

ETHAN K. STRIMLING (MAYOR)
BELINDA S. RAY (1)
SPENCER THIBODEAU (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
REGULAR CITY COUNCIL MEETING
OCTOBER 17, 2016

The Portland City Council will hold a regular 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:

PRESENTATIONS:

**State of the Schools Address – Marnie Morrione, Portland School
Committee, Chair**

APPROVAL OF MINUTES OF PREVIOUS MEETING:

(Tab 1) **October 5, 2016, Special City Council Meeting Minutes**

PROCLAMATIONS:

**Proc-13-16/17 Proclamation Honoring Timothy Welch, Aviation & Transportation
(Tab 2) Department as Employee of the Month for October – Sponsored by
Mayor Ethan K. Strimling.**

APPOINTMENTS:

**Order 68-16/17 Order Appointing Dylan Matthews As Constable for 2016 Re: Ordinance
(Tab 3) Enforcement Officer for the Police Department – Sponsored by Jon P.
Jennings, City Manager.**

Dylan Matthews is the Police Department's new Ordinance Enforcement Officer. He will perform work in the area of investigation and enforcement of city code violations. In order for Mr. Matthews to fulfill his duties the Police Department is requesting that he be appointed as a constable.

This order appoints Dylan Matthews as a constable for the remaining calendar year 2016. This appointment shall be effective until 12:00 midnight, December 31, 2016.

Pursuant to Sections 20-19 and 20-19.5, Portland City Code, none are allowed to carry a firearm, concealed or unconcealed, in the performance of duties, or to make arrests, or issue parking tickets.

In order for Mr. Matthews to assume his duties as soon as possible, staff is requesting that this order be passed as an emergency.

Seven votes are required for passage after public comment.

**Order 69-16/17
(Tab 4)**

**Order Appointing Members to Various Boards and Committees –
Sponsored by Katherine L. Jones, City Clerk.**

Name	Board and Committee	Expiration
Brandon Mazer	Board of Appeals	12/31/2019
Kent Avery	Board of Appeals	12/31/2019
Kenneth Lewis	CDBG Allocation Committee	09/30/2019
Eugenia O' Brien	Creative Portland Board	11/30/2019
Arthur Fink	Creative Portland Board	11/30/2019
Gerard Salvo	Creative Portland Board	11/30/2019
Kimberly Cook	Creative Portland Board	11/30/2019
Jed Harris	Portland Downtown Corporation	09/30/2019
Stephen Bither	Board of Assessment Review	09/30/2019
Penny Pollard	Historic Preservation Board	11/30/2019
John Turk	Historic Preservation Board	11/30/2019
Bruce Wood	Historic Preservation Board	11/30/2019
Robert O' Brien	Historic Preservation Board	11/30/2019
Thomas Valleau	Fish Exchange Board	10/31/2018
Avis Leavitt	Fish Exchange Board	10/31/2018

Five affirmative votes are required for passage after public comment.

**Order 70-16/17
(Tab 5)**

**Order Appointing the Directors of The Portland Widows' Wood Society –
for the 2016-2017 Term - Sponsored by Jon P. Jennings, City Manager.**

The Portland Widows' Wood Society provides assistance to needy Portland residents who are referred to the Society by various charitable organizations and the City of Portland. This order appoints the following persons as Directors to the Portland Widows' Wood Society for the 2016-2017 term:

Henry L. Donovan	15 Clifford Street
Nancy English	40 Park Avenue
Michael Francoeur	33 Autumn Lane
Cyrus Hagge	45 Turner Street
Cheryl Hallett, Treasurer	22 Pride Farm Road, Falmouth
Everett Ingalls	45 Eastern Promenade
John C. Knox, President	44 Bramblewood Drive

Five affirmative votes are required for passage after public comment.

CONSENT ITEMS:

LICENSES:

**Order 71-16/17
(Tab 6)**

Order Granting Municipal Officer's Approval of Tomaso's Canteen d/b/a Tomaso's Canteen. Application for a Class A Lounge at 18 Hampshire Street – Sponsored by Michael Russell, Director of Permitting and Inspections Department.

