

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

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

MARCH 18, 2019 CITY COUNCIL AGENDA

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

PLEDGE OF ALLEGIANCE:

ROLL CALL:

ANNOUNCEMENTS:

RECOGNITIONS:

PRESENTATIONS:

ANNUAL MEETING:

SPECIAL MEETING:

APPROVAL OF MINUTES OF PREVIOUS MEETING:

Approval of the City Council draft minutes of February 20, 2019 and March 4, 2019.

PROCLAMATIONS:

APPOINTMENTS:

Order 175-18/19 Appointing Hanna Pickering as the Information Technology Director - Sponsored by Jon P. Jennings, City Manager

Hanna will be filling the position of Director of IT following an extensive recruitment and hiring process, as we prepare for the retirement of our long term IT Director Dan Boutilier. Due to the complexity of the City's IT infrastructure, it is necessary to have a period of overlap between the retiring and incoming IT Directors so that continuity of services is maintained. A referred candidate from ProSearch, Hanna brings with her a strong IT leadership background, where she has worked in the fields of financial services, healthcare, and local government. Lastly, we are very pleased to have found a qualified candidate who is also a resident of the City of Portland. As her resume shows, she brings a level of skills and experience that will enable her to successfully lead the IT Department into the future.

Approval is requested to appoint Hanna Pickering to the position of Director of Information Technology for the City of Portland's IT Department at the annual salary rate of \$126,477.00.

Seven affirmative votes are required for passage as an emergency after public comment.

CONSENT ITEMS:

LICENSES:

Order 176-18/19 Quiero Café LLC dba Quiero Café LLC. Application for Class I FSE at 3 Deering Avenue - Sponsored by Jon P. Jennings, City Manager

Quiero Café LLC dba Quiero Café LLC. Application for Class I FSE at 3 Deering Avenue.

Application was filed on 2/25/2019. New City and State applications. Location was previously Trattoria Fanny.

Five affirmative votes are required for passage after public comment.

Order 177-18/19 Coals 4 LLC dba Coals. Application for a Class I FSE at 114 Preble Street - Sponsored by Jon P. Jennings, City Manager

Coals 4 LLC dba Coals. Application for a Class I FSE at 114 Preble Street.

Application was filed on 2/25/2019. New City and State applications. Location was previously Foundation House Triangle Café.

Five affirmative votes are required for passage after public comment.

Order 178-18/19 Stroudwater Spirits LLC dba Stroudwater Distillery. Application for a Class A Lounge with Entertainment without Dance and Outdoor Dining on Private Property at 4 Thompson's Point - Sponsored by Jon P. Jennings, City Manager

Stroudwater Spirits LLC dba Stroudwater Distillery. Application for a Class A Lounge with Entertainment without Dance and Outdoor Dining on Private Property at 4 Thompson's Point.

Application was filed on 2/25/2019. New City and State applications. Applicant currently holds a Distillery with Entertainment without Dance and Outdoor Dining on Private Property at this location.

Five affirmative votes are required for passage after public comment.

Order 179-18/19 Newfangled Retreats Inc dba The Chadwick. Application for a Class V Bed and Breakfast at 140 Chadwick Street - Sponsored by Jon P. Jennings, City Manager

Newfangled Retreats Inc dba The Chadwick. Application for a Class V Bed and Breakfast at 140 Chadwick Street.

Application was filed on 2/14/2019. New City and State applications. Applicant currently holds a Class III license at this location.

Five affirmative votes are required for passage after public comment.

Order 180-18/19 Eaton's Neck Properties LLC dba The West End Inn. Application for a Class V Bed and Breakfast at 146 Pine Street - Sponsored by Jon P. Jennings, City Manager

Eaton's Neck Properties LLC dba The West End Inn. Application for a Class V Bed and Breakfast at 146 Pine Street.

Application was filed on 2/20/2019. New City and State applications. New owners of an existing business.

Five affirmative votes are required for passage after public comment.

Order 182-18/19 Ronin Restaurant Group dba Mr. Tuna. Application for a Class III & IV FSE at 28 Monument Square - Sponsored by Jon P. Jennings, City Manager

Ronin Restaurant Group dba Mr. Tuna. Application for a Class III & IV FSE at 28 Monument Square.

