Portland, Maine Yes. Life's good here.

**ECONOMIC DEVELOPMENT COMMITTEE**

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| **DATE:** | **September 5, 2017** |
| | **(Tuesday)** |
| **TIME:** | **5:30 – 7:30 p.m.** |
| **LOCATION:** | **Room 209** |
| | **Portland City Hall** |

**AGENDA**

1. **Review and accept Minutes of previous meeting held on August 1, 2017.**

2. **Introduction to proposed new City Policy for Payment in Lieu of Taxes for non-profit organizations - for Committee and staff discussion only.**
   a) See enclosed memo from Brendan O'Connell.

3. **Introduction to proposed new City Development Impact Fee Policy - for Committee and staff discussion only.**
   a) See enclosed memo from Jeff Levine.

4. **Maine State Pier overview to discuss increased utilization - for Committee and staff discussion only.**
   a) See enclosed memo from Bill Needelman.

**Next Committee Meeting:** September 19, 2017

**Councilor David Brenerman, Chair**

**Minutes**
**Economic Development Committee**
**August 1, 2017**

A meeting of the Economic Development Committee (EDC) of the Portland City Council was held on Tuesday, August 1, 2017 at 5:30 p.m. in Room 24 of Portland City Hall. Present from the Committee was its Chair Councilor David Brenerman and members Councilors Pious Ali and Spencer Thibodeau. Also present from the City Council was Mayor Ethan Strimling. Present from the City staff were Associate Corporation Counsel Michael Goldman, City Manager Jon Jennings, Economic Development Director Greg Mitchell, and Senior Executive Assistant Lori Paulette.

**Item #1: Review and accept Minutes of previous meeting held on July 19, 2017.**

On motion made and seconded, the Committee voted unanimously to accept the Minutes as published.

**Item #2: Review and vote to recommend to the City Council a Purchase and Sale Agreement to sell a portion of City-owned Thames Street property.**

Chair Brenerman said that the City Manager and Greg Mitchell will first make a presentation, followed by Jonathan Cohen, and then public comment will be taken.

Mr. Jennings said that this is being brought to the Committee for review and vote to recommend to the City Council approval of the proposed Purchase and Sale Agreement. He noted that the current parking on the lot will be reconfigured to the remaining portion of this lot, which will be re-graded. Also, for Island parking, with Councilor Ray's assistance, an additional 35 parking spaces have been identified in the Island parking zone and new signage will be installed this week. This proposed sale will facilitate the location of Wex headquarters to this site.

Mr. Mitchell added that there have been six other public meetings on this item, with this meeting making the sixth public meeting. The development provides for new construction of a 100,000 sq. ft. building, which includes 10,000 sq. ft. of ground floor retail space, and construction of between 450-550 surface and structured parking spaces located within 750 feet of the property, which would available for public use 24 hours a day. He noted that it is estimated that this development will bring in $300K annually in new property taxes. The purchase price for the property is $3.3 Million, and an updated appraisal will be into the City this week. The property is being sold as is, where is, with the City having the right to repurchase. The development also provides for the future extension of Montfort Street. It is anticipated that the closing on this sale could occur the first of October.

Mr. Mitchell said that, with regard to parking users currently on the site, City employees will transition to park in the Developer's Ocean Gateway Garage for 90 days at no cost. The remaining portion of the City's Thames Street parking area will be reconfigured for approximately the same number of spaces, as well as the additional Islander parking spaces as Mr. Jennings noted previously.

Mr. Mitchell then noted a License Agreement between the City and Jackrabbitt LLC for access to both of these properties, and there is a condition in the PSA to allow for termination. Discussions have already been held between the parties, including the developer in this regard.

Mr. Mitchell closed saying that the Eastern Waterfront Master Plan (EWMP) has been the guiding document and this development furthers the goals of the EWMP; it attracts private sector investment and quality jobs – over 400 estimated to begin with; stimulates new parking structures; preserves property for future public streets, and provides for vitality in this area.

Mr. Cohen appreciated the opportunity to get where we are today. This development will create job opportunities for everyone, and the site is just right for Wex. Wex has committed to a 15-year lease for the property, and he then described the building and service areas, noting that he is not requesting any TIF assistance from the City.

Mr. Craig of the Dunham Group said that Wex is very excited about their new headquarters, noting that they are competing on an international level for employees. They anticipate a lot of new job growth and will retain a presence in South Portland where they are now. This is a great opportunity for Portland.

Councilor Thibodeau disclosed for the record that his employer does do work for Wex, but he has no ownership and will be voting on the item.

Councilor Ali asked about 90,000 sq. ft. of the building going to Wex, and the other 10,000 sq. ft. will be occupied by whom. Mr. Cohen indicated that it would be a retail food provider, and other retail but cannot confirm at the present time exactly which retailers will be there.

Chair Brenerman asked about the rooftop and parking, and Mr. Cohen said that Wex intended to have a rooftop deck for company purposes, as well as perhaps civic events. Regarding parking, Mr. Cohen described it, including additional parking at 100 Fore Street, and parking at the Ocean Gateway Garage. The timeline for Wex to occupy the building is anticipated April 2019.