Application filed on 9/16/2016. New City and State Applications. Current location is Tomaso's Canteen. There is a Corporate structure change of more than 10%., which requires City Council review and approval.

Five affirmative votes are required for passage after public comment.

BUDGET ITEMS:

COMMUNICATIONS:

**Com 3-16/17
(Tab 7)**

Communication Re: Revisions to Rules and Regulations for Use of the Sewer System – Sponsored by Jon P. Jennings, City Manager.

The Rules and Regulations for Use of the Sewer System are updated and revised as needed. The revisions being made are meant to update the Rules in regards to an agreement made with Westbrook regarding the Brighton Avenue area within Portland that discharges sewage to Westbrook. Other revisions are of existing rules, which have been updated for clarification. As required, public notice of a public hearing regarding the changes was published in the Press Herald on September 25th and 28th. A letter was also sent to industries permitted under the Industrial Pretreatment Program detailing the revisions. A public hearing was held on these rule changes on October 5th, 2016.

As a Communication this item requires no public comment or formal Council action.

RESOLUTIONS:

**Resolve 2-16/17
(Tab 8)**

Resolution Condemning Violence and Hate Speech, Expressing Solidarity with Muslims and All Those Targeted for Their Ethnicity, Race or Religion – Sponsored by Councilor Hinck and Co-Sponsored by Mayor Ethan K. Strimling, and Councilor Justin Costa.

The Portland City Council, as elected representatives of the people, have a special responsibility not to stay silent in the face of hate, violence, and discrimination against any of our constituents or countrymen; therefore, they

- (1) Condemn all hateful speech and violent action directed at Muslims, those perceived to be Muslims, immigrants and people of color;
- (2) Categorically reject political tactics that use fear to manipulate voters or to gain power or influence;
- (3) Commit to pursuing a policy agenda that affirms civil and human rights, and ensures that those targeted on the basis of race, religion or immigration status can turn to government without fear of recrimination; and
- (4) Reaffirm the value of a pluralistic society, the beauty of a culture composed of multiple cultures, and the inalienable right of every person to live and practice their faith without fear.

Five affirmative votes are required for passage after public comment.

UNFINISHED BUSINESS:

**Order 58-16/17
(Tab 9)**

Order Approving Two-Party Agreement between the City of Portland and the Maine Department of Transportation Re: Forest Avenue and Dartmouth Street – Sponsored by Jon P. Jennings, City Manager.

The Maine Department of Transportation (MDOT) has selected this project for federal assistance and inclusion in its 2016-2018 Work Plan. This project implements part of the Transforming Forest Avenue study recommendation at this intersection to improve pedestrian safety and accessibility and make streetscape enhancements. No reduction in vehicle capacity through this intersection is planned. The study, which was overseen and then fully endorsed by a public advisory committee in 2010-2011, was adopted by the Planning Board & City Council as part of the Comprehensive Plan for Portland.

The estimated project costs are outlined below. The existing MDOT Quality Community Program account (C14114) will be used to fund the required 20% local match.

Federal Share = \$83,044 (80%)

Local Share = \$20,761 (20%)

Limit / Total Project Estimate = \$103,805

At its June 18, 2012 meeting, the City Council unanimously previously endorsed (9-0) this specific project as part of the package of Portland SRTS and TE applications. (See Order #222-11/12 included in the agenda backup.)

This item must be read on two separate days. It was given a first reading on September 19, 2016. At the October 5, 2016, this item was postponed to this meeting. Five affirmative votes are required for passage after public comment.

**Order 65-16/17
(Tab 10)**

Order Approving and Allocating Cumberland County HOME Consortium Funds – Sponsored by the Housing Committee, Jill Duson, Chair.

On September 14, 2016, the Housing Committee voted 4-0 (Councilor Duson absent) to recommend to the City Council allocations for funding to support Portland Housing Authority's 58 Boyd Street Project in East Bayside and repairs to Developer Collaborative's St. Dominic's Apartments in the West End.

On February 24, 2016, the Housing Committee approved application criteria for staff to identify and recommend eligible development projects to apply for 2016 HOME Funds distributed by the U.S. Department of Housing & Urban Development (HUD).

The application went out to the public on May 2nd and closed on June 30th. Three proposals were received by the City.

This item must be read on two separate days. It was given a first reading on October 5, 2016. Five affirmative votes are required for passage after public comment.

**Order 66-16/17
(Tab 11)**

Amendment to Zoning Map Re: Congress Square as Recreation Open Space (ROS) – Sponsored by the Planning Board, Elizabeth Boepple, Chair.

On September 13, 2016, the Planning Board unanimously voted (7-0) to recommend to City Council the proposed map amendment to rezone the city owned "Congress Square Park" parcel to the Recreation and Open Space (ROS) zone.

The proposed zoning map amendment would increase the area of the Congress Square ROS zone to include the entire Congress Square Park parcel held by the City of Portland that currently straddles B-3 and ROS zones. The intention is to provide consistent zoning for the Congress Square Park parcel which we now know will remain public open space as protected by the Land Bank Ordinance. This proposal requires a zoning map amendment for a portion of the parcel from B-3 to ROS.

Many on-peninsula urban open space parcels were added to the Recreation Open Space (ROS) zone in 2014 – Longfellow Square, Monument Square, Boothby Square, Bramhall Square, Bell Buoy Park, Tommy's Park, Post Office Park, Lincoln Park, and Congress Square. However, at that time, a portion of the Congress Square Park parcel was under consideration for sale to a private entity.

That portion of the public parcel remained in the B-3 zone pending the sale agreement. In the summer of 2014, a citizen referendum was passed that adopted the Land Bank Ordinance, which names Congress Square as a protected park and would have required a super majority Council vote to sell the land. Currently, the City is in a partnership with the Friends of Congress Square to redevelop the park with significant private fundraising, in addition to some city funds.

The purpose of this amendment is to make the zoning boundary for Congress Square consistent with the land use boundary of the public open space currently protected by the Land Bank Ordinance.

This item must be read on two separate days. It was given a first reading on October 5, 2016. Five affirmative votes are required for passage after public comment.

**Order 67-16/17
(Tab 12)**

Amendment to Portland City Code Chapter 6 Buildings and Building Regulations Re: Building Energy Use Disclosure Ordinance – Sponsored by the Energy and Sustainability Committee, Councilor Jon Hinck, Chair.

During their meeting on September 21, the Energy and Sustainability Committee voted 2-1 (Hinck and Thibodeau in favor, Suslovic opposed) to recommend the draft Building Energy Use Disclosure ordinance to the full City Council for adoption. This ordinance would require the owners of non-residential buildings with more than 20,000 square feet and residential buildings with 50 or more units to measure the amount of energy and water the buildings consume on an annual basis and report it to the City.

It would also require the City to measure and report the energy and water consumption of all municipal buildings with more than 5,000 square feet. If enacted, the ordinance would provide building owners with valuable data to assist them in decision making about energy efficiency. It would provide participants in the real estate market with valuable information that will help them understand the cost of energy in a building or unit they may wish to purchase or rent. It will also help the City plan for energy conservation and climate protection.

This item must be read on two separate days. It was given a first reading on October 5, 2016. Staff is asking that this item be postponed to the November 7, 2016 Council meeting.

ORDERS:

**Order 72-16/17
(Tab 13)**

Order Approving a License to Portland Norwich Group LLC - Sponsored by Jon P. Jennings, City Manager.

On May 24, 2016, the Planning Board approved a Level III site plan for a hotel on the eastern half of the block bounded by Thames Street, Hancock Street, and Fore Street, the AC Hotel.

The site plan includes awnings and canopies proposed to encroach on the Hancock Street right-of-way and an underground electrical vault proposed to encroach on the Fore Street right-of-way. In addition, as the applicant has developed their final building plans, they have proposed footings to encroach in the Hancock Street right-of-way. At the time of approval, the Planning Board required a license for such encroachments as a condition of approval.