Application was filed on 2/25/2019. New City and State applications. Applicant currently holds a Food Service Establishment with Prep.

Five affirmative votes are required for passage after public comment.

Order 183-18/19 Minervino Inc dba Pizza Villa. Application for a Class I FSE with Entertainment without Dance at 942 Congress Street - Sponsored by Jon P. Jennings, City Manager

Minervino Inc dba Pizza Villa. Application for a Class I FSE with Entertainment without Dance at 942 Congress Street.

Application was filed on 2/19/2019. New City and State applications. New owners of an existing business.

Five affirmative votes are required for passage after public comment.

BUDGET ITEMS:

COMMUNICATIONS:

RESOLUTIONS:

Resolution 11-18/19 Adopting the Fiscal Year 2020 Annual Action Plan including appropriations for Community Development Block Grant Program, HOME Program, and Emergency Solutions Grant Program and certifications pertaining thereto -- Sponsored by Jon P. Jennings, City Manager

This Resolution adopts the fiscal year 2020 annual action plan and appropriates funds to the identified programs.

The 2019/2020 Housing and Community Development Program will report in the Annual Action Plan to HUD a total estimated budget of \$5,133,228 funded by a Community Development Block Grant allocation of \$1,895,922 plus \$120,000 in TIF funding and \$20,000 in Cotton St. proceeds along with \$102,242 in CDBG Housing Program Income; a HOME Consortium Program Grant allocation of \$1,151,710; HOME Program Income of \$74,887; HOME Recapture Funds of \$74,093; Lead Safe Housing Program Income of \$268,741; local Housing Trust Funds of \$1,268,320; and an Emergency Solutions Grant Allocation of \$157,131.

The CDBG Allocation Committee, appointed by the City Council, reviewed each application and made funding recommendations. They are given an opportunity to make a presentation to the Council at this meeting, and citizens may comment on the City's plan for the use of CDBG, HOME and ESG funds. The City Manager also reviewed the Committee's recommendations and has submitted his own funding recommendations to the City Council.

As required by the City's citizen participation process, two public hearings are held each spring to consider the City's Housing and Community Development Program proposal for the ensuing year. The public hearings allow an opportunity for citizens to comment on the City's Consolidated Annual Action Plan.

This item must be read on two separate days and two public hearings must be held in order to comply with local and federal regulations. The first reading and public hearing on this item is on March 18, 2019. Staff is requesting that the second reading and public hearing on this item be held on April 22, 2019, when five affirmative votes will be required for passage after public comment.

Resolution 12-18/19 Supporting Banning All Non-Medical Vaccination Exemptions -- Sponsored by Mayor Ethan Strimling

With more people deciding to not have their children vaccinated for diseases like measles and pertussis or whooping cough, those diseases have begun to spread. A bill before the Maine Legislature would ban any non-medical exemptions for vaccinations required by schools in order to change this trend and especially in order to protect those children with compromised immune systems who are medically unable to be vaccinated. This Resolve supports that bill.

Five affirmative votes are required for passage after public comment.

UNFINISHED BUSINESS:

Order 172-18/19 Approving Federal Aviation Administration Airport Improvement Program Grants - Sponsored by Jon P. Jennings, City Manager

The Federal Aviation Administration issues grants to fund eligible safety and capacity projects at airports nationwide through the Airport Improvement Program (AIP). This program is funded through federal taxes on commercial air fares and on aviation fuel taxes. The amount of entitlement funding allocated to each airport is based on the annual number of enplaned commercial passengers the airport handled in the prior calendar year. This year the Portland International Jetport has AIP entitlement funding totaling \$3.93 million based upon 925,903 enplaned passengers in 2017. In addition to entitlement funding the Jetport is also seeking AIP discretionary funding of \$3.74 million in federal fiscal year 2019. Two projects have been planned this year which include: the construction of Taxiway B to connect Runway 36 to 29; and the expansion of the terminal aircraft apron to provide an additional aircraft deicing pad, aircraft hold area, and aircraft overnight parking. These projects will be procured under two construction contracts with a total engineer estimated cost for both projects of \$8.52 million.

