

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

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

AGENDA
SPECIAL CITY COUNCIL MEETING
MAY 15, 2017

The Portland City Council will hold a Special City Council Meeting at 5:00 p.m. in City Council Chambers, City Hall. The Honorable Ethan K. Strimling, Mayor, will preside.

PLEDGE OF ALLEGIANCE:

ROLL CALL:

ANNOUNCEMENTS:

RECOGNITIONS:

APPROVAL OF MINUTES OF PREVIOUS MEETING:

(Tab 1) May 1, 2017 Special City Council Meeting Minutes

PROCLAMATIONS:

Proc 30-16/17 Proclamation Recognizing Revive Civility Month 2017 – Sponsored
(Tab 2) by Councilors Pious Ali, Belinda S. Ray, Spencer Thibodeau, Brian E. Batson, Justin Costa, David Brenerman, Jill C. Duson, Nicholas M. Mavodones, Jr., and Mayor Ethan K. Strimling.

APPOINTMENTS:

Order 247-16/17 Order Appointing Constables for 2017 RE: Department of Public
(Tab 3) Safety and Department of Parks, Recreation and Facilities – Sponsored by Jon P. Jennings, City Manager.

This order appoints Police Cadets Trenton Coleman-Bishop, Matthew O’Leary, Dakota Ferris, Orlando Simmonds, and Morgan Copp as constables for the Police Department and Park Rangers Cory Plante, Braeden T. Cummings, Michaela E. Morris, Patrick J. Mernier as constables for the Department of Parks, Recreation and Facilities.

This order shall be effective from the effective date of this order and until midnight on December 31, 2017.

These appointments are made pursuant to Portland City Code, Sections 20-19 and 20-19.5. Constables are not allowed to carry a firearm, concealed or unconcealed, in the performance of their duties, or make arrests or issue parking tickets.

In order for the Cadets to begin on May 21, 2017, staff is requesting emergency passage of this order.

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

CONSENT ITEMS:

Order 248-16/17 (Tab 4) Order Approving Transfer of Funds Under 15 M.R.S. §§5824(3) and 5826(6) Re: Amy Santiago – Sponsored by Jon P. Jennings, City Manager.

This order authorizes the City Council to approve the transfer of \$939.00 forfeited assets from the State of Maine to the City of Portland from the case of the State of Maine v. Amy Santiago.

The money was seized during a drug investigation conducted by the M.D.E.A. in conjunction with the Portland Police Department. The money will be deposited into the Portland Police Department's drug investigation account. The money is used to offset the costs of drug investigations, such as drug analysis, drug purchases, covert surveillance, surveillance equipment, drug training and protective gear, such as body armor. The money may also be used to support the department's Law Enforcement Addiction Advocacy Program.

Order 249-16/17 (Tab 5) Order Approving Transfer of Funds Under 15 M.R.S. §§5824(3) and 5826(6) Re: Kyle Braga – Sponsored by Jon P. Jennings, City Manager.

This order authorizes the City Council to approve the transfer of \$1,836.00 and \$2,217.06 in forfeited assets from the State of Maine to the City of Portland from the case of the State of Maine v. Kyle Braga.

The money was seized during a drug investigation conducted by the M.D.E.A. in conjunction with the Portland Police Department. The money will be deposited into the Portland Police Department's drug investigation account. The money is used to offset the costs of drug investigations, such as drug analysis, drug purchases, covert surveillance, surveillance equipment, drug training and protective gear, such as body armor. The money may also be used to support the department's Law Enforcement Addiction Advocacy Program.

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

LICENSES:

**Order 250-16/17
(Tab 6)**

**Order Approving and Adopting the Record and Written Decision
Re: Bonfire LLC Application for an Entertainment with Dancing and
After Hours Entertainment License – Sponsored by Danielle West-
Chuhta, Corporation Counsel.**

On April 5, 2017, the City Council held a public hearing on the application of Bonfire, LLC for an entertainment license at 37 Wharf Street. On that date, the Council voted not to grant the license. The Council is required to issue its decision in writing. The proposed findings and conclusions for the Council's consideration are included in the backup.

Five affirmative votes are required for passage after public comment.

