. for principal structures up to 45 ft. in height and 15 ft. for principal structures greater than 45 ft. in height.
	ii. Detached accessory structures with a ground coverage of one hundred and forty-four (144) square feet or less: Five (5) feet.	
	iii. Setbacks for swimming pools shall be as provided for in section 14-432 (swimming pools) of this article.	
	i. Principal and attached accessory structures with ground coverage greater than one hundred (100) square feet:	
	Height of Structure Required Side Yard	
	1 story 10 feet	
	2 stories 10 feet	
	3 stories 10 feet	
	4 stories 12 feet	
	5 stories 15 feet	
	The width of one (1) side yard may be reduced one (1) foot for every foot that the other side yard is correspondingly increased, but no side yard shall be less than ten (10) feet. In the case of a lot of record existing as of June 5, 1957, and held under separate and distinct ownership from adjacent lots, the required side yard may be reduced in order to provide a buildable width of up to twenty-four (24) feet, but in no case shall the resulting side yards be less than ten (10) feet.	

R-6 Dimensional Requirements		
	ii. Detached accessory structures with ground coverage of one hundred and forty-four(144) square feet or less: Five (5) feet.	
	iii. Setbacks for swimming pools shall be as provided for in section 14-432 (swimming pools) of this article.	
Side Yard on Side Street	10 feet	None
Structure Stepbacks		Portions of a structure above 35 ft shall be no closer than 10 ft from the side property line and no closer than 15 feet from the rear property line when such property line abuts a residential zone. <i>Does not apply to side yards on side streets.</i>
Maximum Lot Coverage	Forty (40) percent of lot area for lots which contain twenty (20) or more dwelling units; fifty (50) percent for lots which contain fewer than twenty (20) dwelling units.	60%
Minimum Lot Width	50 feet	20 feet
Maximum Height	Principal and attached accessory structure: Forty-five (45) feet.	Principal and attached accessory structure: 45 ft
	Accessory detached structure: Eighteen (18) feet.	Detached accessory structure: 18 ft
		In R-6A the maximum principal and attached accessory structure height shall be 65 ft.
Landscaped Open Space	<i>Uses other than bed and breakfast.</i> Twenty (20) percent for those lots which contain fewer than twenty (20) dwelling units; thirty (30) percent for those lots which contain twenty (20) or more dwelling units. This area shall not include parking areas or other impervious surfaces as defined in section 14-47.	20%. This area shall not include parking areas or other impervious surfaces as defined in section 14-47.
	<i>Bed and breakfasts.</i> A bed and breakfast that is located on a lot that has at least twenty (20) percent open space on the date of filing of the application for site plan shall not reduce the open space on the lot below 20% of the lot area. A bed and breakfast located on a lot that does not have at least 20% open space on the date of filing of the application for site plan review, and that is legally nonconforming as to the open space requirement of this section, shall not reduce the open space on the lot below the level in existence on the date of the application for site plan review. Open space areas shall not include parking areas or other impervious surface areas as defined in section 14-47.	
Minimum gross floor area for bed and breakfasts	Two thousand (2,000) square feet of gross floor area for the first three (3) guest rooms and five hundred (500) square feet of floor area for each additional guest room.	Two thousand (2,000) square feet of gross floor area for the first three (3) guest rooms and five hundred (500) square feet of floor area for each additional guest room.
Maximum floor area for places of Assembly	<i>On a collector or arterial road:</i>	<i>On a collector or arterial road:</i>
	Large: Not limited	Large: Not limited
	Medium: 4,500 sf	Medium: 4,500 s.f.
	Small: 2,250 sf	Small: 2,250 s.f.
	<i>Not on a collector or arterial road:</i>	<i>Not on a collector or arterial road:</i>
	Large: 4,500 sf	Large: 4,500 s.f.
Maximum Garage Opening	Medium: 2,250 sf	Medium: 2,250 s.f.
	Small: 1,125 sf	Small: 1,125 s.f.
		Garage openings on front façades shall not exceed the greater of nine (9) feet or forty (40) percent of the front façade, and in no case shall a garage opening on a front façade exceed 20 feet.
Date of Draft: March 5, 2014		

Map of Vacant R-6 Land Vic. of Sumner Court and Cumberland Ave.



1. 13-K-60
CUMBERLAND AVE 47-49
2515 SF
2. 13-K-49
SUMNER COURT
8122 SF
3. 13-K-71
CUMBERLAND AVE R 53-55
4357 SF

Total area: 14, 991 SF

From: Todd Alexander <toddmalcander@gmail.com>
To: <aqj@portlandmaine.gov>, <cdg@portlandmaine.gov>, Catherine Alexander <calexander@unum.com>, <marshalldistrict2@gmail.com>, <damarshall@portlandmaine.gov>, <mfpb@portlandmaine.gov>, <jhinck@portlandmaine.gov>, <kjdonoghue@portlandmaine.gov>
Date: 7/10/2014 8:22 AM
Subject: Proposed Changes to R6 Zone

Hi Alex:

I am writing this email to provide public input on the proposed changes to the R6 zone. By way of background, my wife, Catherine, and I live at 3 Carroll Street -- which is located within the R6 Zone. We have lived in this neighborhood for the past 15+ years -- previously owning a home on Pine Street, also within the R6 Zone. My wife is a real estate attorney.

My background is in urban planning, real estate development (affordable housing) and real estate finance. We have three young children who attend Reiche.

We are strong supporters of the proposed changes to the R6 zone. In particular, we are extremely pleased to see the proposed amendments to the dimensional requirements. The current dimensional requirements for the R6 zone are not consistent with the city's comprehensive plan and current housing policies. Most importantly, existing requirements severely restrict the ability of property owners to develop or redevelop their properties in a manner that would otherwise be completely inline with the historical development patterns in the East and West End neighborhoods.

This results in numerous vacant and underutilized lots that negatively impact the entire neighborhood by reducing property values, limiting housing choices and suppressing municipal property tax revenue. If anything, we support even less restrictive dimensional requirements--for example, reducing the density allowance to 1 unit for every 435 square feet, similar to the neighborhood business zones and R7 overlay zone.

I would add that, in conversation with our neighbors and friends who would be directly impacted, there is generally consistent support for the proposed changes. Collectively, we can connect the dots between more flexible zoning and the positive results it will bring -- cleaning up run-down properties, more families moving into the neighborhood, and greater property tax revenue to support our students and teachers at Reiche, to name just a few.

The West End neighborhood, in my opinion, has benefited greatly from the City and Planning Board's progressive policies towards responsible development on the peninsula and I think the proposed R6 zone changes are another step in the right direction.

Best,
 Todd

--
 Todd M. Alexander
 207 749-7257

Jeff and Alex,

Thank for meeting with WPNA Board and Visioning Committee members on June 16 to discuss the impetus for and proposed text changes to the R-6. I understand that you have also reached out to other peninsula neighborhood associations and we all appreciate the early introduction to this important initiative.

As we understand it, the effort comes at the direction of the HCDC to encourage more housing creation by removing zoning impediments, while being sympathetic to the context in which new housing would be created. Objectives are:

- ~Assure a range of housing options
- ~Add housing units
- ~Promote "affordable housing"
- ~Reflect the existing development pattern in neighborhoods

On its face, each of these are worthy objectives, but zoning changes must be approached carefully to assure that the objectives are, indeed, met and that unintended consequences are avoided.

Some of our comments were:

- ~The proposed street line changes appear to make sense to conform to the existing development pattern and do not affect other neighbors.
- ~Side and rear setback changes and lot coverage may make sense in certain situations, but not others, as they may negatively affect immediate abutters.
- ~Reduction in the required lot size/unit, with some controls over individual unit size, will create more units but could potentially spur conversion of more affordable single family homes to multi-unit structures.
- ~In the quest for "affordable housing", how does the City define this term? What mechanisms are contemplated to assure sustainable affordable housing, as zoning changes do not control the marketplace? In particular, an unintended consequence might be the conversion of modest single family homes to multi-units, a windfall for the seller and developer, but probably providing affordable housing to perhaps only the first unit occupant and removing relatively affordable single family homes from the housing stock.
- ~The proposed reduced parking requirement was of great concern in an already tight parking situation on many blocks.
- ~In the case of vacant lots under the new rules, a large new building with significant lot coverage might not be consistent with the prevailing development pattern.
- ~Once the zoning is changed, it affects existing owners who can't get relief from the unintended impacts of the changes.

Upon reflection, here are some incremental actions that may make sense, in response to the issues raised above:

- ~Focus first on the vacant "stranded lots", development of which is constrained by existing zoning. How many such lots are there? How many housing units might be created under the proposed density changes? Do and evaluate some visual impact examples for individual lots, shown in the existing development context.

~Explore ways to reduce development cost on the peninsula. As you have heard me comment at numerous meetings, the development cost of "affordable housing" is outrageous. How does it compare to the cost of private development by Crandall Toothaker, for example?

~Study the market for very small units. How deep, sustainable is that market? What housing stock might be lost to the conversion to smaller units? How does that affect the mix and integrity of existing neighborhoods?

~Study the peninsula housing pattern in, say, the '40s or '50s, when Portland's population was much larger. How many people lived on the peninsula? Household sizes? In what housing configurations? Single family homes, multi-bedroom apartments, etc? What has changed? For example, the large-scale conversion in Parkside in the 1970s of large single family units (homes and apartments) to one bedroom units made the neighborhood more transitory and severely affected the parking problem.

Thank you for considering our input.

Please let me know the current timeline for this issue to move forward, so that we will be ready to participate in meetings.

Thanks - and let me know if you have any questions or comments

Anne Pringle, President
Western Promenade Neighborhood Association

November 19, 2014

Chair O'Brien and members of the Portland Planning Board:

I am writing to ask you to broaden awareness of and participation in the substantial changes proposed for the R6 zone. As a resident of Munjoy Hill, I can see that the amendments will have a substantial negative impact on my quality of life, and I believe my concerns would be shared by many if they were aware of the work underway. Casual conversations around town convince me they are not.

My first request is that you mail postcards to property owners and renters in the affected neighborhoods, directing them to the well-organized resource on the city's website and informing them of upcoming events.

With respect to the proposals, I am concerned about the elimination of the offstreet parking requirement for the first three units. Before we had any parking requirements at all, Parkside was the focus of a frenzy of investment in income properties, and the congestion resulting from that era remains today: the interest among Portland residents in being car-free has not removed enough cars from Parkside streets to make the neighborhood's parking adequate. Much of the property is absentee landlord-owned. Were these changes to go through, I am certain the same would happen on Munjoy Hill. I would be able to add two units to the building I own and live in, and all the tenants' cars would be on the street. Increased real estate values would put great pressure on landowners to build to the maximum number of units.

We need a specific parking strategy for the Portland peninsula, but this is not it. My second request is that you remove this proposal from the table this activity and develop a parking strategy with input from residents.

My second concern is for the escalation of property values on the peninsula, which this proposal will accelerate. There is growing anxiety about the next revaluation, and consequent impact on taxes. A sudden increase in property taxes is likely to drive many middle income residents out of my neighborhood, to accelerate the chopping up of existing buildings into smaller units, and to eventually lead to another collapse in real estate prices. Already there are unsold condos on the Hill, and developers are buying and renovating properties in order to flip them. We have seen this before, in the early 90s, and don't want to go down that road again.

My third request is that you communicate in a transparent way with the citizens of Portland about the state of the city and the type of social fabric your housing policy is designed to bring about (is it true that half the rental units in the city are subsidized? Is it true also that families with children leave the peninsula and the city seeking a better balanced social environment for their children's schools once the children reach school age?) Nowhere is it clearly stated.

I believe that most of the residents of the R6 zone support shelter for all who need it, but believe that driving this development agenda will simply price more middle class families out of the market. It is time to create cluster developments with neighborhood services in off-peninsula neighborhoods where land prices are more reasonable and construction costs lower. I think this rises to the level of a revision of the comprehensive plan, and so my fourth request is that you initiate that process.

Finally, I want to request that the city rebalance its efforts to reduce the time spent on enabling development. The city's only visible economic development strategy seems to be a maximum buildout of its real estate. This summer, nearly every street on the peninsula was opened for utility work, and closed up again without the installation of fiber optic cable or conduits for fiber optic cable. Meanwhile, South Portland has partnered with gwi.net to install state of the art infrastructure for business and entrepreneurs. The internet service on the peninsula is poor, partly because our antiquated phone lines cannot carry a high quality signal, and Portland is at

risk of losing its highly valued entrepreneurial culture as a result. We have sadly neglected important business as a city , whether it is fire safety or infrastructure to support business. The pendulum has swung too far.

Thank you for taking the time to read this.

Sincerely,

Jean (Nini) McManamy
10 Willis Street, Portland

11/19/14

Barbara Barhydt, Development Review Manager
Alex Jaegerman, Director
Christine Grimando, Senior Planner
Planning Division
389 Congress Street 4th Floor
Portland, ME 04101

Dear Barbara,

My husband and I own and reside in property on Munjoy Hill. We are not able to attend the workshop meeting on 11/25 to discuss the proposed changes to the R-6 Zoning Ordinance but want to weigh in on this important issue.

We understand that the city's mission for changing the R-6 ordinance is to provide for greater housing opportunities, to enable infill development on small parcels and to have standards in place for new construction to be consistent with the historic pattern of development in the R-6 zone.

While we support parts of that overall mission, we feel that some of the reduced requirements in the current proposal go too far and will create unintended consequences that will negatively change the landscape and overall character of the neighborhoods in the R-6 zone.

For example, at the first meeting we attended several months ago regarding the R-6 changes, the initial proposal reduced the minimum lot size from 4,500 to 2,500 sq. ft. and reduced the minimum street frontage and lot width requirements from 40' to 30'. In the latest proposal, these requirements have been even further reduced, which we are very concerned about. The current proposal reduces the minimum lot size from 4,500 to 2,000 sq. ft. and reduces the minimum street frontage and lot width requirements from 40' to 20'.

If these current requirements pass and parcels with only 20' of street frontage qualify as buildable lots--with the new 5' setbacks on either side--they would allow for 10' wide buildings as high as 45' to be erected. These structures would resemble the "tube" housing that is prevalent in Hanoi, Vietnam--the only place in the world where these structures currently exist. Below are examples of what these buildings look like:



These structures are clearly not the type of housing that is intended for the Portland peninsula, do not support the Comprehensive Plan and are completely out of character with our current neighborhoods. Yet they would be possible given the requirements in the current proposal.

Too, given the huge increase in land values, property owners and developers would be encouraged to divide and sell off any portions of their lots that would qualify as buildable lots under the new provisions. Thus, not only would some of the existing R-6 vacant lots qualify for development, but much of the land currently used as side yards and off street parking areas would be lost to the type of increased housing density mentioned above. The charm and character of our current neighborhoods would be lost forever and more cars would end up on the streets, making our parking issues far worse.

We are further concerned that the parking requirements have been reduced from 1 space per unit to 0 spaces for the first three units. The Portland public transportation system has a very long way to go before it will truly be practical for residents not to own cars. In the interim, the City is responsible for creating realistic zoning laws that recognize this fact. Pouring more cars on the streets with no plan for how to properly manage them is simply not good public policy.

We agree that the Small Residential Lot Provision should be eliminated from the R-6 Zoning Ordinance since the new minimum lot size will be smaller and will allow for many vacant lots to be developed, where appropriate. If the Small Lot Provision is not eliminated, it should be amended to include a minimum street frontage provision so that lots with inadequate access will not qualify for development.

While we support responsible development when and where it's appropriate, we do not support changing zoning laws simply so that developers can squeeze more market rate housing units into every square inch of land on the peninsula. This will do nothing to preserve the character of our neighborhoods or to solve the affordable housing crisis. It will only support the developers and those who can afford luxury housing. Given the continued rise in land and property values, it is no longer feasible for developers to build

affordable housing units in most areas on the peninsula, especially the already densely populated areas like Munjoy Hill and the West End. There is an explosion of new high end housing units currently under construction on Munjoy Hill. Some are selling for prices as high as a million dollars per unit. If the goal is to add more affordable housing units in Portland, the City needs to look at neighborhoods where land is more available and affordable rather than changing the zoning in the most densely populated neighborhoods in the state to squeeze in more high end housing units. Affordable housing opportunities are more realistic in areas off the peninsula with lower land values.

In summary, we feel that more public discussion is necessary before a proposal is presented to the City Council for approval. We attended a meeting on 11/16 at the MHNO office and heard from the nearly 36 people in attendance that there is a high lack of public awareness surrounding this issue. Despite the fact that members of the Planning Staff have met with some of the neighborhood organizations, many residents are not aware that changes to the R-6 zoning ordinance have been proposed and are being discussed. The city must cast a much wider net to include their voices in this discussion before any changes are made.

Sincerely,

Pam Jack & Devon Platte
26 North Street



COMMISSIONERS

Christian MilNeil, Chairperson
 Shirley Peterson, Vice Chairperson
 Siyad Ahmed, Commissioner
 Mariar Balow, Commissioner
 Evan Carroll, Commissioner
 Faith McLean, Commissioner
 Thomas Valleau, Commissioner

Mark B. Adelson
 Executive Director

14 Baxter Boulevard
 Portland, Maine 04101
 Office: 207-773-4753
 Fax: 207-761-5886
www.porthouse.org

November 10, 2014

To the Portland Planning Board and Portland City Council:

The Portland Housing Authority (PHA) would like to express its strong support for the proposed revisions to Portland's R6 zoning code. We assist over 3,000 households with housing in the City of Portland through our Public Housing and Section 8 Housing Choice Voucher programs. The current zoning code is a major obstacle in building new rental housing on the Portland peninsula, and poses three important challenges to our mission and programs:

- Very few market rate apartments have been built on the Portland peninsula in the past 30 years, in spite of rising demand. This has created extremely tight conditions in the rental market, with single-digit vacancy rates. This makes it harder for us to locate housing for families eager to utilize our Housing Choice Vouchers, the bulk of which are paid to private-sector landlords.
- The imbalance of rental supply and demand has also increased the city's market rents. This drives more households to seek assistance from our programs (over 4,500 applicants are currently on our waiting list) while forcing us to spend more money on each of the 1,800 Section 8 Housing Choice Vouchers we administer.
- Our long-term goal is to redevelop our Public Housing neighborhoods like Kennedy Park in such a way that these sites can house more families, employ better urban design, and create wider variety of affordable housing opportunities. However, the restrictions of the current zoning code effectively prohibit affordable housing unless significant subsidy can be obtained. State and Federal assisted financing for development and additional rental subsidies are extremely limited and competitive. Along with current density restrictions, setback and parking requirements prohibit building new housing that mimics the design and architectural vernacular of Portland's older neighborhoods.

The proposed revisions would, in the short term, enable the PHA and others to develop new affordable housing that serves more households, is more energy-efficient, promotes upward mobility for our residents, and is better-integrated with surrounding neighborhoods. And, in the longer term, a revised R6 zone would stimulate the construction of new middle-class housing which in-turn would help to ameliorate the city's housing shortage and associated rent inflation.

One question we have is in regard to two of our largest Public Housing properties in the R6. Together, Harbor Terrace in the West End and Franklin Towers in Bayside contain 320 apartments for seniors and disabled individuals. These buildings are over 40 years old and will be ready for redevelopment in the not-to-distant future. Even if the proposed amendments are approved, they would still violate the new R6 zone's height requirements. Whether they deserve an entirely new zoning designation or an exception in the R6 language, we would appreciate a discussion with City planners and possibly a proactive solution.

Yours sincerely,

A handwritten signature in blue ink, appearing to read "Mark B. Adelson", written in a cursive style.

Mark B. Adelson, Executive Director

cc: Jeff Levine, City of Portland Planning Division Director

Hi Alex, Christine, and Jeff,

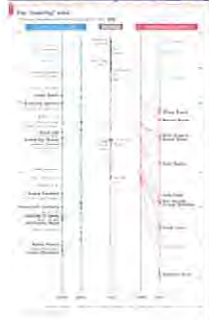
Based on the outcome of the proposed R-6 amendment changes that you proposed to the East Bay Side Neighborhood Meeting held on Tuesday, August 19, 2014 at the Mayo Streets Art building, conservatively 80% of the East Bay Residents that attended were really opposed to the R-6 recommended parking changes of NOT requiring off street parking for multi-units of three (3) or less. One (1) off street parking slot per unit should ALWAYS be required. I am pretty sure the majority of East Bay Side neighbors agrees with this statement to keep further congestion on our neighborhood streets.

Additionally, I am concerned about the accuracy and the bench marking information gathering that you seem to justify these proposed R-6 dimensional requirement changes. You seem to use a specific consultant that feeds you information and you appear to be using only Portland, Oregon as a bench marking model. Yet, you can not seem to provide any specific detail on the statistics (example: averages, min/max, etc.) that drive your dimensional requirements existing and proposals dimensional numbers. In fact, when we asked you about Front Yard Setback, you basically said you don't have any averages, well if that is the case, how could you make a proposed front yard setback dimension requirement? This also applies to the other proposed dimensional requirements as well.

I am not sure if you realize this but the reputable magazine called the Economist which has just put out the most livable cities in the world to live in and the United States has NOT one city included in the top ten. In fact, several Australian and Canadian cities are in the top ten.

The below link provides the Economist's 2014 latest livable city list which could also possibly be used in benchmarking for cities' models and parameters rather than just Portland, Oregon.

[The best places to live](#)



The best places to live

A data-driven ranking of the most liveable cities NOT New York nor Paris nor Tokyo. Urbanites in Britain's former dominions should count themselves lucky,...

[View on www.economist.com](http://www.economist.com)

Preview by Yahoo

The reason why I live in Portland, ME is because it acted like a city represented in the Economist as a most livable city since I have been to most of the world's best livable cities. However, it appears that the current Portland city council, planning dept, and the planning board members are slowly killing the essence of what makes Portland, ME one of the few cities in the United States that is "livable" to appease the developers without the consideration of the local tax paying residents in mind.

Regards,
K Snyder
Concerned Munjoy Hill Resident

>>> "RITA YARNOLD" <cbayrea1@maine.rr.com> Tuesday, October 28, 2014 12:08 PM >>>

Dear Barbara,

I have a showing appointment that conflicts with the Planning Department workshop this afternoon at 4:30.

As a local real estate professional, I agree with Ron Gan's October 22, 2014 letter, that was addressed to you.

Best regards,

Rita Yarnold
Bay Realty/President
559 Congress Street
Portland, Me. 04101

11-18-14

Ms. Grimando -

I was unable to make the meeting Sunday at the Munjoy Hill Neighborhood Organization, but wanted to express great concern for many of these proposed changes. The drastic reductions in lot size and setbacks, increasing density and requiring no parking for first 3 units, would change the landscape here on Munjoy Hill - affect light, increase crowding, and damage instead of enhance quality of life.

I am very much in favor of urban development, but even with the existing R-6 regulations, it is pretty easy to watch development go up that completely changes the landscape of streets and blocks.

I am also concerned that the next public meeting is Tuesday, November 25, during the week of Thanksgiving holiday, when many interested citizens will be away or with family.

I would very much like to be added to any e-mail list you have re the progress and process of proposed revisions to R-6.

Thanks very much.

Lynn Davey

9 Ponce St

Portland

207-773-6356

Hi, Christine:

Thanks for talking with me just now. Below is the notice that went around from WENA and that prompted my call.

If there is any mechanism for continuing to take public comment on this matter, I'd like it known that I am concerned about the 5 foot minimum on the sides of lots. For closely abutting properties this poses potential fire risks as well as maintenance difficulties (should workers need to have access to either structure). The current 10 foot setback seems much more reasonable and workable on both these issues. So I hope the City will leave well enough alone here.

If you have any questions, don't hesitate to be in touch; I'll keep following this process, too.

Thanks again and have a good weekend,
Liz Parsons
44 Winter Street

Ms Grimando, my wife Annie and I live on 32 North St on the corner of Sumner Court. If you can do so please send me a copy of the R6 Text Amendments the Planning Board will be considering on November 25. We, and several of our neighbors, are concerned that any proposed amendments would permit a multi-unit building to be built at the end of Sumner Court and that would allow Sumner Court to be used as the sole vehicle access to and from such a building.

Thank you,

JD Cowie

321-8615

Looks great! Perfect balance of needs and historic character.
Kudos!
Zack Barowitz

Re Proposed R-6 Zoning Changes and Resident Feedback

Dear Planning Board member,

I first heard of proposed changes to the R-6 zone from a neighbor only recently, and learned some of the details at a November 16 gathering at the Munjoy Hill Neighborhood Organization building. Attendees included individuals from the West End and Bayside as well as Munjoy Hill residents. We met to begin understanding the objectives and parameters of the proposed changes.

I left with several impressions:

- v Some residents are very knowledgeable, articulate and committed to their neighborhoods. They are also open-minded. Decisions on zoning changes would benefit from their insights.
- v Each R-6 neighborhood has its own character, opportunities and challenges. The proposed changes would affect various R-6 neighborhoods differently. For example, zoning changes which significantly reduce off-street parking requirements would be problematic on Munjoy Hill where shortages of on-street parking space is already acute. However, on-street parking is not a problem in some other areas. A broad brush approach to all R-6 zones would not be most effective.
- v Many attendees expressed support for more affordable housing. Unfortunately, long-term homeowners and tenants on Munjoy Hill are leaving due to the effects of rapid increases in property values, taxes, and rents. The proposed R-6 changes would accelerate these trends as properties with unbuilt yards or smaller buildings would increase financial incentives for tear-downs and rebuilds with larger structures. Some attractive nineteenth century housing would surely be lost.

As a property owner in Cumberland I recently received a survey asking for my opinions on possible zoning changes there. The survey was both detailed (which zones in town, if any, should be considered for reductions in minimum lot sizes) as well as open-ended (what did I like and dislike about living in Cumberland). The survey made resident opinions part of the planning process, and I suspect that the town obtained valuable input.

I request that the Planning Board take actions to educate residents in R-6 neighborhoods about the objectives and options of zoning changes, and gather substantive input from those residents before proceeding with unvetted, broad brush changes.

Thank you.

Brian Burwell

Hi All,

I'd like to add a couple of things to discussion about changes to the R6 zoning.

- The current zoning laws are both archaic and impractical. They specify a much lower density than exists currently and does not reflect current standards. Indeed nearly every house--upwards of 95%--in the affected areas (West End, East End, Parkside, SJV, Libbytown, etc.) is non-conforming to the current codes. That means that all the great houses in Portland could not be built today because the lot size is not big enough, they are not set back far enough, they are too close to the side neighbors, etc.

- As stated in the minutes, the changes are intended to ease restrictions on creating higher density; what that means is that it would be easier to add an in-law unit or an above the garage unit to one's home. By adding more units housing will become more affordable according to the laws of supply and demand.

- Apart from providing more housing, higher density will encourage more businesses (such as neighborhood groceries). It will also allow for infill of disused vacant lots.

- The changes will allow Portland to continue to be Portland; it will not allow for tall, out of character buildings in historic neighborhoods but rather encourage more of what Portlanders value in terms of greater walkability, cultural interaction, and quality of life.

I would be happy to discuss this matter further with anyone who would like to.

Thank you,
Zack

11-21-14

Dear Mr Jaegerman:

At the end of that mtg I asked a question I was promised an answer to, but I have not got it. The question was:
Could Frontage on Sumner Court (such as on Mr Gan's vacant lot there) be used to satisfy the proposed revised R6
street frontage requirement?

Please answer me or have someone in you group do so.

While I'm at it I also want the Board and its Staff to know that my wife Annie Cowie and I agree with and support
everything Pamela Jack and Devon Platt said in their letter to Ms Barhydt.

JD Cowie
32 North St
321-8615

Christine Grimando - Fwd: Re: My Question

From: Alex Jaegerman
To: Christine Grimando
Date: 3/5/2015 6:00 PM
Subject: Fwd: Re: My Question

Christine: Please include this email correspondence with the R-6 Public Comment.

>>> On 2/15/2015 at 12:00 AM, in message <C0026AD0-82A3-464B-AAC4-6ADB20A854BA@gmail.com>, Douglas <jimdoog@gmail.com> wrote:

Thank you, Mr Jaegerman, and thanks also to Ms Grimando and Ms Machado for your answer to my long-standing question.

I do have a question about your answer to it:

About the "driveway" you referred to: Must the owner of property (or of property to be developed) own all or part of its driveway?

Your answer suggests that although Sumner Court cannot be used to satisfy the R6 street frontage requirement, Sumner Court *might* be used for access to new building construction on Sumner Court, both during construction and after it, (presumably essentially *forever* after it).

I don't know if you or any of your staff, or any member of the Planning Board, has seen and walked down Sumner Court. If you do, you'll quickly notice that the house on 28 North Street is the southeasterly boundary of the 12-foot-wide bumpy dirt lane called Sumner Court. You'll have to evaluate whether heavy excavation and building construction equipment and vehicles can travel down Sumner Court without hitting or rattling that house and its foundation? Thus before your department and the Board *even contemplate* allowing Sumner Court to function as the "driveway" for a new apartment building on it, you and they *must* inspect and thoroughly evaluate it.

Again, thank you for answering "my question." I look forward to your response to my question and comment above.

JD Cowie
32 North St
321-8615

On Feb 13, 2015, at 4:49 PM, Alex Jaegerman <AQJ@portlandmaine.gov> wrote:

Douglas:

I have discussed your question internally and offer the following findings.

According to Bill Clark, in the Department of Public Services, Sumner Court is not an accepted City Street, so for that reason it would not qualify for required street frontage. Under Section 14-403, lots may be developed on unaccepted streets under certain conditions, however that provision also specifies a minimum street width of 35 feet, so Sumner Court would not qualify.

If the land along Sumner Court also had street frontage on another city street, for example Cumberland Avenue, it is possible that such a lot, or combination of lots if combined for this purpose, could satisfy the zoning street frontage requirement on that street. If this were the case, it would not require that the street frontage be used for access purposes. Under this scenario, if street frontage requirements were met on Cumberland, and, hypothetically, access were to be provided on Sumner Court, then the adequacy of that access would be determined in the process of subdivision and/or site plan review. Driveway access specifications are found in the Technical Manual.

The Technical Manual requires the following for driveways, under §1.7, Driveway Design: for residential development with 9 spaces or less the minimum driveway width of 10 feet and a maximum width of 20 feet, measured at the property line. For multi-family residential (or Commercial or Industrial) development with 10 spaces or more, the minimum width is 12 feet. Two way drives have a minimum width of 20 feet, though the preferred is 24 feet.

So, the short answer to your question is no, Sumner Court would not meet the zoning street frontage requirement. The long answer is that there might be a circumstance in which the land on Sumner Court could be developed, depending on the lot configuration, street frontage, and driveway requirements.

I hope this is responsive to your inquiry. Please don't hesitate to respond with any questions or further inquiry.

Alex.

Alexander Jaegerman, FAICP
Planning Division Director
389 Congress Street, Suite 400
Portland, ME 04101

Phone: (207)874-8724>>> On 2/10/2015 at 3:32 PM, in message <E583AFF2-429B-4EFC-8C16-C9DC37200579@gmail.com>, Douglas <jimdoog@gmail.com> wrote:

Mr Jaegerman, assuming Sumner Court terminates at or near the southerly boundary of Mr Gan's property, I think it probably has enough frontage on it, be that 20 feet or 40. My question is, and has been: Does Sumner Court - it being a 12-foot-wide dirt lane, it *not* being an *actual* city street - *qualify* as a "street" for the purpose of meeting the city's R6 street frontage code?

JD Cowie

On Feb 10, 2015, at 12:49 PM, Alex Jaegerman <AQJ@portlandmaine.gov> wrote:

Hello Douglas:
My apologies for not replying sooner.

Christine Grimando and I are sitting down with Ann Machado tomorrow to look at Mr. Gan's Sumner Place property to see how the R-6 changes might affect this site.

I will get back to you again by the end of this week.

Alex.

Alexander Jaegerman, FAICP
Planning Division Director
389 Congress Street, Suite 400
Portland, ME 04101

Phone: (207)874-8724>>> On 1/24/2015 at 1:00 PM, in message
<71B54CAC-E5D0-4C09-B20A-B01525948B39@gmail.com>, Douglas
<jimdoog@gmail.com> wrote:

Mr Jaegerman:

You may recall it has been months since I asked the Planning Board whether frontage on Sumner Court - which I think is not a city street - can be used to satisfy the frontage requirements in the City's building codes.

I have asked the question at two and possibly three board meetings, and in more than one email to you, but I've yet to get an answer.

Perhaps you can appreciate how I feel about this.

Let me know if your department is unable to answer that question, and who you suggest I should contact about it. If you are able to answer it, let me know when I will get it.

JD Cowie
32 North St
321-8615

Notice: Under Maine law, documents - including e-mails - in the possession of public officials or city employees about government business may be classified as public records. There are very few exceptions. As a result, please be advised that what is written in an e-mail could be released to the public and/or the media if requested.

Christine Grimando - Fwd: Re: Alex Jaegerman Interpretation of Possible Sumner Court Development

From: Alex Jaegerman
To: Christine Grimando
Date: 3/5/2015 6:03 PM
Subject: Fwd: Re: Alex Jaegerman Interpretation of Possible Sumner Court Development

Christine: Please include this email correspondence in the R-6 Public Comment attachment.

>>> On 2/26/2015 at 11:30 AM, in message <477BA1E2-7CBB-4683-A023-6EDDBAEC9531@gmail.com>, Pamela Jack <pamjack1@gmail.com> wrote:

Hi Alex,

I understand there's another public hearing on March 10th to discuss the R-6 changes.

I'm following up on Kevin Donoghue's email below to find out what steps are being taken by your office to ensure that the qualifying frontage must be used as the primary access point for any new development in the R-6 zone? Any text changes to support this effort should naturally be made prior to the next meeting.

I'd appreciate a response at your earliest opportunity.

Kind regards.

Pam Jack
26 North Street

Sent from my iPad

On Feb 15, 2015, at 8:06 PM, Kevin Donoghue <kjdonoghue@portlandmaine.gov> wrote:

Thanks for writing,
I think we need Alex to clarify whether indeed Sumner could be used for access and how we might ensure that the qualifying frontage be the primary entry.

Thank you,

On Feb 15, 2015 7:09 PM, "Pamela Jack" <pamjack1@gmail.com> wrote:

Hi Kevin:

My neighbor, Doug Cowie, recently asked Alex Jaegerman if Sumner Court would meet the requirements for street frontage in the revised R-6 zoning language. Below is Alex's response, which exposes an obvious loophole in the

R-6 language that developers will undoubtedly try to exploit wherever possible. It's a prime example of the unintended consequences of some of the R-6 changes.

As you know, Ron Gan owns several lots on Sumner Court, as well as an abutting lot at 47 Cumberland Avenue. As Jaegerman points out, given that Sumner Court is an unaccepted City street, it does not meet the street frontage requirements, nor do the lots with frontage on Sumner Court qualify for development under Section 14-403, since Sumner Court is only 12' wide. It is clear that the ordinance is written to prevent development on a street as narrow as Sumner Court.

Gan's Cumberland Avenue lot has less than 33' of street frontage, which does not meet the current 40' minimum street frontage requirement. However, it will more than meet the proposed new 20' requirement. I was shocked to learn it is the City's position that if Gan simply merges his Sumner and Cumberland lots, his Cumberland Avenue frontage can be used to satisfy the street frontage requirement **without having to actually use it for access purposes**. Jaegerman goes on to say that Sumner Court could still be used for access under this scenario as a driveway, rendering the street frontage requirement--designed to prevent just such development--meaningless in this case.