The AIP funding amount for these projects of \$7.67 million is 90% of the total cost for the project. The balance of \$850,000 is covered locally through the Jetport's operating budget and through state funding of up to 5% of project costs.

This item requires to be read on two separate days. It had its first reading on March 4, 2018. Five affirmative votes are required for passage after public comment.

Order 173-18/19 Setting Public Hearings on Fiscal Year 2020 Annual Action Plan and Appropriations for Community Development Block Grant Program, HOME Program and Emergency Solutions Grant Program - Sponsored by Jon P. Jennings, City Manager

As required under our Housing and Urban Development-approved citizen participation process, Public Hearings are held each spring to consider the City's Housing and Community Development Program proposal for the ensuing fiscal year. The Community Development Block Grant (CDBG) Annual Allocation Committee, appointed by Council, reviewed each application and made funding recommendations. The Committee is given an opportunity to make a presentation to the Council, and citizens may comment on the City's annual plan for the use of CDBG, HOME and Emergency Solutions Grant funds.

This order was approved on March 4, 2018. Staff is recommending that this order be reconsidered and amended to move the second public hearing to April 22, 2019, to allow adequate time at the meeting for public comment. The first public hearing will be held at this meeting on March 18, 2019 and the second, if this ordered is amended, would be on April 22, 2019 at 5:30 p.m., in Portland City Hall, Council Chambers, 389 Congress Street.

A motion to reconsider is required, and then a motion to amend. Five affirmative votes are required for passage as amended after public comment.

ORDERS:

Order 184-18/19 Dedicating Tax-Acquired Land on Holbrook Street as a Land Bank Property Interest - Sponsored by Patrizia Bailey/Co-Chair, Land Bank Commission.

It has been a goal of the Land Bank Commission to protect open space in Portland. At the Land Bank Commission meeting on February 13, 2019, it unanimously voted to recommend to the City Council to place the vacant land, tax-acquired parcels 335-E-11 to 13 in the Land Bank for protection of green space in this area.

See the attached map showing the location of the subject parcels, as well as other Land Bank properties in this area of outer Forest Avenue. The rationale for the Land Bank designation is to protect open space in this area.

Five affirmative votes are required for passage after public comment.

Order 185-18/19 Approving Parking Division Daily Parking Fees for the Queuing Lanes at Ocean Gateway - Sponsored by Jon P. Jennings, City Manager

The Thames Street Parking Lot will be closed from approximately mid-April to mid-October to accommodate a construction staging area for the Thames Street extension project, installation of the 60-inch storm drain pipe and access to the 58 and 100 Fore Street projects. We anticipate parking to be in high demand in this area for businesses, tourists and visitors to the Islands during this time period. Therefore, we are opening a temporary daily parking lot in the queuing lanes at Ocean Gateway in 2019. Parking in the lot will cost \$15 per day (24-hour period), with a 15-day maximum. The lot will be open mid-April 2019 through October 31, 2019 only. We will be installing two multi-space parking meters to accept credit card payments, so no staffing expense will be incurred (beyond adding the lot to existing Parking enforcement routes).

Five affirmative votes are required for passage after public comment.

Order 186-18/19 Approving Communications Union Contract - Sponsored by Jon P. Jennings, City Manager

Staff has reached a tentative agreement with the Communications Employee Association on a successor two (2) year contract. The prior collective bargaining agreement expired June 30, 2018.

The Communications Employee Association, which is comprised of 32 Telecommunicators and Telecommunications Supervisors, one Fire Alarm Specialist and one Radio Systems Specialist, has reached a tentative agreement with the City. The Administration is requesting a first reading on March 18, 2019. The tentative agreement is within the guidance received by the City Council on November 5, 2018.

The City and the Communications Unit have reached a tentative agreement on a two (2) year contract with a 3.0% general wage increase for Fiscal Year (FY) 2019 retroactive to July 1, 2018 and a 3.0% general wage increase effective July 7, 2019. The duration of the contract and the COLA recommendations are consistent with the bargaining strategy previously discussed with the Council.

Other economic items tentatively agreed to are:

- Employees will receive Holiday premium pay for actual hours scheduled for the day of the Holiday, either eight (8) hours or twelve (12) hours.
- \$.10 per hour increase to educational stipends
- \$.10 per hour increase to all shift differentials.
- Add \$.75 per hour to each step of the Supervisor pay scale after implementing 1st year of COLA to provide incentive to become a supervisor
- Increase Field Training stipend from \$1.00 per hour to \$1.35 per hour
- Increase on call pay from \$15 per day weekdays and \$22.50 per day weekends and Holidays to \$16 per day weekdays and \$23.50 weekends and Holidays

The union has voted to approve this Agreement, and once approved by Council the Agreement will govern the rights of the parties from July 1, 2018 through June 30, 2020.

All other provisions of the collective bargaining agreement remain the same until a successor agreement is reached through collective bargaining. The total direct costs for the two (2) year agreement is approximately \$145,000.

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

Order 187-18/19 Appropriating \$550,000 for Automated Exit Portals at the Portland International Jetport - Sponsored by Jon P. Jennings, City Manager

The Portland International Jetport is proposing to make the following improvements.

- Supply and installation of two automated secure exit portals \$375,000
 - Security staffing for exit lane during construction \$ 35,000
 - Building improvements necessary to accept secure exit portals \$140,000
- Total \$550,000

These improvements will update and replace the existing automated secure exit portal with two new units providing higher throughput, lower operating costs, and greater security.

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

Order 188-18/19 Approving Two-Party Agreement between Maine Department of Transportation and Portland Re: Improvements to Cumberland Avenue - Sponsored by Jon P. Jennings, City Manager

This agreement, between the Maine Department of Transportation (MaineDOT) and the City of Portland, obligates MaineDOT to mill and fill Cumberland Avenue, adjust the City's sanitary sewer manhole frames and covers, as necessary, update and/or install new pedestrian curb ramps to meet ADA requirements, and all appurtenances when MaineDOT's contractor paves Cumberland Avenue. The agreement obligates the City to pay MaineDOT for 25% of the work as its municipal share, or \$99,275.00, and an additional \$14,000.00 for manhole adjustments from a water resources fund.

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

Order 189-18/19 Approving Two-Party Agreement between Maine Department of Transportation and Portland Re: Improvements to Danforth Street - Sponsored by Jon P. Jennings, City Manager

This agreement, between the Maine Department of Transportation (MaineDOT) and the City of Portland, obligates MaineDOT to mill and fill Danforth Street, adjust the City's sanitary sewer manhole frames and covers, as necessary, update and/or install new pedestrian curb ramps to meet ADA requirements, and all appurtenances when MaineDOT's contractor paves Danforth Street. The agreement obligates the City to pay MaineDOT for 25% of the work as its municipal share, or \$176,650.00, and an additional \$10,000.00 for manhole adjustments from a water resources fund.

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

Order 190-18/19 Approving Two-Party Agreement between Maine Department of Transportation and Portland Re: Improvements to India Street - Sponsored by Jon P. Jennings, City Manager

This agreement, between the Maine Department of Transportation (MaineDOT) and the City of Portland, obligates MaineDOT to mill and fill India Street, adjust the City's sanitary sewer manhole frames and covers, as necessary, update and/or install new pedestrian curb ramps to meet ADA requirements, and all appurtenances when MaineDOT's contractor paves India Street. The agreement obligates the City to pay MaineDOT for \$289,000.00, and an additional \$10,000.00 for manhole adjustments from a water resources fund.

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

AMENDMENTS:

Order 191-18/19 Amendment to the Portland City Code Chapter 35 Re: Earned Paid Sick Leave - Sponsored by the Health & Human Services and Public Safety Committee, Councilor Belinda Ray, Chair

Over the past 12 years, 47 municipalities, counties, and states have enacted Earned Paid Sick Leave Ordinances (including 13 New Jersey municipalities which were later pre-empted when the state law passed in 2018).

On September 18, 2017, the City Council referred a proposed Earned Paid Sick Time Ordinance, which was brought forward by Mayor Strimling in collaboration with the Southern Maine Workers' Center and the Maine Women's Lobby, to the Council's Health & Human Services and Public Safety committee. On November 27, 2017, the committee had an initial discussion of the ordinance and began working to craft a version of the ordinance designed specifically for Portland.