COMMUNICATIONS:

RESOLUTIONS:

**Resolve 8-16/17
(Tab 7)**

**Resolution Amending Council Rules for 2016-2017 – Sponsored by
Danielle West-Chuhta, Corporation Council.**

At the April 24th meeting of the City Council, an amendment to City Council Rule 8 was requested.

This rule specifies when a roll call vote (i.e. the “yeas and nays”) must be taken on an item pending before the City Council. The proposed amendment would remove the requirement in the rule for a roll call vote on motions to adjourn.

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

UNFINISHED BUSINESS:

BUDGET ITEMS:

**Order 229-16/17
(Tab 8)**

**Order Approving State/Local EPS Funding Allocation for Public
Education from Kindergarten to Grade 12 for Portland Schools for
FY2018 – Sponsored by the Finance Committee, Councilor Nicholas
M. Mavodones, Chair.**

Order 229 to Order 237 are orders required by 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 \$81,456,771 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.

This requires the city to raise \$64,261,317 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 \$105,036,238 will be \$82,787,921.

This item must be read on two separate days. It was given a first reading on May 1st. Five affirmative votes are required for passage after public comment.

**Order 230-16/17
(Tab 9)**

Order Approving Non-State Funded School Construction Debt Service for Portland Schools for FY2018 – 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 \$496,746 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 \$496,746 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. It was given a first reading on May 1st. Five affirmative votes are required for passage after public comment.

**Order 231-16/17
(Tab 10)**

Order Raising and Appropriating Additional Local Funds for Portland Schools for FY2018– Sponsored by the Finance Committee, Councilor Nicholas M. Mavodones, Jr., Chair.

This order appropriates \$16,698,708 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 \$14,915,041 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. It was given a first reading on May 1st. Five affirmative votes are required for passage after public comment.

Order 232-16/17

Order Approving Total School Operating Budget for Portland Schools

(Tab 11)

for FY2018– 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 \$99,569,444.

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 9, 2018. \$81,456,771 of the \$99,569,444 would come from property taxes, \$14,087,466 would come from state subsidy, and \$3,525,207 from other revenues.

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

This item must be read on two separate days. It was given a first reading on May 1st. Five affirmative votes are required for passage after public comment.

**Order 233-16/17
(Tab 12)**

Order Appropriating and Raising Funds for Adult Education for FY 2018 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 \$1,297,914 to support the Adult Education program and appropriates a budget for that program of \$1,919,778.

The budgets for the Adult Education Program and for the Food Service Program in the next order are in addition to the \$99,569,444 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 FY2018 school budget programs of \$105,036,238.

This item must be read on two separate days. It was given a first reading on May 1st. Five affirmative votes are required for passage after public comment.

**Order 234-16/17
(Tab 13)**

Order to Raise Local Funds for Food Service in the Portland Public Schools for FY 2018 – Sponsored by the Finance Committee, Nicholas M. Mavodones, Jr., Chair.

This order raises \$33,236 to support the Food Service Budget. The total proposed Food Service Program is \$3,547,016, 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. It was given a first reading on May 1st. Five affirmative votes are required for passage after public comment.

**Order 234A-16/17
(Tab 14)**

Order Authorizing the Disposition of Any Additional State Subsidy Received for Portland Schools in Fiscal Year 2018 – Sponsored by the Finance Committee, Councilor Nicholas M. Mavodones, Jr., Chair.

This order approves the following school budget article for Fiscal Year 2017-2018:

Disposition of Any Additional State Subsidy Received: In the event that Portland Public Schools receives more state education subsidy than the amount included in its budget, that the City authorizes the Portland Board of Education to use all or part of the additional state subsidy to increase expenditures for school purposes in cost center categories approved by the Portland Board of Education, subject only to approval by the City Council.

This item must be read on two separate days. It was given a first reading on May 1st. Five affirmative votes are required for passage after public comment.

**Order 235-16/17
(Tab 15)**

Order Approving Fiscal Year 2018 Administrative Fees in the Department of Public Works Re: Street Openings – Sponsored by Jon P. Jennings, City Manager.

This order authorizes certain administrative charges, specifically a new fee in Public Works: Street Openings Block Permit.

This item was postponed to this meeting to coincide with consideration of the Appropriation Resolve. Five affirmative votes are required for passage after public comment.