Five affirmative votes are required for passage after public comment.

**Order 73-16/17
(Tab 14)**

Moratorium Re: City Parks and Public Grounds in the R-6 Zone on the Portland Peninsula – Sponsored by Councilor Belinda Ray.

All parks have elements which contribute to their essential character, such as views and sightlines, landscape features, historic associations, trails, athletic fields, meadowlands, and wildlife habitat. Development that occurs adjacent to public parks can affect one or more of these defining elements, thereby compromising the essential character of a park and decreasing the quality and availability of open space in the City. Councilor Belinda Ray has proposed that the City Council consider a 90-day moratorium on the approval of site plans and subdivisions from October 5, 2016 until January 4, 2017, in order to allow time to draft ordinances that could guard against such infringement on the essential character and open space of city parks.

The moratorium would affect only projects on properties that directly abut city parks, and not any on properties across a city street. It would only apply to such properties in the R-6 Zone in the 1st Council District on the Portland Peninsula. According to the Planning and Urban Development Department, this moratorium would affect now under consideration.

Should the City Council approve the moratorium, staff would follow up by developing language designed to limit the potential for damage caused by development projects to the essential character and primary assets of the city's parks in the defined area. That language would likely return to the City Council for review and approval prior to the expiration of the moratorium.

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

AMENDMENTS:

**Order 74-16/17
(Tab 14)**

**Amendment to Portland City Code Chapter 14 Land Use, Article V.
Site Plan Re: Street Trees – Sponsored by the Planning Board,
Elizabeth Boepple, Chair.**

The Planning Board met on September 13, 2016, voted 7-0 to forward this item to the City Council with a recommendation for passage.

The proposed text amendment would allow applicants to meet the site plan street tree requirements through a number of alternatives where planting street trees along the frontage of the development site is not feasible.

Alternatives include planting trees on public land in the neighborhood; provision of measures to enhance street tree survival; preservation/planting of trees on the site near the ROW; green features; and a contribution to the Tree Fund. The amendment also includes provisions to encourage the preservation of mature existing street trees.

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

**Order 75-16/17
(Tab 15)**

**Amendment to Portland City Code Chapter 14 Land Use, Article X.
Alternative Energy Re: Solar Energy Generation – Sponsored by the Planning Board, Elizabeth Boepple, Chair.**

On September 26, 2016, the Planning Board voted 7-0 to forward this item to the City Council with a recommendation for approval.

The proposed new ordinance introduces a streamlined permitting framework to allow: a) installation of smaller solar energy systems with just a building permit and minimal limitations; and b) installation of larger systems (including community solar farms and City initiatives) subject to site plan review to ensure that performance standards are addressed.

The size of the solar energy system would be measured in terms of the physical land area over which the system projects. The ordinance is relatively permissive and also takes account of any potential impacts.

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

**Order 76-16/17
(Tab 16)**

Amendment to Portland City Code Chapter 6, Building & Building Regulations Re: Tenant Housing Rights Sponsored by the Housing Committee, Councilor Jill C. Duson Chair and Councilor David Brenerman, Vice Chair.

On September 28, 2016, the Housing Committee voted unanimously (5-0) to recommend a package of five (5) housing insecurity policy items to the Council for their consideration and incorporation into the City Code. The package includes the following items:

1. Increase notification for residential rent increases from 45 days to 75 days for all tenants-at-will and prior to the end of an existing lease.
2. Landlords and tenants must sign a document to be drafted by the City explaining tenancy-at-will.
3. Creation of a leaflet outlining tenant/landlord rights and responsibilities that must be distributed to all tenants.
4. Establish a tenant/landlord commission comprised of 7 members and co-chaired by one landlord and one tenant representative

5. Incorporation of Maine Human Rights Act prohibition against income discrimination into City ordinance.

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

BREAK FOR DINNER:

7:00 P.M. PUBLIC COMMENT PERIOD ON NON-AGENDA ITEMS: