Minutes
Economic Development Committee
February 18, 2020

NOTE: These meetings are now live-streamed, which can be viewed at this link: http://www.portlandmaine.gov/1695/Economic-Development-Committee These Minutes provide a record of those in attendance, general discussion taking place, and motions made.

A meeting of the Economic Development Committee (EDC) of the Portland City Council was held on Tuesday, February 18, 2020, at 5:30 p.m. in Room 209 on the second floor of Portland City Hall. Present from the Committee was its Chair Councilor Justin Costa and members Councilors Tae Chong and Spencer Thibodeau. Committee member Councilor Nicholas Mavodones could not be present. Also present was Mayor Kate Snyder, and Councilors Pious Ali and Belinda Ray, both arriving as noted herein. Present from the City staff were City Manager Jon Jennings, Economic Development Director Greg Mitchell, Senior Executive Assistant Lori Paulette, and Parking Manager John Peverada.

Chair Costa noted no action items on this Agenda to vote on. There will be an update on the Harbor Dredge project, and a City staff update on a recent TIF CEA BID application from Portland Foreside, followed by an executive session for two items, but not related to the Portland Foreside TIF Application.

Item #1: Review and accept Minutes of previous meeting held on January 21, 2020.

On motion made by Councilor Chong, seconded by Councilor Thibodeau, the Committee voted unanimously to accept the Minutes as presented.

Item #2: Portland Harbor Dredge Project/BUILD Grant and Funding Allocation Update for Committee Discussion.

Mr. Jennings said that this update is presented today due to the expedited deadline by the Federal Government for the BUILD Grant application (formerly known as the TIGER grant) in the next two months. Dredging has been a longstanding issue for both Portland and South Portland. City staff believes this is the most important economic development opportunity for the waterfront, and its future for many years. This project involves many organizations, including Federal, State, and City, for this $30 Million project. The BUILD grant application will be for $20 Million and will include a $5 Million match from State, and $5 Million in tipping fees from the Cities of Portland and South Portland and private pier owners. Mr. Jennings estimated that the City's holdings on the waterfront for dredging tipping fees would be in the $1 Million range. He has had positive feedback from the Waterfront Working Group and pier owners he has spoken with, who, again, will be required to pay tipping fees. Berthing is now limited due to no dredging for quite a number of years. Mr. Jennings then explained the CAD cell, where a hole is dug, filled with dredge material, and then permanently covered, adding that it is cost prohibitive to truck out dredged materials or go into deeper water. Mr. Jennings closed saying that he is working with Federal delegation to get support for the application.

(Councilor Ray joined the meeting at this point.)

Councilor Thibodeau thanked Mr. Jennings and the team, including Waterfront Coordinator Bill Needelman, for the update, noting that the Transportation and Sustainability Committee would also have this on their Agenda at the next meeting, and that the National League of Cities should be updated as well at the upcoming March event.

Chair Costa echoed those comments and asked about timing for decisions on tipping fees, and Mr. Jennings noted that it will be a work in progress but it will be 2 to 3 years before work actually begins. During that time, tipping fees will be further refined.

Chair Costa noted for the public that the Committee has talked about this project a number of times, which results today in not having very many questions, and then thanked staff for the update.

Item 3: Presentation on Portland Foreside Project Tax Increment Financing (TIF) Credit Enhancement Agreement (CEA) Request, along with establishment of a new Business Improvement District (BID) for Committee Discussion.

Chair Costa introduced this item noting that the City received this application for the proposed major project at the site, and he decided to put it on the Agenda to begin the discussion and for public disclosure. It is not an action item for the Committee, and staff has no recommendation at this time, noting that Mr. Mitchell will walk the Committee through the many parts of this application.

Mr. Mitchell first updated the Committee on the geography, noting that the Portland Foreside property, a portion of the MDOT rail/trail corridor, and City properties at Ocean Gateway and Maine State Pier would first need to be taken out of the current Waterfront TIF (WTIF) District, and then create a freestanding Portland Foreside Transit Oriented Development (PFTOD) TIF District with a Credit Enhancement Agreement (CEA), along with creating a Business Improvement District (BID).

(Councilor Ali joined the meeting at this time.)

Mr. Mitchell noted that the current WTIF is an area-wide municipal TIF District, with one CEA in it for Merrill's Wharf for the development of the former Cumberland Cold Storage facility. Amending the WTIF to create the PFTOD TIF District would remove 70 acres from WTIF, made up of the three owners as noted previously – Portland Foreside, MDOT, and the City. One reason to create this PFTOD TIF District is that it would have a life span of the maximum 30 years; whereas, the WTIF now has a life span of 12 years, at which time the current WTIF would expire. Another TIF could be then be created with new original assessed values at that time.

Chair Costa noted the Committee and Council were proactive in amending the WTIF to include the Portland Foreside property and others before assessed values increased. In doing so, it provides the City with increased tax sheltering savings, noting that all property owners in TIF Districts pay the same tax rate.

Mayor Snyder asked if the remaining properties in the WTIF would be unaffected, and Mr. Mitchell indicated that they would not be affected.

Councilor Ray asked if WTIF revenues could be used for dredging and public transit, and Mr. Mitchell noted that improvements to Commercial Street, including pedestrian improvements, are eligible for TIF funding. Dredging is also an allowable use, as well as the proposed new pier. He also noted that the Downtown TOD TIF District can support investment in transit City-wide.

Councilor Ray asked if removing the noted properties would provide for a lower increased assessed value for the WTIF, and Mr. Mitchell indicated that it would. The City captured the WEX development and the rest of Thames Street at its lowest value, as it did when it added the Portland Foreside property.

Councilor Ray asked if other properties could be removed from the WTIF and create a freestanding District, and Mr. Mitchell said that that could be done.

Chair Costa noted that the Waterfront Central Zone ordinance also provides restrictions on use, asking if that was relevant to this discussion. Mr. Mitchell noted indirectly. The Waterfront Growth Area Ordinance allows for a property in that area to be added to the WTIF when ready.

Mr. Mitchell then said the next step after removing the properties from the WTIF is to create the freestanding PFTOD TIF District. He noted that there are State Statutory limits on how much acreage and original assessed value a municipality can TIF. TOD TIF Districts, however, are exempt from those limits, so this would free up 70 acres and associated original assessed property valuation form those limits.

Mr. Mitchell then described the TOD TIF BID Application, noting that this proposed TOD TIF would be for 30 years at 100% capture, with Increased Assessed Value (IAV) in years 1 and 2 having 100% of the IAV revenue going to the City for use in this TOD TIF District. Years 3 to 22, would be the 20-year Credit Enhancement Agreement where 65% of the IAV captured revenue would go to the BID, and 35% captured and retained by the City for use in this TOD TIF District. Years 23 to 30 would have 100% of the IAV captured revenue going to the City for use in this TOD TIF District. All of the original assessed value goes to the City General Fund. Built in performance factors in the CEA would have documentation on their investment and taxes paid in full before reimbursement.

Mr. Mitchell then described the proposed uses of TOD TIF revenue in the district, which would include roads, utilities, and public access improvements proposed to be on both Developer and on City-owned real estate.

Chair Costa asked if the proposed uses have been itemized at this point in this new application, and Mr. Mitchell indicated in the negative; it would be when authorized to move forward to negotiate the same.

Councilor Thibodeau said that he would need to receive opinions and advice from Corporation Counsel and Bond Counsel on the proposed financial arrangements, including bonding need and uses.

Mr. Mitchell then moved onto the proposed BID, which would be similar in form to the BID structure the City currently has with Portland Downtown (PD). The BID would include only the 10 acres owned by Portland Foreside. The PD comes before the City Council each year for it to authorize the assessment fee in the BID; this would need to be done for this one as well.

Chair Costa asked about governance for the BID, and Mr. Mitchell said that it is governed by its own Board of Directors, independent of the City, noting that the PD is a 501c4 organization. The City does not have a say in Board of Directors make-up.

David Packard, Vice Chair of the PD Board, added that State law determines how a 501c4 is set up, with the PD Bylaws defining the Board. Mr. Mitchell also noted that the BID Board can amend their own Bylaws.

Councilor Ray asked about BID limits, and Mr. Packard said that the area limits are 2% of the City's total acreage and PD is now close to the limit.

Mr. Mitchell then noted in the packet, on p. 23 of 60, that CEA funds would go to the BID, with the City issuing debt, and the BID being responsible for debt repayment. Bond proceeds would be used to build common infrastructure and City projects.

Chair Costa noted that the BID would have two sources of funding, from the CEA and the special assessment.

