Meeting Begins: 6:30 P.M.
Location: City Hall Council Chambers

A. OPENING OF THE MEETING

Subject

1. Roll Call
Meeting

Apr 23, 2019 - CITY COUNCIL MEETING

Category

A. OPENING OF THE MEETING

Access

Public

Type

Subject

2. Acceptance of Minutes
Meeting

Apr 23, 2019 - CITY COUNCIL MEETING

Category

A. OPENING OF THE MEETING

Access

Public

Type
Motion for acceptance of the minutes.

View Minutes for Apr 16, 2019 - CITY COUNCIL MEETING

**Subject**

**3. Petitions and Communications**

Meeting

Apr 23, 2019 - CITY COUNCIL MEETING

Category

A. OPENING OF THE MEETING

Access
Public

Type
Information, Reports

**B. APPOINTMENT CALENDAR**

**Subject**

1. ORDER #46-18/19 – Arts & Historic Preservation Committee, District One (Morgan) for an unexpired term which expires October 20, 2019. Postponed since September 18, 2019. Passage requires majority vote.

Meeting

Apr 23, 2019 - CITY COUNCIL MEETING

Category

B. APPOINTMENT CALENDAR

Access
Public
Type

Action (Consent)

Recommended Action

Motion to postpone.

Passage of consent items requires majority vote.

Subject

2. ORDER #76-18/19 – Arts & Historic Preservation Committee, District Two (Lewis), for a term which expires on 10/20/21. Postponed since November 8, 2018. Passage requires majority vote.

Meeting

Apr 23, 2019 - CITY COUNCIL MEETING

Category

B. APPOINTMENT CALENDAR

Access

Public

Type

Action (Consent)

Recommended Action

Motion to postpone.

Passage of consent items requires majority vote.

Subject


Meeting

Apr 23, 2019 - CITY COUNCIL MEETING

Category

B. APPOINTMENT CALENDAR

Access

Public
Type
Action (Consent)

Preferred Date
Feb 26, 2019

Fiscal Impact
No

Budgeted
No

Recommended Action
Motion to postpone.

POSITION PAPER OF THE CITY CLERK

Jennifer Voisine's term has ended.

Passage of consent items requires majority vote.

Subject

4. ORDER #151-18/19 – Board of Assessment Review, District Two (Lewis), for a term which expires March 16, 2022. Postponed since March 19, 2019. Passage requires majority vote.

Meeting

Apr 23, 2019 - CITY COUNCIL MEETING

Category

B. APPOINTMENT CALENDAR

Access

Public

Type

Action (Consent)

Recommended Action

Motion to postpone.
POSITION PAPER OF THE CITY CLERK

Susan Bagley’s term has expired.

*Passage of consent items requires majority vote.*

Subject

5. ORDER #157-18/19 – Planning Board, District Two (Lewis), for a term that expires April 1, 2022. Postponed since March 26, 2019. Passage requires majority vote.

Meeting

Apr 23, 2019 - CITY COUNCIL MEETING

Category

B. APPOINTMENT CALENDAR

Access

Public

Type

Action (Consent)

Recommended Action

Motion to postpone.

POSITION PAPER OF THE CITY CLERK

David Sheehan’s term expires 4/1/2019.

*Passage of consent items requires majority vote.*

Subject

6. ORDER #160-18/19 – Board of Appeals, District Two (Lewis), to fill an unexpired term which expires 7/23/21. Postponed since March 26, 2019. Passage requires majority vote.

Meeting

Apr 23, 2019 - CITY COUNCIL MEETING

Category

B. APPOINTMENT CALENDAR

Access

Public
Motion to postpone.

**POSITION PAPER OF THE CITY CLERK**

Robert Whyte resigned from the board effective March 19, 2019.

Subject

7. ORDER #169-18/19 - Appointing William Haskell to the Long Creek Watershed Management District's Board of Directors for a term that expires 02/14/2022. Passage requires majority vote.

According to the LCWMD's by-laws, the City Council of each municipality appoints members to serve on the Board of Directors for a 3 year term. Will Haskell's term on the LCWMD ended 02/19/19. Mr. Haskell has served as the City's non-profit representative on the Long Creek Watershed Management District Board of Directors. Mr. Haskell has a degree in Civil Engineering from the University of New Hampshire and a
Masters Degree in Civil Engineering and Water Resources from Colorado State University and serves as a Board member of the South Portland-Cape Elizabeth Community Chamber of Commerce.