Mayor Strimling asked about the estimated $300K in new annual taxes, and Mr. Mitchell said that that would be from just the building. He estimated that 450 parking spaces would bring in an additional $135K in new taxes annually, with Mr. Jennings adding that personal property of Wex will also be taxable.

In response to Mayor Strimling, Mr. Jennings said that areas for additional overflow parking for the Thames Street parking area is being considered for underneath POT, Chestnut Street garage, temporary parking at the Amethyst lot, and the right side of Montfort Street could be invested into for parking.

Mr. Peverada added that the cost to regrade the remaining portion of the Thames Street parking area is minimal.

Councilor Thibodeau asked about the extension of Thames Street to Fore Street which would need a portion of the Developer's property, and Mr. Mitchell said that that would be a separate Purchase and Sale Agreement and not part of this.

Mayor Strimling asked if the Wex building would be LEED certified, and Mr. Cohen said that they would do their best to minimize the carbon footprint.

Mr. Jennings added that most new development is designed to get close to LEED standards. Site plan approval would provide for the building to meet certain standards.

Mayor Strimling appreciated to get the development close to LEED standards. He then asked if the updated appraisal would be in this week, and Mr. Mitchell answered in the affirmative.

Chair Brenerman then opened the meeting for public comment.

Mayor Strimling noted that he needed to leave in 15 minutes for another meeting.

Randy Schaeffer of 21 Elizabeth Street on Peaks Island said that the City needs to provide for more islander parking spaces which have been slowly disappearing.

Timmi Sellers of 89 Pleasant Avenue noted concerns as well for islander parking, where anyone can use those parking spaces. This needs to be clearer for islanders, as well as parking rates.

Lisa of Peaks Island expressed concerns over the loss of islander parking over the past 10 years, and the lack of available monthly parking for the islanders. Parking needs to be clarified for the islanders.

George Rheault of Bayside said that all Portlanders, including the islanders, pay the same tax rate and that mainland taxpayers are not provided parking. Regarding Wex, he noted that it profits from fossil fuels.

Charles Burr of Central Avenue Peaks Island noted that although islanders may not pay a higher rate of tax, it does pay its fair share and get half back in services from the City. He cautioned that without parking for islanders, Portland may end up with a lot of vacant houses on the islands.

Maury Sellers of Peaks Island agreed with Mr. Burr.

Chris of Auburn Street said that downtown parking is available for islanders, and it is an issue for everyone. He also noted residential concerns with the influx of Wex employees.

Tony Donovan of Portland said that Wex is a great company, and the City should include railroad plans with developments. There are 32 miles of rail from India Street to Auburn and described multi-modal opportunities, together with light rail, that should be considered.

Ben Calley of East Deering said that this is prime public land and he hoped the highest standards are attached to it, including the hiring of local contractors. He also noted the need for more public transportation, including light rail to get to other areas of the state.

A gentleman spoke, a Portland resident on Washington Avenue, agreed that a larger plan for transportation is required. He also is skeptical of 450 high quality jobs, as Wex is getting smaller and drying up.

Susan Hanley of Peaks Island said that dedicated islander parking is needed, and also traffic congestion will get even worse than it is now on Franklin Arterial.

On behalf of the islanders, Mr. Jennings said 35 spaces were found on Fore Street in the Islander Parking Zone. The City is also negotiating with property owners one block from Casco Bay Lines for air rights for the City to possibly build parking up with island residents in mind. It is also anticipated that with two new parking garages in the future, there could be a certain percent for islanders but it cannot be free. As noted previously, the Amethyst lot may be used for parking on temporary basis, and possibly convert Angelo's acre into parking. Mr. Jennings said that the City is also looking at autonomous vehicles that could run from Portland Transportation Center to Ocean Gateway, which could also stop at Angelo's Acre for pick up. He closed assuring the island residents that City is looking closely at their parking needs.

Tony Grath with the Portland Chamber said that businesses want to stay here, and this is a great opportunity for Portland and Wex. It is sending a message that Portland supports business.

Seeing no further public comment, Chair Brenerman closed the public comment session.

Mr. Jennings commented that, related to Wex, it is far from a dying company and can provide further information to document that. Also, the CEO of Wex is committing to a 15-year lease of the building and noted that there would be 450 new jobs in Portland and an additional 200 future jobs.

Councilor Thibodeau noted the comments for light rail, which he agrees with, but there is a lot more work to be done, including large funding expenses estimated in the billion dollar range. He also noted that the lender for this project should be interested in flood insurance. Regarding the Purchase and Sale Agreement, Councilor Thibodeau referred to Section 3(d), second sentence, "Title shall be good, marketable, and insurable title…" He requested it be amended to "Title shall be good and insurable title…" Regarding Section 12, he asked if the intent was to build a parking structure, and it was indicated in the affirmative.

Councilor Thibodeau said the PSA is overall good and a great location for Wex. He noted that transportation demand issues will come out during site plan review.

Mr. Jennings said that the City is expecting FEMA flood maps any day and it is anticipated some impact at this location but greater elsewhere, and there will be a public discussion about this.

Mr. Mitchell agreed that transportation issues would come out during the site plan process. He also noted that there is an RFP that will be going out very soon for a Multi-Moda-Transportation and Marketing Campaign to gauge perceptions and reality of accessing Portland's downtown, highlight available parking, and emphasize the availability of alternative transportation methods. This RFP is in partnership with the Portland Jetport, Portland Downtown, NNEPRA, Metro, and Bike Maine.

Councilor Ali thanked Mr. Donovan for his rail passion, and then asked when this item would come to the City Council, and requested more information on the fossil fuel comment.

Chair Brenerman indicated August 21, which would provide for another opportunity for public comment.

Councilor Thibodeau, regarding traffic concerns, said that the City is currently improving way finding and moving forward on "complete streets" to increase traffic flow and roundabouts in 2018.

Mr. Jennings said that he signed off on a grant proposal for more bike lanes, and Washington Avenue is included; Forest Avenue will also be looked at. He then described other areas where improvements are needed, including Morrill's Corner, and Brighton Avenue at Falmouth Street.

Chair Brenerman said he would support rail if the City could afford it. He acknowledged the islanders parking concerns and the City Manager's ongoing efforts in this regard. The Chair also noted that it is important to bring a local company here to create its headquarters with 450 new employees, while still maintaining its South Portland presence, and adding 200 more in the future will keep many college graduates here.

On motion then made and seconded, the Committee voted unanimously (3-0) to forward this item to the City Council with a recommendation for approval.

There being no further business, the meeting then adjourned at approximately 7:40 p.m.

Respectfully, Lori Paulette

Portland, Maine    Yes. Life's good here.

Finance Department
Brendan T O'Connell, Director

**MEMORANDUM**

**TO:** Members of the Economic Development Committee

**FROM:** Brendan T O'Connell, CPA – Finance Director

**DATE:** September 5, 2017

**SUBJECT:** **Introduction to Payment in-lieu of Taxes (PILOT) Policy Study**

## (A) Summary

One of the City Council Common Goals for 2017 which was assigned to the Economic Development Committee was to study a new payment in-lieu of taxes ("PILOT") policy for the City of Portland. Staff has begun researching potential PILOT policy alternatives for the City of Portland and will present recommendations to the Committee at their October 3 meeting. A brief introduction to the current PILOT practices and procedures will be provided at the September 5 meeting and input will be taken from Committee members.

## (B) Currently Exempt Property in Portland and Current PILOT Practice

According to the City Tax Assessor, the amount of tax exempt real estate within the City of Portland has risen to approximately $2 billion dollars as of June 30, 2017 and this amount may be understated. This represents nearly 21% of the total City valuation, a very high percentage when compared to other municipalities nationwide (see Exhibit A). The rise in exempt valuation has put increasing pressure on the remaining property owners (referred to hereafter as "non-exempt property" owners) to fully fund the broad spectrum of services offered to residents and visitors to Portland.

The City currently has no formal PILOT policy. Agreements are negotiated with exempt property owners on very limited case by case basis, with little to no solicitation of new or extended PILOT agreements. The PILOT agreements and payments are typically negotiated to offset the cost of "basic" services in the City, loosely defined as public safety services and core public works services. Currently 10 formal PILOT request letters are sent to nonprofit organizations annually, with a very limited number of other agreements in place with other non-exempt property owners.  In total $570,000 of revenue was estimated within the FY18 budget from PILOT payments.  Actual collections in FY17 were slightly higher than budgeted, due in part to certain PILOT agreements based on profits.

It is important to note that nationwide there are no laws which require PILOT payments.   The current City PILOT payments are voluntary and any future PILOT payments or agreements would remain voluntary.

## (C) Goals of the PILOT Policy Study

As noted by the Lincoln Institute of Land Policy, *PILOTs are a tool to address two problems with the property tax exemption provided to nonprofits. First, the exemption is poorly targeted, since it mainly benefits nonprofits with the most valuable property holdings, rather than those providing the greatest public benefits. Second, a geographic mismatch often exists between the costs and benefits of the property tax exemption, since the cost of the exemption in terms of forgone tax revenue is borne by the municipality in which a nonprofit is located, but the public benefits provided by the nonprofit often extend to the rest of the state or even the whole nation.*[1] PILOT policies are becoming an increasingly common way to solicit contributions from nonprofits to help offset the cost of services they consume.  See Exhibit A on page 4 for a nationwide comparison of charitable nonprofit organizations registered with the IRS by type as well as their assets and liabilities.

The PILOT study will have several goals and objectives.  Above all, a uniform policy must be developed to be applied to the exempt properties within the City.   A PILOT policy would provide clarity to exempt organizations who wish to locate in Portland and create a more even playing field within exempt property owners.   An added benefit will be a more equitable distribution of cost of services between exempt and non-exempt property owners, although actual increases in property tax revenues from formal PILOT policies vary significantly from municipality to municipality.