How is this possible? Although this interpretation may satisfy the letter of the law as currently written—more by omission than intent—it clearly does not satisfy the spirit or the true intention of the rules in the ordinance. Over the 10 years that Devon and I have owned our building on North Street, Gan has relentlessly tried to pursue the development of his lots on Sumner Court by any means possible. In the interest of public safety, our group of Sumner Court neighbors has spoken against Gan's attempts at a Zoning Appeal, a Practical Difficulty Variance, and, most recently, an attempt at a Zoning Text Amendment. Since the rules in the R-6 ordinance have never allowed development of Mr. Gan's lots, he has made numerous attempts to change those rules, all of which were denied by City officials. The governing officials from Planning and Zoning have agreed over the past decade that Sumner Court is not an appropriate location for development given its unique and limited access.

The idea that the Sumner Court lots might now be developed based solely on the fact that a tiny portion of the abutting land not even used for access happens to touch a City street is an absurd and unacceptable technicality. It is important to point out that Gan does not wish to pursue access to any development on his Sumner Court lots via his 47 Cumberland Avenue property, since that would require the demolition of the single family home on that lot, and thus would significantly add to the cost of the project. Therefore, Gan has continued to insist on using Sumner Court as the access point.

My understanding is that the proposed R-6 zoning changes are designed to allow development on certain small lots that may otherwise be appropriate for development, but haven't met the rules in the ordinance mainly due to their small size. The Sumner Court lots have not and still do not meet this criteria, due to their limited access, and are still not appropriate for development despite any changes in the R-6 zoning language.

According to Jaegerman, development using Sumner Court as the access could be possible unless this loophole in the ordinance is closed. What can be done? Shouldn't language be added requiring that the **minimum street frontage for any development must also be used as the access point**? Isn't that the intention of the current ordinance language? Is there some other way to fix this weakness in the ordinance that would continue to protect the Sumner Court lots from being developed, since there is so much evidence they shouldn't be? Based on Jaegerman's interpretation, unless language is either added or modified now and before the R-6 changes are finalized, City officials and neighbors may be powerless to prevent development on Sumner Court.

We would appreciate your guidance and assistance with this matter, and look forward to hearing back from you at your earliest convenience.

Respectfully,

Pamela Jack & Devon Platte

From: "Alex Jaegerman"
<AQJ@portlandmaine.gov>
Date: February 13, 2015 at 4:49:50 PM EST
To: "Douglas" <jimdoog@gmail.com>
Cc: "Ann Machado"
<AMACHADO@portlandmaine.gov>, "Christine Grimando" <CDG@portlandmaine.gov>, "Jeff Levine" <JLEVINE@portlandmaine.gov>
Subject: Re: My Question

Douglas:
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lots may be developed on unaccepted streets under certain conditions, however that provision also specifies a minimum street width of 35 feet, so Sumner Court would not qualify.

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requirements in the City's
building codes.
I have asked the question
at two and possibly three
board meetings, and in
more than one email to
you, but I've yet to get an
answer. Perhaps you can
appreciate how I feel
about this.
Let me know if your
department is unable to
answer that question, and
who you suggest I should
contact about it. If you are
able to answer it, let me
know when I will get it.

JD Cowie
32 North St
321-8615

Notice: Under Maine law,
documents - including e-mails -
in the possession of public
officials or city employees about
government business may be
classified as public records.
There are very few exceptions.
As a result, please be advised
that what is written in an e-mail
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WESTERN PROMENADE NEIGHBORHOOD ASSOCIATION

March 9, 2015

Portland Planning Board
389 Congress Street
Portland, ME 04101

Re: Proposed Changes to the R-6

Dear Planning Board Members:

I am writing as the President of the Western Promenade Neighborhood Association to provide comments regarding the proposed changes to the R-6 zones in the City.

First, we appreciate and agree with the basic approach of better conforming zoning to the existing development pattern and to allow existing structures more flexibility in meeting the needs of owners. That said, “the devil is in the details” and we have the following comments:

1) Unintended Consequences We are very concerned that the proposed significant increase in density will result in the development of even more housing that is unaffordable to the vast majority of Portland residents. In particular, we continue to be concerned about the potential for the smaller, affordable single-family houses to be cut up to small condos for couples. C

2) Focus First As suggested in a prior email comment, perhaps the focus should first be on “stranded lots”, development of which is constrained by existing zoning. Apply the proposed new zoning regime to these lots and see what kind/cost of housing is proposed before making a wholesale change in the entire R-6.

3) Development and Development Criteria It is evident that the reduction or functional elimination of many of the R-6 zone limitations is a significant benefit to the development community. The City and its citizens should get something in exchange for the reduction in the limits:

- *Higher Building and Energy Efficiency Requirements* – As a *quid pro quo* for the elimination of many limits on building and/or renovation, the City should adopt its own building code for the R-6 which would, for example, require any new construction and/or major renovations to be done to a LEED standard or the highest energy efficiency standards that can reasonably be met.
- *Provision for Plantings and Planting Requirements* – Trees, shrubs and plantings are visually appealing, but also reflect and absorb heat. An accessible example is the difference between parking one’s car on a hot day on a shopping center parking lot, versus a city street with trees and plantings. Studies have been conducted showing a “heat trap” effect in cities without plantings. With the

changes in reduced set-backs, etc., the amount of trees and plantings might be minimal, if left to a developer. The City should mandate a provision for trees and plantings as part of the R-6 revisions.

4) Impacts. The R-6 proposals simply lower the restrictions on building. As described above, the City and its citizens should not, as an unintended result, lose what is now an appealing city-scape. Even renovations and conversions have an impact. Additional meters, wiring and non-owner occupations will change the current “feel” of Portland, and likely not in a positive way.

Allowing garage openings of any size in the front façade of new townhouses will bring a undesirable suburban design element to the peninsula and does not in any way reflect the current development pattern of garages or off street parking spots to the side or rear of properties. NO garage opening should be allowed in front facades, period.

The City should consider expanding the Historic District areas to allow oversight on new construction. For example, aesthetically, when previously one started up Congress into Munjoy Hill, the sense was that one was entering a neighborhood. Just the few higher elevation structures recently constructed on Congress Street have changed how that is experienced. Because of the impact of those few buildings, it feels now that one remains in an extension of an urban core area.

Lastly, we add an important general comment. The sentiment expressed by the staff and Planning Board seems to imply that new building in the R-6 will necessarily result in more affordable housing. That idea is misplaced. The most expensive and desirable land, of which there is a scarcity, is on the peninsula. If a developer is going to incur the expense of acquiring such land and building on it, it is not going to be for the purposes of creating affordable housing. It will be to capture the explosive market demand both in the sale and rental market. As Economics 101 seems to indicate that increased density will allow a property owner to set a higher asking price, which would then be spread over the increased number of units. Depending on the market premium the added density provides, it seems unlikely that workforce housing will be produced.

The Western Promenade Neighborhood Association appreciates the early outreach to neighborhoods and encourages the Board to give very careful consideration to the many concerns being expressed by residents.

Very truly yours,

Anne B. Pringle
President

MICHAEL F. BRENNAN (MAYOR)
KEVIN J. DONOGHUE (1)
DAVID A. MARSHALL (2)
EDWARD J. SUSLOVIC (3)
JUSTIN COSTA (4)

**CITY OF PORTLAND
IN THE CITY COUNCIL**

DAVID H. BRENNERMAN (5)
JILL C. DUSON (A/L)
JON HINCK (A/L)
NICHOLAS M. MAVODONES, JR (A/L)

Order 210-14/15
~~Tab 37 4-6-15~~
Tab 29 4-27-15

**FOURTH AMENDMENT TO CONDITIONAL ZONE AGREEMENT
RE: PROPERTY IN THE VICINITY OF
DIAMOND COVE/GREAT DIAMOND ISLAND**

WHEREAS, on July 15, 1985 by Order 42-84/85, the Portland City Council approved a Conditional Rezoning of certain property located on Great Diamond Island, formerly known as Fort McKinley and referred to as the "Premises" in said Conditional Rezoning; and

WHEREAS, the Conditional Rezoning has since been amended pursuant to amendments dated August 16, 2004, September 15, 2008, and February 22, 2012 (hereinafter, as amended, the "CZA"); and

WHEREAS, on April 17, 2014, the City of Portland entered into a Lease Agreement (later amended on September 30, 2014) with the Diamond Cove Homeowners Association pursuant to which the City has agreed to lease space on the Premises and install a solid waste transfer and recycling station in order to more efficiently handle solid waste management on both Great Diamond Island and Little Diamond Island (hereinafter, the "Lease Agreement"); and

WHEREAS, due to constraints the Premises, the only appropriate location for the transfer station is within a portion of the Premises located as shown on Attachment A and previously designated as "Dedicated Open Space" which, under the CZA may not be developed;

WHEREAS, pursuant to the Lease Agreement, on January 23, 2015, the City of Portland's Director of Public Services filed an application to amend the CZA and to modify the boundary of the Dedicated Open Space in order to allow the construction, maintenance and operation of the transfer station;

WHEREAS, on March 24, 2015, the Portland Planning Board recommended the approval of the amendment to the CZA; and

WHEREAS, the City council hereby finds and declares that said amendments to the Conditional Rezoning are pursuant to and consistent with the City's Comprehensive Plan as well as with existing and permitted uses in the CZA;

NOW THEREFORE, BE IT ORDAINED by the City Council of the City of Portland, Maine, in the Council assembled as follows:

Paragraph 1 of the CZA in Order 42-84/85, as further amended in Orders 33-04/05, 55-08/09, and 114-11/12, is amended as follows:

1. Development limited. The development, use and occupancy of the Premises shall be limited to one hundred thirty-four (134) dwelling units and other permitted uses, and uses accessory thereto. Except for the reconstruction, renovation and repair of existing buildings and structures, ~~and the construction of minor additions and improvements thereto, and the construction of a solid waste transfer and recycling station in a form substantially similar to that depicted in the plan attached hereto as Attachment B,~~ there shall be no construction or development of any new principal building or structure on the Premises. Except as otherwise specified herein, all portions of the Premises identified on the map attached hereto as open space shall be dedicated and reserved as such in perpetuity.

and, **BE IT FURTHER ORDAINED that:**

The area described in Attachment C, being the premises leased under the Lease Agreement, be removed from the Dedicated Open Space as originally identified in the CZA.

MEMORANDUM
City Council Agenda Item

TO: Mayor and City Council

FROM: Alexander Jaegerman, Planning Division Director

DATE: March 25, 2015

DISTRIBUTION: City Manager, Mayor, Sonia Bean, Danielle West-Chuhta,
Nancy English, Julie Sullivan, Jeff Levine, Mike Bobinsky, Jennifer Thompson

SUBJECT: Fourth Amendment to 1985 Conditional Zoning Agreement
Fort McKinley, Great Diamond Island

SPONSOR: Stuart O'Brien, Chair, Planning Board

COUNCIL MEETING DATE ACTION IS REQUESTED:

1st reading April 6, 2015 Final Action April 27, 2015

Can action be taken at a later date: Yes X No (If no why not?)

Public notices will appear in the newspaper and be mailed in advance of the public hearing. Project start is time-critical and a June action would delay.

PRESENTATION: Planning Board Chair Stuart O'Brien will make a brief presentation. Staff from Planning and the Department of Public Services (applicant) will be present to answer questions.

I. SUMMARY OF ISSUE (Agenda Description)

On March 24, 2015, the Planning Board voted 4-0 (O'Brien abstaining; Eaton and Morrisette absent) to recommend amendments to an existing IR-3 conditional zoning agreement (CZA) for Fort McKinley, Great Diamond Island, to the City Council. The amendment was requested by the City's Department of Public Services to allow the construction of a solid waste transfer and recycling station that has been the subject of discussions for several years. The amendments include a minor change to the boundary of the designated open space near the "laundry building" and a text amendment/plan reference to confirm the use is an exception to the limitations referenced in para 1 of the CZA. The 1985 CZA anticipated the possibility of a municipally-operated island solid waste disposal facility being created (para 6).

II. REASON FOR SUBMISSION (Summary of Issue/Background)

Current waste management on the island consists of a solid waste truck parked on property on Great Diamond Island, that is frequently transported off the island. This arrangement is not sufficiently or effectively serving the needs of the island's residents and is costly and inefficient to operate. Due to the gradually increasing population and the waste management requirements attendant to that growth, the City and the Diamond Cove Homeowner's Association (DCHA) – in cooperation with other residents on the island – have determined that a solid waste transfer station capable of handling the island's waste is would allow more efficient consolidation and transportation. The DCHA and the City have negotiated a lease to allow the construction of a municipal transfer station on land owned by the DCHA. The site was chosen to be near the barge landing, to minimize truck travel and minimize impact on old growth trees and open space; the agreed site impacts .9 acre of open space and this requires the amendment to the 1985 CZA and associated Open Space Designation.

III. INTENDED RESULT

The proposed amendments to the conditional zoning agreement are designed to allow the city to construct a solid waste transfer station on the identified site, for which a lease has already been approved by the City Council.

IV. COUNCIL GOAL ADDRESSED

The proposed amended conditional zoning agreement addresses the following council goal:

Improve City Services: Operate the city government in an efficient and effective manner that is responsive to all segments of the community in a manner that is transparent and accountable.

V. FINANCIAL IMPACT

The amendment to the CZA facilitates the early implementation of the proposed transfer station, which will lead to efficiencies and associated cost savings in addition to providing an improved service to the island.

VI. STAFF ANALYSIS

The proposed municipal transfer station was envisaged in the 1985 CZA (para 6) and the Department of Public Services and DCHA have worked for several years to identify a suitable site and collaborate on its detailed location and design. The lease between the City and the DCHA includes numerous provisions to protect existing trees; buffer and screen the site; and control operational aspects such as truck trips, parking and noise. The proposals are subject to a Level II Site Plan Review and MDEP Solid Waste Program Permit.

The Planning Board considered the three elements of the proposed amendments to the 1985 CZA:

- The impact on the designated open space: The area to be removed from the 1985 designation is 39,565 sq ft (.9 acre) and includes land that is partially disturbed at present. The 1985 CZA does not mention the old tree growth areas, so the CZA amendment is not required to address this question although it would have minimal impact on old growth;
- The exception to the original text that limits construction or development: The first section of amended text adds the transfer station area to the existing exceptions and limits its scale and location by referring to the Site Plan. The use is consistent with the 1985 CZA as it envisaged a possible municipally-operated island solid waste disposal facility being created;
- Documentation of the area removed from open space designation: The 1985 CZA plan showing the designated open space is diagrammatic and it would be difficult to show a precise revised boundary line except by reference to the area leased for the transfer station. Therefore the metes and bounds of that area are included in the amendment to clarify where the location of the open space designation is revised in the vicinity of the transfer station.

The Board found the proposed amendments to be consistent with the City's Comprehensive Plan in that the Plan contemplates the need to provide sufficient public services to the City's islands.

VII. RECOMMENDATION

On March 24, 2015, the Planning Board held a Hearing on the proposed amendment and voted 4-0 (O'Brien abstaining; Eaton and Morrisette absent):

That the proposed fourth Amendment to the 1985 IR-3 Conditional Zone Agreement for Fort McKinley on Great Diamond Island is consistent with the Comprehensive Plan of the City of Portland and with the existing and permitted uses in the Conditional Zone Agreement. The Planning Board therefore recommends to the City Council approval of the proposed amendment to the 1985 Conditional Zone Agreement as set out in the Report.

VIII. LIST ATTACHMENTS

1. Order (Amendment attached as of 3.25.2015; order will be similar)
2. 1985 CZA
3. Planning Board Report to City Council (to be forwarded under separate cover)

Prepared by: Jean Fraser
Date: 3.25.2015

City of Portland, Maine

IN THE CITY COUNCIL.

045089

AMENDMENT TO PORTLAND CITY CODE

SECTION 14-49 (ZONING MAP)

RE: CONDITIONAL REZONING OF FT. MCKINLEY

WHEREAS, Diamond Cove Associates is the record owner of certain land, with the buildings thereon, situated on the northerly portion of Great Diamond Island and commonly known as the Ft. McKinley property; and

WHEREAS, in the process of a comprehensive land use study and rezoning of the Portland islands by the City, Diamond Cove Associates requested that a portion of said property be rezoned from the R-2 Residential Zone to the IR-3 Island Residential Zone; and

WHEREAS, the Planning Board, pursuant to 30 M.R.S.A. Section 4962(1)(I), and after notice and hearing and due deliberation thereon, recommended rezoning a portion of the property as aforesaid, subject, however, to certain conditions; and

WHEREAS, the City Council hereby finds and declares that said conditional rezoning would be pursuant to and consistent with the City's comprehensive plan and would satisfy the guidelines set forth in Section 14-145.13 of the Portland City Code, all for the reasons contained in the Planning Board's report accompanying this Amendment;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PORTLAND, MAINE, IN THE CITY COUNCIL ASSEMBLED, AS FOLLOWS:

THAT, the Zoning Map of the City of Portland, Maine (1958), as amended, on file in the Office of the Director of Planning and Urban Development (incorporated into this code by Section 14-49) be further amended as shown on the attached fragmentary map entitled "Fort McKinley Property Zoning Map (Great Diamond Island)", subject, however, to the Conditions and Restrictions attached hereto.

CONDITIONS AND RESTRICTIONS

The following conditions and restrictions are imposed by the City of Portland (the City) on Diamond Cove Associates (the Owner) as conditions of the rezoning of the property described on the map attached hereto (the Premises) from the R-2 Residential Zone to the IR-3 Island Residential Zone:

1. Development limited. The development, use and occupancy of the Premises shall be limited to one hundred thirty-four (134) dwelling units and other permitted uses, and uses accessory thereto. Except for the reconstruction, renovation and repair of existing buildings and structures, and the construction of minor additions and improvements thereto, there shall be no construction or development of any new principal building or structure on the Premises. All portions of the Premises identified on the map attached hereto as open space shall be dedicated and reserved as such in perpetuity.

2. Completion of development. The development of the Premises as aforesaid shall be substantially completed within three (3) years after the issuance of all licenses, permits and approvals required and requiring final action by any administrative agency, board or commission, including but not limited to subdivision, site plan and site location of development approvals, but not including building, plumbing, electrical or similar permits, which licenses, permits and approvals shall hereafter be diligently pursued; provided, however, that the time for performance hereunder shall be extended for the time during which performance is delayed by reasons wholly beyond the Owner's control, including but not limited to strikes, lock-outs, labor disputes, inability to procure materials, failure of power, riots, war, insurrection, administrative or judicial delay and similar reasons, but not including financial hardship or business conditions; provided, further, that the Planning Board may, after notice and hearing, extend the time for performance hereunder for up to one (1) additional year if it finds that substantial progress has been made toward completion, and that there is a reasonable likelihood of substantial completion within the time as extended.

3. Maintenance of streets, walks and landings. All streets and ways, walks and pedestrian rights of way, and landings, floats and docks on the Premises, including but not limited to those to which the public has a right of access, shall be kept reasonably safe and passable at all times, including but not limited to the off-season or winter months, and at the Owner's expense; provided, however, that the City may, from time to time, designate such areas as need not be kept clear of ice and snow when or where, in its opinion, the public health, safety and welfare do not require it; provided, further, that in the event that the Owner fails to perform any obligation hereunder, the City may, after giving actual notice to the Owner and a reasonable time to perform, enter upon the Premises, or any portion thereof, and take such reasonable steps, including

but not limited to the exercise of self-help, as to it may seem necessary or appropriate to perform the same, the cost of which shall be reimbursed in full by the Owner upon demand.

4. Maintenance of utilities. All utilities and related infrastructure and improvements on the Premises, including but not limited to water, power, communications, sewers and drains, surface drainage ways, street lights and hydrants, shall be kept fully operational and in good repair at all times, including but not limited to the off-season or winter months, and at the Owner's expense; provided, however, that in the event that the Owner fails to perform any obligation hereunder, the City may, after giving actual notice to the Owner and a reasonable time to perform, enter upon the Premises, or any portion thereof, and take such reasonable steps, including but not limited to the exercise of self-help, as to it may seem necessary or appropriate to perform the same, the cost of which shall be reimbursed in full by the Owner upon demand.

5. Disposal of sanitary waste. All sanitary waste generated on the Premises shall be collected and disposed of on the Premises by means of a community sewer and secondary treatment system which complies with all applicable federal, state and local regulations, and at the Owner's expense.

6. Disposal of solid waste. All solid waste generated on the Premises shall be collected and disposed of on the mainland or if, in the City's opinion, it would not create an unreasonable burden thereon, at a municipally-operated island solid waste disposal facility, in a manner which meets all applicable federal, state and local requirements, and at the Owner's expense.

7. Fire protection, public safety and emergency services. Before occupancy of the Premises, or any portion thereof, the Owner shall, at its own expense, provide to the City:

(a) a fully equipped "Quint" truck, so-called, or its equivalent, for fire protection purposes, which vehicle, whether new or used, shall conform to City specifications and be leased to the City under a written net lease-purchase agreement in a form mutually satisfactory to the parties and upon commercially reasonable terms, at the end of which lease term title to said vehicle shall be transferred to the City free and clear of all liens and encumbrances, and at no additional charge;

(b) a fully equipped multi-purpose truck van, for public safety and emergency purposes, which vehicle, whether new or used, shall conform to City specifications and be leased to the City for its useful life under a written net lease agreement in a form mutually satisfactory to the parties and providing for, among other things, annual lease payments in the amount of one dollar (\$1.00); and

- (c) a building or buildings, or portions thereof, suitably located on the Premises, for permanent maintenance and storage of said vehicles and related apparatus and equipment, and housing of at least two (2) City personnel associated therewith, which facility shall conform to City specifications and be leased to the City under a ninety-nine (99) year written net lease agreement in a form mutually satisfactory to the parties and providing for, among other things, annual lease payments in the amount of one dollar (\$1.00), and delivery of possession on a "turn-key" basis.

Upon the City's occupancy of said facility, the Owner shall, at its own expense, provide at all times thereafter a number, not to exceed two (2), of qualified private personnel equal to the number of City personnel then assigned thereto, which private personnel shall be on the Premises and available at all times on an on-call basis to assist said City personnel in the rendering of fire protection, public safety and emergency services on or to the Premises; provided, however, that nothing herein shall constitute any representation or commitment by the City to provide any particular level of staffing or services. Said private personnel shall be trained and equipped for such purposes by the City and at its expense, and shall be under the direction and supervision of authorized City personnel at all times while so engaged; provided, however, that in no case shall said private personnel be deemed agents or employees of the City for any purpose, including but not limited to workers' compensation, unemployment compensation, tort claims liability and collective bargaining; provided, further, that notwithstanding the foregoing, in the event that the City is held liable for any claim arising out of or relating to any actions of said private personnel, which actions were not pursuant to and consistent with the directions of authorized City personnel, the Owner shall indemnify and save forever harmless the City from and against any and all such claims.

8. Water transportation service. The Owner shall use its best efforts to secure from the Casco Bay Island Transit District year-round common carrier water transportation service to, from and between the Portland waterfront and Diamond Cove via a suitable docking facility on the Premises and on a schedule to be established by the carrier based upon passenger demand; provided, however, that in the event that such service is or at any time becomes unavailable, the Owner shall, at its own expense, provide an equivalent alternative to such service, subject only to the approval thereof by the Public Utilities Commission, or such other regulatory authority having jurisdiction thereof.

9. Restrictions on motor vehicles. Except for vehicles used primarily for construction, maintenance, service and the common transportation of goods and passengers, and fire protection, public safety and emergency vehicles, no motor vehicles, as defined in 29 M.R.S.A. Section 1(7), but including snowmobiles, shall be operated or stored, temporarily or otherwise, on the Premises.

10. Applicability of other laws. The development, use and occupancy of the Premises shall be subject to all other applicable laws, ordinances, regulations and requirements of the City as they may from time to time exist, and neither these conditions or restrictions nor the performance of any obligation hereunder shall constitute compliance therewith or prevent the enforcement thereof, any violation of which shall also constitute a breach of these conditions and restrictions, any breach of which shall also constitute a violation of Chapter 14, Article III (Zoning) of the Portland City Code.

11. Successors bound. These conditions and restrictions shall bind the Owner, its successors and assigns, of or to the Premises, or any portion thereof or any interest therein, including but not limited to any security interest, and any person in possession or occupancy of the Premises, or any portion thereof, and shall inure to the benefit of and be enforceable by the City. The Owner shall, at its own expense, record a copy of these conditions and restrictions in the Cumberland County Registry of Deeds, and shall, by deed, covenant, declaration of condominium or other recorded or recordable instruments, as appropriate, ensure that these conditions and restrictions are enforceable by the City against all such successors, assigns and persons. Nothing herein shall be deemed to limit the Owner's right of alienability of the Premises, or any portion thereof, subject to these conditions and restrictions, which conditions and restrictions shall run with the land and be binding upon the Owner, its successors and assigns, as their interests may appear.

12. No reliance or estoppel. Nothing in these conditions or restrictions shall constitute any representation or commitment by the City to retain the zoning classification of the Premises, or shall entitle the Owner to rely thereon for any purpose, or shall estop the City from any future rezoning or exercise of other authority with respect to the Premises. Nothing herein shall be deemed to preclude the Owner from petitioning the City for any future rezoning of the Premises or other property in the vicinity thereof; provided, however, that nothing herein shall constitute any representation or commitment by the City to grant such a petition or otherwise act thereon.

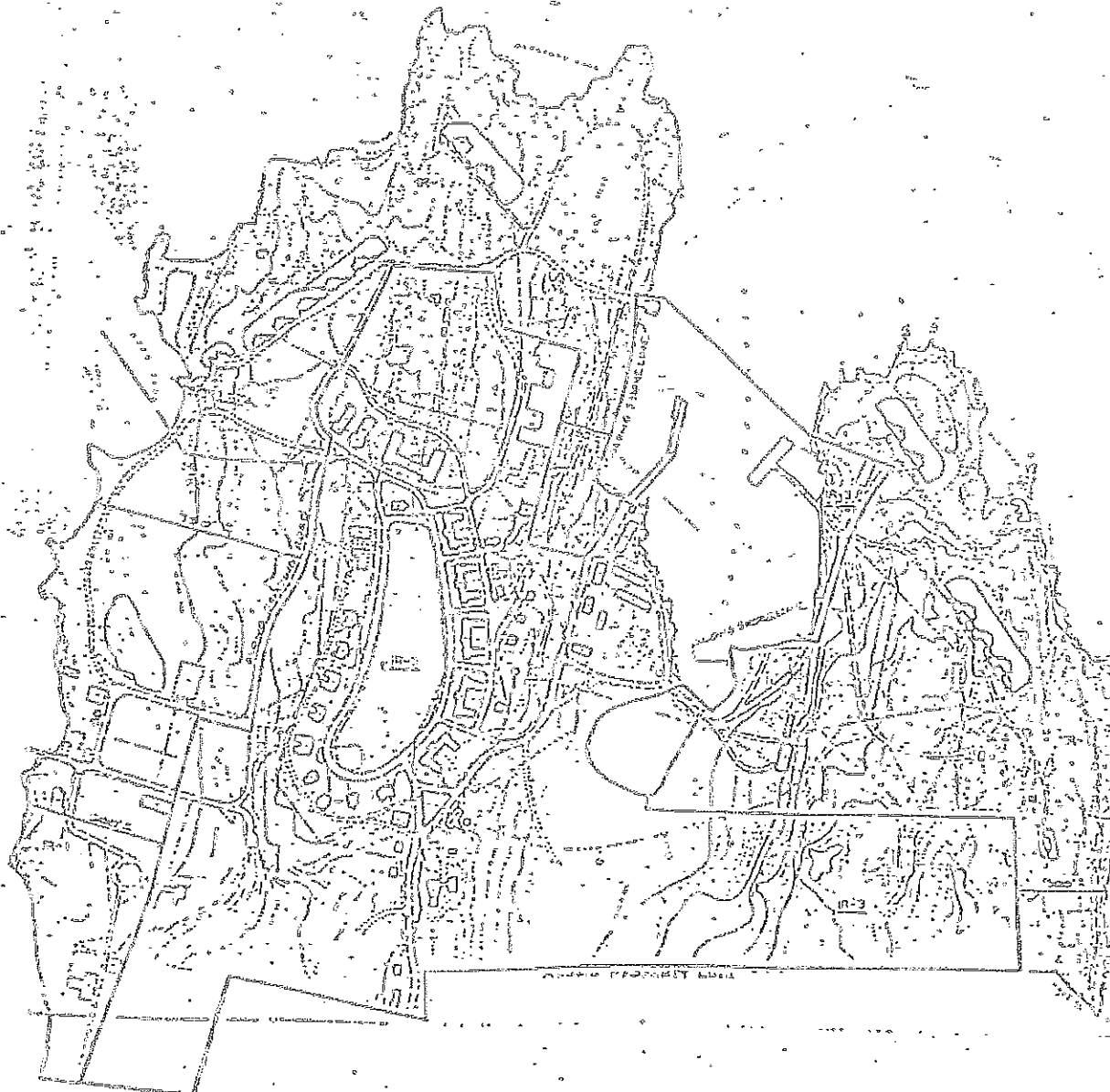
13. Breach. In case of any breach of these conditions and restrictions, and except as otherwise hereinbefore provided, the City shall, after giving written notice to the Owner and a reasonable time to cure not to exceed six (6) months, refer the same to the Planning Board, which shall, after notice and hearing, make a recommendation to the City Council whether to rezone the Premises, or any portion thereof, which recommendation shall be advisory only.

14. Declaration of invalidity. In the event that these conditions and restrictions, or any portion thereof, are declared invalid for any reason by a court of competent jurisdiction, the City shall invoke the same procedure as hereinbefore provided for breach of these conditions and restrictions.

15. Remedies not impaired. No failure or delay by the City to enforce any of these conditions and restrictions shall impair any remedy available for breach hereof, or constitute a waiver of or acquiescence in any breach hereof, the remedies for which shall be cumulative.

7/15/85

FORT MCKINLEY PROPERTY ZONING MAP
(GREAT DIAMOND ISLAND)



NOTE: SHORELAND ZONE LINE EXTENDS INLAND A DISTANCE
OF 250 FEET FROM THE NORMAL HIGH WATER MARK
OF THE BAYS, COVES, SOUNDS, INLETS AND OPEN
WATERS OF CASCO BAY.
(49)

7/15/85

Diamond Cove

GREAT DIAMOND ISLAND.

PORTLAND, ME

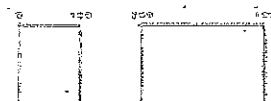
DEVELOPER : DICTAR ASSOCIATES

PORTLAND, ME

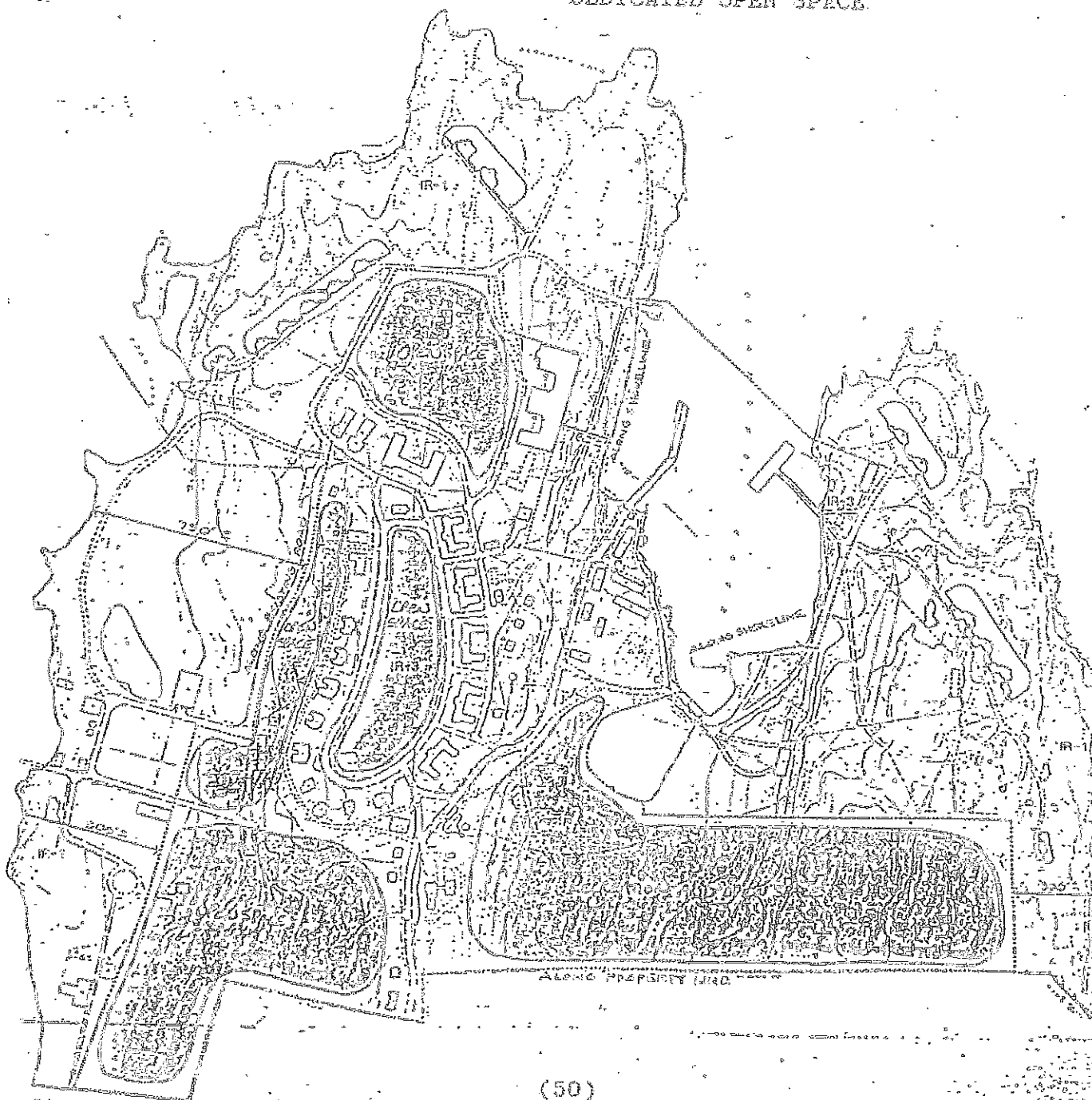
WEC

WATER & ENVIRONMENTAL CONSULTANTS
1000 BROAD STREET, SUITE 200
PORTLAND, ME 04101
(603) 833-1111

Consulting Engineers, Engineers and Architects



DEDICATED OPEN SPACE



AMENDMENT TO PORTLAND CITY
CODE SECTION 14-49 (ZONING
MAP) SECTION 14-49 (ZONING
MAP) RE: CONDITIONAL
REZONING OF FT. HORTINLEY

IN THE CITY COUNCIL

JUNE 12 1985

Given a first reading. Public
hearing held.

JUNE 24 - Public hearing held.
Councilor Smith moved, seconded
MacWilliams to table to July 15th
afternoon City Council Meeting,
passed 7 yeas.

JULY 15 - Removed from the table.
Motion to replace with substitute
amendment, passed, 8 Yeas, and
passed, as amended, 8 Yeas.

Item #98 dated July 15, 1985 is relevant to
this item. Titled Access For Island Sub-
divisions, it refers to this item.

Attest

STATE OF MAINE
CUMBERLAND, ss.

JANUARY 28, 1986

Personally appeared the above-named Jane Durgin and
acknowledged the foregoing instrument to be her free
act and deed in her said capacity.

EMILIE CURRAN

RECEIVED

NEWMEN RECORDING DEPT

1989 SEP 28 PM 3:32

CUMBERLAND COUNTY



PLANNING BOARD REPORT TO CITY COUNCIL PORTLAND, MAINE

Amended 1985 Conditional Zone Agreement for Fort McKinley
Fourth Amendment
in vicinity of Fort McKinley and Wood Side Drive, Great Diamond Island
City of Portland Department of Public Services: Applicant
Project ID 2015- 011

[Note: The Transfer Station Site has been given a new E-911 street address:
11 Wood Side Drive, Portland, ME 04109]

Submitted to: Portland City Council From: Portland Planning Board Second city Council Reading: April 27, 2015	Prepared by: Jean Fraser, Planner Date: March 25 th , 2015 CBL: 083E B022 and 083B M002 (formerly within 083B M001001)
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I. INTRODUCTION

The City of Portland Department of Public Services is requesting the City Council's consideration and adoption of proposed amendments to the 1985 IR-3 Conditional Zone Agreement (CZA) for Fort McKinley on Great Diamond Island (Application in Attachment A and the 1985 CZA is in Attachment I). Their request is to amend the conditional zoning to allow the construction of a solid waste transfer and recycling station that has been the subject of discussions for several years. The 1985 CZA anticipated the possibility of a municipally-operated island solid waste disposal facility being created (para 6 on page 3 of Attachment I).

The amendment is primarily related to the need for the transfer station to be located on the edge of the area designated as open space in the 1985 CZA (see location on the original designated open space plan in the 1985 CZA to right). The amendment also revises one paragraph (para 1 on page 2 of Attachment I) to allow the proposed use and to amend the designated open space plan.

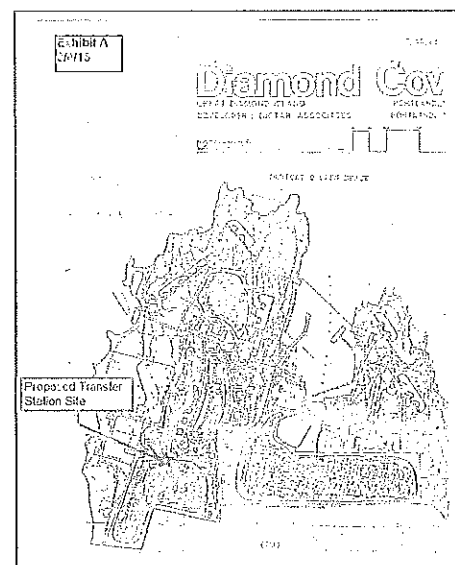
The Planning Board held a public hearing on March 24, 2015 and voted 4-0 (O'Brien abstained; Eaton and Morrisette absent) in favor of the following motion:

That the proposed fourth Amendment to the 1985 IR-3 Conditional Zone Agreement for Fort McKinley on Great Diamond Island is consistent with the Comprehensive Plan of the City of Portland and with the existing and permitted uses in the Conditional Zone Agreement. The Planning Board therefore recommends to the City Council approval of the proposed amendment to the 1985 Conditional Zone Agreement as set out in the Report.

Applicant: City of Portland Department of Public Services
Property Owner: Diamond Cove Homeowner's Association
Consultant: Owens McCullough, Sebago Technics

II. PUBLIC COMMENT

Notices were sent to 97 abutters, neighbors and interested parties for the Planning Board hearing, in accordance with the requirements specified in the ordinance for Conditional Rezoning, and will be similarly sent for the City Council's public hearing at the second reading. This includes notices in the Portland Press Herald, on the City's web page and posted in the City Clerk's office.



There were no spoken public comments at the Planning Board hearing; three written public comments were received from island residents (PC1, PC2, and PC3 attached) and included in the Planning Board report. These raise concerns regarding the old growth trees and other impacts from the transfer station use. Comments also noted concerns over the previous parking of city vehicles. Some of these impacts are limited by the lease (Attachment E) and would be the focus of the future Level II Site Plan Review and are discussed below. The proposal does not require a formal Neighborhood Meeting.

III. PROJECT DATA (Transfer Station site)

Existing Zoning:	1985 CZA (IR-3 Island Residential Zone)
Parcel Size:	55,050 sq ft (1.25 acres) leased area
Proposed disturbed area:	28,156 sq ft (of which 8924 sq ft existing)
Area of designated open space to be removed from the 1985 designation:	39,565 sq ft (.9 acre)

IV. BACKGROUND

The City of Portland does not have a formal solid waste facility on Great Diamond Island and waste management on the island now consists of a solid waste truck parked on property on the island and frequently transported off the island. The transfer station is proposed to provide a more efficient and hygienic handling of solid waste on the island. The site was chosen to meet a number of criteria (proximity to the barge landing; access for residents; least disturbance of land) and was agreed with the landowner as the best site for this use.

The proposed transfer station is on 1.25 acres of land owned by the Diamond Cove Homeowners Association (DCHA). The City and DCHA have negotiated and agreed upon the attached lease (Attachment B), which was approved by the City Council. The lease (in para 1B, page1 of the Lease) anticipated the need to amend the 1985 CZA but this was seen as a minor amendment because this part of the open space was already disturbed near the former "laundry facility" and DCHA septic system.

The proposed CZA amendment addresses:

- The impact on the designated open space;
- The exception to the original text that limits construction or development;
- Documentation of the area removed from open space designation.

As background staff requested the context plan shown below (also in Plan F1). On the context plans the information that is most relevant to consideration of the proposed amendment to the CZA is:

- The yellow outline: this area is proposed to be leased from the DCHA and developed for the Transfer Station. It defines the area to be removed from the open space designation;
- The purple hatched area: this is approximately the "designated open space" as based on the 1985 diagrammatic plan above.

Other information is included in the context plan and will inform the detailed Level II Site Plan review; such as the Historic District boundary and old tree growth.

Context plan (not for inclusion in the amendment):



V. SOLID WASTE TRANSFER STATION DEVELOPMENT

The applicant submitted a proposed Site Plan (below and as [Plan P2](#)) which illustrates the scale of the work to create storage bunkers and road access. The leased site is larger than the area of disturbance to ensure scope to buffer the development, as explained in the letter from Owens McCullough, Sebago Technics and City's representative, in [Attachment E](#). The details will be the subject of a separate Level II Site Plan review that will also assess other elements of the proposal such as stormwater treatment.

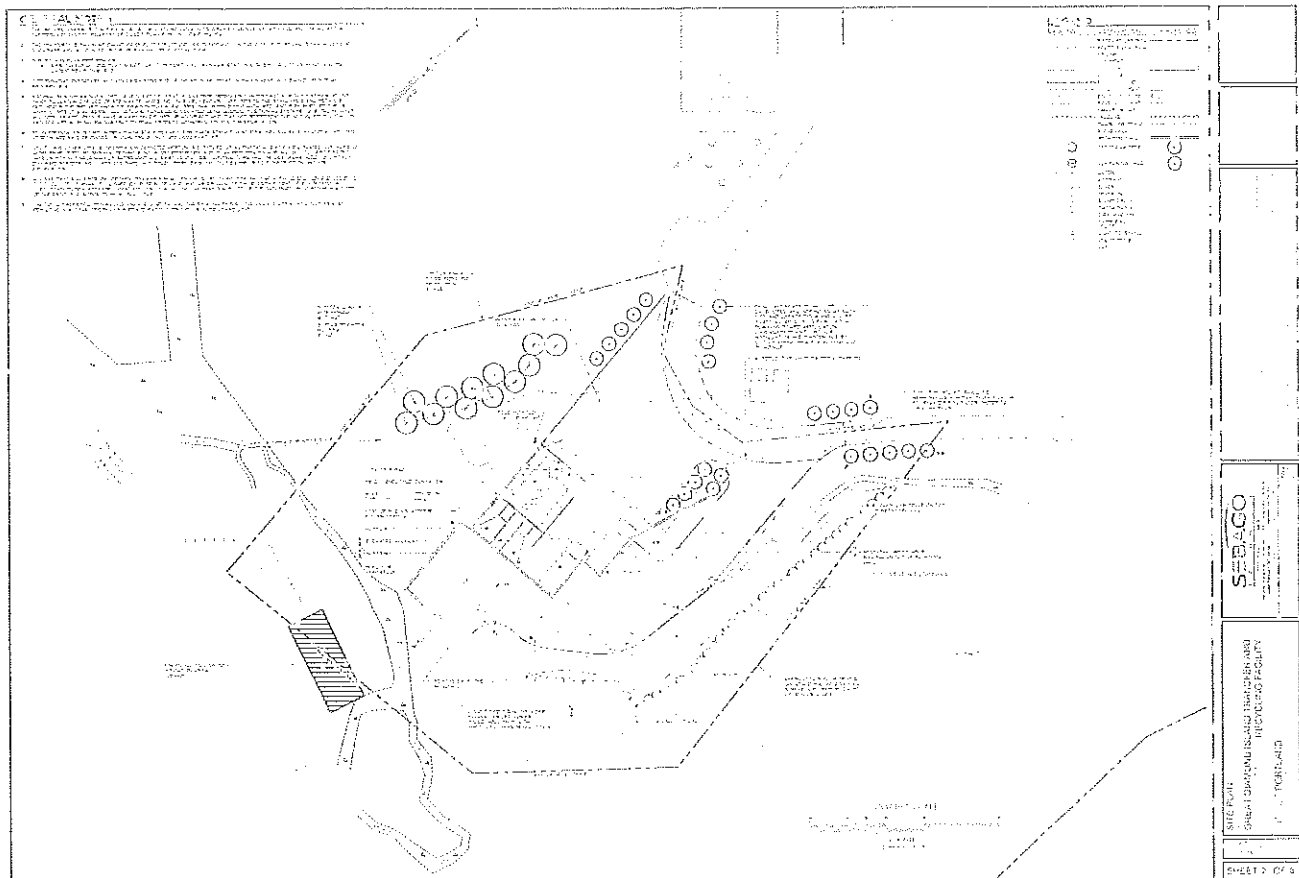
One of the impacts of the proposal is on the old growth trees in the vicinity. The applicant submitted a Licensed Forester's Report which assessed the potential impact on old growth trees ([Attachment C](#)). Although not technically an issue in relation to zoning, it should be noted that the Forester concluded that: "...less than 500 square feet within the old growth stand will need to be disturbed. The effect on the stand will not be noticeable. I suggest as a mitigation that a buffer area to the west be expanded by a similar area". The site plan includes a mitigation area of 1000 square feet (rectangle at left of plan).

The site plan also notes that a detailed landscape plan will be prepared and implemented to screen the transfer site from the road (screening from other directions is also included).

The public comments raised questions about the operation of the transfer station and associated impacts. Although these would be reviewed as part of the Level II Site Plan review, the land owner and applicant have addressed these questions in [Attachments D and E](#). The letters cover:

- Background on the leasing of the DCHA land from Matt Hoffner, President of the DCHA ([Attachment D](#));
- Confirmation and additional detail regarding the impacts on the old growth trees – from Owens McCullough, Sebago Technics and City representative ([Attachment E](#));
- Clarification as to the reasons for the size and location of the site ([Attachment E](#));
- Confirmation that in addition to the City's Site Plan review (not yet completed), the site specific operational issues such as noise and smells are also being reviewed by the MDEP ([Attachment E](#));
- Confirmation that the facility will not be open to the general public and that truck trips, parking and access are limited by provisions in the lease ([Attachment E](#)).

Site Plan (as referenced in the proposed amendment):



VI. LEGAL AUTHORITY FOR AMENDING THE 1985 CONDITIONAL ZONE AGREEMENT

Consideration of the request for an amendment to the 1985 CZA is guided by the same State Statutes that apply to any conditional rezoning application:

30-A M.R.S.A. section 4352(8): "A municipal zoning ordinance may provide for any form of zoning consistent with this chapter, subject to the following provisions . . .

A zoning ordinance may include provisions for conditional or contract zoning. All rezoning under this subsection must:

- A. Be consistent with the growth management program adopted under this chapter;*
- B. Establish rezoned areas that are consistent with the existing and permitted uses within the original zones; and*
- C. Only include conditions and restrictions that relate to the physical development or operation of the property. The municipal reviewing authority shall conduct a public hearing before any property is rezoned under this subsection. Notice of this hearing must be posted in the municipal office at least 13 days before the public hearing. Notice must also be published at least 2 times in a newspaper having general circulation in the municipality. The date of the first publication must be at least 7 days before the hearing. Notice must also be sent to the owner or owners of the property to be rezoned and to the owners of all property abutting the property to be rezoned at the owners' last known addresses. Notice also must be sent to a public drinking water supplier if the area to be rezoned is within its source water protection area. This notice must contain a copy of the proposed conditions and restrictions with a map indicating the property to be rezoned."*

In addition the amendment to the CZA must accord with the City's ordinance regarding conditional rezoning as quoted below:

Sec. 14-50. Authority and purpose.

Pursuant to 30-A M.R.S.A. Section 4503(9), conditional or contract zoning is hereby authorized for rezoning of property where, for reasons such as the unusual nature or unique location of the development proposed, the city council finds it necessary or appropriate to impose, by agreement with the property owner or otherwise, certain conditions or restrictions in order to ensure that the rezoning is consistent with the city's comprehensive plan. Conditional or contract zoning shall be limited to where a rezoning is requested by the owner of the property to be rezoned. Nothing in this division shall authorize either an agreement to change or retain a zone or a rezoning which is inconsistent with the city's comprehensive plan.

Sec. 14-62. Conditions and restrictions.

Conditions and restrictions imposed under the authority of this division shall relate only to the physical development and operation of the property and may include, by way of example:

- (a) Limitations on the number and types of uses permitted;*
- (b) Restrictions on the scale and density of development;*
- (c) Specifications for the design and layout of buildings and other improvements;*
- (d) Schedules for commencement and completion of construction;*
- (e) Performance guarantees securing completion and maintenance of improvements, and guarantees against defects;*
- (f) Preservation of open space and buffers, and protection of natural areas and historic sites;*
- (g) Contributions toward the provision of municipal services required by the development; and*
- (h) Provisions for enforcement and remedies for breach of any condition or restriction.*

VII. PROPOSED AMENDMENT TO THE CONDITIONAL REZONING AGREEMENT

The 1985 CZA has been amended on three earlier occasions: 2004 to allow electric golf carts subject to limitations; and in 2008 and 2012 to place supplemental conditions and restrictions on the "hospital" and "Double Barracks" buildings. The applicant and City staff, with input from the landowners DCHA, have worked together to develop the following fourth amendment to the 1985 CZA (text and attachments are in Attachment F):

**(FOURTH) AMENDMENT TO CONDITIONAL ZONE AGREEMENT
REFERENCED IN ORDER 42-24/85
RE: CONTRACT FOR REZONING FOR PROPERTY
IN THE VICINITY OF
DIAMOND COVE/GREAT DIAMOND ISLAND**

WHEREAS, on July 15, 1985, the Portland City Council approved a Conditional Rezoning of certain property located on Great Diamond Island, formerly known as Fort McKinley and referred to as the "Premises" in said Conditional Rezoning; and

WHEREAS, the Conditional Rezoning has since been amended pursuant to amendments dated August 16, 2004, September 15, 2008, and February 22, 2012 (hereinafter, as amended, the "CZA"); and

WHEREAS, on April 17, 2014, the City of Portland entered into a Lease Agreement (later amended on September 30, 2014) with the Diamond Cove Homeowners Association pursuant to which the City has agreed to lease space on the Premises and install a solid waste transfer and recycling station in order to more efficiently handle solid waste management on both Great Diamond Island and Little Diamond Island (hereinafter, the "Lease Agreement"); and

WHEREAS, due to constraints the Premises, the only appropriate location for the transfer station is within a portion of the Premises located as shown on Attachment A [Note: this is the diagrammatic plan with a star indicating the location of the transfer station] and previously designated as "Dedicated Open Space" which, under the CZA may not be developed;

WHEREAS, pursuant to the Lease Agreement, on _____, the City of Portland's Director of Public Services filed an application to amend the CZA and to modify the boundary of the Dedicated Open Space in order to allow the construction, maintenance and operation of the transfer station;

WHEREAS, on _____, the Portland Planning Board recommended the approval of the amendment to the CZA; and

WHEREAS, the City council hereby finds and declares that said amendments to the Conditional Rezoning are pursuant to and consistent with the City's Comprehensive Plan as well as with existing and permitted uses in the CZA;

NOW THEREFORE, BE IT ORDAINED by the City Council of the City of Portland, Maine, in the Council assembled as follows:

Paragraph 1 of the CZA in Order 42-84/85, as further amended in Orders 33-04/05, 55-08/09, and 114-11/12, is amended as follows:

1. Development limited. The development, use and occupancy of the Premises shall be limited to one hundred thirty-four (134) dwelling units and other permitted uses, and uses accessory thereto. Except for the reconstruction, renovation and repair of existing buildings and structures, and the construction of minor additions and improvements thereto, and the construction of a solid waste transfer and recycling station in a form substantially similar to that depicted in the plan attached hereto as Attachment B [Note; this is the site plan as shown above and in Plan P2], there shall be no construction or development of any new principal building or structure on the Premises. Except as otherwise specified herein, all portions of the Premises identified on the map attached hereto as open space shall be dedicated and reserved as such in perpetuity.

and, BE IT FURTHER ORDAINED that:

The area described in Attachment C [Note; this is the metes and bounds description as excerpted from the Lease in Attachment B], being the premises leased under the Lease Agreement, be removed from the Dedicated Open Space as originally identified in the CZA.

VIII. PLANNING BOARD AND STAFF REVIEW OF PROPOSED AMENDMENTS TO THE 1985 CZA.

The "Whereas" statements in the amendment document clarify the reasons for the amendment.

The key CZA amendment issues are:

- The impact on the designated open space: The area to be removed from the 1985 designation is 39,565 sq ft (less than an acre) and includes land that is partially disturbed at present. The 1985 CZA does not mention the old tree growth areas, so the CZA amendment is not required to address this question although it would be an issue for the Level II Site Plan review (and a preliminary review shows minimal impact on old growth). The City Arborist, Jeff Tarling, is familiar with the area and has confirmed there is no adverse impact (Att. 2);
- The exception to the original text that limits construction or development: The first section of amended text adds the transfer station area to the existing exceptions and limits its scale and location by referring to the Site Plan. The use is consistent with the 1985 CZA as it envisaged a possible municipally-operated island solid waste disposal facility being created (para 6 on page 3 of Att. 1).
- Documentation of the area removed from open space designation: The 1985 CZA plan showing the designated open space is diagrammatic and it would be difficult to show a precise revised boundary line except by reference to the area leased for the transfer station. Therefore the metes and bounds of that area are included in the amendment to clarify where the location of the open space designation is revised in the vicinity of the transfer station.

IX. COMPREHENSIVE PLAN

The City's Comprehensive plan notes that its islands "pose a completely unique situation for land use planning and zoning. Unlike most other densely inhabited islands on the Maine coast, which are separate municipalities, the

Portland islands are similar to the neighborhoods of a large, urban mainland municipality and pose strong contrasts of urban vs. rural and seasonal vs. year-round living. Similarly, unlike other areas of seasonal home concentrations in the rural Lakes regions of the State, the islands are subject to spillover growth pressures from the 'city,' and invite comparison to the mainland's relatively high level of public services in terms of streets, sewage, schools, waste collections, fire protection, police and libraries."

The Comprehensive Plan further provides: "The islands are different from the mainland in terms of the natural features, their resource value, the public services available (or possible), and the people who reside and work there. The City's land use policies and regulations should reflect this essential difference." Volume I, City of Portland Comprehensive Plan § V p. 25.

In recognizing the unique qualities and characteristics of Portland's islands, the Comprehensive Plan advises that the City should adopt a policy for future development that minimizes the dependence on and intrusion of private automobiles on the islands." *Id.* at p. 26. It further seeks to "encourage development of a type, scale, diversity and density appropriate to the circumstances, environment, infrastructure, and service capabilities of the islands."

According to the applicant and the DCHA, waste management on the island, which consists of weekly hauling of trash from a solid waste truck collected from the island and parked on property on the Great Diamond Island side is not sufficiently or effectively serving the needs of the island's residents. Due to the gradually increasing population and the waste management requirements attendant to that growth, the City and the DCHA – in cooperation with other residents on the island – have determined that a solid waste transfer station capable of handling the island's waste is necessary. The Planning Board found that the Comprehensive Plan contemplates the need to provide sufficient public services to the City's islands and that the introduction of the proposed transfer station is consistent with those objectives. Further, the existing CZA contemplates a municipally-operated solid waste facility on the site such that the proposal also appears to be consistent with the zoning expressly contemplated and authorized by that document.

X. PLANNING BOARD RECOMMENDATION

The Planning Board held a public hearing on March 24, 2015 and voted 4-0 (O'Brien abstained; Eaton and Morrisette absent) in favor of the following motion:

That the proposed fourth Amendment to the 1985 IR-3 Conditional Zone Agreement for Fort McKinley on Great Diamond Island is consistent with the Comprehensive Plan of the City of Portland and with the existing and permitted uses in the Conditional Zone Agreement. The Planning Board therefore recommends to the City Council approval of the proposed amendment to the 1985 Conditional Zone Agreement as set out in the Report.

XI. ATTACHMENTS

PB Hearing Report attachments

1. 1985 Approved Conditional Zone Agreement (CZA)
2. City Arborist comments 3.19.2015

Public comments

- PC1. Sandy Fitch (2)
PC2. Bonnie Dietz (2)
PC3. Alexandra Neal

Applicants submittal

- A. Applicants letter and application
- B. Transfer Station Lease (from DCHA to City)
- C. Foresters Report (Rene Noel)
- D. DCHA letter 3.16.2015 with further information
- E. Sebago letter 3.18.2015 with further information
- F. Proposed Amendment to the Conditional Zone Agreement with Attachments

Plans

- P1 Background Context Plan
P2 Proposed Site Plan

City of Portland, Maine

Att: 1

IN THE CITY COUNCIL

648089

AMENDMENT TO PORTLAND CITY CODE

SECTION 14-49 (ZONING MAP)

RE: CONDITIONAL REZONING OF FT. MCKINLEY

WHEREAS, Diamond Cove Associates is the record owner of certain land, with the buildings thereon, situated on the northerly portion of Great Diamond Island and commonly known as the Ft. McKinley property; and

WHEREAS, in the process of a comprehensive land use study and rezoning of the Portland islands by the City, Diamond Cove Associates requested that a portion of said property be rezoned from the R-2 Residential Zone to the IR-3 Island Residential Zone; and

WHEREAS, the Planning Board, pursuant to 30 M.R.S.A. Section 4962(1)(1), and after notice and hearing and due deliberation thereon, recommended rezoning a portion of the property as aforesaid, subject, however, to certain conditions; and

WHEREAS, the City Council hereby finds and declares that said conditional rezoning would be pursuant to and consistent with the City's comprehensive plan and would satisfy the guidelines set forth in Section 14-145.13 of the Portland City Code, all for the reasons contained in the Planning Board's report accompanying this Amendment;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PORTLAND, MAINE, IN THE CITY COUNCIL ASSEMBLED, AS FOLLOWS:

THAT, the Zoning Map of the City of Portland, Maine (1958), as amended, on file in the Office of the Director of Planning and Urban Development (incorporated into this code by Section 14-49) be further amended as shown on the attached fragmentary map entitled "Fort McKinley Property Zoning Map (Great Diamond Island)", subject, however, to the Conditions and Restrictions attached hereto.

CONDITIONS AND RESTRICTIONS

The following conditions and restrictions are imposed by the City of Portland (the City) on Diamond Cove Associates (the Owner) as conditions of the rezoning of the property described on the map attached hereto (the Premises) from the R-2 Residential Zone to the IR-3 Island Residential Zone:

1. Development limited. The development, use and occupancy of the Premises shall be limited to one hundred thirty-four (134) dwelling units and other permitted uses, and uses accessory thereto. Except for the reconstruction, renovation and repair of existing buildings and structures, and the construction of minor additions and improvements thereto, there shall be no construction or development of any new principal building or structure on the Premises. All portions of the Premises identified on the map attached hereto as open space shall be dedicated and reserved as such in perpetuity.

2. Completion of development. The development of the Premises as aforesaid shall be substantially completed within three (3) years after the issuance of all licenses, permits and approvals required and requiring final action by any administrative agency, board or commission, including but not limited to subdivision, site plan and site location of development approvals, but not including building, plumbing, electrical or similar permits, which licenses, permits and approvals shall hereafter be diligently pursued; provided, however, that the time for performance hereunder shall be extended for the time during which performance is delayed by reasons wholly beyond the Owner's control, including but not limited to strikes, lock-outs, labor disputes, inability to procure materials, failure of power, riots, war, insurrection, administrative or judicial delay and similar reasons, but not including financial hardship or business conditions; provided, further, that the Planning Board may, after notice and hearing, extend the time for performance hereunder for up to one (1) additional year if it finds that substantial progress has been made toward completion, and that there is a reasonable likelihood of substantial completion within the time as extended.

3. Maintenance of streets, walks and landings. All streets and ways, walks and pedestrian rights of way, and landings, floats and docks on the Premises, including but not limited to those to which the public has a right of access, shall be kept reasonably safe and passable at all times, including but not limited to the off-season or winter months, and at the Owner's expense; provided, however, that the City may, from time to time, designate such areas as need not be kept clear of ice and snow when or where, in its opinion, the public health, safety and welfare do not require it; provided, further, that in the event that the Owner fails to perform any obligation hereunder, the City may, after giving actual notice to the Owner and a reasonable time to perform, enter upon the Premises, or any portion thereof, and take such reasonable steps, including

but not limited to the exercise of self-help, as to it may seem necessary or appropriate to perform the same, the cost of which shall be reimbursed in full by the Owner upon demand.

4. Maintenance of utilities. All utilities and related infrastructure and improvements on the Premises, including but not limited to water, power, communications, sewers and drains, surface drainage ways, street lights and hydrants, shall be kept fully operational and in good repair at all times, including but not limited to the off-season or winter months, and at the Owner's expense; provided, however, that in the event that the Owner fails to perform any obligation hereunder, the City may, after giving actual notice to the Owner and a reasonable time to perform, enter upon the Premises, or any portion thereof, and take such reasonable steps, including but not limited to the exercise of self-help, as to it may seem necessary or appropriate to perform the same, the cost of which shall be reimbursed in full by the Owner upon demand.

5. Disposal of sanitary waste. All sanitary waste generated on the Premises shall be collected and disposed of on the Premises by means of a community sewer and secondary treatment system which complies with all applicable federal, state and local regulations, and at the Owner's expense.

6. Disposal of solid waste. All solid waste generated on the Premises shall be collected and disposed of on the mainland or if, in the City's opinion, it would not create an unreasonable burden thereon, at a municipally-operated island solid waste disposal facility, in a manner which meets all applicable federal, state and local requirements, and at the Owner's expense.

7. Fire protection, public safety and emergency services. Before occupancy of the Premises, or any portion thereof, the Owner shall, at its own expense, provide to the City:

(a) a fully equipped "Quint" truck, so-called, or its equivalent, for fire protection purposes, which vehicle, whether new or used, shall conform to City specifications and be leased to the City under a written net lease-purchase agreement in a form mutually satisfactory to the parties and upon commercially reasonable terms, at the end of which lease term title to said vehicle shall be transferred to the City free and clear of all liens and encumbrances, and at no additional charge;

(b) a fully equipped multi-purpose truck van, for public safety and emergency purposes, which vehicle, whether new or used, shall conform to City specifications and be leased to the City for its useful life under a written net lease agreement in a form mutually satisfactory to the parties and providing for, among other things, annual lease payments in the amount of one dollar (\$1.00); and

- (c) a building or buildings, or portions thereof, suitably located on the Premises, for permanent maintenance and storage of said vehicles and related apparatus and equipment, and housing of at least two (2) City personnel associated therewith, which facility shall conform to City specifications and be leased to the City under a ninety-nine (99) year written net lease agreement in a form mutually satisfactory to the parties and providing for, among other things, annual lease payments in the amount of one dollar (\$1.00), and delivery of possession on a "turn-key" basis.

Upon the City's occupancy of said facility, the Owner shall, at its own expense, provide at all times thereafter a number, not to exceed two (2), of qualified private personnel equal to the number of City personnel then assigned thereto, which private personnel shall be on the Premises and available at all times on an on-call basis to assist said City personnel in the rendering of fire protection, public safety and emergency services on or to the Premises; provided, however, that nothing herein shall constitute any representation or commitment by the City to provide any particular level of staffing or services. Said private personnel shall be trained and equipped for such purposes by the City and at its expense, and shall be under the direction and supervision of authorized City personnel at all times while so engaged; provided, however, that in no case shall said private personnel be deemed agents or employees of the City for any purpose, including but not limited to workers' compensation, unemployment compensation, tort claims liability and collective bargaining; provided, further, that notwithstanding the foregoing, in the event that the City is held liable for any claim arising out of or relating to any actions of said private personnel, which actions were not pursuant to and consistent with the directions of authorized City personnel, the Owner shall indemnify and save forever harmless the City from and against any and all such claims.

8. Water transportation service. The Owner shall use its best efforts to secure from the Casco Bay Island Transit District year-round common carrier water transportation service to, from and between the Portland waterfront and Diamond Cove via a suitable docking facility on the Premises and on a schedule to be established by the carrier based upon passenger demand; provided, however, that in the event that such service is or at any time becomes unavailable, the Owner shall, at its own expense, provide an equivalent alternative to such service, subject only to the approval thereof by the Public Utilities Commission, or such other regulatory authority having jurisdiction thereof.

9. Restrictions on motor vehicles. Except for vehicles used primarily for construction, maintenance, service and the common transportation of goods and passengers, and fire protection, public safety and emergency vehicles, no motor vehicles, as defined in 29 M.R.S.A. Section 1(7), but including snowmobiles, shall be operated or stored, temporarily or otherwise, on the Premises.

10. Applicability of other laws. The development, use and occupancy of the Premises shall be subject to all other applicable laws, ordinances, regulations and requirements of the City as they may from time to time exist, and neither these conditions or restrictions nor the performance of any obligation hereunder shall constitute compliance therewith or prevent the enforcement thereof. any violation of which shall also constitute a breach of these conditions and restrictions, any breach of which shall also constitute a violation of Chapter 14, Article III (Zoning) of the Portland City Code.

11. Successors bound. These conditions and restrictions shall bind the Owner, its successors and assigns, of or to the Premises, or any portion thereof or any interest therein, including but not limited to any security interest, and any person in possession or occupancy of the Premises, or any portion thereof, and shall inure to the benefit of and be enforceable by the City. The Owner shall, at its own expense, record a copy of these conditions and restrictions in the Cumberland County Registry of Deeds, and shall, by deed, covenant, declaration of condominium or other recorded or recordable instruments, as appropriate, ensure that these conditions and restrictions are enforceable by the City against all such successors, assigns and persons. Nothing herein shall be deemed to limit the Owner's right of alienability of the Premises, or any portion thereof, subject to these conditions and restrictions, which conditions and restrictions shall run with the land and be binding upon the Owner, its successors and assigns, as their interests may appear.

12. No reliance or estoppel. Nothing in these conditions or restrictions shall constitute any representation or commitment by the City to retain the zoning classification of the Premises, or shall entitle the Owner to rely thereon for any purpose, or shall estop the City from any future rezoning or exercise of other authority with respect to the Premises. Nothing herein shall be deemed to preclude the Owner from petitioning the City for any future rezoning of the Premises or other property in the vicinity thereof; provided, however, that nothing herein shall constitute any representation or commitment by the City to grant such a petition or otherwise act thereon.

13. Breach. In case of any breach of these conditions and restrictions, and except as otherwise hereinbefore provided, the City shall, after giving written notice to the Owner and a reasonable time to cure not to exceed six (6) months, refer the same to the Planning Board, which shall, after notice and hearing, make a recommendation to the City Council whether to rezone the Premises, or any portion thereof, which recommendation shall be advisory only.

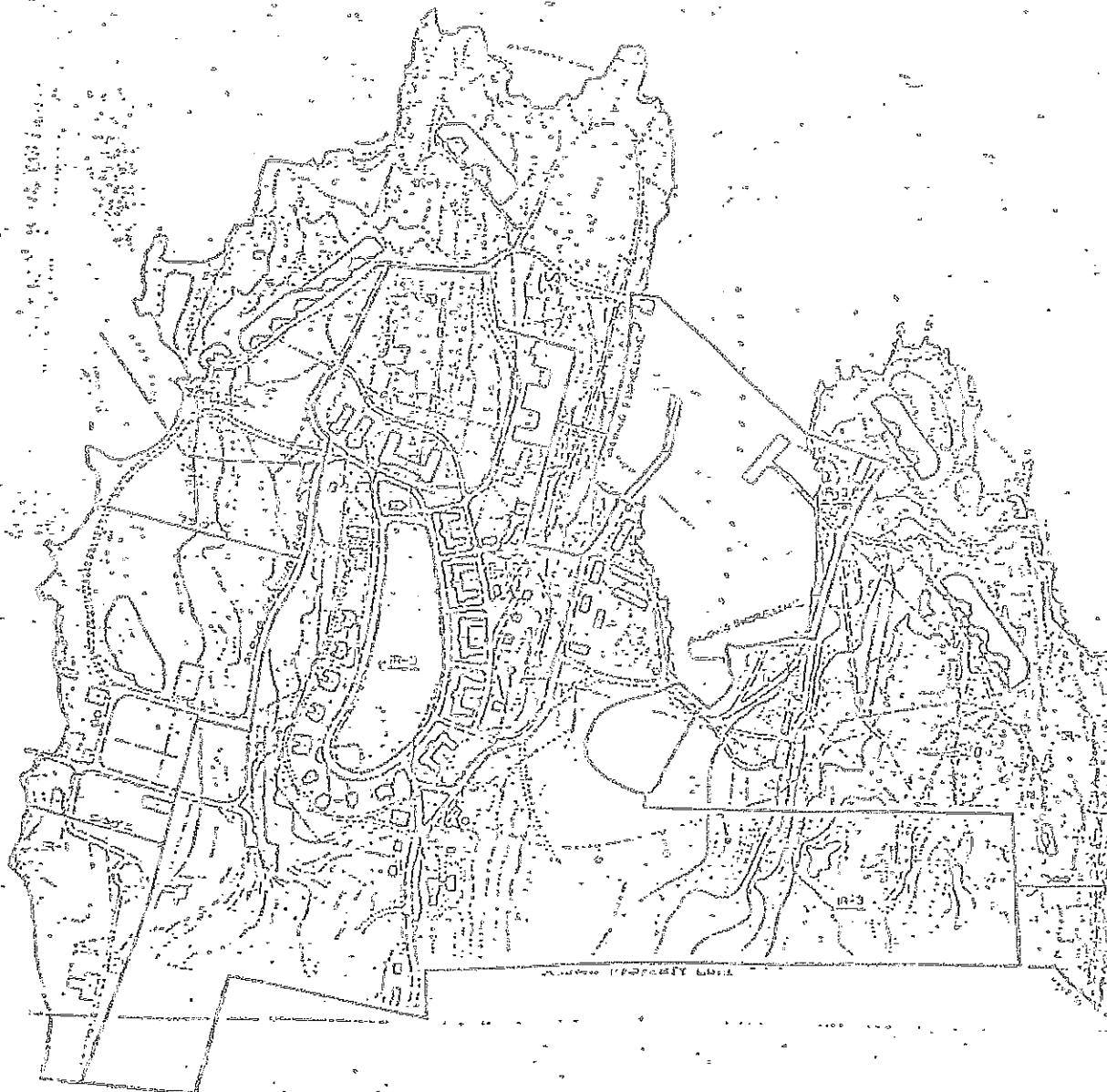
14. Declaration of invalidity. In the event that these conditions and restrictions, or any portion thereof, are declared invalid for any reason by a court of competent jurisdiction, the City shall invoke the same procedure as hereinbefore provided for breach of these conditions and restrictions.

7/15/85

15. Remedies not impaired. No failure or delay by the City to enforce any of these conditions and restrictions shall impair any remedy available for breach hereof, or constitute a waiver of or acquiescence in any breach hereof, the remedies for which shall be cumulative.

7/15/85

FORT MCKINLEY PROPERTY ZONING MAP
(GREAT DIAMOND ISLAND)



NOTE: SHORELAND ZONE LINE EXTENDS INLAND A DISTANCE
OF 250 FEET FROM THE NORMAL HIGH WATER MARK
OF THE BAYS, COVES, SOUNDS, INLETS AND OPEN
WATERS OF CASCO BAY.
(49)

7/15/85

Diamond Cove

GREAT DIAMOND ISLAND

PORTLAND, ME

DEVELOPER: DICTAR ASSOCIATES

FORTLAND, ME

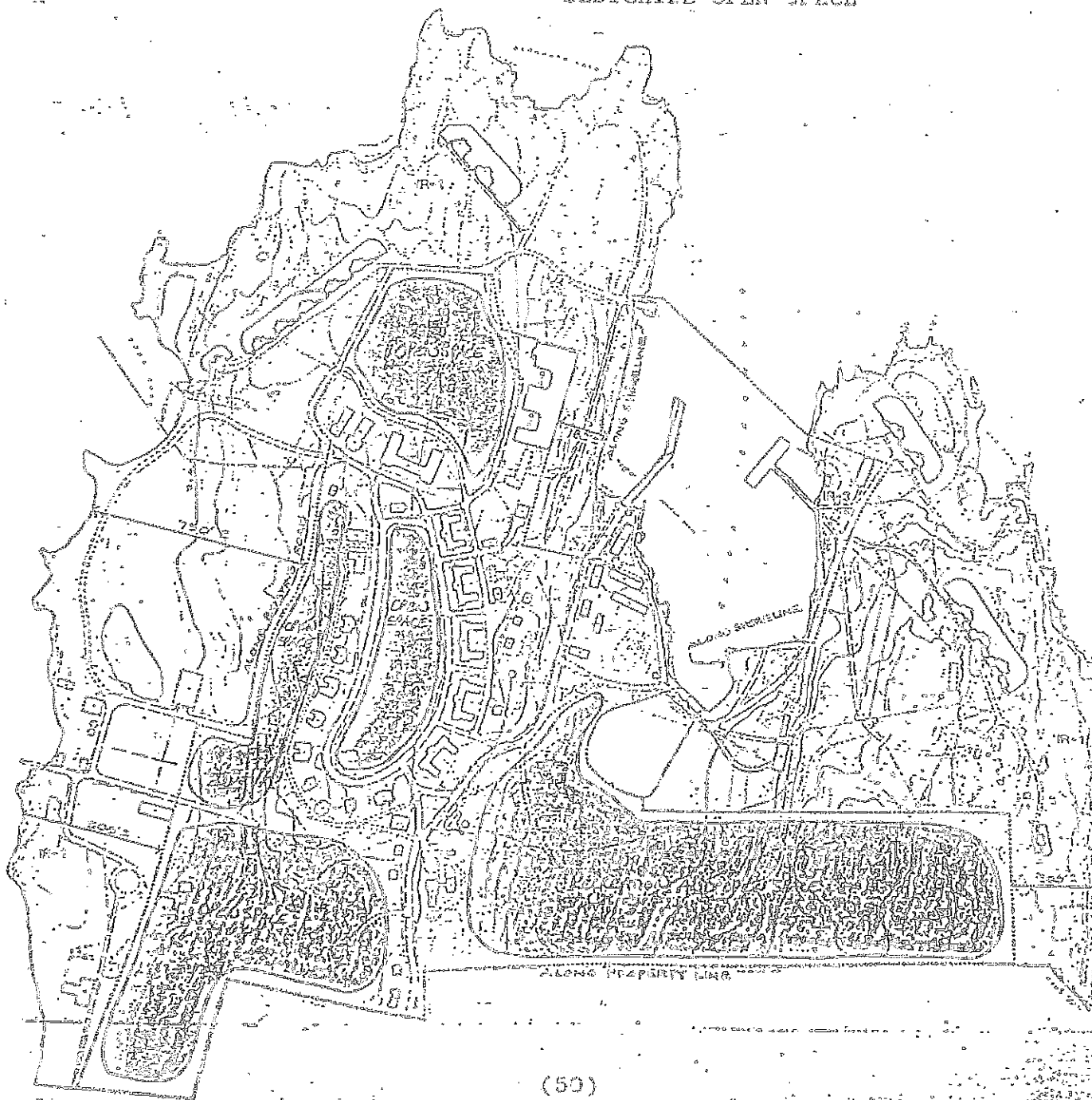
WLC

WATERLOO CONSULTANTS
INCORPORATED
2000
1000

Consulting Engineers, Planners and Surveyors



DEDICATED OPEN SPACE



AMENDMENT TO PORTLAND CITY
CODE SECTION 14-49 (ZONING
MAP) SECTION 14-49 (ZONING
MAP) RE: CONDITIONAL
REZONING OF PT. MCKINLEY

IN THE CITY COUNCIL

JUNE 12 1985

Given a first reading. Public
hearing held.

JUNE 24 - Public hearing held.
Councilor Smith moved, seconded
MacWilliams to table to July 15th
afternoon City Council Meeting,
passed 7 yeas.

JULY 15 - Removed from the table.
Motion to replace with substitute
amendment, passed, 8 Yeas, and
passed, as amended, 8 Yeas.

Item #98 dated July 15, 1985 is relevant to
this item. Titled Access For Island Sub-
divisions, it refers to this item.

Attest:

Jane Durgin
Jane Durgin
City Clerk

STATE OF MAINE
CUMBERLAND, ss.

JANUARY 28, 1986

Personally appeared the above-named Jane Durgin and
acknowledged the foregoing instrument to be her free
act and deed in her sole capacity.

EDNICE CURRAN

RECEIVED

REGISTERED CLERK OF DEEDS

1985 SEP 28 PM 3:32

CUMBERLAND COUNTY

[Signature]

From: Jeff Tarling
To: Jean Fraser
Date: 3/19/2015 11:00 AM
Subject: GDI Zone Change

Hi Jean -

I am very familiar with the open space area on Great Diamond Island where the transfer station is proposed. The amendment change of less than an acre does not appear to adversely impact the nearby old-growth forest.

Jeff Tarling
City Arborist

From: "Sandy Fitch" <sandy@diamondcoveproperties.com>
To: "Jean Fraser" <JF@portlandmaine.gov>
Date: 3/18/2015 3:29 PM
Subject: Re trash compactor at Diamond Cove
Attachments: photo.JPG; phototrucks.JPG

Hello Ms Fraser

I have read the information you so kindly forwarded to me, regarding the city trash compactor area at Diamond Cove. The guidelines are very reassuring and if all is maintained and managed as outlined in the documents everything will be well (or as well as it can be, given it is an area where trucks will be coming and going and trash will be smashed and stored). My concern is though, that when the city sends vehicles out to the island to perform a function, they often grow roots and remain here forever.

I have attached two photographs taken this afternoon, showing the city parking area on Diamond Avenue. What is going to become of the vehicles that are currently stored at this area, outside the Diamond Cove "upper gate"? Will this area remain as it is or will the vehicles and equipment be moved to the pad at the new compactor area? When this city parking area was created, screening was supposed to have been planted to block the view of machines from the passersby on Diamond Avenue, but that was never done. Can we hope for better here? Who will enforce the proper maintenance of this area?

I hope that these and other homeowner's questions can be addressed at the meeting on the 24th.

Best regards,
Sandy Fitch

The message is ready to be sent with the following file or link attachments:
photo.JPG
phototrucks.JPG

Note: To protect against computer viruses, e-mail programs may prevent sending or receiving certain types of file attachments. Check your e-mail security settings to determine how attachments are handled.

Photos from S Fitch 3.18.2015 with e-mail



>>> Sandy Fitch <sandy@diamondcoveproperties.com> 3/14/2015 1:39 PM >>>
Dear Ms Fraser

Thank you so much for forwarding all the information to me. I really appreciate the time you have taken to address my question. I do not object to my email being included as public comment.

It will take a while to go through all the attachments but I have perused some and at this point my immediate concern is about the accumulation of old city vehicles that will be parked in this area (one need only look at the city parking area on Diamond Avenue), and the enforcement for requirement for screening to be planted as a visual buffer around this facility. I do plan to attend the meeting so perhaps I will meet you there?

Regards

Sandy Fitch
West Shore Drive
Diamond Cove
Sent from my iPhone
Sandy Fitch

From: Sandy Fitch (mailto:sandy@diamondcoveproperties.com)
To: jf@portlandme.gov
Cc: Bonnie Dietz (mailto:bonniedietz298@msn.com)
Sent: Monday, March 02, 2015 12:41 PM
Subject: rezoning request Great Diamond Island involving old growth forest

Dear Ms. Fraser:

I received notice of a city request for a zone change for a 1.25 acre "transfer station" in Diamond Cove, impacting 500 square feet of old growth forest. Having been involved with the early development and sale of properties here at Diamond Cove, and serving on our Design Review Board for 10 years, I am very aware of the strict conditions that apply to old growth. Does this proposed use change require the destruction of old growth or is this just part of the area included within the boundaries of the transfer station? If the old growth is going to be disturbed in any way, is the DEP aware of this? I just can't imagine that it is okay to destroy something so highly protected ~~just to~~ used for a city garbage facility.

I would greatly appreciate if you could please explain what is actually to be done with this 500 square feet of wonderful old growth woodland.

Sandra Fitch
Diamond Cove
Great Diamond Island

From: Bonnie Dietz <bonniedietz298@msn.com>
 To: "Jean Fraser" <JF@portlandmaine.gov>
 Date: 3/18/2015 12:54 PM
 Subject: RE: amendment to the 1985 Conditional Agreement...Great Diamond Island

Jean,

Thank you for sending along all the additional information.

Yes you may include my March 3, 2015 email in the Report as "public comment".

If it is not too late I would like to add one more question: Will the lights indicated on the site plan be motion sensitive or will they be on during all hours of darkness?

I would also like to mention with regards to the DCI-IA Board letter that there are many homeowners who do choose to read all the minutes and newsletters but still did not have a clear picture of the details of the transfer station. In many cases minutes have been delayed by months so any questions or comments would only be after the fact. I do not believe a copy of the lease and some of the other documents were shared with homeowners. While our board of directors acts on our behalf they do not always keep us informed of the details so we do have questions. Matt Hoffner has offered to answer questions but he is also on vacation out of state and I would not want to take vacation time from anyone if it can be avoided.

Thanks for keeping me informed,

Bonnie

From: Jean Fraser [mailto:JF@portlandmaine.gov]
 Sent: Tuesday, March 17, 2015 3:05 PM
 To: Bonnie Dietz
 Subject: RE: amendment to the 1985 Conditional Agreement...Great Diamond Island

Bonnie

Please find attached a letter from the DCHA that will be included in the Planning Board Report and may answer some of your questions.

I am also writing to confirm that your e-mail of March 3, 2015 will also be included in the Report as "public comment" and I think these questions are helpful and the I understand the applicant is preparing answers but I have not yet received them in written form.

thank you

Jean

Jean Fraser, Planner

City of Portland

874 8728

Notice: Under Maine law, documents - including e-mails - in the possession of public officials or city employees about government business may be classified as public records. There are very few exceptions. As a result, please be advised that what is written in an e-mail could be released to the public and/or the media if requested. --

From: Bonnie Dietz <bonniedietz298@msn.com>
To: <jf@portlandmaine.gov>
Date: 3/3/2015 5:22 PM
Subject: amendment to the 1985 Conditional Agreement...Great Diamond Island

Dear Jean,

My neighbor mentioned receiving the notice regarding the amendment to the 1985 Conditional Rezoning Agreement relating to Fort McKinley on Great Diamond Island requested by Portland's Director of Public Services. I did not receive a notice in the mail. Although my property is not within the 500 feet area, as a member of the Diamond Cove Homeowner's Association I am one of the many owners of the common properties which includes the Old Growth area and Open Space areas. In that regard I hope you will be able to respond to my questions.

1. Will the Old Growth area be altered or be part of a buffer?
Historically the Old Growth areas were not to be touched (with the exception of bittersweet removal)
2. Why are 1.25 acres needed? It seems like a really large area for a compactor and recycle station for relatively few people.
3. Is this the first time that the city has proposed leasing private property in a private gated community for a transfer station?
4. Have any enforceable provisions been made to buffer the noise, smells and views of the transfer station?
5. Has any estimate been done to calculate the number of garbage truck trips that will visit the transfer station each week?
6. Will there be a direct access road to the transfer station from the public (Great Diamond) side of the island so West Shore Drive at Diamond Cove is not impacted?

I look forward to your response,

Bonnie Dietz

20 Diamond Cove

Great Diamond Island, ME 04109

From: Alex Neal <alexkneal@gmail.com>
To: "JF@portlandmaine.gov" <JF@portlandmaine.gov>
CC: Sandy Fitch <sandy@diamondcoveproperties.com>, Bill Conlon <wconlon@ford...
Date: 3/18/2015 6:28 PM
Subject: Diamond Cove transfer station

My husband and I live at 30 W. Shore Drive on Diamond Cove and we also want to voice our concern over the attention paid to the proposed transfer site. We have been reassured that city vehicles won't have extended stays there as happened previously at the laundry site. We also have been reassured that there will be proper landscape screening and that trash and odor will not become issues.

The west side is a beautiful part of the island with many expensive, well-cared for homes in it. We are counting on the City to keep its word that a potentially positive solution to garbage disposal won't become a negative problem.

Best,
Alexandra Neal



**Conditional Rezoning Application
to
City of Portland Planning Board**

**Solid Waste Transfer & Recycling Station
Great Diamond Island, Maine**

on behalf of

City of Portland
Department of Public Services
55 Portland Street
Portland, ME 04101

and

Diamond Cove Homeowners Association
8 McKinley Ct.
Great Diamond Island, ME 04109

January 2015

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Exhibit 1

Application Form and Agent Authorization



Zoning Map/Text Amendment/Contract or Conditional Rezoning Application Portland, Maine

Planning and Urban Development Department
Planning Division

Portland's Planning and Urban Development Department coordinates the review of requests for zoning map amendments, zoning text amendments and contract or conditional re-zoning. The Division also coordinates site plan, subdivision and other applications under the City's Land Use Code. Attached is the application form for a Zone Change.

Portland's development review process and requirements are outlined in the Land Use Code (Chapter 14) which is available on our website:

Land Use Code: <http://me-portland.civicplus.com/DocumentCenter/Home/View/1080>

Design Manual: <http://me-portland.civicplus.com/DocumentCenter/View/2355>

Technical Manual: <http://me-portland.civicplus.com/DocumentCenter/View/2356>

Planning Division
Fourth Floor, City Hall
389 Congress Street
(207) 874-8719

Office Hours
Monday thru Friday
8:00 a.m. – 4:30 p.m.

PROJECT NAME: Great Diamond Island Transfer Station

PROPOSED DEVELOPMENT ADDRESS:

Great Diamond Island, Portland, Maine

PROJECT DESCRIPTION:

Amendment to the existing DCHA Conditional Zoning Agreement to remove the area for a solid waste transfer station and recycling facility from the open space designation .

CHART/BLOCK/LOT: 83B-M001

CONTACT INFORMATION:

Applicant – must be owner, Lessee or Buyer Name: City of Portland, Attn: Troy Moon Business Name, if applicable: Address: 55 Portland Street City/State : Portland, ME Zip Code: 04101	Applicant Contact Information Work # (207) 874-8467 Home# N/A Cell # N/A Fax# (207) 874-8816 e-mail: thm@portlandmaine.gov
Owner – (if different from Applicant) N/A Name: Address: City/State : Zip Code:	Owner Contact Information N/A Work # Home# Cell # Fax# e-mail:
Agent/ Representative Sebago Technics, Inc. Name: Attn: Owens McCullough, P.E. Address: 75 John Roberts Road, Suite 1A City/State : South Portland Zip Code: 04106	Agent/Representative Contact Information Work # (207) 200-2073 Cell # N/A e-mail: omccullough@sebagotechnics.com
Billing Information N/A Name: Address: City/State : Zip Code:	Billing Information N/A Work # Cell # Fax# e-mail:

Engineer: *See Agent/Representative Name: Address: City/State : Zip Code:	Engineer Contact Information: *See Agent/Representative Work # Cell # Fax# e-mail:
Surveyor: Name: City of Portland Address: 55 Portland Street City/State : Portland, ME Zip Code: 04101	Surveyor Contact Information: N/A Work # Cell # Fax# e-mail:
Architect: N/A Name: Address: City/State : Zip Code:	Architect Contact Information: N/A Work # Cell # Fax# e-mail:
Attorney: N/A Name: Address: City/State : Zip Code:	Attorney Contact Information: N/A Work # Cell # Fax# e-mail:

Right, Title, or Interest: Please identify the status of the applicant's right, title, or interest in the subject property:

*See attached lease agreement

Provide documentary evidence, attached to this application, of applicant's right, title, or interest in the subject property.
(For example, a deed, option or contract to purchase or lease the subject property.)

Vicinity Map: Attach a map showing the subject parcel and abutting parcels, labeled as to ownership and/or current use.
(Applicant may utilize the City Zoning Map or Parcel Map as a source.)

Existing Use: Describe the existing use of the subject property:

Existing use is open space and storage area for miscellaneous landscaping materials.

Current Zoning Designation(s): IR-3

Proposed Use of Property: Please describe the proposed use of the subject property. If construction or development is proposed, please describe any changes to the physical condition of the property.

City of Portland solid waste transfer station and recycling facility. Proposed work will include
construction of a paved access drive, concrete pads, retaining wall, and two solid waste compactors.

Site Plan: On a separate sheet, please provide a site plan of the property showing existing and proposed improvements, including such features as buildings, parking, driveways, walkways, landscape and property boundaries. This may be a professionally drawn plan, or a carefully drawn plan, to scale, by the applicant. (Scale to suit, range from 1" = 10' to 1" = 50'.) Contract and conditional rezoning applications may require additional site plans and written material that address physical development and operation of the property to ensure that the rezoning and subsequent development are consistent with the comprehensive plan, meet applicable land use regulations, and compatible with the surrounding neighborhood.

APPLICATION FEES: *To be addressed internally by City of Portland

Check all reviews that apply. (Payment may be made by Credit Card, Cash or Check payable to the City of Portland.)

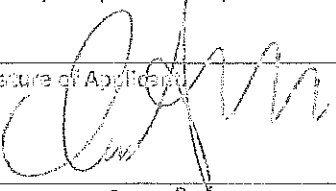
Zoning Map Amendment ___ \$2,000.00 (from ___ zone to ___ zone) Zoning Text Amendment ___ \$2,000.00 (to Section 14-___) Combination Zoning Text Amendment and Zoning Map Amendment ___ \$3,000.00 Conditional or Contract Zone ___ \$3,000.00 (A conditional or contract rezoning map be requested by an applicant in cases where limitations, conditions, or special assurances related to the physical development and operation of the property are needed to ensure that the rezoning and subsequent development are consistent with the comprehensive plan, meet applicable land use regulations, and compatible with the surrounding neighborhood. Please refer to Division 1.5, Sections 14-60 to 62.)	The City invoices separately for the following: • Notices (\$.75 each) • Legal Ad (% of total Ad) • Planning Review (\$40.00 hour) • Legal Review (\$75.00 hour) Third party review fees are assessed separately. Any outside reviews or analysis requested from the Applicant as part of the development review, are the responsibility of the Applicant and are separate from any application or invoice fees.
--	--

APPLICATION SUBMISSION:

1. All plans and written application materials must be submitted electronically on a CD or thumb drive with each plan submitted as separate files, with individual file names which can be found on the Electronic Plan and Document Submittal page of the City's website at <http://me-portland.civicplus.com/764/Electronic-Plan-and-Documents-Submit>!
2. The submission shall include the following materials:
 - a. One (1) paper set of the zoning amendment application, concept plan and written narrative.
 - b. Contract and conditional rezoning applications must include site plans and written material that address physical development and operation of the property to ensure that the rezoning and subsequent development are consistent with the comprehensive plan, meet applicable land use regulations and compatible with the surrounding neighborhood.

APPLICANT SIGNATURE:

I hereby certify that I am the Owner of record of the named property, or that the owner of record authorizes the proposed work and that I have been authorized by the owner to make this application as his/her authorized agent. I agree to conform to all applicable laws of this jurisdiction. In addition, if a permit for work described in this application is issued, I certify that the Planning Authority and Code Enforcement's authorized representative shall have the authority to enter all areas covered by this permit at any reasonable hour to enforce the provisions of the codes applicable to this permit.

Signature of Applicant 	Date: Jan. 22, 2015
--	------------------------

agent for city

Portland, Maine



Key life's good here

Michael J. Robinsky
Director of Public Services

September 4, 2014
09405

Maine Department of Environmental Protection
312 Canco Road
Portland, ME 04103

Letter of Agent Authorization - MDHP Permit Applications, Great Diamond Island

Sebago Technics, Inc. has been retained by the City of Portland to assemble permit applications and represent the City during the Maine Department of Environmental Protection permitting process for several related permit applications to include:

1. Permit application for a new solid waste transfer facility;
2. Minor amendment permit application; and
3. Permit-by-Rule application for improvements to an existing marine ramp.

These permit applications are associated with infrastructure improvements on Great Diamond Island. We look forward to working with the Maine Department Environmental on these important community projects. If you have any questions please feel free to contact me.

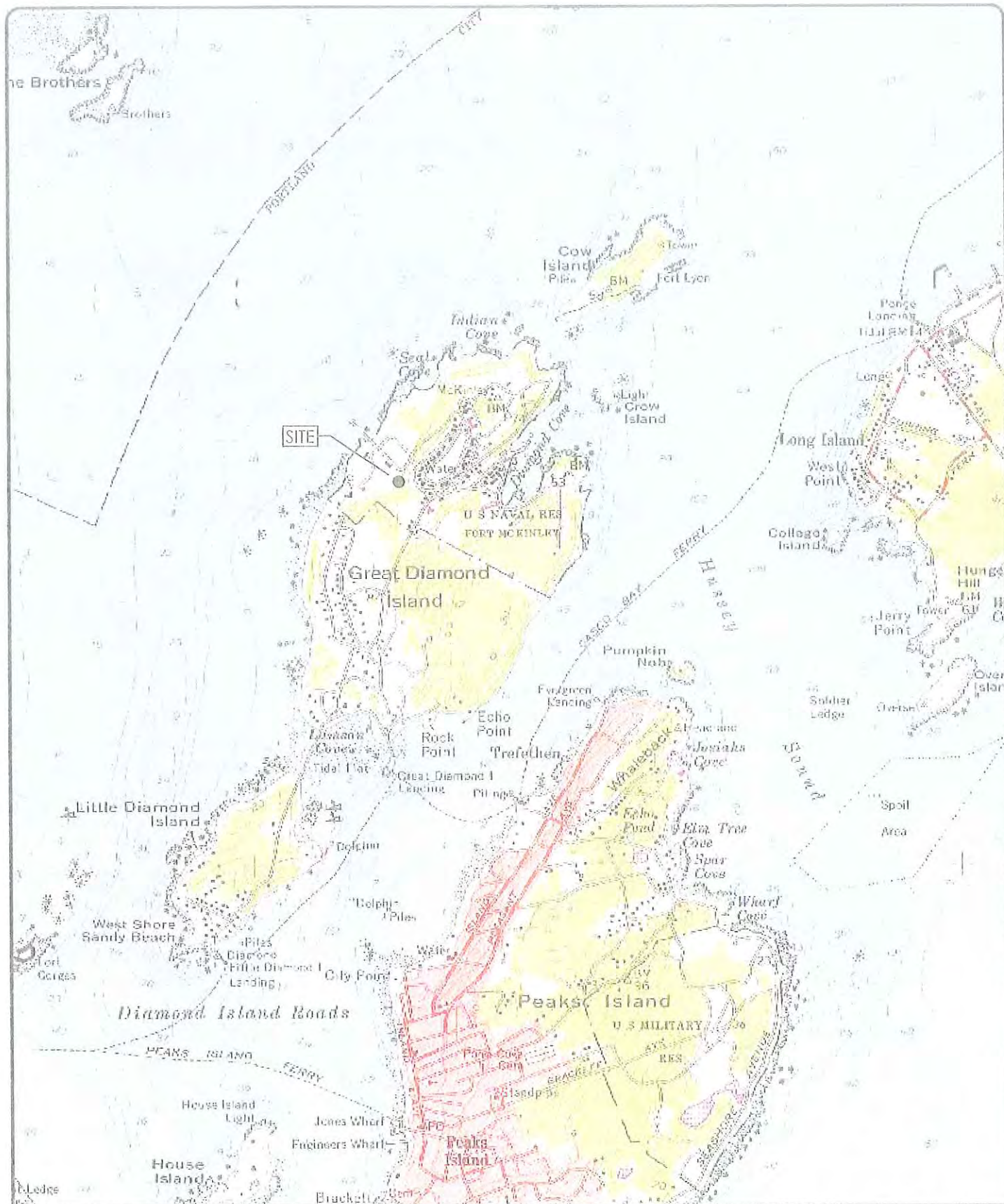
Sincerely

A handwritten signature in black ink, appearing to read "Troy Moon", is written over a horizontal line.

City of Portland
Troy Moon
Environmental Programs and Open Space Manager

Exhibit 2

USGS Location Map



SEBAGO
TECHNICS
WWW.SEBAGOTECHNICS.COM

75 John Roberts Rd., Suite 1A
South Portland, ME 04106
Tel: 207-263-2100

250 Goodard Rd., Suite B
Lewiston, ME 04240
Tel: 207-783-5695

SITE LOCATION MAP OF PROPOSED SOLID WASTE TRANSFER STATION

LOCATION:
GREAT DIAMOND ISLAND
PORTLAND, MAINE

FOR:
CITY OF PORTLAND MAINE

SCALE: 1" = 2000'

DATE: 12/18/14

SHEET:
1 OF 1

Exhibit 3

City Assessor's Map



SEBAGO
TECHNICS

CONSULTING ENGINEERING & SURVEYING
WWW.SEBAGOTECHNICS.COM

76 John Roberts Rd. • Suite 1A
South Portland, ME 04106
Tel: 207-200-2100

250 Goddard Rd. • Suite B
Lewiston, ME 04240
Tel: 207-753-9659

TAX MAP SKETCH

OF PROPOSED SOLID WASTE TRANSFER STATION

LOCATION:

WEST SHORE DRIVE
GREAT DIAMOND ISLAND

INFORMATION:

IMAGERY SPRING 2009
DATA SOURCE: MAINE GIS

SCALE: 1" = 300'

DATE: 05/30/14

09405

Abutters List

Current Owner/Mailing Address	MAP	LOT
Diamond Cove Homeowners Association C/O Phoenix Management PO Box 759 Saco, ME 04072	N/A	N/A

Exhibit 4

Right, Title or Interest

LEASE AGREEMENT
FOR TRANSFER STATION
BY AND BETWEEN
CITY OF PORTLAND AND
DIAMOND COVE HOMEOWNERS ASSOCIATION

THIS LEASE AGREEMENT (hereinafter this "Agreement") is made as of this 17th
April day of February, 2014, by and between the CITY OF PORTLAND, a municipal corporation
located in Cumberland County, State of Maine (hereinafter the "CITY") and DIAMOND
COVE HOMEOWNERS ASSOCIATION, a Maine not-for-profit corporation doing business
on Great Diamond Island, Maine (hereinafter "LESSOR").

WITNESSETH:

That LESSOR, for and in consideration of the rent hereinafter to be paid by CITY, and
other consideration, and the covenants and agreements hereinafter contained, to be kept and
performed by CITY, does hereby demise, lease and let unto CITY, the property located at or
near the 'laundry building' on Great Diamond Island in Portland, Maine and more particularly
described in Exhibit A (hereinafter the "PREMISES"), to have and to hold unto said CITY on
the following terms and conditions:

1. Term and Renewal; Commencement Date

A. The initial term of this Agreement shall begin on the Commencement Date (as
hereinafter defined), and shall continue until midnight on the last day of the calendar month
containing the twentieth (20th) anniversary of the Commencement Date, unless sooner terminated
by either party as provided herein. This Agreement shall renew automatically for four (4)
additional 20-year terms, unless either party gives the other notice of non-renewal at least 30
days before such end of the 20-year term. The grounds for non-renewal shall be the same as the
grounds for termination, set out in Section 13 of this Agreement; but in addition, however, if the
CITY fails to substantially complete the construction of a transfer station facility on the
PREMISES in accordance with the Final Site Plan and the Final Construction Plans, each as
hereinafter defined, by *February 28, 2015*, or said transfer station facility is not operational by

May 30, 2015, this Agreement shall then be automatically and immediately terminated as of that date.

B. As used herein, the "Commencement Date" shall mean the date on which the last of the following events shall have occurred: (i) the date on which CITY shall obtain site plan approval by the Portland Planning Board of the Final Site Plan (the "Planning Board Approval"); (ii) the date on which CITY shall obtain an a Portland City Council order amending the 1985 Amendment Re: Conditional Rezoning of Ft. McKinley, to allow for the proposed transfer station facility as depicted on the Final Site Plan (the "City Council Order"); and (iii) the date on which CITY shall obtain the 2014 DEP Site Location Order, as hereinafter defined in Section 7(A) below. In the event the Commencement Date shall not occur by October 1, 2014, this Agreement shall then be automatically and immediately terminated as of that date.

2. Rent

From and after the Commencement Date, CITY agrees to pay to LESSOR as rent for such use and occupancy of the PREMISES the sum of One Dollar (\$1.00) per year, payable in advance. This is a 'net lease', that is, the costs of constructing and operating the transfer station facility shall be borne solely by CITY. CITY will pay any fees related to the improvements which are the transfer station facility, including but not limited to permit fees, and all costs of utility services necessary for the operation of the transfer station facility. CITY will not pay any real estate taxes on the PREMISES, but shall be responsible for any taxes or assessments on the building or improvements constructed by CITY at the PREMISES.

3. Purposes

(A) CITY shall use the PREMISES solely for the development, construction (including landscaping) and maintenance of a transfer station facility to provide trash compaction, recycling services, and short term storage of trash and materials to be recycled, within the screened improvements to be built on the PREMISES. Only trash and materials to be recycled that have been generated on Great Diamond Island or Little Diamond Island will be so processed at said transfer station facility. CITY will not knowingly or intentionally store or process hazardous waste on the PREMISES. CITY will not be permitted to build any improvements on the PREMISES other than those shown on the Final Site Plan and Final Construction Plans for this transfer station facility.

(B) There shall be no parking on the PREMISES unless related or incident to the trash processing and recycling, and then not overnight. There shall be no staging or storage of equipment on the PREMISES unless related or incident to the trash processing and recycling, and then only very short term.

(C) Subject to (i) the construction of the transfer station facility in accordance with the Final Site Plan and the Final Construction Plans and the conduct of the operation of said transfer station facility in accordance with this Agreement, and (ii) CITY's obtaining the 2014 DEP Site Location Order, LESSOR represents to CITY that such purposes are permitted under the private regulation of the PREMISES set forth in the Amended and Restated General

Declaration of Covenants and Restrictions dated December 17, 1993 and recorded at the Cumberland County Registry of Deeds in Book 11277, Page 322; as modified and amended (hereinafter the "DCHA Declaration").

4. Access

Appurtenant to the CITY's leasehold of the PREMISES, CITY shall have a nonexclusive right to access the PREMISES from the "Lower Gate" and from the existing Diamond Cove Barge Landing, over the most direct, existing roadways, subject to the rules attached hereto as Exhibit C. CITY will repair any damage it causes to such defined access ways; and in addition, will provide limited annual general maintenance to such ways, such by as spreading several loads of gravel on said (gravel) ways, annually.

5. Site Plan and Facility Operation

CITY covenants and agrees:

A. that a plan of the Premises, as well as a preliminary site plan of the transfer station facility, not yet approved by the Portland Planning Board or Planning Board staff, are attached to this Agreement as Exhibit B (hereinafter collectively, the "Preliminary Site Plan");

B. that the transfer station facility will be constructed in accord with the Final Site Plan and the Final Construction Plans, including, but not limited to, the landscaping elements of such Plans, and the visual screening and any fencing elements of said Plans;

C. that in the event the CITY proposes to revise the Preliminary Site Plan, the CITY will provide LESSOR with a preliminary draft of the proposed revision; and in the event the proposed revision is material (as determined by City Corporation Counsel in its reasonable discretion), the CITY will incorporate any suggestions received by the CITY from LESSOR that are determined by LESSOR to be necessary for its representation in Section 3.C above and are received by CITY within 30 days of mailing such revision to LESSOR, provided that in the event such suggested changes cannot be made by the CITY reasonably cost effectively, or are in conflict with any requirements for the Planning Board Approval, the City Council Order, the 2014 DEP Site Location Order, or other required approvals for the transfer station facility, the parties will work in good faith to revise the Preliminary Site Plan to meet both of their respective needs; the Preliminary Site Plan (with any modifications not deemed material as determined by City Corporation Counsel in its reasonable discretion) or a revised version of it that is approved by the parties pursuant to this Section shall constitute the "Final Site Plan", and the Final Site Plan is hereby incorporated by reference herein and Exhibit B shall be deemed revised accordingly;

D. that CITY will prepare and submit to LESSOR proposed construction plans for the transfer station facility and CITY will incorporate any suggestions made by LESSOR that are determined by LESSOR to be necessary for its representation in Section 3.C above and are received by CITY within 30 days of mailing of said proposed construction plans to LESSOR, provided that in the event such suggested changes cannot be made by CITY reasonably cost effectively, or are in conflict with any requirements for the Planning Board Approval, the City

Council Order, the 2014 DEP Site Location Order, or other required approvals for the transfer station facility, the parties will work in good faith to revise such proposed construction plans to meet both of their respective needs; the proposed construction plans or a revised version of them that are approved by the parties pursuant to this Section shall constitute the "Final Construction Plans"; and the Final Construction Plans are hereby incorporated by reference herein.

E. that the transfer station facility will be operated in accord with any operational elements of the Final Site Plan;

F. that the CITY will operate the transfer station facility in accord with any conditions required by the DCHA Declaration (including, without limitation, DCHA Declaration Section 4.18), the Planning Board Approval, the City Council Order, the 2014 DEP Site Location Order, and any other required approvals for the transfer station facility;

G. that under the normal course of operation, there will be no more than four to six (4-6) deliveries of waste/recycling per week by the CITY to the transfer station facility and, during summer months, at least one transfer of waste/recycling per week from the two transfer station hopper/compactor units off the island, and the two separate transfer station roll-off containers will be removed when full and then emptied and returned, all by appropriately sized vehicles; and

H. to operate the transfer station facility in a responsible, clean and orderly manner, and in addition to the regular removal of waste/recycling described above, to make reasonable best efforts to minimize odors emitted from the PREMISES.

6. Costs of Development and Maintenance of the Premises

The CITY shall provide all clearing, grading and construction of the transfer station facility and other development set forth in the Final Site Plan and Final Construction Plans, and otherwise all as deemed necessary by the CITY for its proposed use. LESSOR hereby consents to the crossing of the other portions of LESSOR's real property as reasonably necessary for such purposes. The CITY shall provide all services deemed necessary to maintain the PREMISES in a safe condition all as deemed necessary by CITY.

7. Location of Structures and Use; 2013 Forest Management Plan/Manual

A. All structures, site improvements and/or changes in the PREMISES shall be located or done in accordance with the laws, rules and regulations of all applicable federal, state and local jurisdictions. The parties acknowledge the following:

- (i) the PREMISES are located in the vicinity of "Compartment B" as defined in (i) a report dated March 31, 1989 and titled "Forest Management Plan for the Old Growth Softwood Stand on Diamond Cove Associates Property on Great Diamond Island, Casco Bay, City of Portland, Maine" prepared by Eco-Analysis, Inc. (the "1989 Forest Management Plan") and (ii) a report dated January 19, 1989 and titled "Operations Manual for Activities Adjacent To and Within The Old Growth Stand of Trees Within The Diamond Cove Development On Great

Diamond Island" prepared by Bee Analysis, Inc. (the "1989 Stand Operations Manual");

- (ii) by Maine Department of Environmental Protection ("DEP") Condition Compliance Order dated July 5, 1989 and recorded at the Cumberland County Registry of Deeds in Book 8833, Page 12 and re-recorded in Book 8902, Page 118 (the "1989 DEP Site Location Order"), the DEP expressly referenced both the 1989 Forest Management Plan and the 1989 Stand Operations Manual in connection with its approval of Diamond Cove Phase I; and
- (iii) for several reasons, including an infestation of hemlock woolly adelgid and concerns about dangerous fire conditions identified by Maine Licensed Foresters, LESSOR has engaged a Maine Licensed Forester to update and amend the 1989 Forest Management Plan and the 1989 Stand Operations Manual, and the updated and amended forest management plan and stand operations manual is attached hereto as Exhibit D (collectively, the "2013 Forest Management Plan/Manual").

CITY agrees to submit such 2013 Forest Management Plan/Manual to the DEP, in connection with CITY's application for approval by the DEP of the transfer station facility. This Agreement is subject to CITY's obtaining a DEP Site Location modification order satisfactory to LESSOR (the "2014 DEP Site Location Order") that (a) modifies the 1989 DEP Site Location Order by expressly replacing references to the 1989 Forest Management Plan and the 1989 Stand Operations Manual with the 2013 Forest Management Plan/Manual, and (b) confirms that the transfer station facility at the PREMISES, as approved by the DEP, is permitted by such 2013 Forest Management Plan/Manual. In the event the DEP shall propose revisions to the 2013 Forest Management Plan/Manual before issuing such a 2014 DEP Site Location Order, the parties will work in good faith to revise the 2013 Forest Management Plan/Manual to meet both of their respective needs and the requirements of the DEP; provided, however, that if the parties shall fail to agree on a final 2013 Forest Management Plan/Manual that is expressly incorporated into a 2014 DEP Site Location Order by *October 1, 2014*, this Agreement shall then be automatically and immediately terminated as of that date.

B. Work done on the PREMISES will either be conducted by a Contractor or by the CITY's Department of Public Services. If the work is performed by a Contractor, the Contractor shall provide a performance bond for work performed on the PREMISES. LESSOR shall be named as co-obligee on the bond. The Contractor performing the work for CITY shall also procure general liability insurance in the minimum amounts of \$1,000,000 for each occurrence, and \$2,000,000 in the 'general aggregate' for bodily injury, death and property damage, naming CITY and LESSOR as additional insureds thereon.

C. The general public shall not be allowed by the CITY to have access to the transfer station facility to be built on the PREMISES; however, the LESSOR and its property management company, or the person or entity with property management responsibilities or trash pick-up responsibilities as agent for the LESSOR, shall be allowed access to the PREMISES, including the transfer station facility, for the disposal of trash and recyclables, provided that all such trash (except large items) shall be bagged as required from time to time by the CITY, such

as, inside the colored trash bags sold in support of its waste disposal system; and all such recyclables shall also be bagged or packaged as required by the CITY, from time to time.

8. Maintenance and Repairs, and Surrender Upon Termination

CITY represents that it has inspected and examined the PREMISES and accepts them in their present condition, and agrees that LESSOR shall not be required to make any improvements or repairs or provide any services whatsoever in or upon the PREMISES or any part thereof; CITY agrees to keep said PREMISES and the transfer station facility safe and in good order and condition at all times during the term hereof, and upon expiration of this Agreement or any sooner termination thereof, the CITY will quit and surrender the possession of the PREMISES quietly and peaceably and leave it in as good order and condition as they were at the commencement hereof. Upon such surrender of possession, the CITY may leave the screened improvements on the PREMISES provided that they then are in good order and condition (with CITY having performed required maintenance to date), reasonable wear and tear excepted, and shall remove any equipment and any fixtures (except as otherwise agreed by LESSOR), and will offer for sale to the LESSOR the trash compactors located within said screened improvements, at their then fair market value, given their age and condition, as determined by agreement of the parties, and if no such agreement is reached within 45 days, as determined by a valuation made by an independent third party chosen by the CITY and LESSOR. The obligations of CITY pursuant to this Section shall survive the expiration or termination of this Agreement.

9. Various City Commitments

A. CITY covenants and agrees, subject to the availability of funds, any required City Council approval, and any other required governmental approvals:

(i) When a term lease between the LESSOR and the CITY has been executed for the existing Diamond Cove Barge Landing, to make repairs to that facility or re-build that facility (in addition to the 'stop-gap' repairs already made by CITY prior to the date hereof), as soon as required by that facility;

(ii) to monitor animal or 'varmint' access to the waste stored on the PREMISES, and respond to any such access accordingly; and

B. CITY covenants and agrees to observe the conditions imposed by its proposed settlement in the litigation involving LESSOR and the Diamond Cove Barge Landing, including the conditions listed on the attached Exhibit C; in addition, CITY covenants and agrees not to park any vehicles overnight on the Diamond Cove ('Port') one-half of Great Diamond Island, except in emergency circumstances. CITY further covenants and agrees to observe any conditions imposed by the DEP with respect to use of the Diamond Cove Barge Landing and adjacent roadways.

10. Liability

LESSOR shall not be liable for damage to or loss of property of any kind which may be lost or stolen, damaged or destroyed by fire, water or otherwise, while on the PREMISES. Up to the limits of, and subject to the terms and provisions of the Maine Tort Claims Act, CITY agrees to indemnify and save LESSOR harmless from all liability, loss or damage arising from any nuisance made or suffered on the PREMISES by CITY, the CITY's guests, invitees, agents or servants due to any carelessness, neglect or improper conduct of any such persons; however, and by way of limitation of this indemnity and holding harmless, nothing herein is intended to, nor shall it be deemed to, waive, amend or otherwise modify any claim of immunity, any defense or any limitation of liability available to CITY under the Maine Tort Claims Act, 14 M.R.S.A. § 8101 et seq.

11. Default

In the event that CITY shall be in default in the performance of any of the terms, covenants, agreements or conditions herein agreed to be kept and performed by CITY, then in that event, LESSOR may terminate this Agreement as provided in Section 18 of this Agreement.

12. Hold Over

In the event that CITY shall hold over and remain in possession of the PREMISES with the consent of LESSOR, such holding over shall be deemed to be from month to month only, and upon all the same rents, terms, covenants and conditions as contained herein.

13. Notices

Any notices which are required hereunder, or which either CITY or LESSOR may desire to serve upon the other shall be in writing and shall be deemed served when delivered personally, or when deposited in the United States mail, postage pre-paid, return receipt requested, addressed to LESSOR, Diamond Cove Homeowners Association, c/o Phoenix Management, P.O. Box 759, Saco, ME 04072 and LESSOR, Diamond Cove Homeowners Association Board, Great Diamond Island, Portland, ME; or addressed to CITY, Mark H. Rees, City Manager, 389 Congress Street, Portland, ME 04101.

14. Subletting or Assignment

The CITY shall not sublet the PREMISES or assign its rights hereunder without the express written consent of LESSOR.

15. Inspections and Access

The CITY shall allow LESSOR to inspect the PREMISES, including the transfer station facility, at all reasonable times to insure compliance with the terms and conditions herein, including but not limited to compatible uses, maintenance, safety of operations and access on common rights of way.

16. Sale of the Premises

LESSOR agrees that if, during the term of this Agreement and extension, it sells the PREMISES, it shall assign its obligations under this Agreement to the buyer of the PREMISES.

17. Recordation in Registry of Deeds

The parties agree to execute and record in the Cumberland County Registry of Deeds a Memorandum of Lease outlining the principal terms of this Agreement.

18. Termination

A. CITY may terminate this Agreement upon one (1) year written notice to LESSOR.

B. LESSOR may terminate this Agreement upon a one (1) year written notice for failure of the CITY to observe and perform any of its terms, covenants, agreements or conditions hereunder, and such failure shall not have been cured within any time period specified herein or within 90 days of written notice to do so.

19. Waiver

Waiver by either party of any default in performance by the other of any of the terms, covenants, agreements or conditions contained herein, shall not be deemed a continuing waiver of the same or any subsequent default herein.

IN WITNESS WHEREOF, the said CITY OF PORTLAND has caused this Lease Agreement to be signed in its corporate name and sealed with its corporate seal by Mark H. Rees, its City Manager, thereunto duly authorized, and DIAMOND COVE HOMEOWNERS ASSOCIATION has caused this Lease Agreement to be signed by Matthew Hoffman, its Director and Operations Officer thereunto duly authorized, as of the day and date first set forth above.

WITNESS:

Lois B. Bean

CITY OF PORTLAND

By:

Mark H. Rees
Mark H. Rees
its City Manager

STATE OF MAINE
CUMBERLAND, ss.

March
February 19, 2014

Personally appeared before me the above-named Mark H. Rees, City Manager of the City of Portland, and acknowledged the foregoing instrument to be his free act and deed in his said capacity, and the free act and deed of the City of Portland.

Before me,

Lois B. Bean
Notary Public/Attorney-at-Law

SOLEMNLY
sworn and affirmed before me
this 19th day of February, 2014.

WITNESS:



DIAMOND COVE HOMEOWNERS
ASSOCIATION

By: 
Matthew Hoffner
Its Director and Operations Officer

STATE OF MAINE
CUMBERLAND, ss.

February 14, 2014

Personally appeared before me the above-named Matthew Hoffner, Director and Operations Officer of Diamond Cove Homeowners Association, and made oath that the foregoing is his free act and deed and the free act and deed of Diamond Cove Homeowners Association.

Before me,


Notary Public/Attorney-at-Law

JUDE A. CLUFF
NOTARY PUBLIC, MAINE
MY COMMISSION EXPIRES OCTOBER 27, 2020

Exhibit A

Leased Land for Proposed Transfer Station on Land
of Diamond Cove Homeowners Association

A certain lot or parcel of land located on Great Diamond Island, City of Portland, Cumberland County, State of Maine, being more particularly described as follows:

Commencing at the southeasterly corner of land now or formerly of Jesse S. and Evelyn C. K. Harriott (Book 25439 Page 248; City of Portland Tax Map Lot 83B-B-7).

Thence N 45° 05' 04" E two hundred seventy-two and ninety-nine hundredths feet (272.99') along the southeasterly boundary line of said land of Harriott to the northeasterly corner of said Harriott land and the southwesterly street line of Wood Side Drive.

Thence S 44° 54' 56" E one hundred seventy-nine and twenty-seven hundredths feet (179.27') along said southwesterly street line of Wood Side Drive to an angle point in said street line.

Thence S 40° 52' 40" W two hundred nineteen and forty-nine hundredths feet (219.49') through land now or formerly of Diamond Cove Homeowners Association (Book 24560 Page 106; City of Portland Tax Map Lot 83B-B-1) to a point in a gravel driveway or roadway and the Point of Beginning. Said Point of Beginning also being located S 60° 23' 34" E two hundred two and seventy-three hundredths feet (202.73') from said southeasterly corner of said land now or formerly of Harriott.

Thence continuing through said land now or formerly of said Diamond Cove Homeowners Association by the following courses and distances:

S 6° 20' 18" E two hundred twenty-nine and zero hundredths feet (229.00') to a point;

S 43° 24' 45" W one hundred eight and zero hundredths feet (108.00') to a point;

S 84° 09' 35" W one hundred sixty-six and zero hundredths feet (166.00') to a point;

N 4° 24' 42" W one hundred sixty-one and fifty hundredths feet (161.50') to a point;

N 30° 03' 59" E one hundred forty and fifty hundredths feet (140.50') to a point in a gravel driveway or roadway, said point being located S 8° 09' 33" E one hundred forty-one and ninety-two hundredths feet (141.92') from said southeasterly corner of said land now or formerly of Harriott;

S 31° 26' 26" E forty-six and fifty hundredths feet (46.50') to a point in a gravel driveway or roadway;

S 74° 03' 49" E thirty-two and zero hundredths feet (32.00') to a point in a gravel driveway or roadway;

N 81° 25' 21" E thirty-two and zero hundredths feet (32.00') to a point in a gravel driveway or roadway;

N 39° 34' 33" E one hundred nine and zero hundredths feet (109.00') to the Point of Beginning.

Said lot of land containing 55,050 square feet (1.3 acres), more or less.

Bearings herein are referenced to Grid North. All deed book numbers refer to the Cumberland County Registry of Deeds.

Reference is made to a plan entitled "Proposed Transfer Station Site – Lease Limit Boundary Plan, Woodside Drive, Diamond Cove, Great Diamond Island, Portland, Maine", dated September 4, 2013, on file in the City Engineer's Archives, Department of Public Services, 55 Portland Street, Portland, Maine.

(Description by City of Portland, William G. Scott, P.L.S. 2239, September 4, 2013)

Exhibit B, page 1 of 2

Exhibit C

SPECIAL RULES REGARDING PARKING AND ANTI-IDLING POLICIES FOR USE ON THE BARGE LANDING OWNED BY DIAMOND COVE HOMEOWNERS ASSOCIATION

Note: Exceptions to the following rules will be made for emergency vehicles and/or emergency situations. These rules do not supersede other DCHA policies pertaining to the barge landing that are now in effect or that may be implemented in the future by the DCHA.

Parking and Loading/Off-loading of Vehicles:

Vehicles may be parked temporarily only in the following permitted parking area prior to and following a scheduled barge delivery:

On the cement pad located to the east of the barge landing on Wood Side Drive, between the hours of 9:00 a.m. to 5:00 p.m. only.

All vehicle operators shall comply with the vehicle anti-idling policy that is used by the City of Portland for its own vehicles.

Days/Hours of Operation:

- Days of operation for City vehicles will be Monday through Saturday only.
- Days of operation for other non-DCHA vehicles (i.e., vehicles servicing the public side of the Island) will be Monday through Friday only.
- Hours of operation for City vehicles and other non-DCHA vehicles will be from 7:00 a.m. to 8:00 p.m. Monday-Friday and 7:00 a.m. to 6:00 p.m. on Saturday.
- DCHA vehicles (i.e., vehicles servicing DCHA property or property of DCHA members) are not subject to these hours and days of operations restrictions.

Reports of Non-Compliance:

Any reports of non-compliance of these rules shall be reported to the City of Portland's Island and Neighborhood Liaison, who shall provide notice of any or all said reports to the DCHA.

The DCHA reserves the right to revoke permission to use the barge landing from non-DCHA vehicles or any operator thereof deemed to be in violation of any of these rules.

LEASE AGREEMENT
FOR TRANSFER STATION
BY AND BETWEEN
CITY OF PORTLAND AND
DIAMOND COVE HOMEOWNERS ASSOCIATION

THIS LEASE AGREEMENT (hereinafter this "Agreement") is made as of this 17th day of April, 2014, by and between the CITY OF PORTLAND, a municipal corporation located in Cumberland County, State of Maine (hereinafter the "CITY") and DIAMOND COVE HOMEOWNERS ASSOCIATION, a Maine not-for-profit corporation doing business on Great Diamond Island, Maine (hereinafter "LESSOR").

WITNESSETH:

That LESSOR, for and in consideration of the rent hereinafter to be paid by CITY, and other consideration, and the covenants and agreements hereinafter contained, to be kept and performed by CITY, does hereby demise, lease and let unto CITY, the property located at or near the 'laundry building' on Great Diamond Island in Portland, Maine and more particularly described in Exhibit A (hereinafter the "PREMISES"), to have and to hold unto said CITY on the following terms and conditions:

1. Term and Renewal; Commencement Date

A. The initial term of this Agreement shall begin on the Commencement Date (as hereinafter defined), and shall continue until midnight on the last day of the calendar month containing the twentieth (20th) anniversary of the Commencement Date, unless sooner terminated by either party as provided herein. This Agreement shall renew automatically for four (4) additional 20-year terms, unless either party gives the other notice of non-renewal at least 30 days before such end of the 20-year term. The grounds for non-renewal shall be the same as the grounds for termination, set out in Section 18 of this Agreement; but in addition, however, if the CITY fails to substantially complete the construction of a transfer station facility on the PREMISES in accordance with the Final Site Plan and the Final Construction Plans, each as hereinafter defined, by *February 28, 2015*, or said transfer station facility is not operational by

May 30, 2013, this Agreement shall then be automatically and immediately terminated as of that date.

B. As used herein, the "Commencement Date" shall mean the date on which the last of the following events shall have occurred: (i) the date on which CITY shall obtain site plan approval by the Portland Planning Board of the Final Site Plan (the "Planning Board Approval"); (ii) the date on which CITY shall obtain an a Portland City Council order amending the 1983 Amendment Re: Conditional Rezoning of Pt. McKinley, to allow for the proposed transfer station facility as depicted on the Final Site Plan (the "City Council Order"); and (iii) the date on which CITY shall obtain the 2014 DEP Site Location Order, as hereinafter defined in Section 7(A) below. In the event the Commencement Date shall not occur by October 1, 2014, this Agreement shall then be automatically and immediately terminated as of that date.

2. Rent

From and after the Commencement Date, CITY agrees to pay to LESSOR as rent for such use and occupancy of the PREMISES the sum of One Dollar (\$1.00) per year, payable in advance. This is a 'net lease', that is, the costs of constructing and operating the transfer station facility shall be borne solely by CITY. CITY will pay any fees related to the improvements which are the transfer station facility, including but not limited to permit fees, and all costs of utility services necessary for the operation of the transfer station facility. CITY will not pay any real estate taxes on the PREMISES, but shall be responsible for any taxes or assessments on the building or improvements constructed by CITY at the PREMISES.

3. Purposes

(A) CITY shall use the PREMISES solely for the development, construction (including landscaping) and maintenance of a transfer station facility to provide trash compaction, recycling services, and short term storage of trash and materials to be recycled, within the screened improvements to be built on the PREMISES. Only trash and materials to be recycled that have been generated on Great Diamond Island or Little Diamond Island will be so processed at said transfer station facility. CITY will not knowingly or intentionally store or process hazardous waste on the PREMISES. CITY will not be permitted to build any improvements on the PREMISES other than those shown on the Final Site Plan and Final Construction Plans for this transfer station facility.

(B) There shall be no parking on the PREMISES unless related or incident to the trash processing and recycling, and then not overnight. There shall be no staging or storage of equipment on the PREMISES unless related or incident to the trash processing and recycling, and then only very short term.

(C) Subject to (i) the construction of the transfer station facility in accordance with the Final Site Plan and the Final Construction Plans and the conduct of the operation of said transfer station facility in accordance with this Agreement, and (ii) CITY's obtaining the 2014 DEP Site Location Order, LESSOR represents to CITY that such purposes are permitted under the private regulation of the PREMISES set forth in the Amended and Restated General

Declaration of Covenants and Restrictions dated December 17, 1993 and recorded at the Cumberland County Registry of Deeds in Book 11277, Page 322; as modified and amended (hereinafter the "DCHA Declaration").

4. Access

Appurtenant to the CITY's leasehold of the PREMISES, CITY shall have a nonexclusive right to access the PREMISES from the "Lower Gate" and from the existing Diamond Cove Barge Landing, over the most direct, existing roadways, subject to the rules attached hereto as Exhibit C. CITY will repair any damage it causes to such defined access ways; and in addition, will provide limited annual general maintenance to such ways, such by as spreading several loads of gravel on said (gravel) ways, annually.

5. Site Plan and Facility Operation

CITY covenants and agrees:

A. that a plan of the Premises, as well as a preliminary site plan of the transfer station facility, not-yet approved by the Portland Planning Board or Planning Board staff, are attached to this Agreement as Exhibit B (hereinafter collectively, the "Preliminary Site Plan");

B. that the transfer station facility will be constructed in accord with the Final Site Plan and the Final Construction Plans, including, but not limited to, the landscaping elements of such Plans, and the visual screening and any fencing elements of said Plans;

C. that in the event the CITY proposes to revise the Preliminary Site Plan, the CITY will provide LESSOR with a preliminary draft of the proposed revision; and in the event the proposed revision is material (as determined by City Corporation Counsel in its reasonable discretion), the CITY will incorporate any suggestions received by the CITY from LESSOR that are determined by LESSOR to be necessary for its representation in Section 3.C above and are received by CITY within 30 days of mailing such revision to LESSOR, provided that in the event such suggested changes cannot be made by the CITY reasonably cost effectively, or are in conflict with any requirements for the Planning Board Approval, the City Council Order, the 2014 DEP Site Location Order, or other required approvals for the transfer station facility, the parties will work in good faith to revise the Preliminary Site Plan to meet both of their respective needs; the Preliminary Site Plan (with any modifications not deemed material as determined by City Corporation Counsel in its reasonable discretion) or a revised version of it that is approved by the parties pursuant to this Section shall constitute the "Final Site Plan", and the Final Site Plan is hereby incorporated by reference herein and Exhibit B shall be deemed revised accordingly;

D. that CITY will prepare and submit to LESSOR proposed construction plans for the transfer station facility and CITY will incorporate any suggestions made by LESSOR that are determined by LESSOR to be necessary for its representation in Section 3.C above and are received by CITY within 30 days of mailing of said proposed construction plans to LESSOR, provided that in the event such suggested changes cannot be made by CITY reasonably cost effectively, or are in conflict with any requirements for the Planning Board Approval, the City

Council Order, the 2014 DBP Site Location Order, or other required approvals for the transfer station facility, the parties will work in good faith to revise such proposed construction plans to meet both of their respective needs; the proposed construction plans or a revised version of them that are approved by the parties pursuant to this Section shall constitute the "Final Construction Plans"; and the Final Construction Plans are hereby incorporated by reference herein.

E. that the transfer station facility will be operated in accord with any operational elements of the Final Site Plan;

F. that the CITY will operate the transfer station facility in accord with any conditions required by the DCHA Declaration (including, without limitation, DCHA Declaration Section 4.18), the Planning Board Approval, the City Council Order, the 2014 DBP Site Location Order, and any other required approvals for the transfer station facility;

G. that under the normal course of operation, there will be no more than four to six (4-6) deliveries of waste/recycling per week by the CITY to the transfer station facility and, during summer months, at least one transfer of waste/recycling per week from the two transfer station hopper/compactor units off the island, and the two separate transfer station roll-off containers will be removed when full and then emptied and returned, all by appropriately sized vehicles; and

H. to operate the transfer station facility in a responsible, clean and orderly manner, and in addition to the regular removal of waste/recycling described above, to make reasonable best efforts to minimize odors emitted from the PREMISES.

6. Costs of Development and Maintenance of the Premises

The CITY shall provide all clearing, grading and construction of the transfer station facility and other development set forth in the Final Site Plan and Final Construction Plans, and otherwise all as deemed necessary by the CITY for its proposed use. LESSOR hereby consents to the crossing of the other portions of LESSOR's real property as reasonably necessary for such purposes. The CITY shall provide all services deemed necessary to maintain the PREMISES in a safe condition all as deemed necessary by CITY.

7. Location of Structures and Use; 2013 Forest Management Plan/Manual

A. All structures, site improvements and/or changes in the PREMISES shall be located or done in accordance with the laws, rules and regulations of all applicable federal, state and local jurisdictions. The parties acknowledge the following:

- (i) the PREMISES are located in the vicinity of "Compartment B" as defined in (i) a report dated March 31, 1989 and titled "Forest Management Plan for the Old Growth Softwood Stand on Diamond Cove Associates Property on Great Diamond Island, Casco Bay, City of Portland, Maine" prepared by Eco-Analysts, Inc. (the "1989 Forest Management Plan") and (ii) a report dated January 19, 1989 and titled "Operations Manual for Activities Adjacent To and Within The Old Growth Stand of Trees Within The Diamond Cove Development On Great

Diamond Island" prepared by Eco-Analysts, Inc. (the "1989 Stand Operations Manual");

- (ii) by Maine Department of Environmental Protection ("DEP") Condition Compliance Order dated July 5, 1989 and recorded at the Cumberland County Registry of Deeds in Book 8833, Page 12 and re-recorded in Book 8902, Page 118 (the "1989 DEP Site Location Order"), the DEP expressly referenced both the 1989 Forest Management Plan and the 1989 Stand Operations Manual in connection with its approval of Diamond Cove Phase I; and
- (iii) for several reasons, including an infestation of hemlock woolly adelgid and concerns about dangerous fire conditions identified by Maine Licensed Foresters, LESSOR has engaged a Maine Licensed Forester to update and amend the 1989 Forest Management Plan and the 1989 Stand Operations Manual, and the updated and amended forest management plan and stand operations manual is attached hereto as Exhibit D (collectively, the "2013 Forest Management Plan/Manual").

CITY agrees to submit such 2013 Forest Management Plan/Manual to the DEP, in connection with CITY's application for approval by the DEP of the transfer station facility. This Agreement is subject to CITY's obtaining a DEP Site Location modification order satisfactory to LESSOR (the "2014 DEP Site Location Order") that (a) modifies the 1989 DEP Site Location Order by expressly replacing references to the 1989 Forest Management Plan and the 1989 Stand Operations Manual with the 2013 Forest Management Plan/Manual, and (b) confirms that the transfer station facility at the PREMISES, as approved by the DEP, is permitted by such 2013 Forest Management Plan/Manual. In the event the DEP shall propose revisions to the 2013 Forest Management Plan/Manual before issuing such a 2014 DEP Site Location Order, the parties will work in good faith to revise the 2013 Forest Management Plan/Manual to meet both of their respective needs and the requirements of the DEP; provided, however, that if the parties shall fail to agree on a final 2013 Forest Management Plan/Manual that is expressly incorporated into a 2014 DEP Site Location Order by *October 1, 2014*, this Agreement shall then be automatically and immediately terminated as of that date.

B. Work done on the PREMISES will either be conducted by a Contractor or by the CITY's Department of Public Services. If the work is performed by a Contractor, the Contractor shall provide a performance bond for work performed on the PREMISES. LESSOR shall be named as co-obligee on the bond. The Contractor performing the work for CITY shall also procure general liability insurance in the minimum amounts of \$1,000,000 for each occurrence, and \$2,000,000 in the 'general aggregate' for bodily injury, death and property damage, naming CITY and LESSOR as additional insureds thereon.

C. The general public shall not be allowed by the CITY to have access to the transfer station facility to be built on the PREMISES; however, the LESSOR and its property management company, or the person or entity with property management responsibilities or trash pick-up responsibilities as agent for the LESSOR, shall be allowed access to the PREMISES, including the transfer station facility, for the disposal of trash and recyclables, provided that all such trash (except large items) shall be bagged as required from time to time by the CITY, such

as, inside the colored trash bags sold in support of its waste disposal system; and all such recyclables shall also be bagged or packaged as required by the CITY, from time to time.

5. Maintenance and Repairs, and Surrender Upon Termination

CITY represents that it has inspected and examined the PREMISES and accepts them in their present condition, and agrees that LESSOR shall not be required to make any improvements or repairs or provide any services whatsoever in or upon the PREMISES or any part thereof; CITY agrees to keep said PREMISES and the transfer station facility safe and in good order and condition at all times during the term hereof, and upon expiration of this Agreement or any sooner termination thereof, the CITY will quit and surrender the possession of the PREMISES quietly and peaceably and leave it in as good order and condition as they were at the commencement hereof. Upon such surrender of possession, the CITY may leave the screened improvements on the PREMISES provided that they then are in good order and condition (with CITY having performed required maintenance to date), reasonable wear and tear excepted, and shall remove any equipment and any fixtures (except as otherwise agreed by LESSOR), and will offer for sale to the LESSOR the trash compactors located within said screened improvements, at their then fair market value, given their age and condition, as determined by agreement of the parties, and if no such agreement is reached within 45 days, as determined by a valuation made by an independent third party chosen by the CITY and LESSOR. The obligations of CITY pursuant to this Section shall survive the expiration or termination of this Agreement.

9. Various City Commitments

A. CITY covenants and agrees, subject to the availability of funds, any required City Council approval, and any other required governmental approvals:

(i) When a term lease between the LESSOR and the CITY has been executed for the existing Diamond Cove Barge Landing, to make repairs to that facility or re-build that facility (in addition to the 'stop-gap' repairs already made by CITY prior to the date hereof), as soon as required by that facility;

(ii) to monitor animal or 'varmint' access to the waste stored on the PREMISES, and respond to any such access accordingly; and

B. CITY covenants and agrees to observe the conditions imposed by its proposed settlement in the litigation involving LESSOR and the Diamond Cove Barge Landing, including the conditions listed on the attached Exhibit C; in addition, CITY covenants and agrees not to park any vehicles overnight on the Diamond Cove ('Port') one-half of Great Diamond Island, except in emergency circumstances. CITY further covenants and agrees to observe any conditions imposed by the DEP with respect to use of the Diamond Cove Barge Landing and adjacent roadways.

10. Liability

LESSOR shall not be liable for damage to or loss of property of any kind which may be lost or stolen, damaged or destroyed by fire, water or otherwise, while on the PREMISES. Up to the limits of, and subject to the terms and provisions of the Maine Tort Claims Act, CITY agrees to indemnify and save LESSOR harmless from all liability, loss or damage arising from any nuisance made or suffered on the PREMISES by CITY, the CITY's guests, invitees, agents or servants due to any carelessness, neglect or improper conduct of any such persons; however, and by way of limitation of this indemnity and holding harmless, nothing herein is intended to, nor shall it be deemed to, waive, amend or otherwise modify any claim of immunity, any defense or any limitation of liability available to CITY under the Maine Tort Claims Act, 14 M.R.S.A. § 8101 et seq.

11. Default

In the event that CITY shall be in default in the performance of any of the terms, covenants, agreements or conditions herein agreed to be kept and performed by CITY, then in that event, LESSOR may terminate this Agreement as provided in Section 18 of this Agreement.

12. Hold Over

In the event that CITY shall hold over and remain in possession of the PREMISES with the consent of LESSOR, such holding over shall be deemed to be from month to month only, and upon all the same rents, terms, covenants and conditions as contained herein.

13. Notices

Any notices which are required hereunder, or which either CITY or LESSOR may desire to serve upon the other shall be in writing and shall be deemed served when delivered personally, or when deposited in the United States mail, postage pre-paid, return receipt requested, addressed to LESSOR, Diamond Cove Homeowners Association, c/o Phoenix Management, P.O. Box 759, Saco, ME 04072 and LESSOR, Diamond Cove Homeowners Association Board, Great Diamond Island, Portland, ME; or addressed to CITY, Mark H. Rees, City Manager, 389 Congress Street, Portland, ME 04101.

14. Subletting or Assignment

The CITY shall not sublet the PREMISES or assign its rights hereunder without the express written consent of LESSOR.

15. Inspections and Access

The CITY shall allow LESSOR to inspect the PREMISES, including the transfer station facility, at all reasonable times to insure compliance with the terms and conditions herein, including but not limited to compatible uses, maintenance, safety of operations and access on common rights of way.

16. Sale of the Premises

LESSOR agrees that if, during the term of this Agreement and extension, it sells the PREMISES, it shall assign its obligations under this Agreement to the buyer of the PREMISES.

17. Recordation in Registry of Deeds

The parties agree to execute and record in the Cumberland County Registry of Deeds a Memorandum of Lease outlining the principal terms of this Agreement.

18. Termination

A. CITY may terminate this Agreement upon one (1) year written notice to LESSOR.

B. LESSOR may terminate this Agreement upon a one (1) year written notice for failure of the CITY to observe and perform any of its terms, covenants, agreements or conditions hereunder, and such failure shall not have been cured within any time period specified herein or within 90 days of written notice to do so.

19. Waiver

Waiver by either party of any default in performance by the other of any of the terms, covenants, agreements or conditions contained herein, shall not be deemed a continuing waiver of the same or any subsequent default herein.

IN WITNESS WHEREOF, the said CITY OF PORTLAND has caused this Lease Agreement to be signed in its corporate name and sealed with its corporate seal by Mark H. Rees, its City Manager, thereunto duly authorized, and DIAMOND COVE HOMEOWNERS ASSOCIATION has caused this Lease Agreement to be signed by Matthew Hoffman, its Director and Operations Officer thereunto duly authorized, as of the day and date first set forth above.

WITNESS:

Lois Rees

CITY OF PORTLAND

By:

Mark H. Rees
Mark H. Rees
Its City Manager

STATE OF MAINE
CUMBERLAND, ss.

March
February 15, 2014

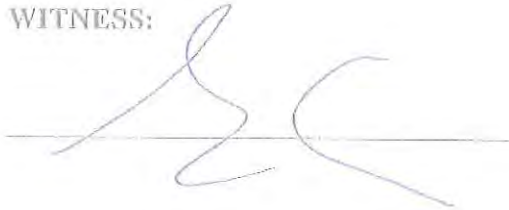
Personally appeared before me the above-named Mark H. Rees, City Manager of the City of Portland, and acknowledged the foregoing instrument to be his free act and deed in his said capacity, and the free act and deed of the City of Portland.

Before me,

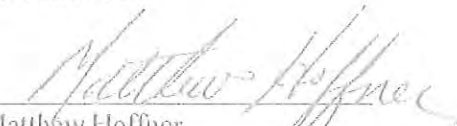
Matthew Hoffman
Notary Public/Attorney-at-Law

COMMISSION
Notary Public, Maine
(My Commission Expires January 10, 2017)

WITNESS:



DIAMOND COVE HOMEOWNERS
ASSOCIATION

By: 
Matthew Hoffner
Its Director and Operations Officer

STATE OF MAINE
CUMBERLAND, ss.

February 14, 2014

Personally appeared before me the above-named Matthew Hoffner, Director and Operations Officer of Diamond Cove Homeowners Association, and made oath that the foregoing is his free act and deed and the free act and deed of Diamond Cove Homeowners Association.

Before me,


Notary Public/Attorney-at-Law

JUDE A. CLUFF
NOTARY PUBLIC, MAINE
MY COMMISSION EXPIRES OCTOBER 27, 2020

Exhibit A

Leased Land for Proposed Transfer Station on Land
of Diamond Cove Homeowners Association

A certain lot or parcel of land located on Great Diamond Island, City of Portland, Cumberland County, State of Maine, being more particularly described as follows:

Commencing at the southeasterly corner of land now or formerly of Jesse S. and Evelyn C. K. Harriott (Book 25439 Page 248; City of Portland Tax Map Lot 83E-B-7).

Thence N 45° 05' 04" E two hundred seventy-two and ninety-nine hundredths feet (272.99') along the southeasterly boundary line of said land of Harriott to the northeasterly corner of said Harriott land and the southwesterly street line of Wood Side Drive.

Thence S 44° 54' 56" E one hundred seventy-nine and twenty-seven hundredths feet (179.27') along said southwesterly street line of Wood Side Drive to an angle point in said street line.

Thence S 40° 52' 40" W two hundred nineteen and forty-nine hundredths feet (219.49') through land now or formerly of Diamond Cove Homeowners Association (Book 24560 Page 106; City of Portland Tax Map Lot 83E-B-1) to a point in a gravel driveway or roadway and the Point of Beginning. Said Point of Beginning also being located S 60° 23' 34" E two hundred two and seventy-three hundredths feet (202.73') from said southeasterly corner of said land now or formerly of Harriott.

Thence continuing through said land now or formerly of said Diamond Cove Homeowners Association by the following courses and distances:

S 6° 20' 18" E two hundred twenty-nine and zero hundredths feet (229.00') to a point;

S 43° 24' 45" W one hundred eight and zero hundredths feet (108.00') to a point;

S 84° 09' 35" W one hundred sixty-six and zero hundredths feet (166.00') to a point;

N 4° 24' 42" W one hundred sixty-one and fifty hundredths feet (161.50') to a point;

N 30° 03' 59" E one hundred forty and fifty hundredths feet (140.50') to a point in a gravel driveway or roadway, said point being located S 8° 09' 38" E one hundred forty-one and ninety-two hundredths feet (141.92') from said southeasterly corner of said land now or formerly of Harriott;

S 31° 26' 26" E forty-six and fifty hundredths feet (46.50') to a point in a gravel driveway or roadway;

S 74° 03' 49" E thirty-two and zero hundredths feet (32.00') to a point in a gravel driveway or roadway;

N 31° 25' 21" E thirty-two and zero hundredths feet (32.00') to a point in a gravel driveway or roadway;

N 39° 34' 33" E one hundred nine and zero hundredths feet (109.00') to the Point of Beginning.

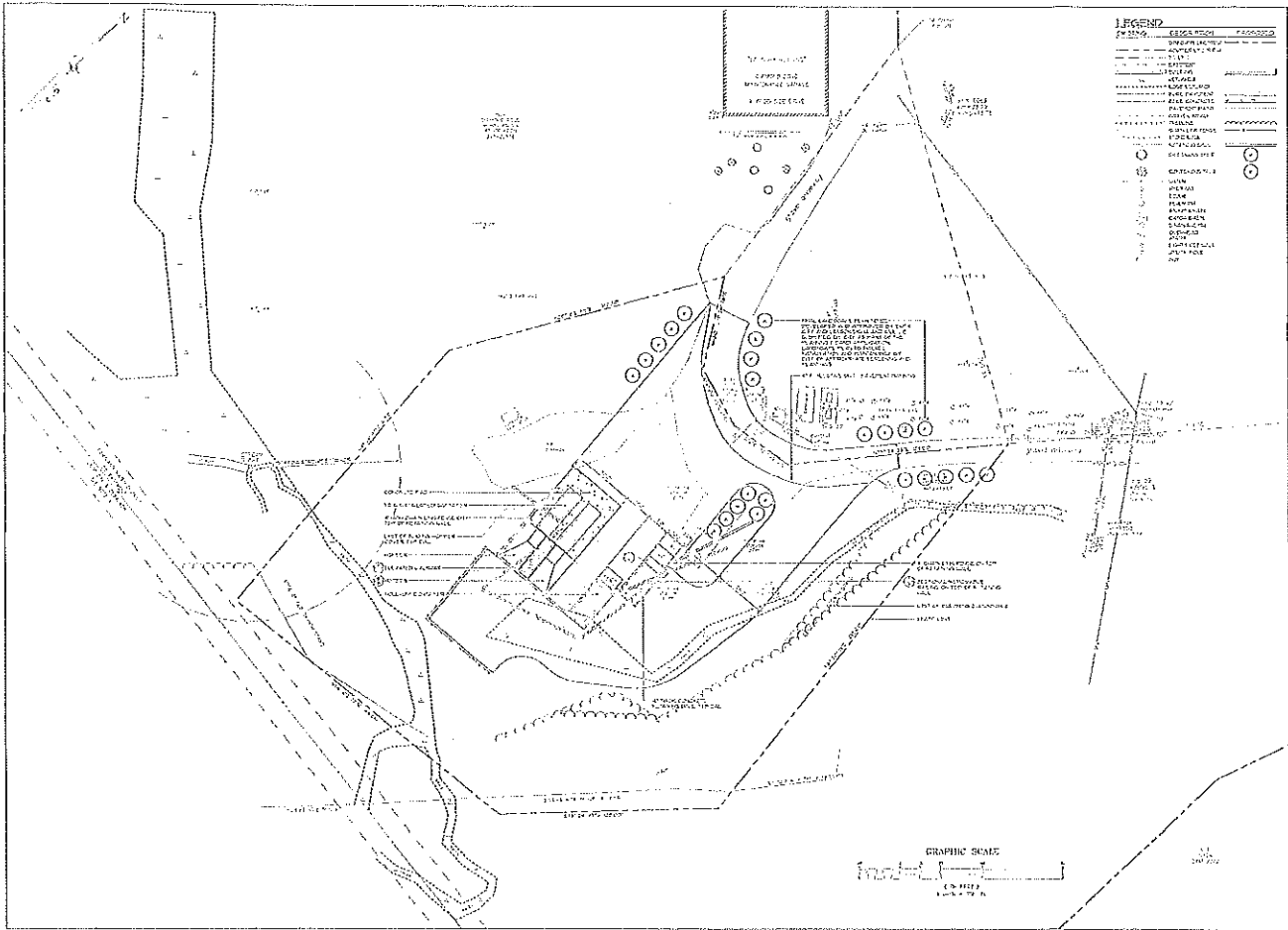
Said lot of land containing 35,050 square feet (1.3 acres), more or less.

Bearings herein are referenced to Grid North. All deed book numbers refer to the Cumberland County Registry of Deeds.

Reference is made to a plan entitled "Proposed Transfer Station Site -- Lease Limit Boundary Plan, Woodside Drive, Diamond Cove, Great Diamond Island, Portland, Maine", dated September 4, 2013, on file in the City Engineer's Archives, Department of Public Services, 55 Portland Street, Portland, Maine.

(Description by City of Portland, William G. Scott, P.L.S. 2239, September 4, 2013)

Exhibit B, page 1 of 2



NOT FOR CONSTRUCTION

PROCESS PLAN

SEAGO

SITE PLAN

GREAT ISLAND TRANSFER AND RECYCLING FACILITY

CITY OF PORTLAND

PROJECT NO. 1000000000

DATE: 10/1/2000

BY: [Signature]

CHECKED: [Signature]

APPROVED: [Signature]

PROJECT MANAGER: [Signature]

PROJECT ENGINEER: [Signature]

PROJECT ARCHITECT: [Signature]

PROJECT LANDSCAPE ARCHITECT: [Signature]

PROJECT CIVIL ENGINEER: [Signature]

PROJECT ELECTRICAL ENGINEER: [Signature]

PROJECT MECHANICAL ENGINEER: [Signature]

PROJECT ENVIRONMENTAL ENGINEER: [Signature]

PROJECT SAFETY ENGINEER: [Signature]

PROJECT QUALITY CONTROL: [Signature]

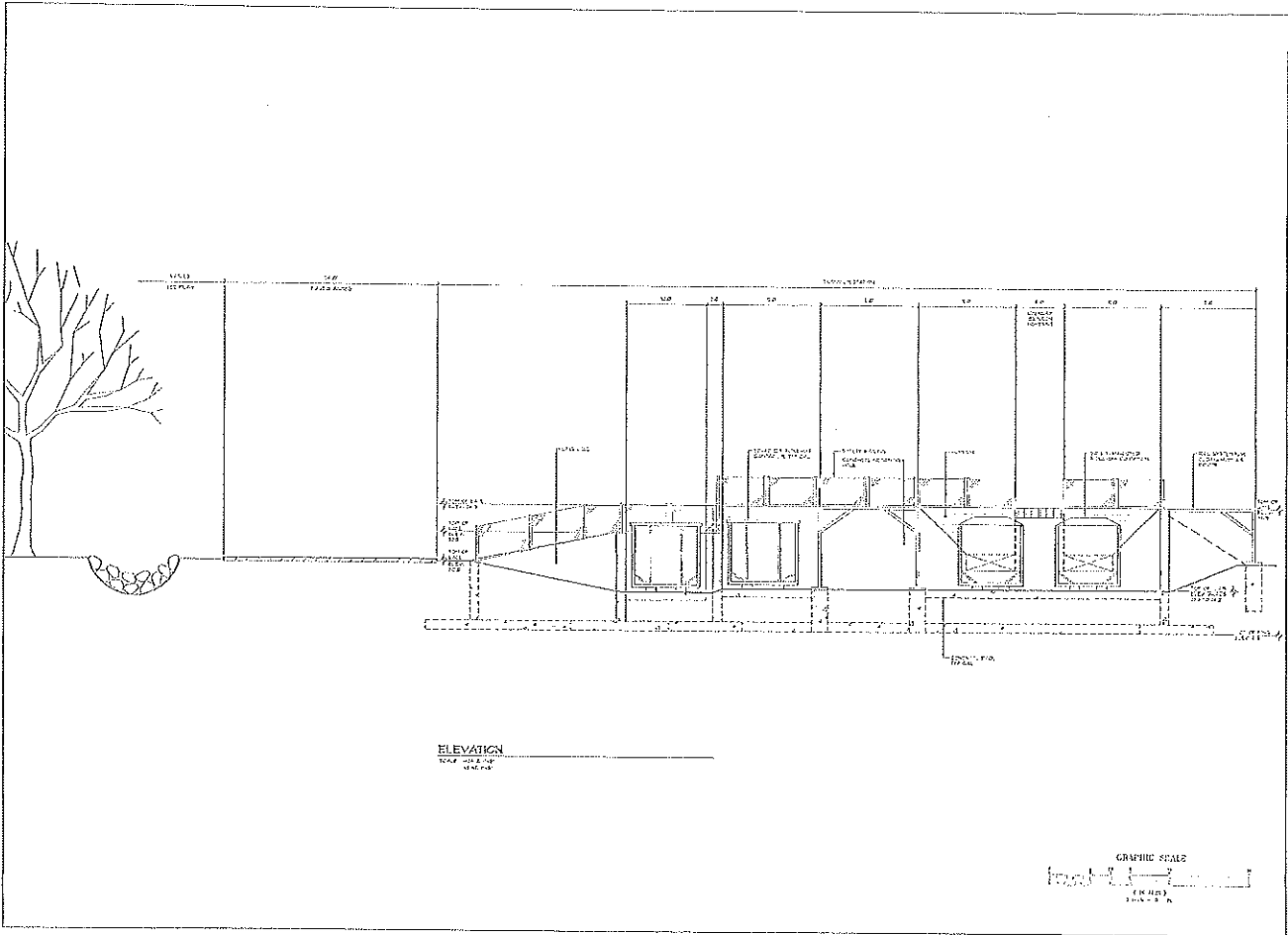
PROJECT RECORDS: [Signature]

PROJECT COMMUNITY RELATIONS: [Signature]

PROJECT LEGAL COUNSEL: [Signature]

PROJECT FINANCIAL: [Signature]

PROJECT OPERATIONS: [Signature]



NOT FOR
CONSTRUCTION

PROGRESS
PRINT

PROJECT NO.	100-100000
DATE	10/1/2000
DESIGNER	JOHN J. HARRIS
CHECKED BY	JOHN J. HARRIS
APPROVED BY	JOHN J. HARRIS
DATE	10/1/2000
PROJECT NO.	100-100000
DATE	10/1/2000
DESIGNER	JOHN J. HARRIS
CHECKED BY	JOHN J. HARRIS
APPROVED BY	JOHN J. HARRIS
DATE	10/1/2000

SEBAGO
INCORPORATED
100-100000
10/1/2000

FRONT ELEVATION
GREAT DIAMOND ISLAND TRANSFER AND
RECYCLING FACILITY
PORTLAND, ME
CITY OF PORTLAND
100-100000
10/1/2000

SHEET C OF 8

Exhibit C

SPECIAL RULES REGARDING PARKING AND ANTI-IDLING POLICIES FOR USE OF THE BARGE LANDING OWNED BY DIAMOND COVE HOMEOWNERS ASSOCIATION

Note: Exceptions to the following rules will be made for emergency vehicles and/or emergency situations. These rules do not supersede other DCHA policies pertaining to the barge landing that are now in effect or that may be implemented in the future by the DCHA.

Parking and Loading/Offloading of Vehicles:

Vehicles may be parked temporarily only in the following permitted parking area prior to and following a scheduled barge delivery:

On the cement pad located to the east of the barge landing on Wood Side Drive, between the hours of 9:00 a.m. to 5:00 p.m. only.

All vehicle operators shall comply with the vehicle anti-idling policy that is used by the City of Portland for its own vehicles.

Days/Hours of Operation:

- Days of operation for City vehicles will be Monday through Saturday only.
- Days of operation for other non-DCHA vehicles (i.e., vehicles servicing the public side of the Island) will be Monday through Friday only.
- Hours of operation for City vehicles and other non-DCHA vehicles will be from 7:00 a.m. to 8:00 p.m. Monday-Friday and 7:00 a.m. to 6:00 p.m. on Saturday.
- DCHA vehicles (i.e., vehicles servicing DCHA property or property of DCHA members) are not subject to these hours and days of operations restrictions.

Reports of Non-Compliance:

Any reports of non-compliance of these rules shall be reported to the City of Portland's Island and Neighborhood Liaison, who shall provide notice of any or all said reports to the DCHA.

The DCHA reserves the right to revoke permission to use the barge landing from non-DCHA vehicles or any operator thereof deemed to be in violation of any of these rules.

Phone: 207-892-6562



SOUTHERN MAINE FORESTRY SERVICES, INC.

P.O. Box 910 • North Windham, Maine 04062

Addendum to Forest Management Plan

for

Old Growth Stand

Diamond Cove Home Owners Association

Great Diamond Island

Portland, Maine

Prepared by:

A handwritten signature in dark ink, appearing to read "Rene D. Noel, Jr.", written in a cursive, flowing style.

Rene D. Noel, Jr. ACF
Maine Licensed Forester
December 12, 2013

Purpose

I have been engaged to:

1. More accurately locate the bounds of the old growth stand and mark edge of this stand.
2. Assess the impact of the hemlock woolly adelgid (*Adelges tsugae*) on the Hemlocks within the stand.
3. Identify those trees which pose potential hazards to life or property should they fail.
4. Identify those hemlocks in suitable condition so that treatment with an insecticide will extend their lives.
5. Estimate scope of work needed to mitigate fire danger and aesthetic impact of the loss of hemlock from the stands.
6. Address the proposed trash transfer station impact on the old growth stand.

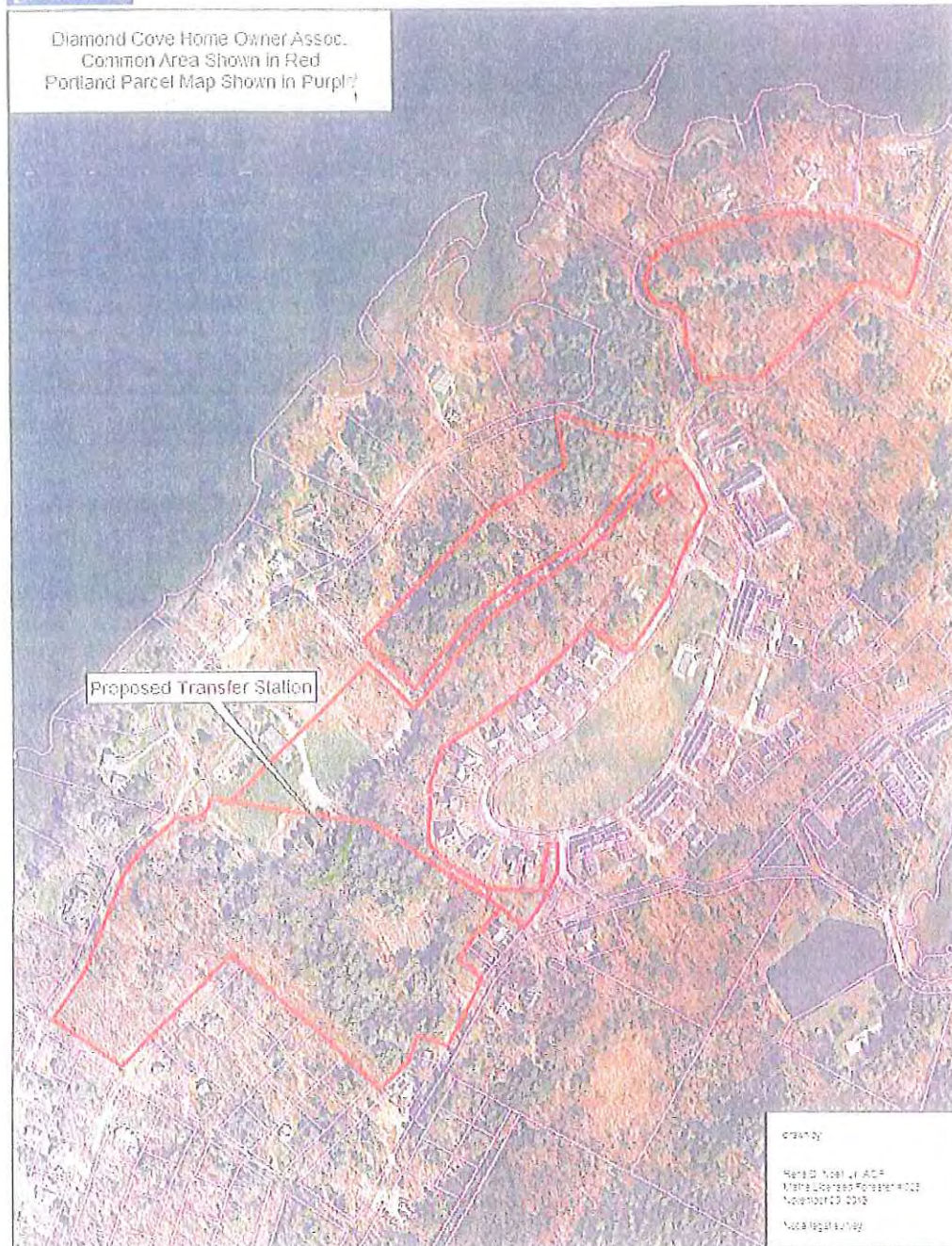
Field Work

Using a handheld GPS receiver (Delorme Earthmate PNL-60) data was collected to map the edge of the old growth stand. To do this the stand was perambulated and pink plastic ribbon was hung to mark the edge of the stand. I recommend that boundary be marked permanently. Painting boundary trees, signs or posts and signs are various options. Also gathered was GPS locations of trees that were judged to be potential hazards. These were marked with orange plastic flagging should last a couple of years but they should be marked with paint if they are not to be felled soon. Finally hemlocks that were in locations that were significant to the aesthetics of the area and judged to be in suitable condition that insecticide treatment would allow them to retain vigor were identified. Separate individual stems were located by GPS and marked with blue flagging. Small groves of trees around the tennis courts and along Diamond Avenue are identified solely on the included map.

Report

The forest management plan prepared in 1989 gives an excellent description of the stand, soils, terrain, and other physical features. That work has not been recreated in this report. There has been little change in the forest other than a small amount of wind damage and other natural mortality. The hemlock woolly adelgid infestation and its effect is the primary change in forest conditions.

Diamond Cove Home Owner Assoc.
Common Area Shown in Red
Portland Parcel Map Shown in Purple

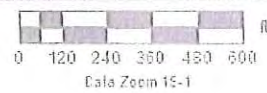


created by
Hans D. Kuhl, Jr. ACP
Mapa de la Comunidad de la
Asociación de Propietarios
de la Zona de la Zona

Data use subject to license.

© DeLorme, XMap5.7.

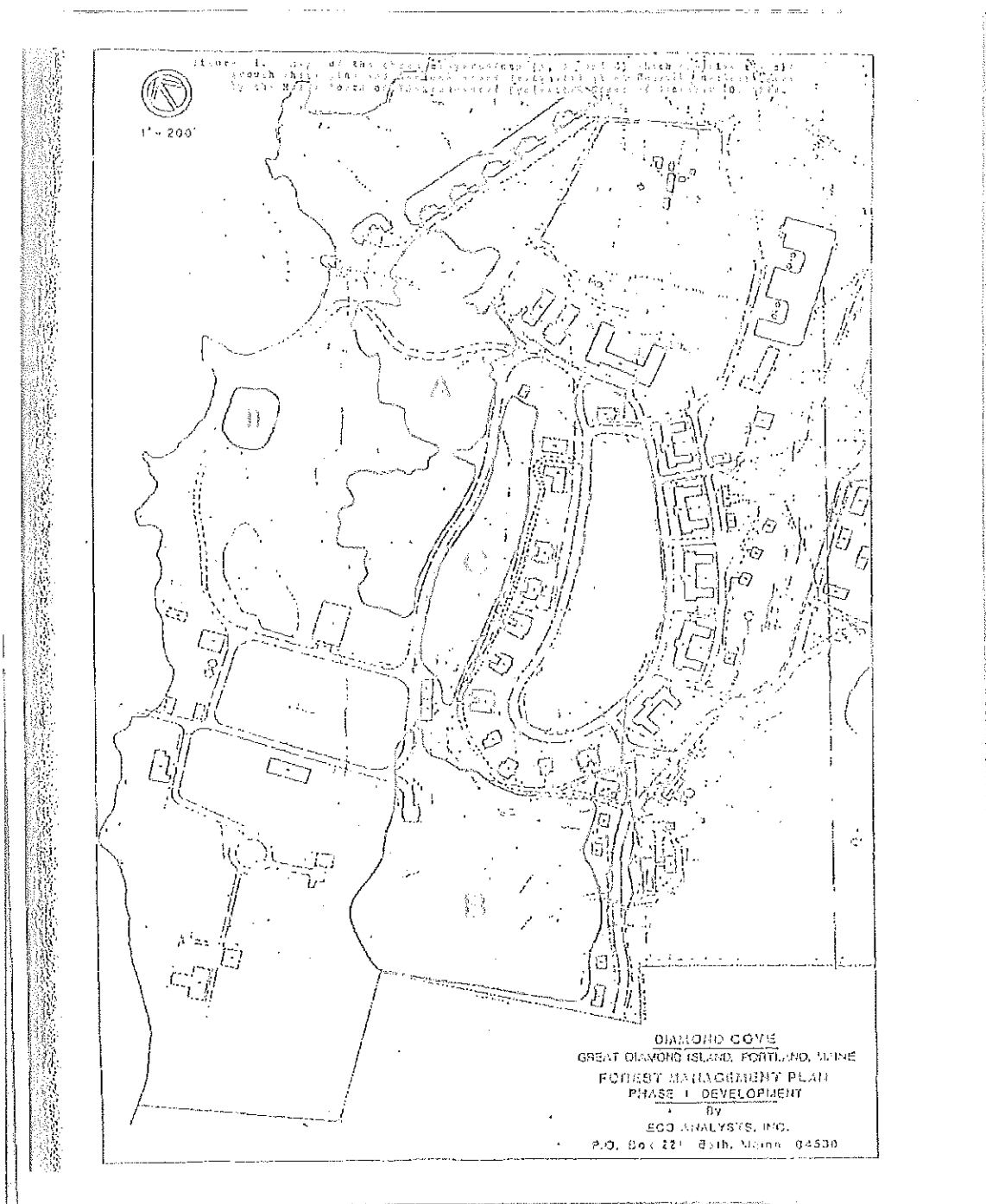
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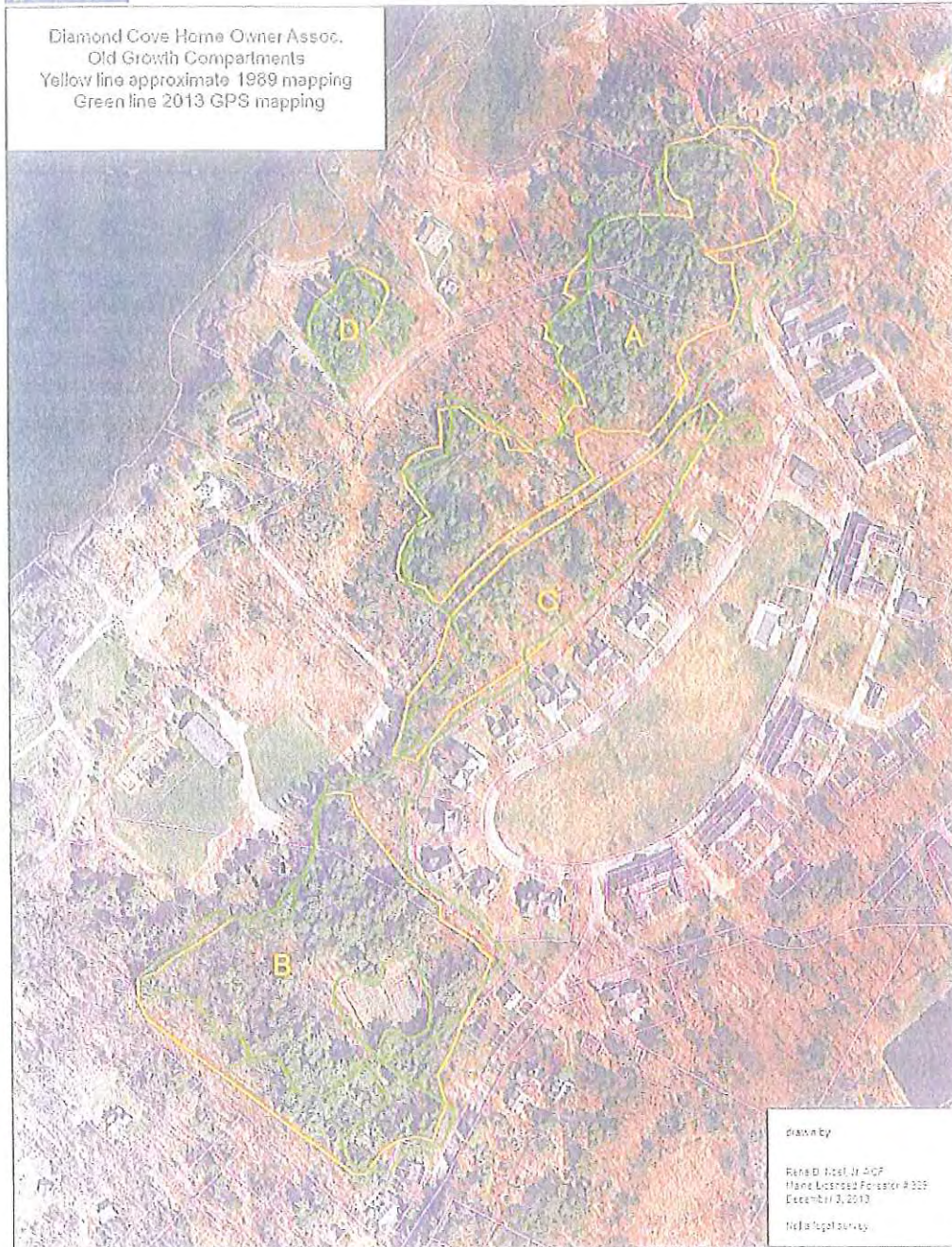


This area totals 15.58 acres and is a mapping of my judgement of the old growth stands boundary to the drip edge of the crowns of the trees identifying the edge of the stand. This is the accepted definition of a stand boundary. The old growth was determined by me based on size, branching, stem and bark characteristics which indicate old age for the various species. It contains some area in gravel roads which is consistent with the 1989 map. The acreage stated in 1989 was 17.43 acres and this includes a 35 foot buffer where the old growth is bordered by younger forest.

Compartment Map from 1989 Plan



Diamond Cove Home Owner Assoc.
Old Growth Compartments
Yellow line approximate 1989 mapping
Green line 2013 GPS mapping



drawn by

Rene D. Noel, Jr. ACP
Plans Licensed Professional 325
December 3, 2013
field/survey

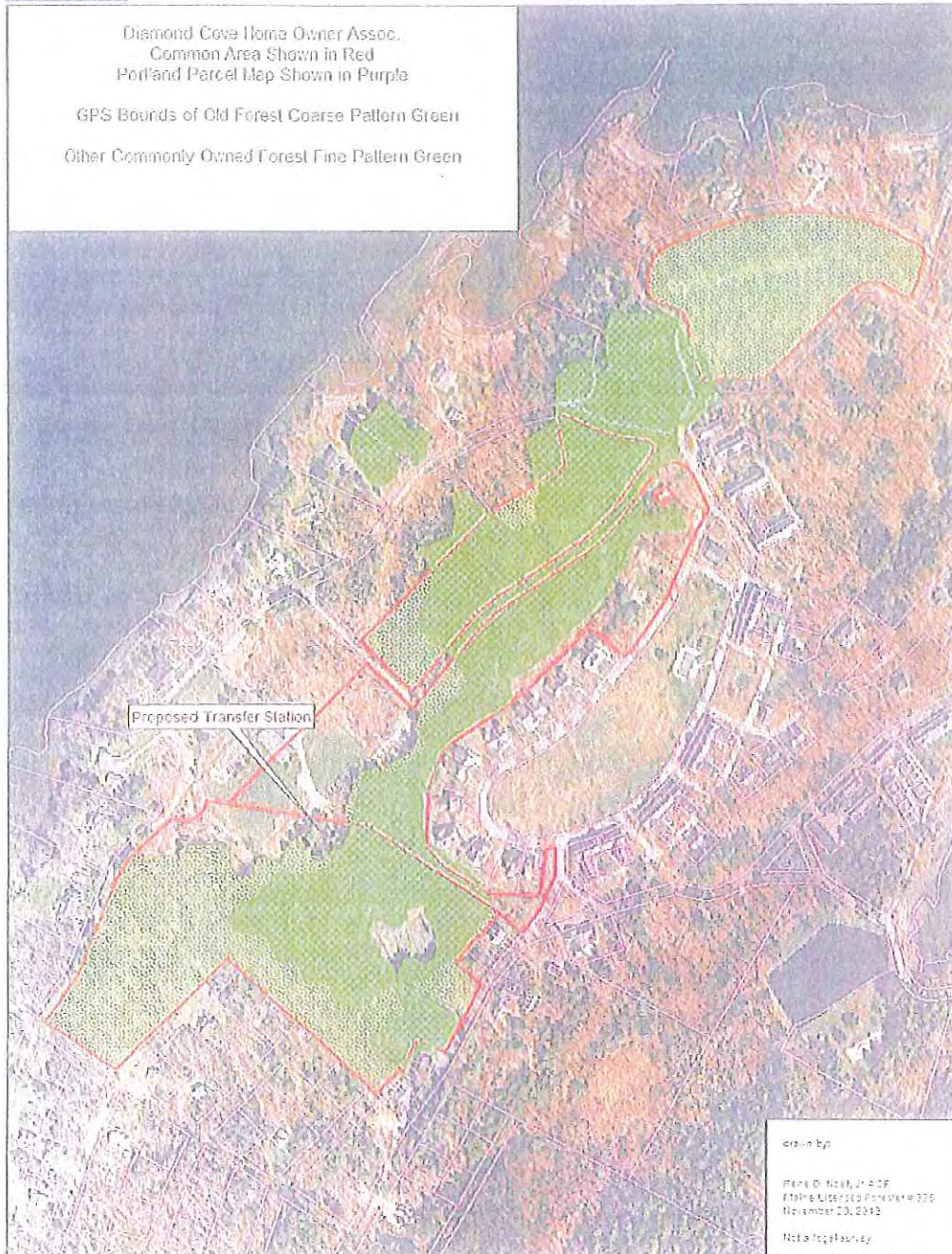
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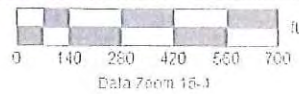
Data Zoom 16.0



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Damage by Hemlock Woolly Adelgid

All of the hemlock are showing signs of damage from adelgid feeding. I would estimate that on the average, the hemlock have about 50% of normal foliage density. Hemlock is a significant component of Compartment A, (39.9%), Compartment B, (75.3%) and Compartment C, (23.4%) Compartment D (0%). There are also some understory sapling and small pole size hemlock that were not inventoried and are not included in these numbers.

With out insecticide treatment it can be anticipated that mortality of the hemlock will approach 100%. Based on 1989 inventory and my observations there would be about 500 tons of biomass contained in these trees. That would be about 10 tractor trailer loads of material. About a third or 100 tons would be in fine to medium size fuel which is of concern in a wildfire situation.

There is the option of harvesting all the hemlock and removing them from the island.

Hemlock is not particularly valuable as timber. Considering the cost of utilizing this material by shipping it to the mainland and the impact of heavy equipment needed to remove it I do not recommend this option.

The second option is to fell the stems as they die and treat the fine and medium size fuel to make it less flammable. Within 100 feet of any structure I recommend chipping branches and tops with a portable chipper. In areas over 100 feet from buildings branches and tops should be cut up so they lie within a foot or two of the ground. This treatment will hasten their decay and the close proximity to the ground will keep the moisture content up in the fuel making it less flammable.

Current Hazards

Fourteen stems, 3 hardwoods and 13 hemlock were judge as currently being hazardous and located where they could damage people or property should they fail. They are marked with orange flagging. I did not get an estimate from arborists on the cost of dropping and treating these stems.

The three hardwoods are the most difficult to remove. A white birch, a red maple and a large sugar maple located at the eastern edge of Compartment C are all fairly close to residential buildings and are not easy to remove. The large sugar maple is located between two buildings and contains a considerable amount of rot. It will be somewhat of a challenge to remove. The weight of the large limbs indicate they are likely to fall towards the building to the trees north.

The hemlocks are located that they can likely be felled away from improvements.

I did not get estimates from arborists on the cost of removing these stems but I would estimate a mainland cost in the \$5,000 to \$10,000 range. My experience with transporting men and equipment is it adds significantly to the cost.

Future Mortality

Based on the inventory in the 1989 plan it appears there are 250 large hemlock in the three compartments. I have identified approximately 99 that can be treated and their lives extended for as long as the association is willing to continue treatment. These were either marked with blue flagging (individual stems) or are located in small groves shown on included map. That leaves approximately 150 trees that are likely to die in the next 5 to 10 years if adelgid feeding damage remains at current levels. Or in other words there will be about 20 trees per year that will need to be dropped, limbed and limbs cut up or chipped.

Trees that are not near buildings or other improvements can be dropped by a professional logger limbed and slash treated less expensively than by a licensed arborist. I would estimate the cost for this sort of work to be about \$100 per tree plus transport cost.

Trees near buildings and improvements should be taken down by a licensed arborist who is skilled and insured for in this work. A two man arborist crew with truck and chipper is being billed in the \$300 per hour range. I would estimate they can fell and chip branches from two to four trees per day.

I recommend the Association budget an amount annually to do a certain amount of this work. Arborists' slow season is usually winter and this is the most suitable time to do this sort of work in this community. It may be possible to negotiate some discount from regular fees with a long term contract.

Replanting

Where the hemlock is in decline more light is reaching the forest floor. Seedlings and saplings are already responding to this increase light. In many areas this natural reseeding will replace the forest. In those areas that this does not occur or where it is destroyed during felling and fuel reduction activities of dying hemlock I recommend planting white pine and red oak. Both are native to the island, grow well in that environment and are trees that are well rooted and wind firm in windy conditions. There are numerous young stems, seedlings and saplings already established. Where and how many replacement trees will be needed will depend on how many are destroyed in the felling process. Where sizable areas (600 sq. ft or more of open ground is my recommendation) of regeneration are destroyed I recommend planting at the spacing described. There is no ratio between trees cut and trees planted.

I recommend seedlings be planted spaced about twelve feet apart. The oak should be protected with a five or six foot tree shelter to assure they grow above a height that will be browsed by deer. Large seedlings or transplants are recommended as these will more quickly grow out of reach of deer. Four or five year old pine transplants and oak seedlings a minimum of 24" tall are recommended. Depending on quantity, this size stock is available for \$3.00 to \$10.00 per seedling.

Invasive Plants

The plant community on the island includes a large number of invasive species. Honeysuckle, bittersweet, barberry and Japanese knotweed are those noted which are likely invade disturbed forested areas. These species are very aggressive and have the potential to dominate a site preventing native vegetation from reestablishing itself. Controlling these species is difficult. It is possible to control small infestations by uprooting the plants. However, such mechanical control is labor intensive and needs to be repeated annually to remove sprouts from broken roots and new seedlings. Herbicides are much more efficient. Glyphosate the active chemical in Roundup brand yard products will control all of these. The woody species can be controlled with either a foliar application later in the growing season or by treating the surface of cut stumps within a day or two of the stems being cut. Japanese knotweed is easiest to treat with a foliar application. Ideally this should be done at the time of flowering. Stems are hollow and stems can be cut and treated by pouring herbicide into the hollow stem but this is very time consuming on all but smallest infestations.

Managing Fire Risk

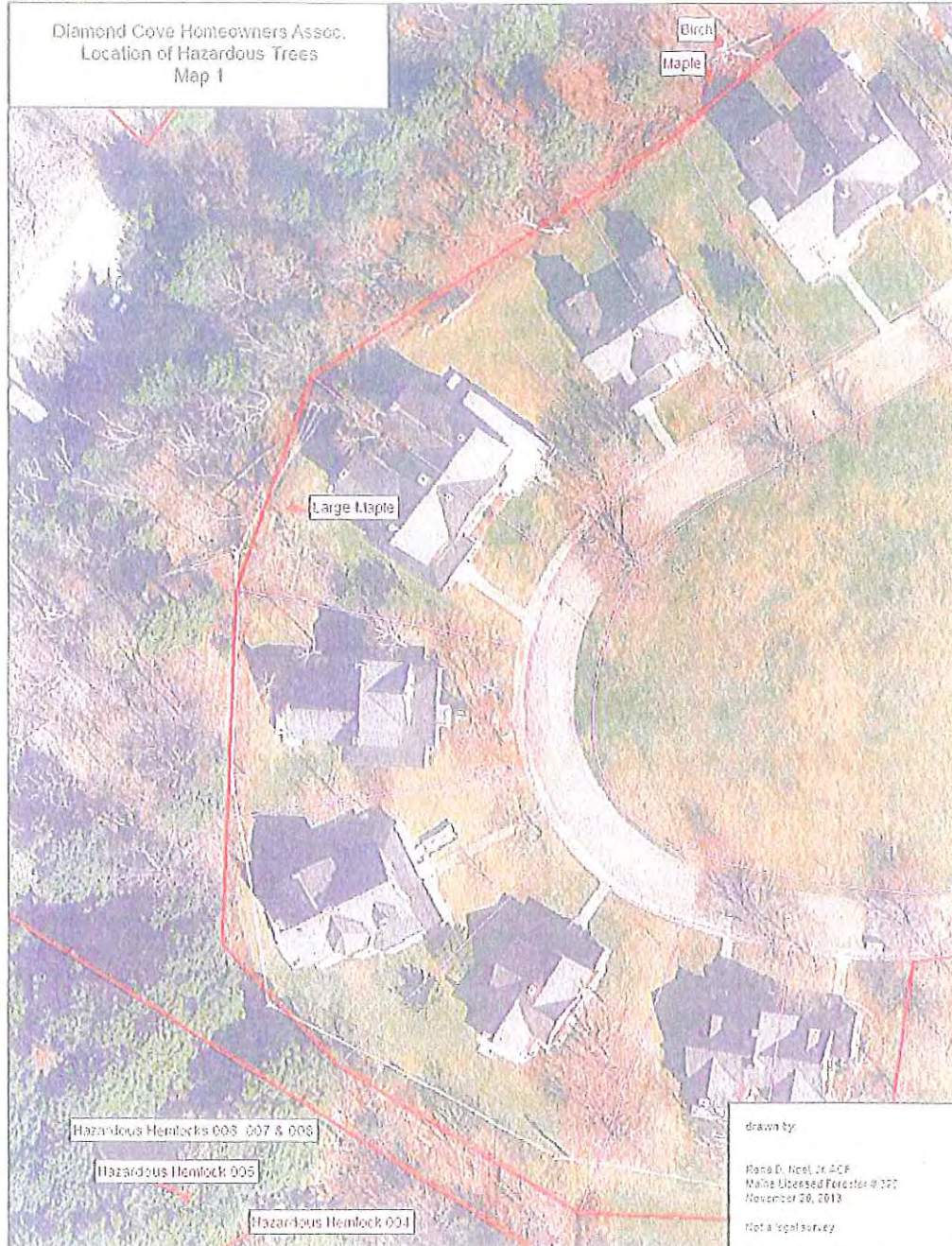
Risk of wild fire is best controlled by controlling fuel. To begin any flammable materials that collect around buildings should be removed. Porches, decks and other attached objects as well as gutters, roof valleys and other places where debris collects should have leaves and other fine fuels removed. Ideally the areas where this material collects should be screened to prevent these build ups.

Away from the building concentric rings of treatment should be applied. Nearest the building should have plant material and landscaping which is fire resistant such as green lawn, gravel or pavement. Shrubs should not be planted so they contact the building and species which are less likely to burn (hardwoods species in general) should be considered. Continuous stands of vegetation that could carry a fire should be avoided. This ring is typically the area immediately around the house lawn and other landscaped features. The next ring is more natural vegetation but in which fine fuel is not allowed to accumulate. Nor should dense stands of young stems be allowed to grow. Park like comes to mind with well spaced trees and understory plants and little brush or other fine flammable fuels. Typically 75 feet is recommended for this ring. The outer ring is the natural forest. Large trees do not easily burn. It takes a ladder of fuel from the ground to the crowns of large trees to ignite them. Controlling fire danger means controlling this fuel. The litter and duff layer of organic material is flammable but being on the ground maintains a fairly high moisture content and slower burning. Dead limbs and branches and small seedlings and saplings particularly softwoods are the most common fast fuels in a forest. Chipping or topping dead material so it lays within a foot or so of the ground will hasten its decay and place it so it maintains a high moisture content. Seedlings and saplings should be spaced so there is not a continuous stand. Individual stems and small groups separated from each other are ideal. As these grow lower limbs can be pruned until the stem is free of limbs for 6 or 8 feet.

14y fire training occurred in a much drier climate than Maine but I believe the guidelines would be applicable to an island situation. In that climate it was recommended that a fire resistant forest be maintained at least two tree lengths out from any structures or improvements. In this case that means about 150 feet back from anything that should be protected from fire.

Following these recommendations does not remove all fire danger. It should, however, slow the advance of a wildfire giving time for the arrival of men and equipment that will suppress the fire.

Diamond Cove Homeowners Assoc.
Location of Hazardous Trees
Map 1



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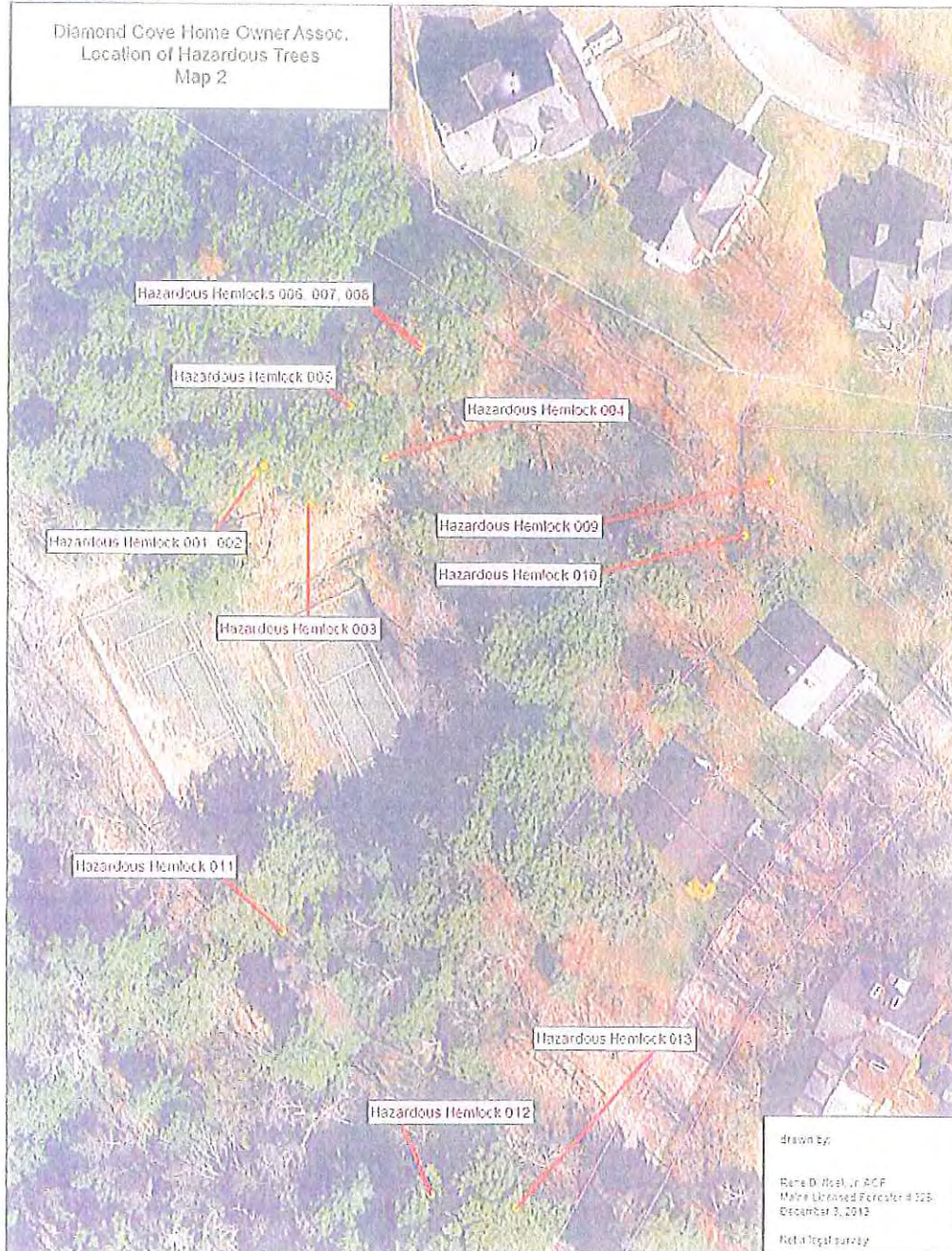
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N 15.5° W

0 20 40 60 80 100 120 ft
Data Zoom 18-0

Diamond Cove Home Owner Assoc.
Location of Hazardous Trees
Map 2



drawn by:

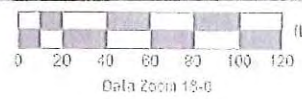
Rene D. Noel, Jr. ACF
Maine Licensed Forester #328
December 3, 2013

Not a legal survey

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Insecticide Treatment

The forest between McKinley Court and West Side Drive and west of Diamond Avenue and around the tennis court have 99 hemlocks that contribute greatly to the forest of that residential area. Systemic insecticides containing the active ingredient imidacloprid are effective in controlling the insect for a number of years following application. Some research has shown treatments every three or four years may be effective. Other products are in development/label phases and current product recommendations should be checked when treatments are planned.

This sort of treatment is fairly low tech. Backpack sprayers are used to either apply the chemicals to the ground or stem or granules are spread on the ground. It is necessary for the tree to absorb the chemical and translocate it to the needles. I estimate it would take a two man crew a full day to do the treatment. Depending on the cost of chemical at the time I estimate the cost of treatment to be in the \$2,000 range.

Diamond Cove Homeowners Assoc.
Location of Treatable Hemlock



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True (15.5° W)

0 40 80 120 160 200 240 280 ft
Data Zoom 16.7

Trash Transfer Station

Most of the proposed site is in an area which appears to have not been forested 24-27 years ago when the original work for the forest management plan was undertaken. However, one corner will encroach on the old growth stand and will require the removal of one large hemlock tree. This tree is not in good condition because of adelgid feeding. As I envision the proposed construction work less than 500 square feet within the old growth stand will need to be disturbed. The effect on the stand will not be noticeable. I suggest as a mitigation that buffer area to the west be expanded by a similar area. There are some large hardwood stems in this area that are 40 or 50 years younger than the oldest trees. With the anticipated loss of the hemlock due to adelgid damage these will be a natural expansion of a stand with old growth characteristics.

Summary of Recommendations/Findings:

- Use of new technology (GPS mapping) has enabled a more precise delineation of the Old Growth Forests first identified in 1989 plan (page 2)
- trees identified and marked- establish tree drip line as the exact edge on all Old Growth trees along the border of each compartment (page 4)
- Woolly adelgid damage to Old Growth hemlocks evaluated
 - Certain trees that pose a hazard to life or property marked for removal (page 8)
 - Certain trees with enough vitality remaining to benefit from insecticide application marked (page 14)
- Recommendation for DCHIA to create an ongoing yearly budget to deal with the eventual death and removal of infected hemlocks (page 9)
- Replanting recommendations made for certain areas of the Old Growth stand using native species (page 9)
- Recommendations made for the proper cutting/removal/chipping of damaged/dead trees within the stand to mitigate forest fire risk (pages 8-9)
- Recommendation on limb trimming and removal of small saplings as part of good management practices (page 10)
- Recommendations on insecticide application to save viable hemlocks (page 14)
- Minimal impact to Old Growth Stand (Compartment B) due to proposed construction of trash transfer station
 - 1 infested hemlock should be removed (page 16)
 - Add 500 square feet of area to the west of Compartment B to offset any disturbance and harmonize existing Old Growth area with large hardwoods within this new area (page 16)





March 16, 2015

Ms. Jean Fraser
City of Portland Planning Department
City Hall
Congress St.
Portland, ME 04101
JF@PortlandMaine.gov

Dear Jean,

As the president of the Diamond Cove Homeowners Association (DCHA), I wanted to write to you in advance of the Planning meeting on March 24th to clarify three points that have been brought up in preliminary meetings.

First, this transfer station project has been in development for over 5 years. During that time, the project was reviewed with the homeowner members at every annual meeting and through the minutes of monthly board meetings. The lease negotiation with the City took over 18 months as we tried to address all the concerns raised by the board and residents who participated in the discussions. Last summer, we staked out the exact area of the lease with tape and again brought up the project at the annual meeting asking all residents to walk the area and bring forward any concerns. The only concerns brought by a homeowner (abutter) was about the landscaping plan and we walked the property with him and the site engineer and developed a plan that was satisfactory to him and his line of sight. Other than questions at the annual meeting, no other concerns have been brought to me or other board members. Having resolved all the issues raised, we signed the lease last year and the city council voted to authorize the city manager to do the same.

The association has spent thousands of dollars in legal fees to ensure we have the protection we need for the next 99 years and there has been full disclosure and transparency throughout the process. Obviously, in a community like ours, some people choose to ignore annual meetings, board minutes and newsletters (all of which are posted on the website) and may still have questions regarding the project. I would encourage any resident with questions to call me so we can address those concerns. Again, to date there have been no calls asking for more information. The general sentiment within the community is that this is a good deal for DC, Great Diamond Island and Little Diamond Island. It solves

(for 99 years) the solid waste disposal challenges on our two islands and such resolutions can only enhance property values.

Secondly, we agree with the city's engineer that it makes sense to pave the gravel road and area directly in front of the transfer station. It will reduce dust and make transport of the trash off the island easier for all. We have agreed with the city to allow them to pave the entire section of the gravel road directly in front of the transfer station. While the 1.3-acre leased "Premises" only extends through half of the "road," the proposed paving here is consistent with the Preliminary Site Plan attached to our Lease Agreement, and therefore is consistent with the terms of the Lease Agreement.

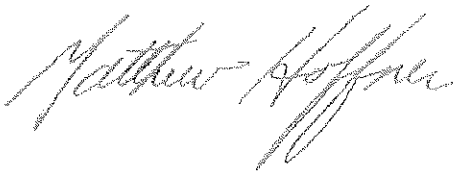
Finally, the storm water management for this area will be controlled by a storm water collection system managed by the city although some of the area that feeds that system will be from outside the lease area. Again, we both agree this makes sense and we have no issues with the site plan developed by the engineers or the city's long term management of that system.

This project continues to have the unanimous support of the 7 board directors and a vast majority of the residents of Diamond Cove. We would ask the Planning department and the City Council for their prompt approval of the Conditional Zoning Amendment so that work can begin this fall.

Please let me know if you have any additional questions.

Thank you for your consideration.

Sincerely,

A handwritten signature in dark ink, appearing to read "Matthew Hoffner". The signature is fluid and cursive, with a large, stylized initial "M".

Matthew Hoffner
President- DCHA Board of Directors

cc: Michael Bobinsky- Public Works Director City of Portland
Owens McCullough- Sebago Technics Engineering
Anthony Calcagni- Verrill Dana
Roger Shoemaker- Foreside Management Company



March 18, 2015

09405

Ms. Jean Fraser, Planner
City of Portland
389 Congress Street
Portland, ME 04101

Application for Conditional Zoning Amendment
Municipal Solid Waste Transfer Station, Great Diamond Island for City of Portland

Dear Ms. Fraser:

Thank you for sending along the public comments received by the City Planning Department for the Great Diamond Island transfer station project. We have prepared the following supplanted information in response to the public comments for staff and Planning Board consideration.

1. The project includes a small modification to the Old Growth area (approximately 500 square feet) as detailed in the recent update to the 1985 forest management plan. During 2013, field investigations including retention of licensed forester, coordination with the state Forest Service and City Arborist was undertaken as part of the transfer station site planning. The result of this effort was a December 12, 2013 Forest Management Plan Amendment prepared by Rene Noel, Jr., licensed forester. The Forest Management Plan concluded the project will have minimal impact to the Old Growth Stand involving approximately 500 square feet at the fringe of the mapped Old Growth Area. As part of the project, a 1,000 square foot mitigation area will be designated to increase the Old Growth Stand in the area immediately adjacent to the project site. The Forest Management Plan and proposed modifications were endorsement by the Maine Department of Environmental Protection (MDEP) as described in the November 5, 2015 permit approval.
2. The land area dedicated to the transfer station is approximately 1.25 acres in size. The facility has been design to minimize the development area and associated surrounding by integrating in the natural topography for the elevational difference required for a transfer facility. The 1.25 acre area was selected to accommodate the develop area together with land contouring necessary for an elevated wall and drop-off area and to provide landscaped buffering and new planting within the project area. The lease area was then delineated and approved by DCHA and the Portland City Council. The City and DCHA have strived to create the smallest possible footprint that will accomplish the operational needs. The proposed area was staked and marked during the summer of 2014 so that DCHA residents could review the footprint and raise any concerns about the location. There was no feedback received.

3. To the best of my knowledge, this is the first time the City has leased private property in a gated community for a transfer station. It is important to recognize the selection of this site was the culmination of several years of work to identify a suitable location that is proximate to the barge landing and capable of servicing the solid waste needs of the two Islands. The City is appreciative for DCHA's corporation and willingness to agree to a location that will allow for this important public service.
4. The transfer station is required to include site specific operations such as buffering, monitoring and protection against deleterious noise and smells. The project is currently under review by the Maine Department of Environmental Protection who regulates solid waste transfer and recycling facilities. As such, the operations are required to be compliant with these regulations. Troy Moon of the City is responsible for the city solid waste management program and will be directly involved with monitoring the facility activities.
5. Operationally, it is anticipated that the unloading of solid waste materials will be completed by City Public Services personnel or DCHA staff generally utilizing 1 Ton trucks. Since the facility will not be open to the general public, operational times will vary depending on curbside pick-up schedules and seasonal fluctuations in usage. Section 5(G) of the lease agreement with DCHA states "that under the normal course of operation, there will be no more than four to six (4-6) deliveries of waste/recycling per week by the CITY to the transfer station facility and, during summer months, at least one transfer of waste/recycling per week from the two transfer station hopper/compactor units off the island, and the two separate transfer station roll-off containers will be removed when full and then emptied and returned, all by appropriately sized vehicles."
6. The proposed transfer station will have some limited parking to accommodate operational vehicles. It is not the intent of the City to use the site for storage of non-transfer station related equipment or materials. In addition, the lease agreement with DCHA includes the following restrictions.
 - Sec. 3 (B): "There shall be no parking on the PREMISES unless related or incident to the trash processing and recycling, and then not overnight. There shall be no staging or storage of equipment on the PREMISES unless related or incident to the trash processing and recycling, and then only very short term."
 - Sec. 9(B): "CITY covenants and agrees to observe the conditions imposed by its proposed settlement in the litigation involving LESSOR and the Diamond Cove Barge Landing, including the conditions listed on the attached Exhibit C; in addition, CITY covenants and agrees not to park any vehicles overnight on the Diamond Cove ('Fort') one-half of Great Diamond Island, except in emergency circumstances. CITY further covenants and agrees to observe any conditions imposed by the DEP with respect to use of the Diamond Cove Barge Landing and adjacent roadways."
 - Exhibit C contains specific parking and anti-idling rules that must be complied with.

7. There will not be direct access to the transfer station through a public road. The project will be located within the DCHA portion of the Island. As previously stated, the transfer station will not be open to the general public and is intended as a point of transfer utilized by the City and DCHA operations staff.

We look forward to working with staff, the Planning Board and Council to amend the DCHA Contract Zoning Amendment for this important and needed public services project. Please feel free to contact me if I can be of additional assistance.

Sincerely,

SEBAGO TECHNICS, INC.



Owens A. McCullough, P.E.; LEED A.P.
Vice President of Engineering and Project Development

OAM:jag
Enc.

cc: Michael Bobinsky & Troy Moon, City of Portland Department of Public Services
Matthew Hoffner, DCHA

Draft 3.4.2015 from DCHA

**AMENDMENT TO CONDITIONAL ZONE AGREEMENT
REFERENCED IN ORDER 42-84/85
RE: CONTRACT FOR REZONING FOR PROPERTY
IN THE VICINITY OF
DIAMOND COVE/GREAT DIAMOND ISLAND**

WHEREAS, on July 15, 1985, the Portland City Council approved a Conditional Rezoning of certain property located on Great Diamond Island, formerly known as Fort McKinley and referred to as the "Premises" in said Conditional Rezoning; and

WHEREAS, the Conditional Rezoning has since been amended pursuant to amendments dated August 16, 2004, September 15, 2008, and February 22, 2012 (hereinafter, as amended, the "CZA"); and

WHEREAS, on April 17, 2014, the City of Portland entered into a Lease Agreement (later amended on September 30, 2014) with the Diamond Cove Homeowners Association pursuant to which the City has agreed to lease space on the Premises and install a solid waste transfer and recycling station in order to more efficiently handle solid waste management on both Great Diamond Island and Little Diamond Island (hereinafter, the "Lease Agreement"); and

WHEREAS, due to constraints the Premises, the only appropriate location for the transfer station is within a portion of the Premises located as shown on Attachment A and previously designated as "Dedicated Open Space" which, under the CZA may not be developed;

WHEREAS, pursuant to the Lease Agreement, on _____, the City of Portland's Director of Public Services filed an application to amend the CZA and to modify the boundary of the Dedicated Open Space in order to allow the construction, maintenance and operation of the transfer station;

WHEREAS, on _____, the Portland Planning Board recommended the approval of the amendment to the CZA; and

WHEREAS, the City council hereby finds and declares that said amendments to the Conditional Rezoning are pursuant to and consistent with the City's Comprehensive Plan as well as with existing and permitted uses in the CZA;

NOW THEREFORE, BE IT ORDAINED by the City Council of the City of Portland, Maine, in the Council assembled as follows:

Paragraph 1 of the CZA in Order 42-84/85, as further amended in Orders 33-04/05, 55-08/09, and 114-11/12, is amended as follows:

1. Development limited. The development, use and occupancy of the Premises shall be limited to one hundred thirty-four (134) dwelling units and other permitted uses, and uses accessory thereto. Except for the reconstruction, renovation and repair of existing buildings and structures, and the construction of minor additions and improvements thereto, and the construction of a solid waste transfer and recycling station in a form substantially similar to that depicted in the plan attached hereto as Attachment B, there shall be no construction or development of any new principal building or structure on the Premises. Except as otherwise specified herein, all portions of the Premises identified on the map attached hereto as open space shall be dedicated and reserved as such in perpetuity.

and, **BE IT FURTHER ORDAINED** that:

The area described in Attachment C, being the premises leased under the Lease Agreement, be removed from the Dedicated Open Space as originally identified in the CZA.

Exhibit A
3/4/15

7/15/85

Diamond Cove

GREAT DIAMOND ISLAND.

PORTLAND, ME

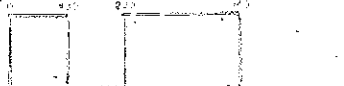
DEVELOPER : DICTAR ASSOCIATES

PORTLAND, ME



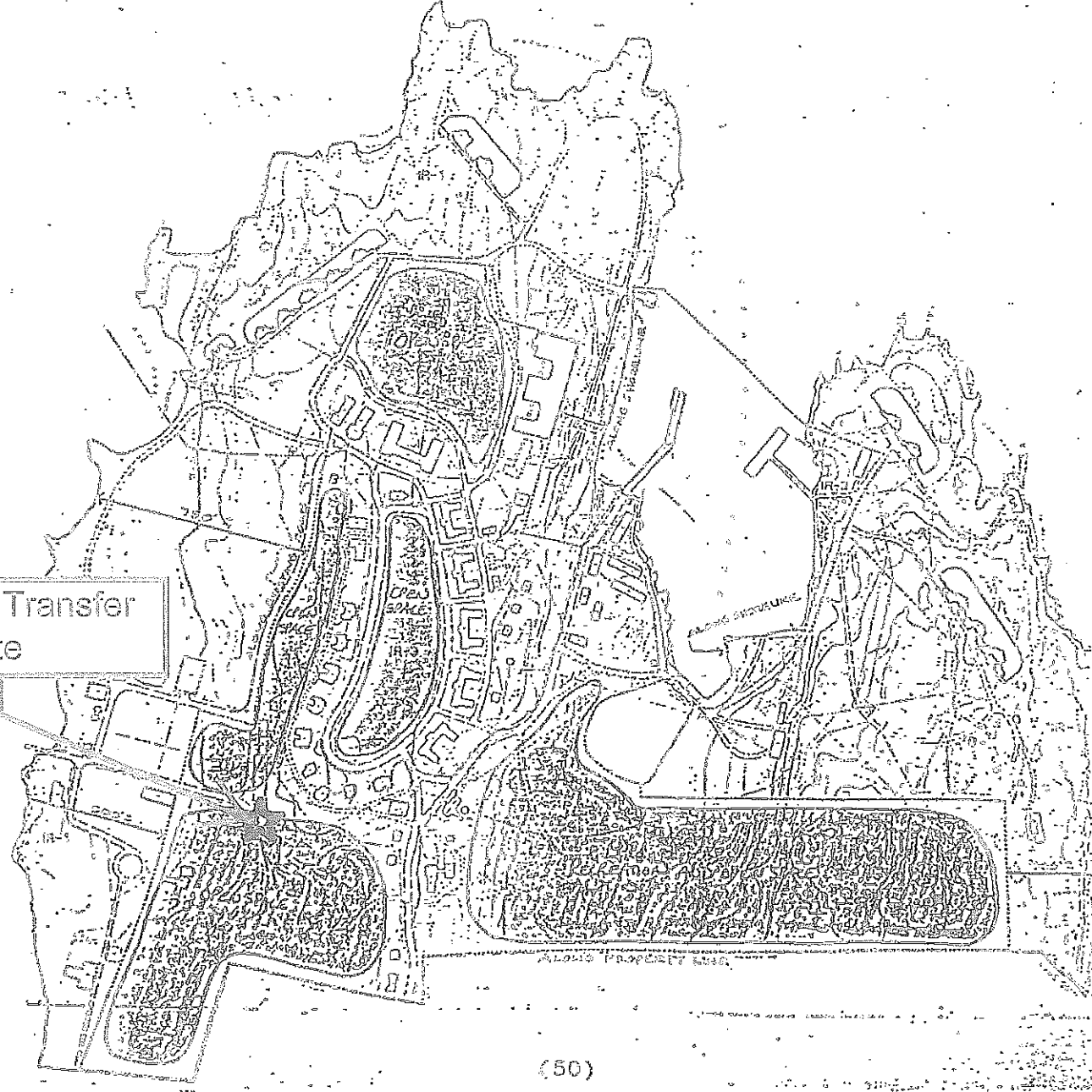
MAINE DEPARTMENT OF TRANSPORTATION
CONSTRUCTION DIVISION
DESIGN SECTION

Consistent with the Maine Department of Transportation



DEDICATED OPEN SPACE

Proposed Transfer
Station Site



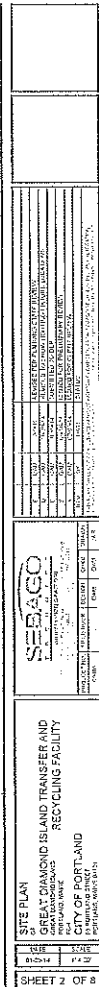
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Exhibit A

Leased Land for Proposed Transfer Station on Land
of Diamond Cove Homeowners Association

A certain lot or parcel of land located on Great Diamond Island, City of Portland, Cumberland County, State of Maine, being more particularly described as follows:

Commencing at the southeasterly corner of land now or formerly of Jesse S. and Evelyn C. K. Harriott (Book 25439 Page 248; City of Portland Tax Map Lot 83E-B-7).

Thence N 45° 05' 04" E two hundred seventy-two and ninety-nine hundredths feet (272.99') along the southeasterly boundary line of said land of Harriott to the northeasterly corner of said Harriott land and the southwesterly street line of Wood Side Drive.

Thence S 44° 54' 56" E one hundred seventy-nine and twenty-seven hundredths feet (179.27') along said southwesterly street line of Wood Side Drive to an angle point in said street line.

Thence S 48° 52' 40" W two hundred nineteen and forty-nine hundredths feet (219.49') through land now or formerly of Diamond Cove Homeowners Association (Book 24560 Page 106; City of Portland Tax Map Lot 83E-B-1) to a point in a gravel driveway or roadway and the Point of Beginning. Said Point of Beginning also being located S 60° 23' 34" E two hundred two and seventy-three hundredths feet (202.73') from said southeasterly corner of said land now or formerly of Harriott.

Thence continuing through said land now or formerly of said Diamond Cove Homeowners Association by the following courses and distances:

S 6° 20' 18" E two hundred twenty-nine and zero hundredths feet (229.00') to a point;

S 43° 24' 45" W one hundred eight and zero hundredths feet (108.00') to a point;

S 84° 09' 35" W one hundred sixty-six and zero hundredths feet (166.00') to a point;

N 4° 24' 42" W one hundred sixty-one and fifty hundredths feet (161.50') to a point;

N 30° 03' 59" E one hundred forty and fifty hundredths feet (140.50') to a point in a gravel driveway or roadway, said point being located S 3° 09' 38" E one hundred forty-one and ninety-two hundredths feet (141.92') from said southeasterly corner of said land now or formerly of Harriott;

S 31° 26' 26" E forty-six and fifty hundredths feet (46.50') to a point in a gravel driveway or roadway;

S 74° 03' 49" E thirty-two and zero hundredths feet (32.00') to a point in a gravel driveway or roadway;

N 81° 25' 21" E thirty-two and zero hundredths feet (32.00') to a point in a gravel driveway or roadway;

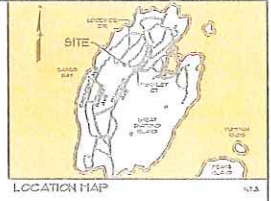
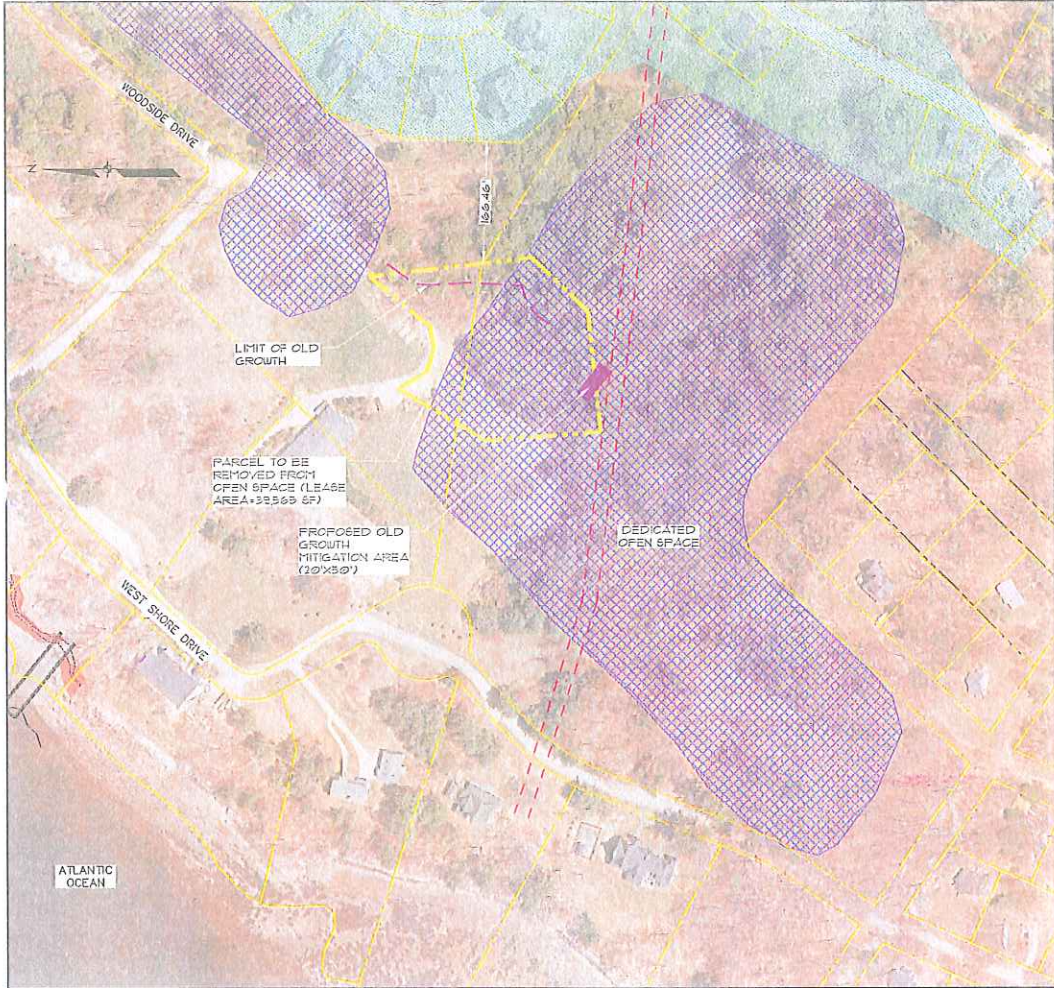
N 39° 34' 33" E one hundred nine and zero hundredths feet (109.00') to the Point of Beginning.

Said lot of land containing 55,050 square feet (1.3 acres), more or less.

Bearings herein are referenced to Grid North. All deed book numbers refer to the Cumberland County Registry of Deeds.

Reference is made to a plan entitled "Proposed Transfer Station Site – Lease Limit Boundary Plan, Woodside Drive, Diamond Cove, Great Diamond Island, Portland, Maine", dated September 4, 2013, on file in the City Engineer's Archives, Department of Public Services, 55 Portland Street, Portland, Maine.

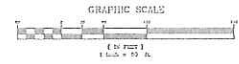
(Description by City of Portland, William G. Scott, P.L.S. 2239, September 4, 2013)



NOTE
THIS PLAN IS PREPARED FOR OFFICIAL PURPOSES
ONLY. IT IS NOT TO BE USED FOR ANY OTHER
PURPOSE WITHOUT THE WRITTEN AGREEMENT OF THE
DESIGNER.



SYMBOL	DESCRIPTION	PROVIDED
(Cross-hatch)	DEDICATED OPEN SPACE	
(Diagonal hatch)	PROPOSED OLD GROWTH MITIGATION AREA	
(Yellow outline)	PARCEL TO BE REMOVED FROM OPEN SPACE	
(Dashed line)	LIMIT OF OLD GROWTH	
(Solid line)	PROPERTY LINE	
(Dotted line)	PROPOSED ROAD	
(Thick solid line)	PROPOSED FENCE	
(Thin solid line)	PROPOSED FENCE	
(Thick dashed line)	PROPOSED FENCE	
(Thin dashed line)	PROPOSED FENCE	

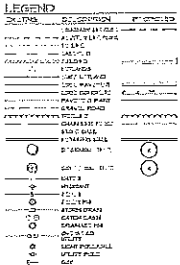


SEBAGO
ENGINEERING & ARCHITECTURE
1000 ROUTE 100, SUITE 100
PORTLAND, ME 04106
TEL: 207.761.1234
WWW.SEBA-ENGINEERING.COM

OPEN SPACE REMOVAL DESIGNATION PLAN
GREAT DIAMOND ISLAND TRANSFER AND
RECYCLING FACILITY
CITY OF PORTLAND
DESIGNED BY: [Name]
DRAWN BY: [Name]
CHECKED BY: [Name]
DATE: [Date]

SHEET 1 OF 1

10/20/2018 10:00 AM

[illegible]

SITE PLAN GREAT DIAMOND ISLAND TRANSFER AND RECYCLING FACILITY CITY OF PORTLAND 11800 NE 1ST AVE PORTLAND, OREGON 97220 DATE: 11-20-84 BY: [Signature]		SEIAGO SEIAGO ENGINEERING & ARCHITECTS, INC. 1100 NE 1ST AVE, SUITE 200 PORTLAND, OREGON 97220 PHONE: (503) 281-1111		PROJECT INFORMATION PROJECT NO.: 84-01 CLIENT: CITY OF PORTLAND DESIGNER: SEIAGO ENGINEERING & ARCHITECTS, INC. DATE: 11-20-84 BY: [Signature]		REVISIONS NO. DESCRIPTION 1. [Blank] 2. [Blank] 3. [Blank] 4. [Blank] 5. [Blank] 6. [Blank] 7. [Blank] 8. [Blank] 9. [Blank] 10. [Blank]	
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Order 229-14/15
Tab 30 4-27-15

MICHAEL F. BRENNAN (MAYOR)
KEVIN J. DONOGHUE (1)
DAVID A. MARSHALL (2)
EDWARD J. SUSLOVIC (3)
JUSTIN COSTA (4)

CITY OF PORTLAND
IN THE CITY COUNCIL

DAVID H. BRENERMAN (5)
JILL C. DUSON (A/L)
JON HINCK (A/L)
NICHOLAS M. MAVODONES, JR (A/L)

ORDER APPROVING LEASE WITH READY SEAFOOD CO.
RE: PORTLAND OCEAN TERMINAL

ORDERED, that the amended and restated lease with Ready Seafood Co. for space at Portland Ocean Terminal is hereby approved, substantially in the form attached; and

BE IT FURTHER ORDERED, that the City Council hereby authorizes the Acting City Manager to execute said document and any other related documents necessary or convenient to carry out the intent of said document.



Economic Development Department
Gregory A. Mitchell, Director

MEMORANDUM

TO: Mayor and Members of the City Council

FROM: Greg Mitchell, Economic Development Director

DATE: April 7, 2015

SUBJECT: Order Authorizing Acting City Manager to Execute Ready Seafood Company Proposed Amended and Restated Lease at Portland Ocean Terminal

SPONSOR: Housing and Community Development Committee/Councilor Kevin Donoghue, Chair

COUNCIL MEETING DATE ACTION IS REQUIRED: April 27, 2015 – One Reading and Vote

Can action be taken at a later date? Yes.

PRESENTATION: Greg Mitchell, 5 Minutes

I. Summary of Issue

Ready Seafood Company has been a tenant at the Maine State Pier, Portland Ocean Terminal (POT) since January 2010 under a City Council approved Lease. Brendan Ready approached City staff asking for a number of Lease amendments which include the following:

Space Reduction and Reconfiguration. The request is to reduce the amount of leased square footage from 24,000 SF to 19,000 SF, eliminate two options to expand tenancy, along with reconfiguring company Leased space to include use of the complete west to east depth of the POT, versus leasing space along the western side of the POT.

Rent Reduction. The company is requesting a rent reduction due to their company's continued investment in POT and Maine State Pier infrastructure.

Ready Seafood Company Investment. Ready Seafood Company investment has been over and above usual tenant responsibilities over the last four years. Examples of Ready investment include:

Structural and engineering design work for replacing floors	\$14,500
Replacing rotten floor beams and cement floors	\$109,000
Loading dock repairs and upgrades	\$18,500
Roof repair and lightening replacement	\$17,200
Drain Pipe replacement from roof to floor drains	\$7,200
Pier wooden plank replacement and installation	\$26,500
Donation of generator to City for July 4th \$3,000/year	\$12,000
Total	\$204,900

The cost breakdown on the above Ready Seafood Company investment averages \$51,225 per year. A summary table of Ready Lease terms compared to Ready's request is as follows:

Lease	Square Feet	Annual Rent	Price Per SF	Parking Cost**	Total
Existing*	19,000	\$208,335	\$10.97	\$0	\$208,335
New	19,000	\$125,256	\$6.59	\$10,000	\$135,256
Difference	0	(\$83,079)	(\$4.38)	\$10,000	(\$73,079)

*Footnote 1: Ready Seafood Company actual space use is 19,000 SF versus 24,000 SF in the approved lease to account for City common use of the loading dock and interior tenant space shared with the Ready Seafood Company.

**Footnote 2: The existing Lease rental rate includes the cost of surface parking located in the Thames Street Parking Lot. The new Lease provides a separate charge for parking.

II. Reason for Submission

This is being submitted to the City Council for its review and vote to authorize the Acting City Manager to execute the proposed Amended and Restated Lease.

III. Intended Result

The intended result is the continuation of a mutual agreeable Amended and Restated Lease with Ready Seafood for the continuation of their business operations on the Portland Waterfront/Maine State Pier.

IV. Council Goal Addressed

Promote economic development in the City in a manner that provides for increased property values, diversification across industry sectors, and high paying jobs.

V. Financial Impact

In exchange for an annual rent reduction, the Ready's are willing to pay separately for parking and are willing to continue to pay for Maine State Pier and POT building improvements.

While the rent reduction reduces annual revenue to the City, it is off-set by the actual past and projected investment in pier related infrastructure.

VI. Staff Analysis

Staff notes the below lease comparison (Amended and Restated Lease versus original Lease with 1st and 2nd Amendments) is provided as a substitute to a marked revision format to explain lease modifications.

Highlights of the proposed Amended and Restated Lease amendments are as follows:

- Square Footage of Lease Space: Reduced from 24,000 sq. ft. to 19,000 sq. ft., and elimination of two options to expand;
- Non-Exclusive use of Common Areas: As can be seen on the Exhibit A of the proposed Amended and Restated Lease (ARL), there is an "Interior Common Area" and an "Exterior Common Area", which is new to the ARL. Ready will have non-exclusive use of this area, which use will include shared access to and use of both the existing loading dock and the pier area located at the end of the Pier, and the right to expand the existing loading dock or construct one additional loading dock, subject to required approvals/permits. These Common Areas permit uses for Ready's operations, including wholesale, storage, packaging, shipping, and processing activities.
- Term: The term of the Lease remains the same, that is the ARL will be effective as of January 1, 2015 and end December 31, 2017, with an option to renew for one additional five (5) year term through December 31, 2022, and, thereafter, for one additional six (6) year term through December 31, 2028.
- Rent Reduction: Rent is reduced from \$10.75 per square foot (which includes parking charges), with 2% escalator annually, to \$6.59 per square foot (which does not include parking charges), with 2% escalator annually. This reduction in per square foot takes into consideration the Ready's past and future infrastructure investment in the POT.
- Parking: Ready's amount of parking in the Thames Street parking area will decrease from 20 to 10 spaces, and Ready will be charged annually for these 10 spaces at \$10,000. Existing Lease annual payments take into consideration costs for parking.
- Pier Accepted "As Is" by Ready: As Ready is currently on the Premises, the ARL has new language that Ready accepts the Premises and Common Areas in their present "As Is" condition. Ready shall continue to maintain and repair, at its sole expense, the leased Premises, Common Areas, and Pier, including utilities as outlined in the ARL.

VII. Recommendation

The HCDC reviewed this and unanimously (4-0) recommended that it be forwarded to the City Council for authorization to have the Acting City Manager execute the Amended and Restated Lease, in the form substantially as attached.

VIII. Attachments

- Proposed Amended and Restated Lease
- Original Lease, with 1st and 2nd Amendments

*Order 23014/15
Tab 31. 4-27-15*

MICHAEL F. BRENNAN (MAYOR)
KEVIN J. DONOGHUE (1)
DAVID A. MARSHALL (2)
EDWARD J. SUSLOVIC (3)
JUSTIN COSTA (4)

**CITY OF PORTLAND
IN THE CITY COUNCIL**

DAVID H. BRENERMAN (5)
JILL C. DUSON (A/L)
JON HINCK (A/L)
NICHOLAS M. MAVODONES, JR (A/L)

**ORDER NAMING THE ENTRANCE ROAD TO PORTLAND TECHNOLOGY
PARK PORTLAND TECHNOLOGY DRIVE**

ORDERED, that the entrance road to the Portland Technology Park is hereby named
Portland Technology Drive.



Economic Development Department
Gregory A. Mitchell, Director

MEMORANDUM

City Council Agenda Item

TO: City Council

FROM: Greg Mitchell, Economic Development Director

DATE: April 9, 2015

SUBJECT: Order to Name the Entrance Road to Portland Technology Park as
"Technology Park Drive"

SPONSOR: Sheila Hill-Christian, Acting City Manager

COUNCIL MEETING DATE ACTION IS REQUESTED:

1st reading and Vote/Final Action: April 27, 2015

Can action be taken at a later date: Yes.

PRESENTATION: Greg Mitchell, 5 Minutes

I. SUMMARY OF ISSUE (Agenda Description)

With the impending sale of Site #1 at the City's Portland Technology Park, off of Rand Road, it is time to formally name the roadway into the Park for both for 911 purposes, as well as for the tenants.

It is noted that "Technology Park Drive" is a roadway shown as Easement Area 1 on the Subdivision Plat of Portland Technology Park Condominium approved by the City of Portland Planning Board on January 24, 2012 and recorded at the Cumberland County Registry of Deeds in Plan Book 212, Page 324. The City owns the roadway in perpetuity and will continue to be responsible for roadway maintenance until all sites are sold. After all sites are sold, the Condominium Association will be responsible for the long-term roadway maintenance and repair because this is not a publicly accepted street.

II. REASON FOR SUBMISSION

City Council approval is needed to name a street.

III. INTENDED RESULT

The intended result is to have proper identification of the roadway for the City, public, tenants, and 911 emergencies.

IV. COUNCIL GOAL ADDRESSED

Promote economic development in the City in a manner that provides for increased property values, diversification across industry sectors, and high paying jobs.

V. FINANCIAL IMPACT

There is no financial impact in naming the entrance road.

VI. STAFF ANALYSIS

Staff analysis concurs that "Technology Park Drive" is E911 Compliant and, therefore, recommends this street name.

VII. RECOMMENDATION

Recommendation is for the City Council to approve the name of the road into the Portland Technology Park as "Technology Park Drive".

VIII. LIST ATTACHMENTS

1. Map showing Portland Technology Park and its Three Lots
2. Portland Subdivision Plat of January 12, 2012



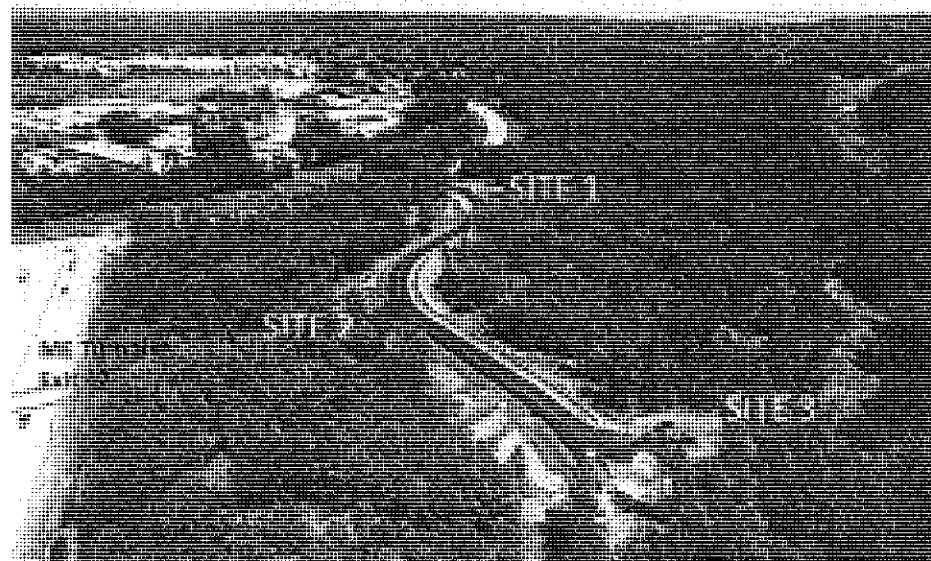
Portland, Maine | Yes. Life's good here.

PORTLAND TECHNOLOGY PARK – DEVELOPMENT SITES AVAILABLE

Business Park Campus on Rand Road for High
Tech/Life Science Companies

- Fully permitted
- Roadway with utilities to three development sites
- 10,000 to 40,000 sq. ft. building sites
- Immediate access to Maine Turnpike (I. 95)
- Low impact design, with natural woodland features and connections to forested trail systems
- Financing – SBA 504 eligible
- Four additional development sites in planning stage.

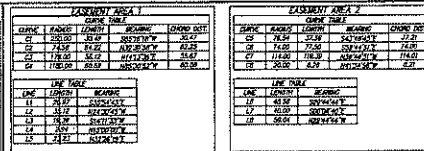
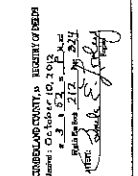
For more information contact: Nelle Hanig, Business Programs
Manager/Economic Development Department, City of Portland,
389 Congress Street, Portland, ME 04101; (207) 756-8019;
nrh@portlandmaine.gov





MAR REFERENCES:

UNIT		LEGEND: POINT TYPES & SYMBOLS	
CONCRETE FOUND	=====	□	4" HOLE PORT BRN
BRICKS FOUND TO BE SET	=====	■	6" ELECTRIC MARKER
PIPE	=====	○	1" LIGHT PORT
FEEDER	=====	●	6" GAS VALVE
PAVING BATHS NO	=====	⊗	6" GAS VENT PIPE
RADIANT SPACE	=====	⊙	DRAIN W/ HOLE
HANDCAPPED TUBS	=====	⊕	HYDRAUL
UTILITY POLE	=====	⊖	WATER W/ HOLE
BOILER CATCH BASIN	=====	⊗	WATER BRUIT OFF
TOILET CATCH BASIN	=====	⊙	WATER VALVE
WATER MAIN	=====	⊕	DISCLOSURE TAG
SEWER MAIN	=====	⊖	

[illegible][illegible][illegible]

REVISIONS:	
NO.	DATE
1	5-23-2011
2	10-17-2011
3	1-17-2012
4	2-17-2012
5	8-25-2012

SEAL

9/27/12
JANUARY 10 2013
FBI - NEW YORK

[illegible]

SUBDIVISION PLAT
OF
PORTLAND TECHNOLOGY PARK
CONDOMINIUM
RAND ROAD, PORTLAND, MAINE
RECORD OWNER:
CITY OF PORTLAND - DECLARANT
346 CONGRESS STREET, PORTLAND, MAINE

[illegible]

*Order 23.1-14/15
Tab 32 4-27-15*

MICHAEL F. BRENNAN (MAYOR)
KEVIN J. DONOGHUE (1)
DAVID A. MARSHALL (2)
EDWARD J. SUSLOVIC (3)
JUSTIN COSTA (4)

**CITY OF PORTLAND
IN THE CITY COUNCIL**

DAVID H. BRENERMAN (5)
JILL C. DUSON (A/L)
JON HINCK (A/L)
NICHOLAS M. MAVODONES, JR (A/L)

**ORDER AMENDING THE PROMISSORY NOTE
AND RELATED CLOSING DOCUMENTS FOR
HOME PROGRAM FUNDS TO AVESTA HOUSING
FOR A RENTAL HOUSING PROJECT AT 134 WASHINGTON AVENUE**

ORDERED, that the Promissory Note and related closing documents allocating HOME Program Funds to Avesta Housing for a rental housing project at 134 Washington Avenue are hereby amended to provide a 50-year term; and

BE IT FURTHER ORDERED, that the City Council hereby authorizes the Acting City Manager to execute said document and any other related documents necessary or convenient to carry out the intent of said document.

MEMORANDUM
City Council Agenda Item

TO: Members of the Portland City Council

FROM: Planning and Urban Development Department
Housing and Community Development Division

DATE: April 13, 2015

DISTRIBUTION: Sheila Hill-Christian, Acting City Manager, Michael Brennan, Mayor,
Danielle West-Chuhta, Corporation Counsel, Sonia Bean, Nancy English,
Julie Sullivan

SUBJECT: Order Approving an Amended Loan Term for the HOME Program Loan
to the Avesta Housing Development at 134 Washington Avenue

SPONSOR: Kevin Donoghue, Chair
Housing and Community Development Committee

COUNCIL MEETING DATE ACTION IS REQUESTED:

1st reading April 27 Final Action April 27

Can action be taken at a later date: _____ Yes ☒ No (If no why not?)

In order to the project's financing schedule, council action is requested on April 27.

PRESENTATION: N/A

I. SUMMARY OF ISSUE (Agenda Description)

In September 2013, the City Council approved the allocation of \$522,448 in HOME Program Funds to the Avesta Housing project at 134 Washington Avenue. The project consists of the development of 18 efficiency units of rental housing at 134 Washington Avenue. Eight units will be made available to households earning at or below 50% of the area median income and ten units will be made available to households earning at or below 40% of the area median income.

The initial loan terms were a 0% interest loan, deferred for 30 years or until sale or transfer. Avesta Housing has requested that the HOME loan provided by the City of Portland be modified so as to extend the loan term from thirty (30) to fifty (50) years. The reason for this request is that the low income housing tax credit investor has concluded that unless the City of Portland debt, along with other project debt, is extended, the transaction would lead to adverse tax consequences for the investor.

At their April 8th 2015 meeting, the Housing and Community Development Committee voted 4-0 to recommend City Council approval of the amended loan term.

II. REASON FOR SUBMISSION (Summary of Issue/Background)

The City Council must approve the amended loan terms.

III. INTENDED RESULT

Extension of the term of the loan from 30 years to 50 years.

IV. COUNCIL GOAL ADDRESSED

Provide increased availability in all segments of the housing market while insuring that there is a suitable balance of housing opportunities among those sectors.

V. FINANCIAL IMPACT

\$522,448 in a HOME funded loan at 0% interest, deferred for 50 years instead of 30 years.

VI. STAFF ANALYSIS and RECOMMENDATION

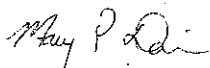
This development will create eighteen (18) efficiency units of affordable housing. These units will be available to veterans. The market study indicated a high demand for these types of units. The City HOME Affordable Housing Development Program typically issues loan terms of 30 years with a 90 year affordability period. Because the 50 year loan term will expire prior to the expiration of the affordability period, staff does not foresee any issue in extending the term of the loan to 50 years and is recommending approval of this request.

Staff is recommending approval to amend the term of the loan to the Avesta 134 Washington Avenue project from 30 years to 50 years and to authorize the Acting City Manager to execute amendments to the loan documents in a form satisfactory to Corporation Counsel's Office.

VIII. LIST ATTACHMENTS

No attachments

Prepared by:



Mary P. Davis, Director
Housing and Community Development Division

April 13, 2015
Date

*Order 232-14/15
Tab 33 14-27-15*

MICHAEL F. BRENNAN (MAYOR)
KEVIN J. DONOGHUE (1)
DAVID A. MARSHALL (2)
EDWARD J. SUSLOVIC (3)
JUSTIN COSTA (4)

**CITY OF PORTLAND
IN THE CITY COUNCIL**

DAVID H. BRENERMAN (5)
JILL C. DUSON (A/L)
JON HINCK (A/L)
NICHOLAS M. MAVODONES, JR (A/L)

**ORDER APPROVING A SIDEWALK BRICK APRON AND GRANTING THE
SIDEWALK BRICK APRON EASEMENT TO
REDFERN MUNJOY LLC**

ORDERED, that the replacement of an asphalt apron on a pedestrian and vehicle access point at Walnut Street to Munjoy Heights with a brick apron is hereby approved; and

BE IT FURTHER ORDERED, that an easement is hereby granted to Redfern Munjoy LLC, in substantially the form attached hereto as Attachment 1, that confirms the apron and its maintenance shall be solely the responsibility of Redfern Munjoy LLC and subsequent owners of the development; and

BE IT FURTHER ORDERED, that the City Council hereby authorizes the Acting City Manager to execute said documents and any other related documents necessary or convenient to carry out the intent of said documents.

MEMORANDUM
City Council Agenda Item

TO: Mayor and City Council

FROM: Alexander Jaegerman, Planning Division Director

DATE: April 7, 2015

DISTRIBUTION: City Manager, Mayor, Sonia Bean, Danielle West-Chuhta, Nancy English, Julie Sullivan, Jeff Levine, Mike Bobinsky, Jen Thompson

SUBJECT: Material substitution for apron at Munjoy Heights townhouse development (79 Walnut Street)

SPONSOR: Acting City Manager
(If sponsored by a Council committee, list the date the committee met and the results of vote.)

COUNCIL MEETING DATE ACTION IS REQUESTED:

1st reading _____ **Final Action** April 27th *[Only one reading is required]*

Can action be taken at a later date: _____ Yes _____ X No (If no why not?)

Project is nearing completion and the final paving is ready to be completed..

PRESENTATION: (List the presenter(s), type and length of presentation) Staff from Planning and the Department of Public Services will be present to answer questions.

I. SUMMARY OF ISSUE (Agenda Description)

The applicant, Jonathan Culley of Redfern Munjoy LLC, received Planning Board approval to develop the townhomes known as "Munjoy Heights" on December 17, 2013 and the project is now in the final stages of construction. The applicant requested a brick apron where the pedestrian/vehicle access links the 29 new townhouses known as "Munjoy Heights" to Walnut Street, as shown in the attached plan. The City's Sidewalk Replacement Materials map specifies a brick sidewalk with asphalt apron at this location and the City Council is requested to approve this substitution of brick for the 205 sq ft asphalt apron area.

The Council is also requested to approve the associated easement that the applicant has agreed to: it confirms that the apron shall be solely the responsibility of the applicant or subsequent owners and its repair, replacement and maintenance will be carried out in accordance with the City's Technical Manual.

II. REASON FOR SUBMISSION (Summary of Issue/Background)

The project includes a pedestrian/vehicle area between the townhouses that is surfaced with brick and other non-asphalt materials to create an attractive character to the area, and the applicant would like the small section of abutting apron to be of a similar material rather than the asphalt that is required by strict compliance with the Sidewalk Materials policy. The replacement and maintenance easement that the applicant has agreed is similar to easements that have been agreed for similar substitutions elsewhere.

III. INTENDED RESULT

An integrated and attractive apron area for this project.

IV. COUNCIL GOAL ADDRESSED

The item is being brought before the City Council so that the Sidewalk Materials Policy is addressed through the requirement for the easement; this links to the following goal:

Improve City Services: Operate the city government in an efficient and effective manner that is responsive to all segments of the community in a manner that is transparent and accountable.

V. FINANCIAL IMPACT

There is no financial impact related to this request.

VI. STAFF ANALYSIS

Planning Division staff note that the brick apron was shown on the plans approved by the Planning Board, accompanied by a note stating "subject to City Council approval". Staff were concerned that the apron would be subject to vehicle use and is near well used pedestrian routes (a route to school and Jack Path) and therefore it was recommended that a maintenance and replacement easement was appropriate to ensure the brick is maintained. The Department of Public Services supports the substitution subject to the easement being in effect and the Legal Department has confirmed that this does not require TS&E committee review.

VII. RECOMMENDATION

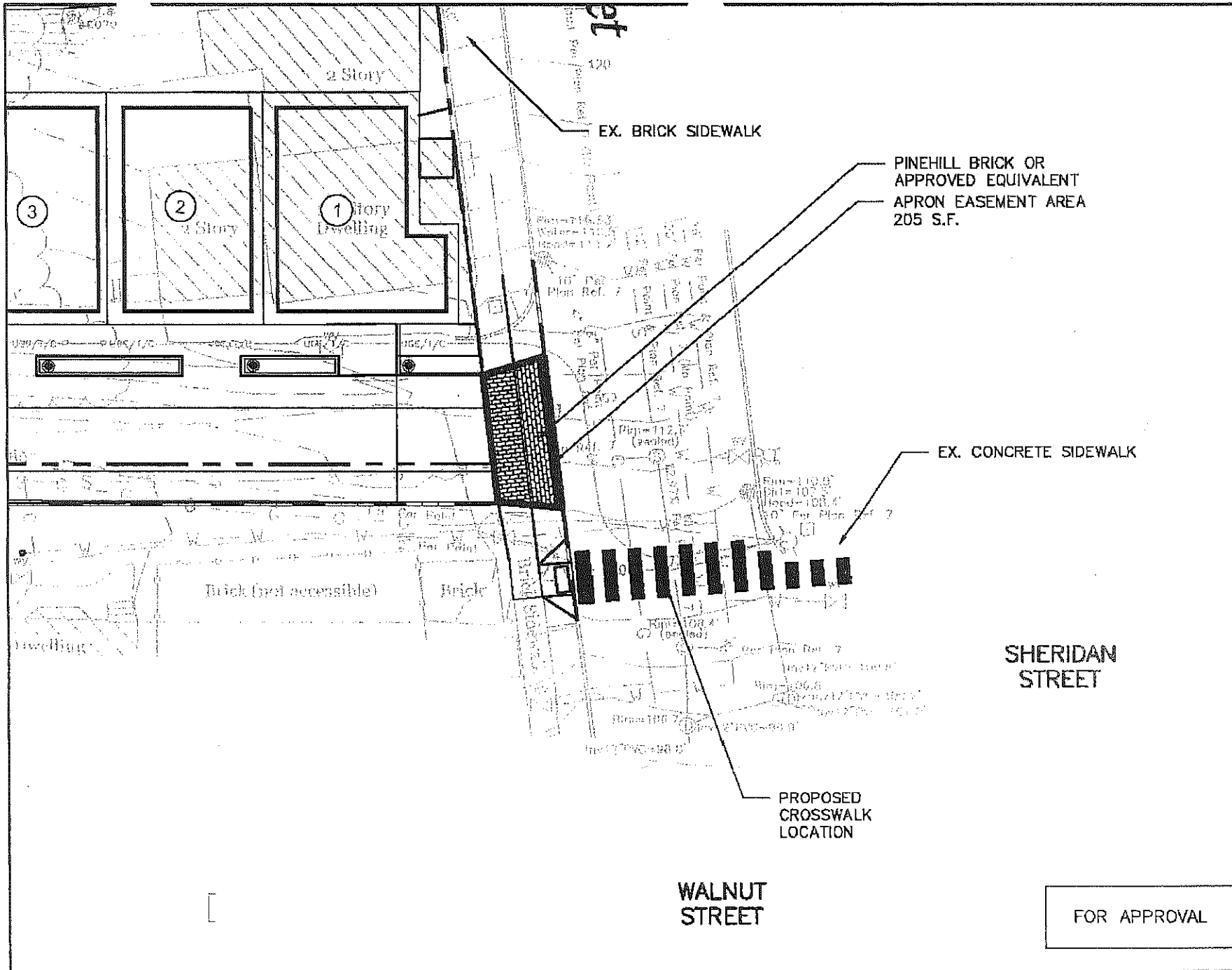
The City Council is recommended to approve the material substitution (brick to be substituted for asphalt in apron area) as shown on the attached plan, and the associated attached maintenance and replacement easement.

VIII. LIST ATTACHMENTS

- A. Order (to follow)
- B. Plan SK-1 of the apron area
- C. Maintenance and Replacement Easement, as agreed with the applicant and City Associate Corporation Counsel 3.20.2015
- D. DPS e-mail of support

Prepared by: Jean Fraser

Date: Draft 4.7.2015



JED FOR	
CONTRACT	
CONTRACT 1	
DRAFT TO DWS	
PLANNED PROGRAM	
DRAFTING AREA	
REVISION	
APRON EASEMENT PLAN	
MUNJOY HEIGHTS	
REDPEN MUNJOY, LLC.	
P.O. BOX 8916, PORTLAND, MAINE 04104	
DATE: 3/17/14	SCALE: 1"=20'
DESIGN BY: WHE	CHECKED BY: WHE
DRAWING NO. SK-1	

As agreed applicants attorney and City Corporation Counsel 3.20.2015

REPLACEMENT EASEMENT

KNOW ALL PERSONS BY THESE PRESENTS, that the CITY OF PORTLAND, a Maine body corporate and politic, with a mailing address of City Hall, 389 Congress Street, Portland, Maine 04101 ("Grantor"), FOR VALUABLE CONSIDERATION, does hereby GRANT to Redfern Munjoy LLC, a Maine limited liability company with a place of business in Portland, Maine and mailing address of P.O. Box 8816, Portland, ME 04014 (the "Grantee"), easements for the purposes set forth below, over portions of Grantor's land as described below (collectively, "Grantor's Land"). The land which is subject to the easements granted herein abuts land of Grantee, located at 79 Walnut Street in Portland, Maine which is described in the Subdivision Plan of Munjoy Heights, Prepared by Nadeau land Surveys, dated December 6, 2013, and recorded in the Cumberland County Registry of Deeds in Plan Book 214, Page 48 ("Grantee's Land").

1. Grantor grants to Grantee a permanent and perpetual easement to use and occupy the drive apron at 79 Walnut Street (drive entrance to Munjoy Heights, development approved by the Planning board on December 17, 2013 Project #2013-228 as shown on Exhibit A attached hereto and made a part hereof (the "Apron Easement Area") together with the right from time to time to bring on the Apron Easement Area and areas adjacent thereto workers, materials and machinery necessary for the use and enjoyment of the Apron Easement Area.

2. At all times the Grantee, specifically including, but not limited to any condominium association as soon as any unit is transferred, shall exclusively be responsible for installing, and constructing the sidewalk, apron and crosswalk utilities as depicted on Exhibit A and shall exclusively be responsible for repairing, replacing, keeping and maintaining the Apron Easement Area in a safe condition generally, and promptly repairing or replacing any broken or displaced bricks or other materials to match the original installation.

3. All work performed upon and use of the Apron Easement Area for the purposes set forth herein shall be in accordance with the City of Portland Technical Manual and the approved construction plans and at Grantee's sole cost and expense (unless otherwise agreed in writing), the parties acknowledging that there may be temporary interruptions in enjoyment of the City's property adjacent to the Easement Area related to the conduct of any work related to this Easement. Grantee agrees at its sole expense to restore any adjacent City property damaged by work conducted by Grantee related to this Easement to substantially its condition prior to such work, or as close to that condition as is reasonably practicable.

4. Grantee, its successors and assigns, shall defend, indemnify and hold the City, its officers, agents, and employees harmless from any and all claims, including but not limited to claims for damage to City property and reasonable attorney's fees, which arise out of Grantee's use, or the use of others, of the City's property as described above.

5. Grantee shall procure and maintain liability insurance in an amount of at least Four Hundred Thousand Dollars (\$400,000) combined single limit (or the amount stated in the Maine Tort Claims Act as the same may be amended from time to time), covering claims for bodily injury, death and property damage and shall either name the City of Portland as an additional insured with respect to such coverage or shall obtain a contractual liability endorsement covering the obligations of Grantee under the terms of this Easement. Grantee shall

provide City with evidence of such insurance coverage and maintain such insurance in perpetuity. Such notice shall be sent to City of Portland, Corporation Counsel, 389 Congress Street, Portland, ME 04101.

6. This Easement is assignable to any subsequent owners of the property and/or building located on the land described on the site plan of Munjoy Heights approved by the Portland Planning Board on December 17, 2013 located at 79 Walnut Street, Portland, Maine, to be recorded herewith in the Cumberland County Registry of Deeds (the "Site Plan"); and the duties and obligations hereunder shall, in any event, run with the land and burden all subsequent owners holding rights to use any portion of the Easement Areas.

TO HAVE AND TO HOLD the aforegranted and bargained easements, with all privileges and appurtenances thereof, to the Grantee, its successors and assigns, to its and their use forever.

IN WITNESS WHEREOF, the City of Portland, the Grantor, has caused this instrument to be duly executed, this ____ day of _____, 2015.

WITNESS:

CITY OF PORTLAND

By: _____

Sheila Hill-Christian
its Acting City Manager

STATE OF MAINE
CUMBERLAND, ss

_____, 2015

PERSONALLY APPEARED the above-named Sheila Hill-Christian, Acting City Manager of the City of Portland as aforesaid, and acknowledged the foregoing instrument to be her free act and deed in her said capacity and the free act and deed of said City of Portland.

Before me,

Notary Public/Attorney at Law

Print name: _____
My commission expires: _____

From: David Margolis-Pineo
To: Jean Fraser
CC: Barbara Barhydt; Philip DiPierro
Date: 2/24/2014 3:02 PM
Subject: Munjoy Heights Development

Jean,

I have reviewed the most recent set of plans for Munjoy Heights and find that the review comments submitted by Public Services have been addressed.

It is noted that the applicant is requesting to install a brick driveway apron which does not meet the City's standards for this area of the City and such a request would required a waiver by the City Council. This department is supportive of a waiver request.

From: David Margolis-Pineo
To: Jean Fraser
Date: 4/13/2015 3:20 PM
Subject: Change of Materials for Drive Apron

April 13, 2015

Memo To: Jean Fraser
Barbara Barhydt
From: David Margolis-Pineo
Re: 70 Walnut Street – Munjoy Heights

The Department of Public Services has reviewed and is in agreement with the Memorandum from Alex Jaegerman to City Council dated April 7, 2015 with the Subject: Material substitution for apron at Munjoy Heights townhouse development and Attachment C, REPLACEMENT EASEMENT dated March 20,2015.