His request for reappointment was not included in the February 9, 2019 Council Order that reappointed all existing members of the LCWMD for a new 3 year term that ends 02/14/2022. This order would reappoint Mr. Haskell for a new term ending 02/14/2022, in alignment with all current representatives' terms. This appointment request has the positive recommendation from Mr. Peter Carney, Executive Director of the Long Creek Watershed Management District.

C. CONSENT CALENDAR

Subject

1. ORDER#168-18/19 - Setting the opening time of the consolidated polling location at the South Portland Community Center for 7:00A.M. for the June 11, 2019 Municipal Referendum & School Budget Validation Referendum Election. Passage requires majority vote. Postponed on April 16, 2019.

Motion for passage.

POSITION PAPER OF THE CITY CLERK

This order sets the date, time and place of the June 11, 2019 Municipal Election. This election is to be consolidated at the South Portland Community Center for all voting districts. Notice will be posted at all polling places.

Polls shall be open from 7:00am to 8:00pm on June 11, 2019, and absentee voting shall be available starting Friday, May 10, 2019. Absentee ballots may be requested until June 6 by calling the City Clerk's office.
Meeting

Apr 23, 2019 - CITY COUNCIL MEETING

Category

C. CONSENT CALENDAR

Access

Public

Type

Action

Recommended Action

Motion to approve the order appointing a fertilizer ordinance working group.

POSITION PAPER OF THE CITY MANAGER

On April 9, 2019, Council held a workshop to discuss regulating synthetic fertilizers. At that workshop, Council instructed staff to form a working group to devise a draft ordinance that would regulate the use of these fertilizers in South Portland. Staff indicated that it would come back to Council with a proposed membership for the working group. On Tuesday, Council will be asked to formally approve the following as members:

1. Julie Rosenbach, Sustainability Director
2. Fred Dillon, Stormwater Program Coordinator
3. Jesse O'Brien, Agronomist, Downeast Turf
4. Chip Osborne, Osborne Organics
5. Linden Thigpen, Resident
6. April Caricchio, City Councilor
7. Rick Peruzzi, Athletic Fields & Golf Course Manager, Parks & Recreation Dept.
8. Cathy Ramsdell, Friends of Casco Bay
9. Matthew Teneyck, Site One

As you will note, this ad hoc group includes a cross-section of City staff, science/data-based experts, residents, industry professionals, and elected official representation. Assuming Council adopts this Order, the group will immediately begin their work.

Mr. Dillon will be present for this discussion (Ms. Rosenbach is unable to attend).

File Attachments
ORDER - Fertilizer Ordinance Working Group.pdf (130 KB)

D. CITIZEN DISCUSSION (PART I)

Subject

1. Citizen Discussion

Meeting
D. CITIZEN DISCUSSION (PART I)

Members of the public will be given up to 5 minutes to speak on any item on or off the agenda during Citizens Discussion Part I or Part II. Additionally, the public will have the opportunity to speak for up to 5 minutes on agenda items.

E. PUBLIC HEARINGS AND ACTION

1. ORDER #171-18/19 - Granting a Medical Marijuana Establishment Class II Retail Store license to Rosebud, LLC D/B/A Beach Boys Cannabis Company, of 818 Main Street, Unit 2. Passage requires majority vote.

Update: The legal ad for this item indicated a May 7 public hearing so Council will need to table this item until that date. The applicant has been notified.

This business application was received by the City Clerk's office on April 5. A legal ad has been placed and notice of public hearing has been posted at the proposed location of the business, as required by ordinance. The application has been reviewed and there are no objections by Health, Fire, or Code Enforcement. The Police
Department has noted that the sale and distribution of marijuana remains illegal under federal law. Ordinance (Ch. 14) requires public hearing and Council approval for the issuance of this business license.

This business submitted a Modified Site Plan application to the Planning Board which held a public hearing on March 13, 2019; the site plan application passed (5-0). The Planning Board minutes are attached.

Council will be acting in a quasi-judicial role for this matter.

The applicant will plan to be present for the meeting to answer any questions.

File Attachments
Application - Rosebud LLC.pdf (1,700 KB)
Planning Board - Modified Site Plan Application.pdf (38,539 KB)
Planning Board - Minutes - 03-13-2019.pdf (522 KB)
Memo - Police Chief.pdf (136 KB)
ORDER #171.pdf (472 KB)

Subject

2. ORDER #173-18/19 - Granting a Restaurant with Malt & Vinous license to Portland Water Tours, Inc., of 14 Ocean Street. Passage requires majority vote.

Meeting

Apr 23, 2019 - CITY COUNCIL MEETING

Category

E. PUBLIC HEARINGS AND ACTION

Access
Public

Type
Action

Recommended Action

Public hearing and Council action.

POSITION PAPER OF THE CITY CLERK

UPDATE: The legal ad for this item indicated a May 7 public hearing so Council will need to table this item until that date. The applicant has been notified.

This is a new business located at South Port Marine (14 Ocean Street). This is a chartered vessel company with three vessels, serving food and alcohol on chartered tours of Casco Bay. A legal ad has been placed and the application has been reviewed with no objections from Police, Fire, and Health.

Council will be acting in a quasi-judicial role for this matter.

The applicant will plan to be present for the meeting to answer any questions.

File Attachments
3. ORDER #172-18/19 - Granting a Medical Marijuana Establishment Class II Cultivation Facility license to Matthew Bayliss, D/B/A Terrapin Horticultural Company LLC, of 9 Industry Road. Passage requires majority vote.

Meeting

Apr 23, 2019 - CITY COUNCIL MEETING

Category

E. PUBLIC HEARINGS AND ACTION

Access

Public

Type

Action

Recommended Action

Public hearing and Council action.

POSITION PAPER OF THE CITY CLERK

UPDATE: The legal ad for this item indicated a May 7 public hearing so Council will need to table this item until that date. The applicant has been notified.

This application was received by the City Clerk’s office on April 10. A legal ad has been placed and notice of public hearing has been posted at the proposed location of the business, as required by ordinance. The application has been reviewed and there are no objections by Health, Fire, or Code Enforcement. The Police Department has noted that the cultivation, sale and distribution of marijuana remains illegal under federal law. Ordinance (Ch. 14) requires public hearing and Council approval for the issuance of this business license.

This establishment was granted a Certificate of Occupancy (issued May 19, 2016) and is seeking a business license to come into compliance under the City's medical marijuana licensing ordinance passed in December 2018.

Council will be acting in a quasi-judicial role for this matter.

The applicant will plan to be present for the meeting to answer any questions.
1. ORDINANCE #14-18/19 - West End Neighborhood District Zone Text Amendment. First reading. Postponed on April 16, 2019. Passage requires majority vote.

Meeting

Apr 23, 2019 - CITY COUNCIL MEETING

Category

F. ACTION ON OLD AND NEW BUSINESS

Access

Public

Type

Action

Preferred Date

Apr 16, 2019

Absolute Date

Apr 16, 2019

Fiscal Impact

No

Recommended Action

Council passage of first reading and set May 7, 2019 as the date for the City Council's public hearing and action on Ordinance 14-18/19.

POSITION PAPER OF THE CITY MANAGER

Avesta Westbrook Street One LP proposes to revise the front yard setback from five (5) feet to zero (0) feet for the West End Neighborhood Center District (WNC). The revisions suggested are meant to “better align the setbacks with the City’s original intent of the recent West End Master Plan to promote the development of a new pedestrian friendly urban village”. Additional amendments related to parking have been incorporated into this request. Typically, per City Ordinance Section 27-115(g), the Planning Board would make a recommendation on the proposed zoning map change and zoning text amendments to the City Council after the close of the public hearing, which was scheduled for April 10th. However, the April 10th hearing was not held due to the lack of a quorum. Avesta would like the Council to still consider the first read of this request, with the understanding that prior to the second read, the Planning Board will have met and made a recommendation for Council to consider (the Planning Board is meeting on April 24th).

Further details on this proposal can be found in the attached memo from Community Planner Justin Barker, who will be present for your discussion and able to answer questions. Representatives from Avesta will also be on hand to discuss this proposal with Council.
Admin Content

Tex/Josh/Scott:

Planning Board is reviewing this on Wednesday night for a recommendation. I will update the memo to reflect their recommendation and any public comments received and resend on Thursday. Let me know if there are any other changes you would like to see.

Subject


Meeting

Apr 23, 2019 - CITY COUNCIL MEETING

Category

F. ACTION ON OLD AND NEW BUSINESS

Access

Public

Type

Action

Preferred Date

May 07, 2019

Absolute Date

May 21, 2019

Fiscal Impact

No

Budgeted

No

Recommended Action

Council passage of first reading and set May 7, 2019 as the date for the City Council's public hearing and action on Ordinance #15-18/19.
POSITIVE PAPER OF THE CITY MANAGER

At the February 19, 2019 Council Workshop, staff proposed amendments to City ordinance Chapter 3 (Animals and Fowl) and Chapter 27 (Zoning) to allow and provide standards for the temporary use of goats and sheep for vegetation control in South Portland. At that workshop, Councillors sought two changes to the staff proposal: 1) to provide a 14-day notice to abutters before the grazing is to occur (staff proposed 7 days), and 2) to have staff consult with experts to determine if a stocking rate for grazing is warranted beyond 100 linear feet of a residential dwelling, and then recommend an adequate rate. As noted in the attached memo from Sustainability Program Coordinator Lucy Brennan, staff is recommending that beyond 100 linear feet of a residential dwelling, there shall be no more than one goat or sheep for every 2,500 square feet of grazing area, and at no time shall more than 100 animal be present for grazing.