As part of this uniform policy, guidelines for City staff may be included.  For example, when a nonprofit expands holdings within the City, there should be protocol for initiation of a conversation around PILOT payments to offset the cost of conversion of non-exempt property to exempt property. This was recently done by the Planning Department when approving a recent development which included exempt property.

A secondary goal of the PILOT study will be to review the population of exempt properties in more detail, to fully understand the organizations receiving the most value from their exemptions.  It is best practice to review the benefits provided by exempt organizations during PILOT policy development.

[1] Kenyon and Langley - *Payments in Lieu of Taxes - Balancing Municipal and Nonprofit Interests,* 2010

**(D) Arguments for Strong PILOT Policy**

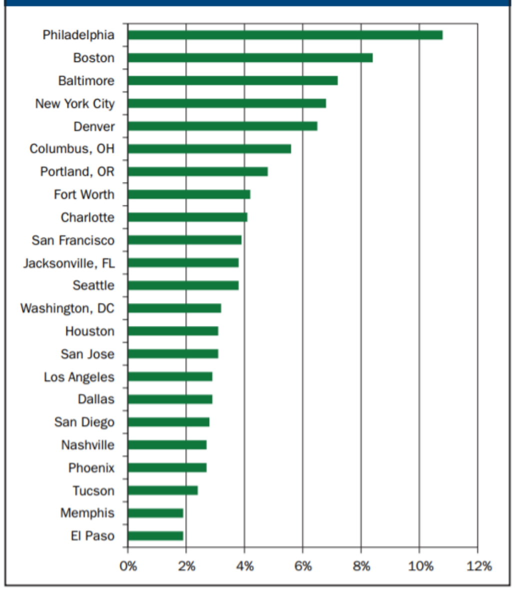
- With an increasing percentage of exempt property within City, nonprofits should share in the cost of basic services which benefit them. Police and fire protection and road maintenance are the costs most frequently allocated to exempt property owners in other municipalities.
- A strong PILOT policy has the potential to help ease the tax burden on non-exempt property owners, and create a more equitable distribution of the tax levy across those who consume core City services.
- PILOT policies can help address inequities created by the charitable tax exemption (i.e. the greatest tax savings goes to organizations who have large land holdings).
- PILOT policies can reduce inefficient location decisions made by nonprofits (i.e. exempt status creates an incentive for nonprofits to locate in cities where the tax savings are higher).

**(E) Questions, Comments and Guidance from Committee**

City staff will take questions from Committee on current policy, research performed to date, and feedback / suggestions on PILOT policy development during the September 5 meeting.

Exhibit A

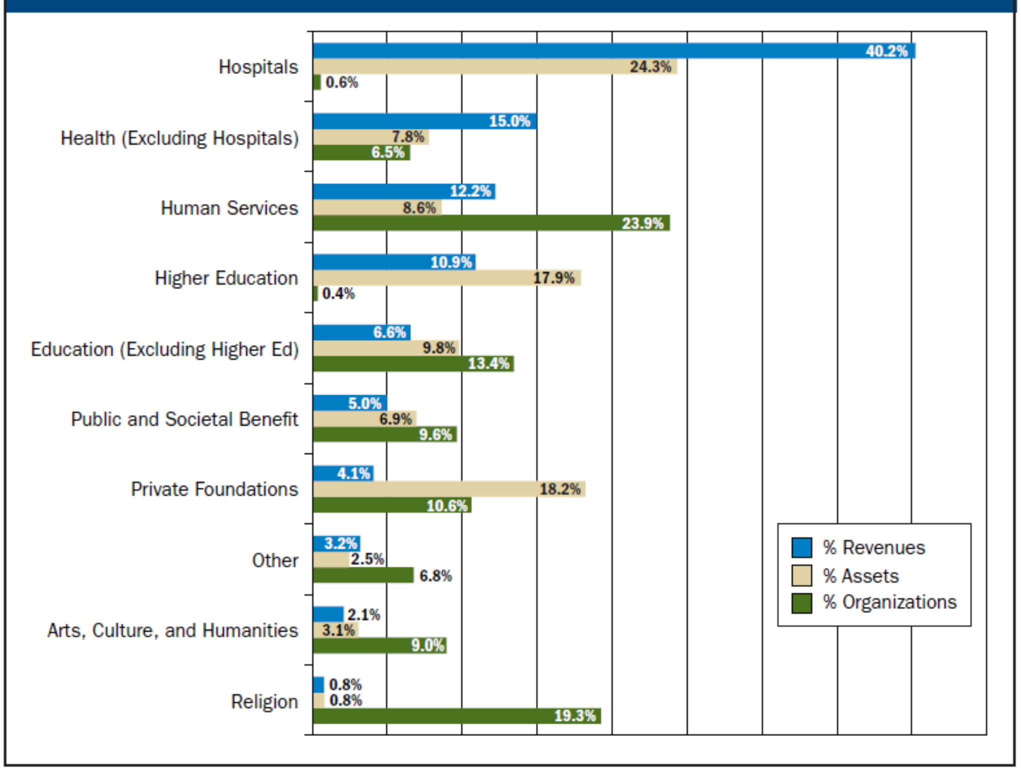
**Estimated Value of Exempt Property Owned by Nonprofits as a Percent of Total Property Value**




Note: These statistics should be viewed as rough estimates. Policy makers should exercise caution when drawing conclusions from these data, because the quality of assessments of exempt property is wide-ranging and often unreliable (Lipman 2006b).

Source: Lipman (2006a).

**Charitable Nonprofits Registered with the IRS (April 2010)**




Note: Religious congregations are not required to register with the IRS; nonprofits with gross receipts under $25,000 and religious congregations are not required to file IRS Form 990 with financial information. The number of organizations includes all 501(c)(3) charitable nonprofits registered with IRS (1,138,289), but revenues and assets for each subsector only include charities that filed IRS Form 990 (598,110).

Source: National Center for Charitable Statistics (2010).

Jeff Levine, AICP
Director, Planning & Urban Development Department

# Memorandum

**To:** Economic Development Committee

**From:** Jeff Levine, Director, Planning & Urban Development

**Date:** August 31, 2017

**Re:** Impact Fees

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One of the recommendations of the Comprehensive Plan is to look at a system of Impact Fees for the City as a way of both funding city infrastructure, and providing predictability for developers. This memo outlines what Impact Fees are, how they have been applied elsewhere, and a general approach to an Impact Fee system for Portland.

<u>What Are Impact Fees?</u>

Impact Fees are a systematic way of having new development pay for the infrastructure demands it creates. Cities that use Impact Fees choose certain types of infrastructure they feel needs to be improved and develop a baseline and needs assessment for each of them. Costs are developed for future needs and then assigned to new development as it comes in. When sufficient funds have been collected, the improvements are made. Often there is a feedback system in place – as improvements are made, a new needs assessment is conducted and the Impact Fee system is revised accordingly.

Impact fees can be a logical and fair way to address public impacts of new development. Developers are able to plug a mitigation cost into their pro forma and plan for it, rather than having to negotiate mitigation and deal with the uncertainty of that process. The City is able to devote energy into implementing these improvements, rather than into extensive negotiations with each developer based on their documented impacts. Neighbors and community groups will know what projects in their neighborhood are being funded and more confidence that they will be completed.

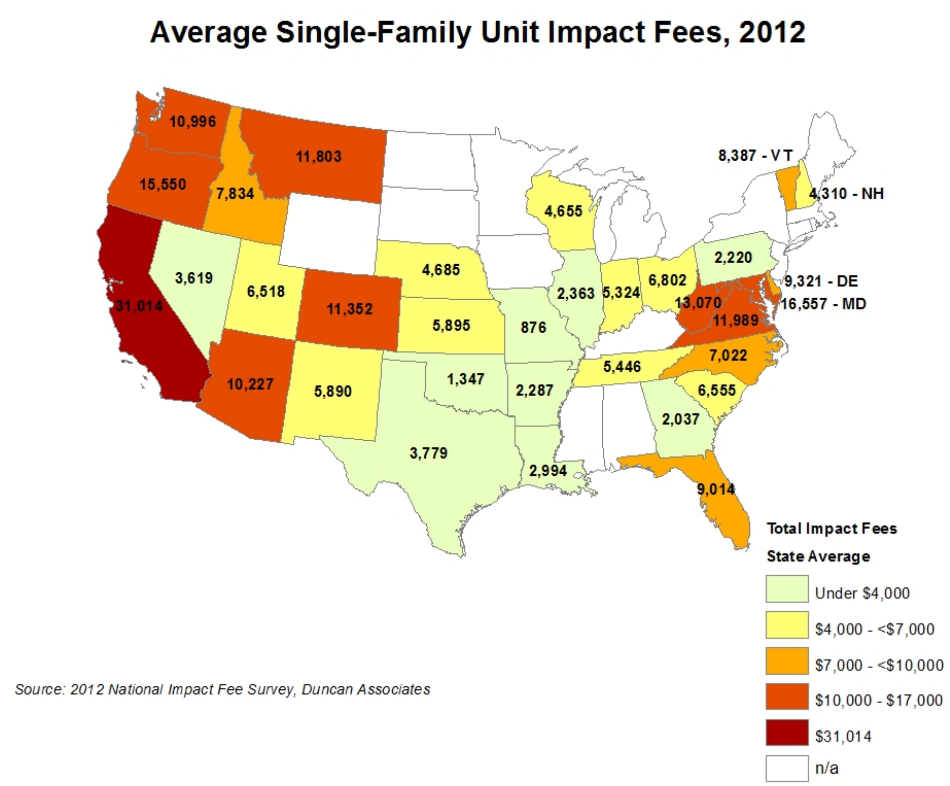
Commonly, impact fees are collected to mitigate impacts on transportation systems; parks & open space; schools; and stormwater/sewer systems. Costs are charged on either a square foot basis or on a per unit basis. For example, Concord, NH, has an impact fee for transportation improvements that charges $2,110 per new single family home, $1,449 per multifamily unit, and $1.70 per square foot of office space. Concord also charges a per unit fee for recreational facilities and for schools.

It is critical that any impact fee system be based on solid data regarding current and future needs, as well as meeting tests established by the U.S. Supreme Court related to the fees having a *rational nexus* to the development (*Nollan v. California Coastal Commission*, 483 U.S. 825 (1987)) and have *rough proportionality* to the actual impact of the project (*Dolan v. City of Tigard*, 512 U.S. 374 (1994).)

The American Planning Association has a policy guide on impact fees that provides a solid basis for thinking about their utility:

> "Impact Fees, when based on a comprehensive plan and used in conjunction with a sound capital improvement plan, can be an effective too for ensuring adequate infrastructure to accommodate growth where and when it is anticipated"

<u>Where Are They Used Nationally?</u>
Impact fees are used in a majority of states nationwide. A 2015 survey looked at 270 communities using impact fees as part of their development review process in 29 states and found the average impact fee for single family homes was $11,868 and the average impact fee for office development was $4,356/1000 square feet.[1]




[1] *National Impact Fee Survey 2015*, Clancy Mullen, Duncan Associates, Austin, TX

Impact fees are most common in Florida, Colorado, the southwest, and the far west. However, communities in Maine, New Hampshire and Vermont use Impact Fees. Municipalities in Massachusetts are not permitted to charge impact fees for development, except in very limited cases.

Only 10 states (including Maine) have specific state legislation authorizing the use of impact fees generally. In many other states, local governments have pursued impact fees, either through home rule authority or other mechanisms.

Some communities similar to Portland have well established impact fee systems, including Concord, NH; Manchester, NH; and Burlington, VT. Generally larger cities have not implemented impact fee systems, although Chicago has an impact fee system for parks and open spaces.

In Oakland, California, there is a proposed impact fee system that is a useful example for Portland, in that it is comprehensive in approach and does not tie the fees to specific improvements. Their zone approach is an interesting methodology for a densely-developed city.

<u>What About in Maine?</u>
Maine's legislature authorized the use of impact fees in 1987 as part of an overall update to the state's planning and land use laws. Title 30-A M.R.S. §4354allows cities to pass an ordinance to require collection of impact fees for a variety of uses, including wastewater collection and treatment; solid waste facilities; fire protection; transportation; and parks and open space. While public education is not listed as an explicitly authorized purpose, it has been accepted as another authorized use for impact fees in Maine.

Several communities in Maine have adopted impact fees for a variety of uses. These include:

- York, where they collect impact fees for schools, water, and sewer infrastructure;
- Scarborough, where they collect impact fees for specific transportation improvements and for schools;
- Gorham, where they collect impact fees for water improvements; open space and recreation; and schools; and
- Saco, where they collect impact fees for wastewater improvements.

<u>What Types of Impact Fees are Used?</u>
As mentioned above, impact fees are used for a variety of public infrastructure needs. The most common fees are for:

- Schools
- Wastewater and Stormwater

- Water Supply
- Transportation Infrastructure
- Parks, Recreation and Open Space
- Libraries
- Public Safety

Fees were traditionally charged at a uniform level for each use. More recently there has been some stratification of fees. For example, some communities charge school impact fees for homes with three or more bedrooms only, or charge a lower fee for smaller units. Similarly, some impact fee systems charge less or nothing for developments utilizing existing infrastructure, such as in a traditional town center.

**Table 1. Average Fees by Land Use and Facility Type, 2015**

| Facility Type | Single-Family (Unit) | Multi-Family (Unit) | Retail (1,000 sf) | Office (1,000 sf) | Industrial (1,000 sf) |
|---|---|---|---|---|---|
| Roads | $3,256 | $2,201 | $5,605 | $3,403 | $2,063 |
| Water | $4,038 | $1,387 | $647 | $606 | $627 |
| Wastewater | $3,694 | $1,777 | $663 | $640 | $642 |
| Drainage | $1,397 | $784 | $1,056 | $891 | $1,097 |
| Parks | $2,812 | $2,099 | ** | ** | ** |
| Library | $403 | $314 | ** | ** | ** |
| Fire | $472 | $347 | $388 | $339 | $211 |
| Police | $365 | $283 | $403 | $259 | $171 |
| General Government | $1,689 | $1,200 | $745 | $751 | $436 |
| Schools | $4,769 | $2,562 | ** | ** | ** |
| Total Non-Utility* | $8,298 | $5,484 | $6,165 | $4,214 | $2,751 |
| Total* | $11,868 | $6,870 | $6,346 | $4,536 | $3,150 |

* Average of total fees charged by jurisdictions, not sum of average fees by facility type (non-utility excludes water and wastewater

** rarely charged to nonresidential land uses, with the exception of school fees in California

*Source:* National Impact Fee Survey 2015, *Clancy Mullen, Duncan Associates, Austin, TX*

<u>What Current City Policies and Ordinances are Similar to Impact Fees?</u>

As part of the City's site plan review process, and as delegated by the state to issue Traffic Movement Permits (TMP) for the Maine Department of Transportation, mitigation is currently negotiated on a case-by-case basis. Applicants submit a transportation study, stormwater analysis, and other documentation outlining their estimates of the impact of the development on City infrastructure. Sometimes these studies suggest mitigation proposals, and sometimes they find that no mitigation is required. City staff and consultants review these studies and offer a response. As part of the process, a mitigation package is approved as part of the site plan approval and TMP process.

Sometimes the mitigation involves a physical improvement, such as a new traffic light. Sometimes they involve an in-kind contribution to a future improvement. These contributions are held in discrete accounts in the City system until sufficient funds have been found to complete these improvements. These contributions have some similarity to impact fees but are not as comprehensive. As a result, the City may have half of the cost of a particular improvement in an account for some time, but does not have the funds needed to complete that improvement.

The current system, particularly for TMP's, is based on a "first past the threshold" trigger. In other words, until an intersection fails, developers are not asked to fund any improvements. Once the intersection fails, the cost of addressing that failure falls to the developer whose project created that last increment of impact. While that can both help and hurt the same development, it creates conflict and is not as fair as an impact fee system that would have been collecting funds from developers all along.

There is a limited form of impact fees in effect in Portland for projects that wish to reduce their parking requirement. This voluntary fee-in-lieu-of parking system in effect on the Peninsula in certain zones. That system, created in 2010, allows developers to pay a fee rather than provide some of their parking on-site. That fee goes into the Sustainable Transportation Fund and is used to fund transportation alternatives, such as transit improvements, bike parking, and sidewalks. While this ordinance has had some successes, it is very limited in scope. Similarly, the inclusionary zoning ordinance is based on a study that connects new housing development and affordable housing needs.

At present City mitigation efforts are limited to transportation, sewer and stormwater, and, very occasionally, school impacts. There is no systematic process for funding mitigation for the other categories listed above. As part of the 58 Fore Street TMP, staff negotiated a pilot impact fee system for transportation improvements. That methodology worked well, though it was isolated in that case to improvements specific to that geographic area.

<u>What is the Process to Create an Impact Fee System?</u>
While it is tempting to simply create an impact fee system and implement it, there are several important steps that must be taken to establish the public policy and legal framework for an effective program.

1. A city should first complete a Comprehensive Plan or comparable document that establishes the planning goal of an impact fee system and, as much as possible, sets city goals for infrastructure baselines. The recently approved Comprehensive Plan does much of this work, as do other studies completed in the past few years, such as the Trust for Public Land parks and open space study.

2. The City needs to determine in what areas impact fees will be pursued. Currently Portland only seeks mitigation for transportation and stormwater impacts in most cases. The more areas in which impact fees will be implemented, the more

upfront work will be needed. The cost to developers will also be higher, but greater public benefit will be provided.

3. Those infrastructure baselines need to be refined and turned into a set of public improvements that will be needed based on expected development. The City's Capital Improvement Plan does a good job at outlining these improvements, but it is fiscally constrained based on the City's existing financial resources and bonding capacity. A more extensive list of needs, with estimated costs attached, will need to be developed. This can be very simple, as in the case of Scarborough where they simply sought to fund a few specific roadway projects, or more complicated. Alternatively, they can be comprehensive and address a number of impacts at once, as Oakland is doing. That would be our current recommendation.

4. An impact fee study needs to be completed to link these costs and project new development. While it is tempting to skip the study phase, this study is especially important given U.S. Supreme Court rulings in *Nolan* and *Dolan* regarding establishing a rational nexus and rough proportionality for impact fee systems.

5. The City needs to approve an impact fee ordinance with a fee schedule, and amend any other ordinances that may need changing to create such a system in accordance with 30-A M.R.S. §4354.

6. Staff needs to be educated on the new system, and educate the development and neighborhood groups on it as well, to ensure that everyone is familiar with the new process.

7. Staff needs to track the various accounts and complete the funded improvements when collections are sufficient.

8. The list of projects and fee structure will need regular revisiting and updating. At a minimum, this should be completed every few years. Ideally this work would be ongoing as part of the CIP process.

<u>What are our Next Steps?</u>
With the approval of the Comprehensive Plan, the policy basis is in place for next steps. The planned rewrite of Chapter 14 into an updated Unified Development Code is compatible with replacing the current process with a more systematic impact fee system.

Our next step is to complete the nexus study that will document the rationale for the amount of the Impact Fees. Staff has completed a Request for Proposals for a consultant to complete that study with the $25,000 appropriated in the FY18 budget for this purpose. Planning has been working with Public Works; Economic Development; Parks, Recreation & Facilities, and other departments to prepare for this work. We hope to have a consultant selected in September and the nexus study completed this calendar year. We will then submit a proposed ordinance for Planning Board and City Council review.

Portland, Maine — Yes. Life's good here.