**Order 236-16/17
(Tab 16)**

Order Authorizing City Manager to Enter into Certain Agreements to Implement the Fiscal Year 2018 Human Resources and Certain Fringe Benefits Budgets – Sponsored by Jon P. Jennings, City Manager.

This order authorizes the City Manager to enter into standard agreements and amendments to standard agreements with providers of services for the fiscal year 2018 in order to implement portions of human resources, medical, workers' compensation, and liability budgets.

This item must be read on two separate days. It was given a first reading on May 1st. Five affirmative votes are required for passage after public comment.

**Order 237-16/17
(Tab 17)**

**Order Re: Fiscal Year 2018 Self-Insured Liability Program -
Sponsored by Jon P. Jennings, City Manager.**

This order establishes the limit of the city's liability as \$400,000 as required by the Maine Tort Claims Act and states the city's commitment to "self-insure" for such liability by approving funds for this purpose.

This item was postponed to this meeting to coincide with consideration of the Appropriation Resolve. Five affirmative votes are required for passage after public comment.

**Order 238-16/17
(Tab 18)**

**Order Authorizing the Director of Parks, Recreation and Facilities
to Set Fees and Enter Rental Agreements for City Facilities –
Sponsored by Jon P. Jennings, City Manager.**

Staff has historically set fees and signed rental agreements for City facilities such as Merrill Auditorium, the Portland Exposition Building and Ocean Gateway. These facilities host 100s of events on an annual basis and while many events are similar in nature, all are also somewhat unique and require different staffing levels and services, and are therefore priced accordingly. The City's legal department has created a standard rental agreement. Any changes to the terms of standard agreement, other than pricing, are reviewed by legal prior to being changed.

This order would authorize the Director or her or his designee to continue to sign such agreements and reaffirm this long-standing practice.

Also, these venues and others, such as the Riverside Golf Course, Riverside Grill and Troubh Ice Arena, are run in a business-like manner and need the flexibility to be able to offer specials and adjust pricing based on market conditions. This order will further reaffirm the practice of these fees being set administratively.

Five affirmative votes are required for passage after public comment. This item was postponed to this meeting to coincide with consideration of the Appropriation Resolve. Five affirmative votes are required for passage after public comment.

**Order 239-16/17
(Tab 19)**

**Order Authorizing City Manager to Enter into Certain Agreements to
Implement Fiscal Year 2018 Health and Human Services Budget
- Sponsored by Jon P. Jennings, City Manager.**

This order authorizes the City Manager to enter into standard agreements and amendments to those standard agreements to receive reimbursement for services by the Health and Human Services Department.

In addition, the City enters into agreements with service providers and landlords to provide services for department programs.

This item must be read on two separate days. It was given a first reading on May 1st. Five affirmative votes are required for passage after public comment.

**Order 240-16/17
(Tab 20)**

Order Authorizing City Manager to Accept Scholarship Trust Donations and Enter into Trust Agreements - Sponsored by Jon P. Jennings, City Manager.

This order authorizes the City Manager to accept donations for existing and new scholarship trusts and enter into standard form trust agreements as approved by Corporation Counsel.

This item was postponed to this meeting to coincide with consideration of the Appropriation Resolve. Five affirmative votes are required for passage after public comment.

**Order 241-16/17
(Tab 21)**

Order Authorizing Corporation Counsel to Undertake Civil Actions to Collect Delinquent Personal Property Taxes – Sponsored by Jon P. Jennings, City Manager.

This item will give Corporation Counsel a standing authorization to undertake civil actions to collect any delinquent personal property taxes that arise during the course of the fiscal year.

Otherwise it would be necessary for the City Council to specifically authorize each individual legal action. This general authorization will take the place of the case by case approach.

This item was postponed to this meeting to coincide with consideration of the Appropriation Resolve. Five affirmative votes are required for passage after public comment.

**Order 242-16/17
(Tab 22)**

Order Authorizing Non-Union Wage Adjustment - Sponsored by the Finance Committee, Councilor Nicholas M. Mavodones, Chair.

The Finance Committee met on May 4, 2017 and voted 3-0 to forward this item to the City Council with a recommendation for passage.

This Order authorizes the City Manager to make a 2% pay adjustment for all non-union employees effective July 2, 2017.

Each year, budgets permitting, the City of Portland increases the wages and salaries of non-union employees by an amount generally comparable to the amount given to employees covered by collective bargaining agreements.

This order will authorize the City Manager to increase the wages and salaries of non-union employees accordingly and to implement the new pay scale.

This item must be read on two separate days. It was given a first reading on May 1st. Five affirmative votes are required for passage after public comment.

**Order 243-16/17
(Tab 23)**

**Order Designating Fiscal Year 2018 Funds for Specific Island Services
- Sponsored by Jon P. Jennings, City Manager.**

The municipal budget includes \$40,000 for use on Peaks Island in addition to the funds used to pay for direct and indirect city services. Pursuant to a request from the Peaks Island Council these funds will be used as follows in FY18:

Ferry Tickets, Passes, Vouchers, Loading Control		
Item A:	Middle & High School Passes	\$5,937
Item B:	College Students	\$330
Item C:	Private School Tickets	\$413
Item D:	Needs-Based Tickets	\$3,834
Item E:	Bicycle Tickets	\$500
Item F:	Loretta Voyer Fund	\$50
Item G:	Cadet Funding	\$2,736
On-Island Transportation		
Item H:	ITS (“The Taxi”)	\$18,000
Islanders in Need		
Item I:	PITEA (for PIC, Heating Assistance Only)	\$3,200
Item J:	Food Pantry	\$50
Parks, Recreation, Open Space		
Item J:	Skateboard Park	\$500
Item K:	PEAT Brochure	\$400
Island Services		
Item L:	Signage	\$50
Item M:	Website + App Development	\$1,500
Item N:	Administrative	\$2,500
TOTAL (02/25/17):		\$40,000

This item must be read on two separate days. It was given a first reading on May 1st. Five affirmative are required for passage after public comment.

**Order 244-16/17
(Tab 24)**

Order for Fiscal Year 2018 Appropriating \$185,000 from Excess Fund - Sponsored Jon P. Jennings, City Manager.

Appropriating \$185,000 from the Casco Bay Island Transit District (CBITD) Excess Fund. Pursuant to the lease agreement between the City

and CBITD, the Excess Fund, as defined in the agreement, is accumulated and held until such time as the Council may appropriate amounts for purposes outlined in the agreement. CBITD has requested \$185,000, to be used in providing a local match, for Phase 2 of the Casco Bay Island Transit District's (CBITD) ferry terminal renovations. This is permissible under the agreement as CBITD has first priority to request usage of available funds for their capital costs associated with public transportation in the City.

This item must be read on two separate days. It was given a first reading on May 1st. Five affirmative votes are required for passage after public comment.

RELATED ORDINANCE AMENDMENT:

Order 245-16/17 (Tab 25) Amendment to Portland City Code Re: Various Fee Increases for Fiscal Year 2018 - Sponsored by Jon P. Jennings, City Manager.

Part 1 amends the following fees in Chapter 14 in §14-530:

Chapter 14	Description	Current Fee	Proposed Fee
<i>Sec. 14-530</i>	<i>Development review fees and post approval requirements:</i>		
(a)	<i>Development Review Fees:</i>		
(a) (4)	<i>Site Plan Review Expenses:</i>		
(a) (4) (i)	<i>Fee for Development Review Services</i>		
(a) (4) (i) (i)	Planning fee per hour	\$50	\$52
(a) (4) (l)	<i>Inspection Fees, as required in Section 14-530 (b) (5)</i>		

(a) (4) (l) (i)	Level I: Site Alteration, Level II and Level III: 2% of the performance guarantee or as assessed by Planning or Public Works Engineer (...at \$) an hours with minimum inspection fee of \$300 Level I: Minor Residential Inspection Fee \$100 (flat fee).	\$50	\$52
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Part 2 amends the Sewer user charge in Chapter 24, in §24-72.

The proposed sewer rate for July 1, 2017 is \$9.65 per hundred cubic feet (hcf), up from the January 1, 2017 rate of \$9.35 hcf.

Part 3 adds the following new fees in Chapter 25, in §25-27.

Chapter 25 RE: §25-27	Description	Current Fee	Proposed Fee
Violations			
	Failure to Obtain a Street Occupancy Permit	NA	\$75/day
	Non-Compliance: Failure to Follow an Approved Management Plan for Vehicle Traffic and / or Pedestrian Detours	NA	\$50/day

Part 4 amends the following fee in Chapter 28, in §28-86:

Chapter 28	Description	Current Fee	Proposed Fee
<i>Sec. 28-86</i>	Parking Meter Rates	\$1.00/ hr	\$1.25/hr

All fee increases are effective July 1, 2017. This item must be read on two separate days. It was given a first reading on May 1st. Five affirmative votes are required for passage after public comment.

APPROPRIATION RESOLVE:

Order 246-16/17 (Tab 26) Fiscal Year 2017-2018 Appropriation Resolve - Sponsored by Jon P. Jennings City Manager.

This item brings forward the Appropriation Resolve for Fiscal Year (FY) 2018 for action by the City Council.

The Resolve contains the City Manager’s recommended budget for FY2018 for general municipal purposes in the amount of \$240,430,005. In addition it contains the Portland Board of Education’s recommended budget for FY2018 for school purposes in the amount of \$105,036,238.

The Portland Board of Education’s recommended School Budget and the City Manager’s budget recommendations for municipal purposes results in a combined tax levy of \$168,956,927 for Fiscal Year 2018.

The tax rate based on the combined levies would be \$21.66 per \$1,000 of assessed value, a 2.6% increase.

The Appropriation Resolve also directs the Assessor of Taxes to assess a tax upon all real and personal property liable to be taxed as of April 1, 2017 and sets September 8, 2017, as the tax due date, which may be paid in two installments due on September 8, 2017, and March 9, 2018.

The delinquency rate of interest is set at 7.0% per year, and the abatement rate of interest is set at 3.0% per year.

This item must be read on two separate days. It was given a first reading on May 1st. Five affirmative are required for passage after public comment.

ORDERS:

Order 251-16/17 (Tab 27) Order Approving Purchase and sale Agreement with Developers Collaborative Predevelopment LLC for the Sale of Reed School at 19 Libby Street - Sponsored by Jon P. Jennings, City Manager.

This order authorizes the City Manager to execute any and all documents required to transfer the Reed School parcel for \$75,000.

The School Department declared the Reed School surplus in 2014. Planning & Urban Development began a reuse process with an advisory committee of residents and subject area experts shortly thereafter, resulting in the issuance of a report on the potential reuse of the property.

After an initial Request for Qualifications resulted in unsatisfactory responses, a Request for Proposals (RFP) was issued in 2016.

That RFP resulted in two responses, including one from Developers Collaborative that enjoyed broad support to reuse a portion of the school

building for a private educational use. The City Council voted on 8/1/16 to authorize negotiations with that respondent.

Following that vote, the respondent entered into discussions with neighbors to resolve any significant concerns and subsequently began discussions with City staff on the terms of a sale. Those terms are encapsulated in the draft Purchase and Sale agreement, which is included in the backup material, and include a \$75,000 sales price and a Payment in Lieu of Taxes (PILOT) agreement for any portion of the building that may become exempt from taxation. Due to the structure of the deal, it is expected that the entire building will be fully taxable for five years, after which it is expected that a portion of the building will be transferred to the educational use, subject to the PILOT agreement.

Five affirmative votes are required for passage after public comment.

AMENDMENTS:

**Order 252-16/17
(Tab 28)**

Amendment to Portland City Code Chapter 14 Re: Emergency Shelters as a Conditional Use – Sponsored by the Planning Board, Elizabeth Boepple, Chair.

The Planning Board met on April 25, 2017 and voted 6-1 to forward this item to the City Council for a recommendation for passage.

The Health and Human Services Committee drafted and the Planning Board voted (6-1) to recommend to City Council the adoption of text amendments to add emergency shelters as a conditional use in the B-4, B-5, IL, ILb, IM and IH zones. Currently, emergency shelters are a conditional use in the B-3 zone and this would be retained. The proposed text amendments also include updated conditional use standards specific to emergency shelters to guide the development of new facilities.

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:

5/12/2017 11:16 AM