Ms. Brennan will be present on Tuesday night to further review this item with Council and answer questions. I recommend Council approve the Order.

File Attachments
MEMO - Prescribed Grazing - Sustainability Program Coordinator.pdf (597 KB)
ORDINANCE - Ch 3 - Prescribed Grazing.pdf (252 KB)

Subject
3. ORDER #174-18/19 - Acting on an Appeal of the Public Works Director's Denial for a Curb Cut at 53 Wallace Avenue. Passage requires majority vote.

Meeting
Apr 23, 2019 - CITY COUNCIL MEETING

Category
F. ACTION ON OLD AND NEW BUSINESS

Access
Public

Type
Action
Preferred Date
Apr 23, 2019

Absolute Date
Apr 23, 2019

Fiscal Impact
No
Motion to approve the Order to grant a curb cut permit to Wallace Ave 53 LLC.

POSITION PAPER OF THE CITY MANAGER

Wallace Ave 53 LLC has requested a curb cut for additional access to their facility located at 53 Wallace Avenue. The property currently has a shared driveway and a second access point is needed to improve access and egress of commercial vehicles. Chapter 23, Article III of the City's code of ordinances deals with entrances to public ways. It outlines criteria for curb cuts and authorizes the Director of Public Works to issue permits for doing so. However, in this case, the request was denied because it does not meet the City's ordinance standards as the curb cut would take place within 200 feet of an intersection. Specifically, the cut would occur 137 feet from the intersection of Wallace Ave and Bud Ave. The ordinance allows for - and the property owner has chosen to - appeal this decision to the City Council. The rationale for this appeal is that the new entrance will improve access to the facility and traffic safety, and that the new curb cut would actually be further away from Bud Ave than is the existing entrance. The owner also notes that the entirety of this property is less than 200 feet from Bud Ave. In light of these facts, Public Works Director Doug Howard does not have any concerns with Council issuing this waiver.

Section 23-39 of the ordinance deals with appeals to the Council for permit denials. Part of the requirement for an appeal is that the applicant include two items with their appeal package: 1) a traffic count, and 2) a plot plan including eight specific items. Attached please find these items, along with additional information to assist Councilors in the decision-making process.

Council will be acting in a quasi-judicial role for this matter.

Mr. Howard and property owner Mark Duvall will be present at your meeting to answer questions. I recommend approval of the Order.

File Attachments
LettertoManager_WallaceAveLLC_53WallaceAve.pdf (3.673 KB)
MEMO_CurbCutWaiver53WallaceAve_CommunityPlanner.pdf (251 KB)
DenialLetterPublicWorksDirector_CurbCut_53Wallace_Ave.pdf (37 KB)
CurbCutApplication_WallaceAve53LLC_53WallaceAve.pdf (55 KB)
CrashData_WallaceAveLLC_53WallaceAve.pdf (488 KB)
SitePlan_WallaceAveLLC_53WallaceAve.pdf (233 KB)
ORDER - Appeal Curb Cut 53 Wallace.pdf (185 KB)
Map - 53 Wallace Ave.pdf (3.527 KB)

Subject

4. RESOLVE #6-18/19 - Authorizing the City's Response to the Proposed Consent Decree between the U.S. Environmental Protection Agency and Global Partners LLC. Passage requires majority vote.

Meeting

Apr 23, 2019 - CITY COUNCIL MEETING

Category

F. ACTION ON OLD AND NEW BUSINESS

Access

Public
Motion to approve the resolve authorizing the City's response to the proposed Consent Decree between the U.S. Environmental Protection Agency and Global Partners LLC.

POSITION PAPER OF THE CITY MANAGER

Council held workshops on this matter at its April 2, 2019 and April 16, 2019 meetings. Based on information from various officials and testimony from the public, Councilors provided legal counsel with ideas for the City's formal response to the consent decree. Attached is the proposed response. Council is being asked to formally ratify these comments via a Resolve so they can be submitted to the Department of Justice in advance of the May 1, 2019 deadline. (Although the City has requested a 90-day extension (see attached), there is no guarantee one will be granted, so this meeting is Council's last opportunity to vote to submit something before the existing deadline.)

Members of the public may also submit their own comments by referencing United States v. Global Partners LP, et al., D.J. Ref. No. 90-5-2-1-11428 and submitting them via one of the following methods:

By email: pubcomment-ees.enrd@usdoj.gov

By mail: Assistant Attorney General, U.S. DOJ— ENRD, P.O. Box 7611, Washington, DC 20044–7611

Also, attached please find a letter sent by Global to the City Council last week.

Attorneys Paul Driscoll and Adrian Kendall will be present to provide an overview of the comments and answer questions. The City does not plan on having additional experts at the meeting.

File Attachments
- Letter to City from Global Partners.pdf (608 KB)
- City's Request for 90 Day Extension.pdf (399 KB)
- RESOLVE #6 - Consent Decree Comment - US v Global Partners.pdf (91 KB)

Subject

5. ORDER #175 - Accepting miscellaneous donations. Passage requires majority vote.

Meeting

Apr 23, 2019 - CITY COUNCIL MEETING

Category

F. ACTION ON OLD AND NEW BUSINESS

Access
Public

Type

Action

Recommended Action

Motion for passage.

**POSITION PAPER OF THE CITY CLERK**

Attached are miscellaneous donations made to the City of South Portland.

<table>
<thead>
<tr>
<th>File Attachments</th>
<th>Size</th>
</tr>
</thead>
<tbody>
<tr>
<td>Donation - Library.pdf (51 KB)</td>
<td></td>
</tr>
<tr>
<td>MEMORANDUM OF DONATIONS 4.8.19.pdf (130 KB)</td>
<td></td>
</tr>
<tr>
<td>ORDER #175.pdf (266 KB)</td>
<td></td>
</tr>
</tbody>
</table>

**G. WORKSHOP DISCUSSION**

Subject

1. Discussion Regarding Budget Workshop #2

Meeting

Apr 23, 2019 - CITY COUNCIL MEETING

Category

G. WORKSHOP DISCUSSION

Access

Public

Type

Discussion

**POSITION PAPER OF THE CITY MANAGER**

Council will conclude its review of departmental budgets with presentations from the following (times are approximate):

- School (45 minutes)
- Human Resources, Civil Service, General Assistance, Employee Benefits (30 minutes)
- Bus Service (25 minutes)
- Fire Department (35 minutes)

As with the first workshop on April 13, Councilors will be asked to move any items that merit further discussion on to the "parking lot" list, which will be further discussed at the third budget workshop on May 7. Attached is the current parking lot list. The School Department has requested that this item be moved to the beginning of the agenda, and Councilors informally agreed to doing so when I polled them by email last week.
In addition to the respective department heads, Finance Director Greg L'Heureux and Controller Jordan Shelburn will be present.

File Attachments
- Budget Parking Lot Items - 04-19-19.pdf (43 KB)

Subject

2. List of Workshop Items to be Reviewed.

Meeting

Apr 23, 2019 - CITY COUNCIL MEETING

Category

G. WORKSHOP DISCUSSION

Access

Public

Type

Discussion

POSITION PAPER OF THE CITY MANAGER

This item is brought forward to review outstanding items on the workshop list and determine future workshop dates for these items, if applicable.

Councilor Caricchio has requested a workshop on air quality monitoring, which requires a second from another Councilor in order for it to be added to the workshop list and scheduled for a future agenda.

In addition, staff has moved an item onto the May 21 workshop agenda dealing with updating the City's parking schedule. This addition is the result of the Police Department reconciling the existing traffic schedule with what is actually appearing on various City streets.

File Attachments
- Workshop Request - Air Quality Monitoring - Councilor Caricchio.pdf (403 KB)
- 04-18-19 Workshop Items List.pdf (90 KB)

H. CITIZEN DISCUSSION (PART II)

Subject

1. Citizen Discussion

Meeting

Apr 23, 2019 - CITY COUNCIL MEETING

Category

H. CITIZEN DISCUSSION (PART II)
Members of the public will be given up to **5 minutes** to speak on any item on or off the agenda during Citizens Discussion Part I or Part II. Additionally, the public will have the opportunity to speak for up to 5 minutes on agenda items.

I. COMMUNICATION FROM THE CITY MANAGER
J. COUNCILOR'S ROUND ROBIN
K. EXECUTIVE SESSION
L. ADJOURNMENT

Subject

1. Adjourn

Meeting

Apr 23, 2019 - CITY COUNCIL MEETING

Category

L. ADJOURNMENT

Access

Public

Type

Action

Recommended Action

**MOTION TO ADJOURN**

Items may only be introduced after 11:00 p.m. upon a majority vote of Councilors present and voting. Items on a regular meeting agenda not introduced pursuant to this rule shall be placed on the next regular meeting agenda.

ClosePrint