Economic Development Department
Gregory A. Mitchell, Director

**TO:** Economic Development Committee

**FROM:** Bill Needelman, Waterfront Coordinator

**DATE:** August 31, 2017

**SUBJECT:** Portland Ocean Terminal at the Maine State Pier: Options for Increased Utilization

**CC:** Jon Jennings, City Manager
Greg Mitchell, Economic Development Director
Kathy Alves, Facilities Director

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**Introduction:**

For many years, the Portland Ocean Terminal (POT) has been an underutilized asset on Maine State Pier. At 900 feet long and totaling over 120,000 square feet of interior space, the City has struggled to find the appropriate mix of tenants and uses that would revitalize the structure while being compatible with the many existing functions and activities on the Maine State Pier and Ocean Gateway terminal complex. At the direction of the City Manager, the EDC is asked to provide direction to staff on a process to shape and implement an appropriate utilization plan for the POT.

**Background:**

The Maine State Pier and the Portland Ocean Terminal have been the subject of periodic planning and scrutiny since the announcement of the departure of Bath Iron Works in 1998. The 1998 *Cargo and Passenger Study*, the 2001 *Ocean Gateway Master Plan*, the 2002-2004 *Eastern Waterfront Master Plan*, 2006 *Maine State Pier Policy* amendments, 2006-2008 *Maine State Pier Request for Proposals*, and the 2009 *Development Alternatives Analysis* processes have all presented diverse visions for the future of the POT.

Virtually all development scenarios generated during the above processes described significant alternations, partial demolition, or complete replacement of the POT structure.

During the eight years since the last comprehensive evaluation of the POT's development potential, important changes impacting the Maine State Pier have evolved:

1. ***Ready Seafood:*** Arriving on the heels of the 2009 *Development Alternatives Analysis,* the success and growth of Ready Seafood in the southerly 20,000 sq ft of the POT demonstrates the value of the structure for marine enterprise in support of Maine's iconic and growing lobster industry.
2. ***Dramatic increases in cruise ship traffic***: Cruise ship landings in Portland and at the POT have grown beyond expectations and the POT provides an irreplaceable berth and support structure for what has become a core industry for the Portland waterfront.
3. ***Multiple changes in ships, schedules, and ridership for international ferry:*** Since the opening of Ocean Gateway in 2008, international ferry service has seen continual evolution of operators, vessels, schedules, and was in hiatus from 2009 to 2014. Understanding the future of international ferry service is critical to planning for the future of the POT.
4. ***Growth and expansion for Casco Bay Lines Ferries:*** The CBITD ferry terminal is the lifeblood of the Casco Bay Islands communities. Passenger and vehicle ridership has expanded significantly, resulting in recent and planned capital expenditure. Coordinated planning for CBITD and the POT is essential for the mutual success of both.

**Process Options:**

Any process planning for the intensification of use at the POT will need to incorporate some degree of analysis and coordination with the following issues:

1. ***Inventory existing uses***, assets, and current opportunities – including physical space, circulation, and parking requirements.
2. ***Assess existing conditions*** and maintenance needs of pier and building structure and systems.
3. ***Coordinate with existing operations*** including future CBITD and CAT ferries, Ready Seafood, Portland Tug, cruise operations, charters, US Customs and Border Protection, and City Events.

> *In addition to fully understanding existing conditions and uses, the City will need clarity on the future of international ferry and associated security needs for Customs and other security agencies. <u>Uncertainty over international ferry operations has been a significant barrier to past efforts to plan for and utilize the POT structure.</u>*

After engaging and assessing current conditions and operations, City staff will have several options for moving forward. The EDC is asked to provide feedback on the following process at the September 5 meeting.

***Potential Process for Evaluating Increased Utilization for the Portland Ocean Terminal***

1. ***Immediate-Term Internal Process:*** Staff led process working with Facilities Staff and pier stakeholders to generate utilization concepts and physical improvements for short-term implementation. Certain POT improvements, such as restructuring utility services, changes to facility security plans, and improved egress are needed for any expansion of use of the POT. Limited consulting services will be needed to generate and illustrate concepts that will function

and provide value for any potential reuse of the facility. Results of a staff process would be reported to the EDC prior to taking further steps toward implementation.

2. ***Longer-term Consultant Process:*** Following and building from the internal process described above, secure funding, draft scope, and release RFP for consulting services to provide an *alternatives analysis* for a more comprehensive rethinking of the POT structure for both use and physical improvements. Longer term consideration of the POT will require clarity on the future footprint and operations of international ferry and greater input from pier stakeholders and the public. The resulting *preferred alternative* will be presented for review and approval by the EDC and the City Council prior to implementation.

**Staff Recommendation:**

Staff from Facilities and the Economic Development Department recommend proceeding with the process outlined above. City staff and the current tenants of the POT have deep understanding of the building, existing conditions, its site, its limitations, and its potential. With clarity on the future of international ferry, staff will be well positioned to outline "no regrets" steps that can be taken short-term, as well a longer term development concepts for further feasibility testing and refinement by a qualified consultant team.

Existing tenants and stakeholders will be engaged at appropriate milestones through the process – including early inventory and coordination efforts. Previous public process results will be incorporated into the current evaluations and an appropriate public engagement strategy, proportionate to the scale of alternatives evaluated, will be established.

**Attachments:**

1. Maine State Pier Inventory Map, 2014

**ATT. 1. Maine State Pier Inventory 2014**