Mr. Mitchell noted that the Developer's attorney can explain more about this later in detail. He also noted that with Portland's TIF Policy, he reminded the developer about that Policy requiring compliance with the City's Green Building Code; in construction phase of a TIF-assisted project, it must compensate all employees the wage rates and benefits as required under applicable State prevailing wage law or Portland City Ordinance, whichever is greater; and third-party underwriter to review and provide documentation of TIF revenue funds as a financial necessity for the project to proceed.

Chair Costa noted that if is determined that TIF revenue assistance is not needed, this would not move forward.

Mayor Snyder referred to p. 48 of 50, and Mr. Mitchell said that those are only estimates at this time provided by the Applicant based on timing of development and the IAV anticipated.

Mayor Snyder noted that the proposed BID has a single property owner, whereas the PD has several owners and asked if this was an issue. Casey Prentice, representing Portland Foreside, noted that currently there is a single owner, but there are plans for subdivision into many tax parcels resulting in multiple owners in the BID.

Mayor Snyder asked about the assessment revenue going to BID to pay the debt service from the City issuing the bonds. Mr. Prentice said that some of the debt service also would be covered from CEA revenue, which goes to the BID to not only pay debt services but common area maintenance.

Councilor Thibodeau noted the estimates on the mil rate for 30 years, which is difficult to determine, particularly with the revaluation underway. The City also needs to determine performance guarantees for the CEA and BID for performance or non-performance. If not performing, how would that affect the BID and developer? Would there be liens for non-payment of the BID assessment, and what affect would that have on paying the bond debt? Any impacts to the City's bond rating? Councilor Thibodeau said that at this time he has more questions than answers.

Councilor Chong said that he would like to see a cash flow chart on how the numbers would work. This would help him to determine if it would be or not be a benefit to the City. What would the City be liable for? Who profits? Why bonding? How debt paid off? If it is determined to be fair, he would be fine with the project, but he needs to see the need and how it benefits the City and the Developer.

Mr. Mitchell said that more information would be provided. This is preliminary to get this out to the Committee and public.

Councilor Thibodeau asked for more information on phasing, development costs therefor, bonding, and timing. Time changes over periods of time and he would like a better understanding of how long will it take to complete all phases, costs, and the bonding.

Councilor Ray described issues she is having to reconcile going forward, particularly the City okaying demolition of the former erecting shop building (often referred to as Building 1) because the developer would provide a public easement from Fore Street down to the water, and now it appears TIF revenue would fund that improvement. In addition, when the City sold the triangle to Portland Foreside, Portland Foreside was going to build the internal road, and now TIF revenue also would appear to be used for that in this scenario. She sees the benefit to create a free-standing TIF District for the property for the City's benefit, not particularly for the developer's benefit.

Councilor Costa noted that he put this application on the Agenda for public disclosure, noting that the City has no position, with Mr. Mitchell providing this high level summary of what is being requested. The City needs to think carefully on the financing structure for all parties and the precedent for this type of structure.

Councilor Ali also had questions about full build out and construction employment wages.

Councilor Chong said that it is an impressive proposal, but questions the financial necessity of the freestanding TIF District for the developer, understanding its complexity, and thanked all for the work.

Chair Costa appreciated the feedback, and it is not necessary to answer all questions at this time. This was a chance to review a significant proposal/application and the preliminary question for the City is to discuss possible next steps. If the City decides to move forward, there will be additional meetings and opportunities for public comment.

Item #4: Executive Session: Pursuant to 1 M.R.S.A. 405(6)(C), the Committee will go into executive session to provide staff direction on the following:

a) **Possible TIF CEA public-private partnership to stimulate parking structure investment for public use; and,**

b) **Possible land exchange agreement to secure privately-owned property for municipal use.**

Councilor Thibodeau said that he talked with Corporation Counsel West Chuhta, with the result being that he has a conflict in that his employer is involved with these items so will be leaving the meeting at this time, noting that he did not look at the confidential material.

On motion made by Councilor Chong, seconded by Chair Costa, the Committee voted unanimously (2-0) to go into executive session at approximately 7:05 p.m. pursuant to 1 M.R.S.A. 405(6)(C) to provide direction to City staff on real estate negotiation matters. At approximately 7:42 p.m., the Committee came out of executive session and the meeting adjourned.

Respectfully,

Lori Paulette