The committee spent nearly 15 months examining ordinances from other municipalities and states, talking with constituents and area businesses, receiving public comment via email, phone, and in person, and holding two public hearings. On February 26th, the HHS & PS Committee voted 3-0 to forward the ordinance on to the Council with a recommendation for passage.

The ordinance, if enacted, would require all employers with a physical location in the City of Portland to allow all their employees working in Portland (with some limited exceptions) to accrue a minimum of 1 hour of earned paid sick time for every 30 hours worked. Employees would begin earning paid sick time on their first day of employment and would be able to begin using their accrued time after their 70th day of employment or the date this ordinance becomes applicable, whichever is later.

Employees would be eligible to use up to 40 hours of their accrued time annually for the purposes and under the conditions described in the ordinance.

Businesses of all sizes are covered by the ordinance, as are all employees who work at least 120 hours annually for an employer, whether they are full-time, part-time, or seasonal. There are, however, exemptions for some per diem employees, Federal Work Study students, and new businesses, which are exempt from the ordinance for one year from the date of hire of their first employee.

As written, the ordinance would become applicable 180 days after the date of passage.

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

Order 192-18/19 Amendment to Portland City Code Chapter 18 Parks, Recreation and Public Buildings and Ground Re: Formalizing the Boundaries of Boyd Street Gardens - Sponsored by Councilor Belinda Ray

Boyd Street Gardens (a.k.a., Franklin Reserve, a.k.a., Boyd Street Urban Farm) was included in a list of over 50 City properties dedicated as Parks and Public Grounds in 2014 (Order 203-13/14). By dedicating these properties in Chapter 18 of the City Code, the Council ensured that the properties would be subject to the provisions of Article 1B in Chapter 18. These provisions include the following:

- the City will maintain these properties “predominantly in their natural, scenic, open and/or intended condition;” and
- the City will not use, sell, or dispose of any of these properties for non-recreational purposes unless the decision to do so is first reviewed by the Parks Commission, “who shall provide an advisory opinion on any such request prior to review by the council committee and the city council, and shall only become effective upon review and approval by seven (7) members of the city council.”

There is no question that Boyd Street Gardens has been dedicated and is subject to these provisions. There has, however, been confusion regarding the boundaries of Boyd Street Gardens. This confusion has led various individuals and groups to wonder if the parcel, or any portion of the parcel, is eligible for housing or other development.

A review of historical documents, the back-up materials for Order 203 13/14, and the City’s Open Space Vision and Implementation Plan provides a solid case for including the entire parcel (022 F023) in the 2014 dedication.

This amendment to Chapter 18, Section 11, formalizes the boundaries of Boyd Street Gardens by including the entire parcel in the dedication language so that there will be no confusion going forward.

In addition to establishing clear boundaries for Boyd Street Gardens, this amendment also adds the name “John Menario Plaza” next to Lobsterman Park, which is what the park was called when it was dedicated. This addition will ensure the parcel is easily identified and recognizable in the list by both its historic and current name.

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

Order 193-18/19 Amendment of Portland City Code Chapter 25 Streets, Sidewalks, and Other Public Places Re: Outdoor Dining Permits - Sponsored by Jon P. Jennings, City Manager

Historically, state law has prohibited the off-site sale of liquor by a licensed establishment unless the sale was on public or privately owned property immediately adjacent to the licensed establishment. It is for this reason that all outdoor dining permits issued by the City for dining on City sidewalks have historically required that outdoor dining areas be limited to the sidewalk space immediately adjacent to the restaurant. That state law was recently amended and now allows establishments with liquor licenses to serve alcohol on municipally owned property not immediately adjacent to the licensed establishment if the municipality has given its approval.

In response to this change in the law, this amendment will create a new outdoor dining permit and set fees for “parklet” outdoor dining spaces that utilize dedicated City parking spaces when sidewalk space immediately adjacent to a licensed eating establishment does not permit outdoor dining. The Amendment is to City Code Section 25-27. It is proposed as a pilot project with a limited number of available spaces initially to allow careful monitoring by staff to ensure public safety and to ensure that initial guidelines and restrictions constitute best practices when it comes to regulation of these spaces.

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

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

EXECUTIVE SESSION: