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

ECONOMIC DEVELOPMENT COMMITTEE

DATE:	**Oct. 3, 2017 (Tuesday)**
TIME:	**5:30 – 7:30 p.m.**
LOCATION:	**Room 209** **Portland City Hall**

A G E N D A

1. **Review and accept Minutes of previous meeting held on September 5, 2017.**

2. **Public hearing and vote on recommendation to City Council on the Economic Development Committtee's proposed amendments to the City Tax Increment Financing Policy.**
   a) See memorandum from Greg Mitchell and proposed revisions, in redline format, to City Tax Increment Financing Policy

3. **Executive Session:** Pursuant to 1 M.R.S.A. 405(6)(C), the Committee will go into executive session to discuss real estate negotiations for the sale of City properties listed below and provide guidance to staff:
   a) 44 Hanover Street;
   b) 55 Portland Street; and,
   c) Riverside Street

4. **Review of Draft Economic Development Committee Work Plan for discussion and direction.**
   a) See enclosed memo from Greg Mitchell.

Public comment will be taken on action items.

Next Committee Meeting: October 24, 2017; discuss November meeting dates.

Councilor David Brenerman, Chair

Minutes
Economic Development Committee
September 5, 2017

A meeting of the Economic Development Committee (EDC) of the Portland City Council was held on Tuesday, September 5, 2017 at 5:30 p.m. in Room 209 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 who arrived after Item #1 on the Agenda, and Councilor Nicholas Mavodones who arrived as indicated herein. Present from the City staff were Facilities Manager Kathy Alves; Parks, Recreation, and Facilities Director Sally Deluca; Planning and Urban Development Director Jeff Levine; Waterfront Coordinator Bill Needelman; Finance Director Brendan O'Connell; and, Senior Executive Assistant Lori Paulette.

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

Chair Brenerman corrected a few names from the public who spoke at this meeting. On motion then made and seconded, the Committee voted unanimously to accept the Minutes as amended.

Item #2: Introduction to proposed new City Policy for Payment in Lieu of Taxes (PILOT) for non-profit organizations – for Committee and staff discussion only.

Mr. O'Connell reviewed the attached memo with the Committee, noting that there are very few municipalities with a PILOT policy in Maine. In Portland there is approximately $2 Billion of property exempt from taxes. Currently, Portland has 10 formal PILOT payments. Since he has been with the City, Mr. O'Connell said that no further formal PILOTs have been negotiated. PILOTs are voluntary, and the 10 Portland has are for mainly Public Safety and Public Works purposes and were negotiated based on the property value.

In response to Councilor Ali, Mr. O'Connell said that the $2 Billion may be understated. It represents 21% of the total City valuation, which is high when compared to other municipalities.

Councilor Thibodeau noted that although PILOTs are voluntary, a Policy for them is a good direction and asked if a proposal would be available for review by this Committee in October, and Mr. O'Connell said that that is his goal.

Chair Brenerman asked how a PILOT policy would be applied. Mr. O'Connell said that, overall, a uniform policy should be developed to be applied to the exempt properties. A study goal will be to review the population of exempt properties in more detail to understand the organizations receiving the most value from their exemptions. It is a best practice to also review the benefits provided by exempt organizations during PILOT policy development. He noted that Boston has a policy and is talking with them.

Chair Brenerman asked about churches, and Mr. O'Connell said that many have a large assessed value but no funds; this will also be looked into.

Councilor Thibodeau suggested the proposed PILOT policy be rationally related to the space they occupy, like sidewalks, roads, trees to name a few.

Mayor Strimling agreed with Councilor Thibodeau to be rationally related to the property occupied, as well as, as Mr. O'Connell noted, for the study to determine what the non-profit does for the community. He noted that Maine Medical Center is a large economic engine for the City, while Learning Works provides after school care. Mayor Strimling asked if the 21% of exempt property included State of Maine and City property. Mr. O'Connell indicated that it did, and the Mayor suggested separating the State and City from the list.

Mayor Strimling then noted that this topic was not a Council Common Goal, but a goal of this Committee.

Chair Brenerman asked about the scope of services the City provides to non-exempt property owners, i.e., plowing streets so employees can get to work as one example, and Mr. O'Connell indicated that the study would help to answer that question.

(Councilor Mavodones joined the meeting at this time.)

Councilor Ali brought up USM and the services they provide to be looked into, and Mr. O'Connell agreed.

Chair Brenerman noted the consensus of the Committee was to move forward and looked forward to the results of the study back to this Committee in October.

Item #3: Introduction to proposed new City Development Impact Fee Policy – for Committee and staff discussion only.

Mr. Levine said that impact fees pay for impacts developments create. During the City's development review process for projects, it looks at all impacts and then there is a negotiation to mitigate those impacts with the developer on a case-by-case basis. Development of an Impact Fee Policy will provide for predictability for both the City and the developer.

Mayor Strimling asked if they are voluntary, and Mr. Levine said it is part of development review and follows State law. There are many that may be charged, but transportation and stormwater impacts are what Portland looks closely at now. He noted examples in his memo (copy attached), and developers prefer the certainty that comes from a Policy. The impact fees can be for certain areas of the City or all of it.

Mr. Levine noted that the next step is to complete the nexus study that will document the rationale for the amount of the Impact Fees. Staff has a completed a Request for Proposals for a consultant to complete that study and hopes to have a consultant selected in September and the nexus study completed early 2018, at which time a proposed ordinance would be submitted for Planning Board and City Council review.

Councilor Thibodeau noted his support for this project.

Chair Brenerman asked if impact fees cause developments not to happen, and Mr. Levine said that he not seen anything about this in his research to date but can look into it.

Chair Brenerman said he has a concern for people building homes where these fees may make a difference, and Mr. Levine said that the focus for these fees is anticipated to be more for the Level III site plan applications.

Chair Brenerman asked if impact fees for a project, for example, in the Old Port could be used to fund projects elsewhere, and Mr. Levine said that generally it is in the area of the project, but if the entire City is part of the impact fee zone, then those fees could conceivably be used anywhere. The study will help to find the balance and document where impact fees are needed.

Councilor Mavodones said that he liked the direction this was going. As this gets further along, he noted that staff should reach out to the development community so that they are aware of this proposed policy and can provide feedback.

Mayor Strimling also liked the direction and predictability. He asked, as an example, with the Wex project going up and employees needing housing, can impact fees be used for work force housing not on the peninsula. Mr. Levine said in theory it possibly could, but said that he would need to talk with the consultant.

Chair Brenerman noted consensus to move forward and asked about a timeline. Mr. Levine said that the RFP for the consultant closes September 19th, and hoped to have a report in by early 2018.

Item #4: Maine State Pier overview to discuss increased utilization – for Committee and staff discussion only.

Mayor Strimling, noting he needed to leave for another meeting, said that he liked the process outlined in the cover memo and asked if the assessment piece has been done yet, and Mr. Needelman indicated that it had not. Mayor Strimling said that he would suggest a mission or purpose statement be done for the Maine State Pier which could highlight, for example, if the City wanted to have fishing, condos, etc.

Mr. Needelman then made a brief presentation noting that the Maine State Pier has been under a microscope for quite some time, and, in 2009 the City Council passed an order as to what it would like to see occur at the Pier and around that area, including maintaining and retaining the 1,000 foot berth for deep water berthing. At this point in time, an inventory now needs to be done for the Pier to understand current conditions, and coordination with existing operations – noting also International Ferry needs and Custom Border Protection needs. Mr. Needelman also noted that 27,000 sq. ft. of space on the second floor is under-utilized.

(Mayor Strimling had to leave the meeting at this time.)

Mr. Needelman continued noting that after the inventory has been completed, staff will have an idea of short-term and long-term projects that could be done. In the short-term, it is anticipated that there would be basic circulation and utility changes, the latter moving the utilities into the building and appropriately scaled. Moving the utilities into the building would provide more of any area for vehicular circulation changes/upgrades.

Councilor Thibodeau questioned whether the City would put the current uses where they are now, or relocate if it were starting anew, noting that any improvements would go into the next 100 years.

Mr. Needelman said that any future redevelopment/reconfiguration would need to be highly integrated with Casco Bay Lines.

Councilor Mavodones added that it is important for people to understand the history of the pier and the way it was funded, as well as any encumbrances when BIW vacated the property. In the 1980's, it was decided that the current placement would work. He also noted that Ocean Gateway's funding occurred because it was going to be used for international ferry service. The City Council needs to get its arms around what it wants in this area. He did not think that CBL was moving and does not want to let go of deep water berthing on the other side.

Mr. Needelman noted that since 2009, the Pier has proven more and more valuable to the marine industry. When Ready Seafood first began leasing space in 2009, it was leasing 10,000 sq. ft. and is now up to 30,000 sq. ft. Cruise ships dock there regularly, and, in the Winter, the space is used inside for storage of the City's cruise ship operations equipment. He again noted that the second floor space is under-utilized.

Council Mavodones also noted that Shucks Lobster had been contemplating leasing a portion it. There needs to be an engineering analysis done for Council to determine how it can be developed. The entire needs Council needs to onboard as this goes forward.

Ms. Alves noted that since 2009, the pier is very different now than it was then. She indicated that the utility building location is an issue and should be moved inside, and noted that the Ocean Gateway Building would then need its own hook up to electricity if that utility building were to be moved inside. She indicated that she would be talking with electrical and mechanical contractors about moving it and impacts with future second floor use.

Councilor Thibodeau said that a plan is needed, including finding funding to move the utility building and an engineering analysis to determine if it can be built up.

Mr. Needelman said that the City needs to treat both piers as a single complex, including Ocean Gateway in all planning, as well as keeping flexibility is valuable. Ms. Alves also noted that there is a market for the 200 to 600 foot ships.

Regarding historical funding, Mr. Needelman said that CBITD and Compass Park were federally funded; the City purchased BIW using a City bond; and the first phase of funding for Ocean Gateway was both state and federally funded – mostly state transportation bonds. The mega berth was funded with a second round of state transportation bonds.

Ms. Alves also noted that any future uses on the second floor need to provide for minimum vehicle impact.

Mr. Needelman said that staff will come back with its initial findings in the start of this process, which may include some suggestions for a new policy for the piers.

Chair Brenerman added that it would help this Committee for staff to also provide recommendations for short- and long-term uses; this Committee would react and provide its recommendation to the Council.

There being no further business, the meeting then adjourned at approximately 7:10 p.m.

Respectfully, Lori Paulette

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.

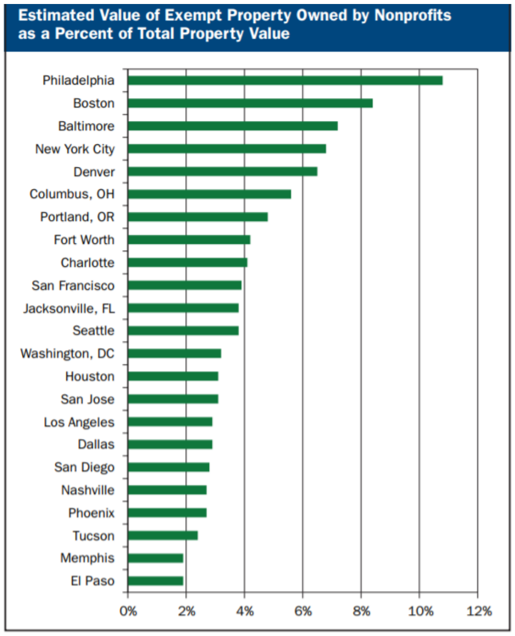
- PILOT policies can help address inequities created by the charitable tax exemption (i.e. the greatest tax savings goes to organizations who have large land holdings).

- 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

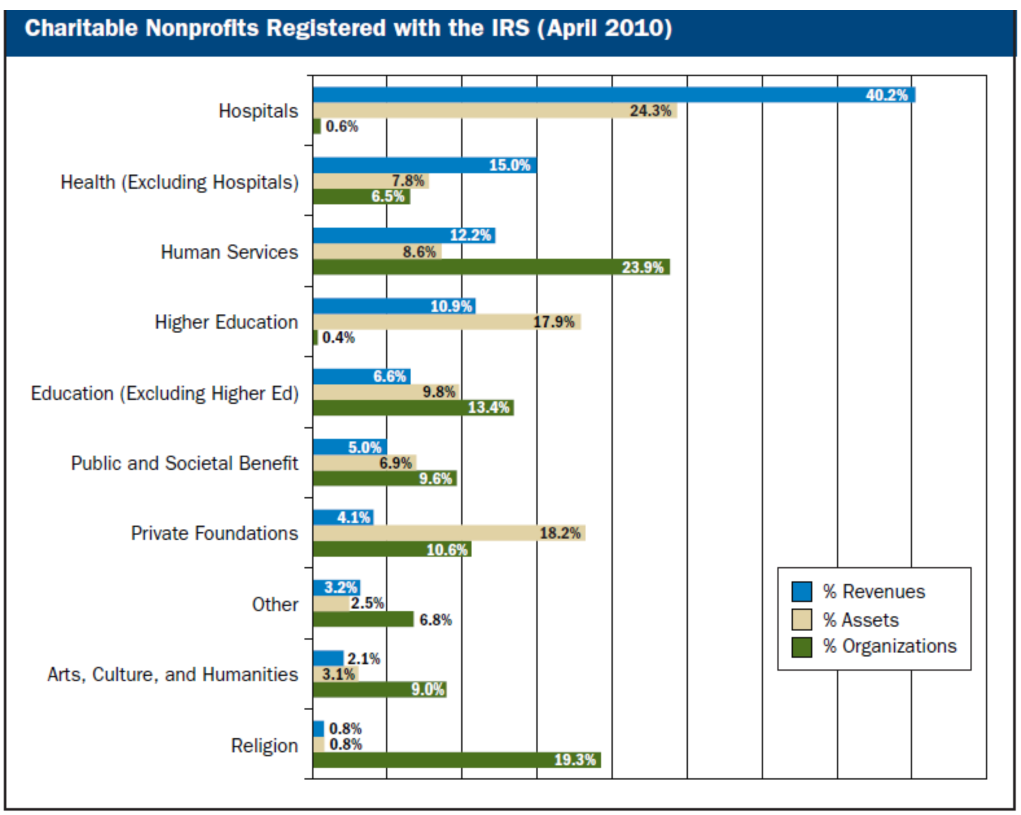
City staff will take questions from Committee on current policy, research performed to date, and feedback / suggestions on PILOT policy development during the September 5 meeting.

Exhibit A



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).



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

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.

What Are Impact Fees?

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.

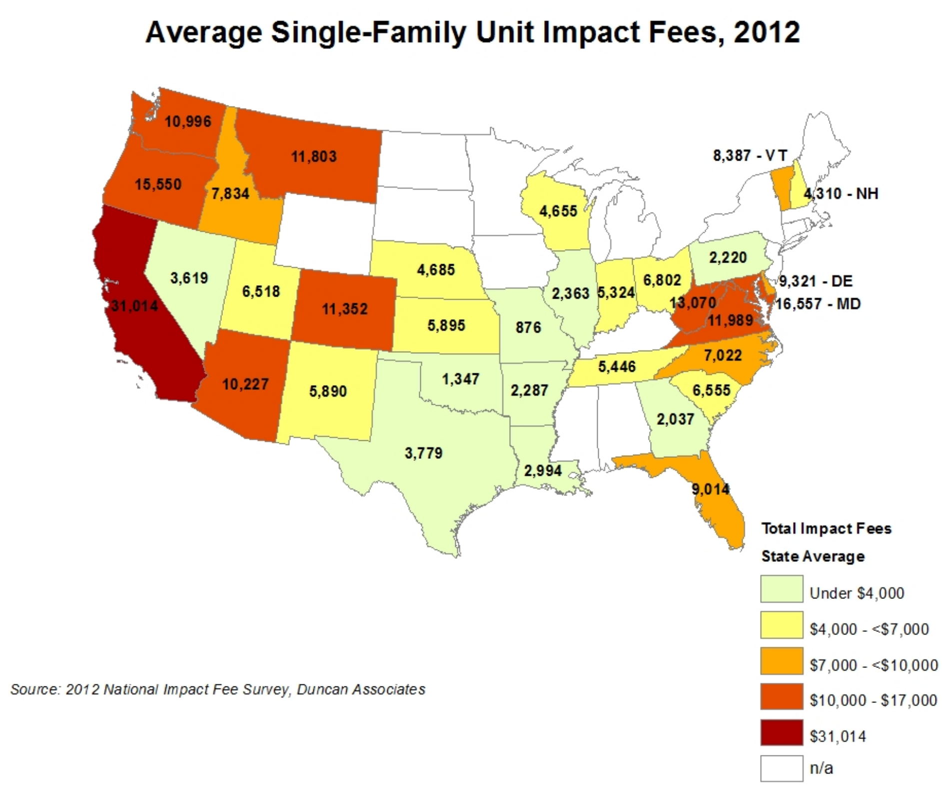
Commonly, impact fees are collected to mitigate impacts on transportation systems; parks & open space; schools; and stormwater/sewer systems. Costs are charged on either a square foot basis or on a per unit basis. For example, Concord, NH, has an impact fee for transportation improvements that charges $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

MEMORANDUM

TO: **Economic Development Committee**

FROM: **Greg Mitchell**

DATE: **September 29, 2017**

SUBJECT: **Vote the Recommend to City Council the EDC Proposed Amendments to Portland Tax Increment Financing Policy**

I. ONE SENTENCE SUMMARY.

The Portland City Council Economic Development Committee (EDC) is proposing amendments to City of Portland Tax Increment Financing (TIF) Policy in response to Mayor Strimling's proposed amendments.

II. BACKGROUND.

Mayor Strimling's first proposed amendments to Portland City Policy were presented to the EDC at its April 18, 2017 meeting. The EDC has received input from the public, City staff, and expert panelists on proposed TIF Policy Amendments over the past several months. The basis for the proposed amendments to City TIF Policy is to add additional requirements upon private sector projects and associated construction employment funded with City TIF district financial assistance through Credit Enhancement Agreements (CEAs).

The attached redline version of the City TIF Policy utilized the Mayor's most recent updated version as modified by the EDC and staff.

Highlights of the proposed amendments in the attachment include:

City Green Building Code:

The EDC provided direction to staff to retain the original language in this section [Section V(B)(3)(a)(i)] to CEA projects to be compliant with the City's Green Building Code.

It is noted that past CEA documents did not have a specific reference for this requirement, and future CEAs will have this included.

State Prevailing Wage Requirement.

This is a new section in the TIF Policy, proposed as Section V(B)(3)(a)(iii). The EDC agrees with the language the Mayor added, and also added additional language that the City staff shall provide to the relevant City Council Committee annual updates on the impacts of this prevailing wage requirement on CEAs; feasibility of construction firms to pay prevailing wages and benefits; and, compliance with this section.

Equal Employment Opportunities and Nondiscrimination.

This is a new section in the TIF Policy, proposed as Section V(B)(3)(a)(iv). The EDC agrees with the language the Mayor added.

Participation in Apprenticeship and/or Job Training Program.

The EDC's proposes deleting this section, and instead create a work force training program with TIF revenue the City receives from its area-wide TIF districts as follows:

> The EDC's proposal is to create an apprenticeship/internship program, not only for construction trades, but to address other broader business needs in the community, utilizing additional TIF district proceeds from area-wide TIF districts. It has suggested to offer an RFP to community organizations (i.e. USM, SMCC, labor unions, Maine DOL, and other training/educational centers) to compete for grants to provide these programs. The City Workforce Training Program is proposed to be funded by existing TIF district funds which is a state allowable use of TIF funds. It is noted that there is a public process to amend existing approved TIF districts to allow TIF funds to be used in this manner.

Mayor Strimling and Council Ali have proposed new language to the attached redline as follows:

"(v) Participation in Apprentice and/or Job Training Program

> The firms employed in the construction phase of a TIF-assisted project must either participate in, or have one or more employees who participate in, an apprenticeship program registered with and approved by the Maine or U.S. Departments of Labor for the duration of the construction phase of the TIF-assisted project."

Increasing the capture rate and the term for affordable housing projects.

During the EDC's review of proposed amendments, it learned that applications for low income housing tax credits (LIHTC) awards points for developments that directly benefit from some form of property tax relief. The points are awarded based on the percentage of tax relief and the number of years the project will receive that relief. The highest number of points (6 points) are awarded for projects that receive 75% tax relief for 30 or more years. Therefore, the EDC provided direction to amend the TIF policy guidelines to increase in CEAs for Affordable Housing projects the capture rate and term to help to make Portland projects more competitive in the LIHTC application process.

Reporting Requirements.

Mayor Strimling added an additional report requirement, new Section VI(C), that is a post-construction report to the City Council regarding an analysis of each TIF-assisted project and its adherence to Section V(B)(3)(a) of this policy. The EDC agrees with this addition.

Housekeeping Amendments

City staff is proposing several TIF Policy housekeeping amendments to delete outdated language and clarify there are two departments (Economic Development and Planning/Housing and Community Development) involved with the TIF District approval and administration process.

One Additional Item to be Addressed by the EDC:

One additional item not addressed in the Proposed TIF Policy Amendments, but included in this overall discussion, includes the following:

> **Employment Disparity Study**. This Study is needed in order to provide the legal basis for Portland to establish any employment preference requirements in City TIF Policy. If supported by the EDC, the recommended motion is to: "Have the City Manager and/or his/her designee undertake an analysis of the costs associated with the City undertaking a Disparity Study. The results of this analysis should be provided to the Committee on or before a certain date."

III. INTENDED RESULT AND OR COUNCIL GOAL ADDRESSED

The intended result is for the EDC to provide its recommendations to the City Council in response to the Mayor's proposed TIF Policy Amendments.

IV. FINANCIAL IMPACT

There is no financial impact in amending TIF Policy Guidelines.

There is a financial cost to move forward in the Disparity Study, cost unknown at this time, as well as utilizing TIF Revenue funds the City receives from its area-wide TIF Districts to create an apprenticeship/internship program, again, cost unknown at this time.

V. STAFF ANALYSIS AND RECOMMENDATION

It is recommended that the EDC vote to recommend TIF Policy amendments to the City Council.

VII. LIST ATTACHMENTS

1. EDC's proposed amendments of 9/25/2017, from the Mayor's 8/22/2017 version, in marked revision format.
2. Sept. 27, 2017 Letter from Maine State Building & Construction Trades Council

PORTLAND TIF POLICY

February 4, 2013

PROPOSED AMENDMENTS ~~4.13~~~~8~~9.25~~.22~~.17

I. INTRODUCTION

Tax Increment Financing (TIF) is an economic development program authorized under state law to support municipal projects. The TIF program allows municipalities to provide financial assistance to local economic development projects and programs – from infrastructure, municipal economic development programs and staff, to business expansions - by using new property taxes that result from new commercial or residential investment associated with the corresponding increase in property value.

Portland TIF Policy supports investment in municipal economic development programs, infrastructure investment (which is generally through the establishment of area wide or neighborhood TIF districts) and individual project site specific TIF districts to support either infrastructure or individual private project financing needs.

The City is committed to invest in infrastructure located within the public rights-of-way that encourage economic development. Use of TIF investment to invest in infrastructure recognizes the savings which occurs through the TIF Program tax sheltering benefits.

"Infrastructure" is defined, but not limited to: traffic upgrades, public parking facilities, roadway improvements, lighting, sidewalks, water and sewer utilities, storm water management improvements and placing above ground overhead electric and telecommunications lines underground.

II. STATE TIF LIMITATION

There are acreage and value caps limitations for municipalities to establish TIF along with term limits. Term limits include bonds which may be issued for a maximum of 20 years (anticipation notes for three years). TIF districts may be designated for a maximum of 30 years.

III. PURPOSE

The primary purposes of the TIF Policy include:

A. To support Portland Economic Development and Housing Plans and Policies;
B. To stimulate expansion of the City's commercial and industrial tax base;
C. To stimulate new affordable and market rate housing investment;
D. To retain and create quality employment;
E. To support Portland's Capital Improvement Plan; and,

F. To establish standards upon which the City Council will authorize TIF.

IV. GENERAL PRINICPLES

The three primary general principles for the City Council to establish TIF districts include:

A. Investment

***Minimum Real Property Investment*.** A minimum of $1 million in new taxable investment property value for commercial and industrial development and $500,000 for affordable housing development is needed to qualify for a TIF. This is the minimum amount which makes practical sense to consider use of the TIF program due to the amount of new municipal property tax revenue generated from new private investment.

B. Jobs Associated with Commercial and Industrial Development

Applicants for TIF participation will be required to provide a plan outlining the number and quality of jobs retained or created associated with each TIF district. While there is not a specific formula for the numbers of jobs associated with the amount of TIF financial assistance, the number and quality of the jobs will be taken into consideration for each TIF district. It is recognized that housing projects do not create many permanent jobs.

C. Maximize Tax Sheltering Benefits

A municipality's total equalized assessed value is used to calculate General Purpose Aid to Education (subsidy), State Revenue Sharing (subsidy) and County taxes (expense). When a municipality's equalized assessed value increases, State Aid for Education decreases, municipal revenue sharing decreases, and the municipality pays a greater portion of County taxes. TIF allows municipalities to "shelter" new value resulting from private investment from the calculation of its State subsidies (education and revenue sharing) and County taxes. In other words, specific municipal shelter benefits, for the term of the TIF, include:

1) No reduction in State aid for education,
2) No reduction in municipal revenue sharing and
3) No increase in County taxes.

Annually, the Council Committee with jurisdiction over housing and community development and City Council will evaluate available TIF district capacity related to State acreage and value limitations to determine whether existing TIF districts need amending and/or new TIF district establishment. Scheduled public infrastructure investments included in the City's Capital Improvement Plan will inform decisions about adjustments to existing TIF districts or establishment of new TIF districts.

V. APPROACH, POLICY, and TERM REQUIREMENTS

Must meet or exceed the below requirements.

A. Approach

There are three approaches to consider establishing TIF districts. They include:

1) ***Municipal Economic Development Programs funded directly through a pay-as-you-go approach.***

   Examples of municipal economic development programs include paying for economic development staff, annual funding to Creative Portland for city marketing/branding, and other TIF law allowable activities.

2) ***Area wide TIF districts financed by City Bond/Debt Issuance***

   Issuance of municipal general obligation bonds or limited obligation bonds is a mechanism that may be used to fund a TIF district program. Allowable uses are spelled out in state TIF law. Generally, municipalities will issue debt to cover the cost of infrastructure investment.

3) ***Individual Site Specific TIF districts utilizing Credit Enhancement Agreements (CEAs)***

   A CEA is a contract between a municipality and developer to assist an individual development project by using a percentage or all of the tax revenue generated by the investment to pay certain authorized project costs which could include site specific infrastructure or private individual project financing needs. Allowable project costs are spelled out in state TIF law.

B. Policy for the Three Approaches

1. **Policy for Municipal Economic Development Programs.**

Requires annual review and City Council financial appropriations.

2. Policy for Area wide TIF District Locations (for City Bond/Debt Issuance)

a) Area wide TIF will be established for infrastructure investment which has applications beyond one individual project.

b) City TIF emphasis will be placed upon the following general "Priority Revitalization Areas" to support commercial development, housing development, redevelopment, or to support buildings in need to redevelopment, address blight or historic preservation:

- Affordable housing projects off peninsula;
- ~~India Street Neighborhood;~~
- ~~Franklin Street Corridor from I-295 to Commercial Street;~~
- Riverside Street commercial and industrial zoned areas;
- Forest Avenue corridor from I-295 to Woodfords Corner;
- Washington Avenue corridor from Congress Street to I-295;
- ~~Re-examine the boundary of Bayside TIF District;~~
- ~~Examine establishing a Downtown TIF district in place of the Arts TIF District;~~
- Portland Technology Park ;
- Areas in which future significant wastewater and/or stormwater infrastructure investments are planned;
- West Commercial Street vacant property;
- Libbytown;
- St. Johns Street Valley;
- Other areas based upon scheduled public infrastructure investment included in the City's Capital Improvement Plan.

The above list of general priority revitalization areas serve as guides to establish specific boundaries for TIF districts at time of district establishment.

c) Market Rate Housing. Market rate rental housing projects must be located in priority revitalization areas to stimulate housing investment for the purpose of attracting 24/7 pedestrian activity. Pursuant to State Law, TIF for condominium projects are not allowed.

d) Affordable Housing**.** Affordable Housing TIF (AHTIF) may be designated on an area wide or site specific basis.

The relevant City Council Committee will complete an annual assessment of housing needs and priorities. This assessment will include a determination regarding designation of an area wide AHTIF. Site specific AHTIF requests submitted by developers will be considered on a case-by-case basis. Area wide or site specific AHTIF designations must address an identified community need.

State law requires that at least 25% of the district area must be suitable for residential use, development must be primarily residential, and at least 1/3 of the units must be for households at or below 120% of area median income which allows for individual mixed income projects or area wide affordable housing TIF districts.

Allowable uses of AHTIF revenues are defined by State law.

e) City preference is to invest in area wide public infrastructure TIF districts versus establishing individual private site specific TIF districts.

f) Area wide TIF districts also should seek to maximize the benefit of downtown and transit oriented development (TOD) districts which are exempt from State TIF law for acreage and value limitations.

g) Terms for area wide TIF districts will be considered for up to 100% of new tax revenue and upwards of thirty (30) years, the maximum allowed by State law, due to the long-term need to invest in neighborhood infrastructure.

NOTE 1: As of this Amended TIF Policy date, there are two~~hree~~ existing area wide TIF Districts, i.e., Bayside~~, Arts,~~ and Waterfront TIF Districts.

NOTE 2: As of this Amended TIF Policy date, there also exists two~~one~~ Transit Oriented Development (TOD) District, namely the Thompson Point TOD TIF District and the Downtown TOD TIF District to ~~-~~support new or expanded transit services and improved transit connections between the Portland Transportation Center, Jetport and Downtown.

3. Policy for Individual Site Specific TIF Districts Utilizing Credit Enhancement Agreements (CEAs)

a) CEAs for individual site specific TIF districts will be considered for investment in infrastructure or project financing need and cannot be applied to any agreed upon public infrastructure improvements associated with a City Council approved conditional rezone agreement. Additional provisions related to CEAs include:

i) City Green Building Code

~~When assistance is provided for site specific TIF districts, any CEAs shall include a requirement that the project comply~~ ~~Compliance~~ Compliance with the City's Green Building Code is required when TIF assistance is provided to individual private project CEAs. ~~is required when TIF assistance is provided to individual private project CEAs.~~

ii) Affordable Housing

Affordable Housing TIF (AHTIF) may be designated on an area wide or site specific basis. Developments are encouraged to promote economic diversity.

The City Council Committee will complete an annual assessment of housing needs and priorities. This assessment will include a determination regarding designation of an area wide AHTIF. Site specific AHTIF requests submitted by developers will be considered on a case-by-case basis. Area wide or site specific AHTIF designations must address an identified community need.

State law requires that at least 25% of the district area must be suitable for residential use, development must be primarily residential, and at least 1/3 of the units must be for households at or below 120% of area median income which allows for individual mixed income projects or area wide AHTIF districts.

Allowable uses of AHTIF revenues are defined by State law.

(iii) State Prevailing Wage Requirement

Any firms employed in the construction phase of a TIF-assisted project must compensate all employees the current wage rates and fringe benefits as required under applicable state prevailing wage law under 26 M.R.S.A. §1306, or Portland City Ordinance Ch. 33, §33-1 to 33-12, whichever is greater.

City staff shall provide to the relevant City Council Committee an annual update on:

a) the impact of this prevailing wage requirements on CEAs;
b) feasibility of construction firms to pay prevailing wages and benefits; and
c) compliance with this section.

~~(iv) Local, Diverse and Veteran Hiring Preference~~

~~The firms employed in the construction phase of a TIF-assisted project must demonstrate and produce documentation that a cumulative total of 25% of the total construction-related work hours are performed by:~~

~~- Residents of the City of Portland~~

~~- Minority and women employees~~
~~- Veterans of the United States Armed Forces~~

~~Upon review and recommendation from the City Council Committee and approval by the full City Council, a waiver may be granted for TIF recipients that demonstrate a hardship related to this provision.~~

(iv) Equal Employment Opportunities and Nondiscrimination

The developer and its contractors employed in the construction phase of a TIF-assisted project shall adhere to a policy of non-discrimination in all employment actions, practices, policies, procedures, phases, and conditions of employment. All employment-related decisions (including but not limited to hiring, discharge, transfers, promotions, discipline, training, job opportunities, and wage and salary levels) will be made without discrimination based on an individual's race or color, religion, age, sex (including pregnancy), sexual orientation, gender identity or expression, ancestry or national origin, physical or mental disability, veteran status, genetic information, previous assertion of a claim or right under Maine's Workers' Compensation Act, previous actions taken protected under Maine's Whistleblowers' Protection Act, or any other protected group status as defined by applicable law. Provisions in applicable laws providing for bona fide occupational qualifications, business necessity, or age limitations will be adhered to by the developer and its contractors where appropriate. This policy shall not be construed to prohibit any employment action or policy which is required by federal law, rule or executive order.

~~(iv) Participation in Apprenticeship and/or Job Training Program~~

~~The firms employed in the construction phase of a TIF-assisted project must participate in an bona-fide job training or apprenticeship program registered with and approved by the Maine or U.S. Departments of Labor for each separate trade or classification in which it employs employees and must continue to participate in such program(s) for the duration of the construction phase of the TIF-assisted project. Apprenticeship programs registered and approved by the US Department of Labor and/or Maine Department of Labor would meet this requirement.~~

b) Applicants for CEA participation must demonstrate and pay the following:

i) Financial Necessity.

The applicant must demonstrate the City's participation is financially necessary in order for the project to proceed.

ii) Financial Capacity**.**

The applicant must demonstrate financial capacity to support their project.

iii) Fees

~~–~~A financial underwriting analysis will be conducted by a third party on all projects requesting CEA participation. Applicants for CEA assistance will be responsible for reimbursing the City for all project third party legal and financial underwriting costs**.**

C. Terms for CEA Projects

1) Maximum Percentages.

A maximum average percentage of 65% for the entire term associated with individual project CEA's. Notwithstanding the previous sentence, the maximum average percentage for the entire term associated with individual project CEAs for affordable housing shall be 75%. For the purposes of this policy, the term affordable housing shall be defined as in "V. Approach, Policy, and Term Requirements" Section B(2)(d) (Affordable Housing) of the Portland TIF Policy.

2) Maximum Number of Years.

Up to twenty (20) years to match individual private sector commercial financing terms~~;~~ ~~–~~ for Affordable Housing projects, up to thirty (30) years. The term of a TIF may start upon agreed trigger event, such as an increased assessed value. This would be included in a CEA on that negotiated triggering event.

3) Use of Maine Services for CEA Projects Encouraged.

~~4) Clawback Penalty Provision~~

~~If it is determined by the City Council, based on their review of the "Post Construction Report to City Council" referenced in Section C of the Application and Administration Process, that the requirements of Section B(3)(a) of this policy are not met, the City Council shall direct the City Manager to terminate the TIF agreement and recoup any funds expended or allotted as a part of the CEA.CEAs for site specific TIF districts shall contain a penalty provision that provides that in the event that the property developer fails to comply with the provisions of the CEA, the City may deduct up to 10% of the amount to be reimbursed to the developer for each year of the term of the CEA.~~

~~(5) Bonus Provision~~

~~The City Manager or his/her designee is empowered to develop a financial bonus system, not to exceed 2.5% of the total TIF assistance, for TIF recipients that exceed the requirements outlined in Section B(3)(a)(iv) of this policy.~~

VI. TIF APPLICATION AND ADMINISTRATION PROCESS

A. Application Information and Contact.

The Economic Development Department ~~-~~and the Housing and Community Development Division (for affordable housing projects) handle~~s~~ all TIF inquires and processes requests for TIF. An applicant must submit a letter to either the Economic Development Department for commercial projects or the Housing and Community Development Division for affordable housing projects outlining the proposed project, including TIF project financial information, ~~along with~~ a plan outlining both the number of permanent and construction jobs associated with the proposed project, as well as a demonstrated ability to meet the requirements under Section B(3)(a) of this policy.

B. Approval Process.

There is a two step approval process which includes obtaining a recommendation from the City Council Committee and City Council approval. Two meetings (or readings) by the City Council are needed. The City Council vote on the TIF occurs at the second meeting.

C. Post-Construction Report to City Council.

The Economic Development Department and the Housing and Community Development Division shall provide a post-construction report to the City Council Committee and City Council regarding each TIF-assisted project which shall include, but not be limited to, an analysis of the adherence to Section (V)(B)(3)(a) of this policy.

D. Annual Report to City Council.

The Economic Development Department and the Housing and Community Development Division shall provide annual reports to the City Council Committee and City Council regarding TIF district activity.

MAINE STATE BUILDING & CONSTRUCTION TRADES COUNCIL

PORTLAND
519 CONGRESS STREET
PORTLAND, ME 04101

AUGUSTA
21 GABRIEL DRIVE
AUGUSTA, ME 04330

September 27, 2017

Councilor David Brenerman, Chair
Portland City Council's Economic Development Committee
RE: Tax Increment Financing Policy Reform

Dear Chairman Brenerman,

On behalf of Attorney John Richardson and the Maine State Building & Construction Trades Council (MSBCTC), I'd like to address a few issues that have arisen as a part of your public hearings and subsequent discussion on the topic of Tax Increment Financing (TIF) reform. It is our understanding that your Committee is nearing the completion of its work on this issue, and I'd like to take the opportunity to provide you and Councilors Ali and Thibodeau some additional information as you formulate your recommendations to the full Council.

We feel very strongly that the Council has a ready-made opportunity to ensure fairness in compensation by mandating that contractors and subcontractors that are employed as a part of construction related to a Community Enhancement Agreement (CEA) pay the state prevailing wage. In response to Councilor Thibodeau's question regarding whether some do not pay the prevailing wage rate, you've heard testimony that most contractors indeed do pay the state prevailing wage when working in Portland. You've also heard Portland City Finance Director Brendan O'Connell testify that, as a result of his survey of firms with recent business in the city, some contractors indeed do not compensate at the prevailing wage levels. You've also heard from Director O'Connell that there are also firms that do not pay the prevailing wage but try to make up for that lower wage by pointing to other benefits. Your codifying a prevailing wage would erase any confusion and ensure that the playing field is level for all contractors and their workers.

Further, mandating prevailing wage also provides for the opportunity for the city to review certified payroll. This would both deter and detect when employees are being misclassified as independent contractors. As you have heard in previous testimony, misclassification poses a significant problem because it not only allows contractors to underpay and thus underbid jobs, but it aso means that those employees are not provided health benefits, and firms are not paying into workers compensation and unemployment insurance. According to the US

Department of Labor, “The misclassification of employees as independent contractors presents one of the most serious problems facing affected workers, employers and the entire economy.” We agree. The City has an opportunity to mitigate against misclassification, and the MSBCTC urges you to do just that by implementing prevailing wage rules.

Next, the MSBCTC urges you to take steps to ensure that the city is playing an active role in training and retraining our workforce by insisting that firms employed as a part of the construction activities covered under a CEA participate in a certified apprenticeship program. By participating in programs that are certified by the state, we can ensure the quality of the training program as well as the portability of that training for the worker.

You have heard testimony that many firms have their own training programs. That is laudable. However, if an independent entity designed to help craft and approve training programs is not engaged in their development and implementation, an opportunity at continuity and quality control is lost. Further, the approval process for an apprenticeship consists of the completion of four forms. The Maine Apprenticeship Council then has 10 days to approve the program. This hardly describes the overburdensome process described by some contractors who are simply unwilling to commit to registering their programs. The city can act on its long-stated and widely-supported goal of training young people, immigrants and mid-career adults by setting them on a pathway to the middle class via registered apprenticeship participation.

By way of additional background, the MSBCTC is currently working with Portland Arts & Technology High School, Portland Adult Ed, and schools throughout Cumberland County to develop a program to train and employ young learners and job-seeking adults via a pre-apprenticeship and apprenticeship program. We are also aware of a program that Councilor Ali is developing to address the job training needs in the city, and we are excited to play a part in those efforts as well. We feel strongly that the Committee’s action on TIF projects would dovetail very well with existing activities related to job training. Working together, we can have a real impact for the future builders of our city.

Finally, the MSBCTC fully supports the Committee’s efforts to clarify the city’s green building requirements in your TIF Policy as well as increasing the funds available to spur affordable housing via TIFs. We are also aware of the Committee’s commitment to ensure that local workers, women, disadvantaged populations and veterans are a priority during the execution of CEAs as well. We wholeheartedly support that effort and stand ready to partner with the city to reach that shared goal.

Thank you for the opportunity to address these issues. The MSBCTC is poised to be an active partner as we grow our city responsibly, with an eye towards good jobs and sustainable communities. As always, I am available to answer any questions you may have.

Sincerely,

Jason J. Shedlock
Executive Director
Maine State Building & Construction Trades Council

Portland, Maine   Yes. Life's good here.

Economic Development Department
Gregory A. Mitchell, Director

MEMORANDUM

TO: **Economic Development Committee**

FROM: **Greg Mitchell, Economic Development Director**

DATE: **September 29, 2017**

SUBJECT: **DRAFT 2017 Economic Development Committee Work Plan**

For discussion purposes at your meeting on October 3, this memorandum outlines the status of the EDC 2017 Work Plan activities, including 2017 Mayor and City Council economic development goals.

Broadband Access **(2017 Mayor and City Council Goal).** High speed infrastructure; broad band.

IN PROCESS AND NEXT STEPS. At the July 26th, 2016, EDC meeting, staff provided a summary of a proposed Master Lease Agreement with Verizon to support small cell technology investment in Portland. The City Council approved this Master Lease on August 1, 2016.

Also, it is noted the City issued a News Release on July 19th, 2016, with the topic "City Seeks Citizens to Complete Internet Services Survey" and noting "Selects SiFi Networks to explore potential citywide fiber network". Staff continues to work with SiFi Networks to move forward with a public-private partnership.

A City Council workshop was held on December 12, 2016 with Council direction to refer negotiations to the EDC to finalize partnership documents for recommendation to the City Council.

Jon Jennings to provide update.

Eastern Waterfront Public Infrastructure Investment/Increase Utilization of the Portland Ocean Terminal (POT) **(2017 Mayor and City Council Goal)**

Establish direction on the future of the Portland Ocean Terminal, including waterfront concerts and Compass Park. With as much as 70,000 square feet of vacant space, the Portland Ocean Terminal on the Maine State Pier needs a plan for investment and optimized utilization. Existing uses, including City cruise ship port of call support, Portland Tugboat, and Ready Seafood, provide a solid basis for growth; however, the building's age, condition, location within a Federal security area, and lack of supporting infrastructure (parking, loading, sidewalks …) severely limit the potential reuse of the building as currently configured.

See sections entitled "Eastern Waterfront Public Infrastructure Investment" and "Establishing New Policy Direction" for more information and inter-relationship with approaches to improving utilization of the POT.

At the September 5, 2017 EDC meeting, City Waterfront Coordinator Bill Needelman provided the Committee with an overview and process to go forward, including conducting an inventory of uses, understanding current conditions, and coordination with existing operations. In the short-term, provide basic circulation and utilities changes and moving utilities into the main building. The second floor provides the most opportunity for increased development; the main floor is used by the City, storage in the winter for cruise ship activities, as well as Ready Seafood's use and other marine dependent uses.

Next steps: October 2nd City Council Workshop followed by EDC work. Staff report expected in November.

Tax Increment Financing Policy and Districts (2017 Mayor and City Council Goal)

TIF Policy Guidelines-Review for Possible Proposed Amendments to the City Council: Pursuant to City Council Order #61 passed unanimously on September 19, 2016, the Council referred to the EDC the current TIF Policy for consideration of amendments including, but not limited to, the addition of provisions for:

- Local Hire
- Ethnic and Gender Diversity
- Economically Disadvantaged Participation;
- Veteran Preference;
- Adherence to State of Federal Prevailing Wages; and,
- Participation in a Job Training or Apprentice Ship Program.

At the EDC meeting on April 18, 2017, it held a public hearing regarding the Mayor's proposed amendments to the TIF Policy. Public comments received were both in favor and opposed to the draft amendments, followed by EDC discussion and requests for clarifying language and points of information. The EDC continued discussion on proposed TIF Policy Amendments at its June 6, July 25, and August 22 meetings. The EDC will review and vote on recommendations for amendments to the TIF Policy at the October 3 EDC, for forwarding to the City Council.

Payment In Lieu of Taxes (PILOT) New City Policy

Staff is preparing draft policy for EDC consideration for non-profit tax exempt organizations to contribute annually to cover the cost of municipal services.

At the September 5 EDC meeting, City Finance Director Brendan O'Connell provided a general overview and it is anticipated that, at the October 24 EDC meeting, Mr. O'Connell will provide an update to a proposed policy.

Establish Development Impact Fees

Staff will work with the EDC to create a formula that standardizes fees - providing certainty to the development community and City resources.

At the September 5 EDC meeting, Planning and Urban Development Director Jeff Levine provided a general overview of the current City current impact fees, determined through development review. Next step is to bring a proposed overall impact fee policy to the EDC so that both the City and developers know formulas for impact fees and can insert them into pro formas.

Eastern Waterfront Public Infrastructure Investment

Investing in public infrastructure is an important municipal government responsibility to attract private sector investment. Locations which require public infrastructure planning include both implementation of existing policies and creating new policy direction for investment:

Implementing Existing Policy:

Private Development Integration. The Economic Development Department is leading a Planning, Public Works, and Parks & Recreation Department discussion to plan road, parking garage, and utility extensions in Portland's Eastern Waterfront, facilitating planned and future development consistent with the Eastern Waterfront Master Plan (EWMP.)

Next Steps. This item was discussed with the EDC at its January 3, 2017 meeting regarding issuing a Request for Proposals to stimulate parking garage development in the block of Hancock, Fore, and Thames Street, and the new Thames Street to Fore Street Connector Road, in exchange for selling the City-owned Thames Street lot and securing public right-of-way for the new Connector Road. As a result of that EDC meeting, staff presented a draft RFP for sale of a portion of the Thames Street lot at the EDC's meeting on March 29, 2017, which resulted in EDC authorization to staff to advertise the RFP, with responses due to the City May 4, 2017. The EDC reviewed responses, in executive session, at its May 9, 2017 meeting. ***Please refer to "City Properties" section for the Thames Street property item.***

Amethyst Lot Open Space Development. Implementing recommendations from the EWMP and conditions of approval from Ocean Gateway, to define program and design elements for signature waterfront open space promoting recreation and active use of the water.

Next Steps. In May of 2016, the City Council approved $80,000 in funding to support a planning and public process scope for the Amethyst Lot. An RFP was issued for design services which generated 10 credible proposals from firms with local, national, and international experience. A staff review committee recommended hiring Stantec and the contract has been finalized. A group of City employees are now working with Stantec in furthering the design process. The EDC was provided a concept of redevelopment at its August 22 meeting, with overall consensus of agreement with the concept, which has been informally called "Portland Landing". The EDC will be kept updated on the continued public process.

Establishing New Policy Direction:

Ocean Gateway to discuss reconfiguration of the "queuing area" located behind the fence to free up property for more diversified marine activity, support for the Portland Ocean Terminal, and expanded access to the water for commercial and public uses. The City Manager met with Custom Border Protection (CBP) personnel to discuss relocating U.S. Customs pre-clearance to Yarmouth, Nova Scotia. Staff is researching options; update forthcoming.

Possible new Pier development between Ocean Gateway and the Maine State Pier to support increased commercial use of the waterfront and support for the marine passenger industry. Staff is exploring Federal funding opportunities and updates will be provided when appropriate.

Portland Ocean Terminal (POT). Evaluate supporting infrastructure to attract increased commercial and marine tenant use of available 25,000 +/- square feet of vacant second floor office space and 70,000 square feet of vacant ground floor marine industrial space, coupled with waterfront concerts use and Compass Park use.

Next steps: October 2nd City Council Workshop followed by EDC work. Staff report expected in November.

Portland Transportation Center (PTC)

In partnership with the MDOT, NNEPRA, and private sector property owners, work to develop an expanded intermodal passenger station in the Thompson Point area.

Next Steps. Staff to work with the transportation agencies and private partners to establish timeline and work plan for PTC improvements. Present briefing to the EDC when appropriate.

Lease of City Properties

Leasing City owned properties requires City Council approval. Policy discussion regarding the leasing of City owned properties needs to be discussed. Examples of commercial leases requiring EDC (in the form of a recommendation to the City Council) and City Council action include:

Ocean Gateway to support ferry operator lease. At the March 7, 2017 EDC meeting in executive session, staff discussed proposed amendments to the Bay Ferries Lease for guidance and direction. This was followed by a public meeting of the EDC on April 4, 2017, for its recommendation and vote to the City Council for action prior to 2017 season, which time the EDC recommended to the City Council approval of the amended Lease. The City Council unanimously approved the Amended Lease at its April 24, 2017 Council meeting. Bay Ferries is estimated to generate over $265,000 to the City from space rent, parking, passenger/vehicle fees, and berthing fees.

An amendment to the Bay Ferries Lease is under negotiation to extend ferry service in 2018 subject to conditions.

Portland Ocean Terminal tenant leases including Ready Seafood Companies. Amendments to this Lease will be proposed in 2017.

Spring Street Parking Garage Commercial tenant leases including the former Pirates space, with 1,172 square feet. Staff will requested guidance from the EDC, in executive session, at its May 9, 2017 meeting for terms for lease rental and parking garage revenue sharing agreement. Tenant Lease will be presented when ready.

Casco Bay Island Transit District (CBITD) Lease*:* Staff is beginning its review of the existing Lease to recommend, at the appropriate time, amendments. This current 30-year lease expires June 2018.

Next Steps include presenting commercial leases to the EDC when ready.

City Properties

Sales

Bayside former Public Works properties. City staff issued a Request for Proposals for commercial broker services to assist the City with the sale of these properties; CBRE/The Boulos Company was chosen after review of the proposals. Staff will work with the EDC and ultimately the City Council regarding any final property sale decisions.

At the January 3, 2017 EDC meeting, staff presented an overview of the Bayside properties, followed by a public hearing by the EDC on January 31, 2017. At a special meeting of the EDC on February 28, 2017, it was provided an update by CBRE/The Boulos Company on their methods of marketing, followed by a tour of the properties. The EDC then met on March 7, 2017, and discussed these properties and voted unanimously on a sales approach for Boulos to market these properties with no restrictions, and for Boulos to encourage/leverage workforce housing on Parcel 1, now a parking lot. Public Comment was received at the March 7, 2017, EDC meeting. It is further noted that the public will have an opportunity for public comment when the EDC reviews and recommends purchase and sale agreements to the City Council, and again at the City Council when it takes up the matter.

Offers are due in to CBRE/The Boulos Company by May 12, 2017. The EDC reviewed the offers at its May 23, 2017 meeting in executive session, and again on June 6, 2017. This was followed by Developer presentations, EDC questions, public comment taken, followed by an executive session on June 27, 2017. At its July 19 meeting, City provided recommendations to sell the property, public comment taken, and followed by executive session.

The EDC was presented a Purchase and Sale Agreement for 56 Parris Street on August 22, 2017, which was tabled to have the Agreement include the Developer's project as an Exhibit. At the September 19, 2017 EDC meeting, it reviewed Purchase and Sale Agreements for 56 Parris Street, 82 Hanover Street, 65 Hanover Street, and 178 Kennebec Street and recommended them to the City Council. The City Council will take action on the four PSAs at their October 2nd meeting.

Riverside Street Seven (7) Acre Industrial Property. City staff has been marketing this property for sale and has attracted an interested developer which has been discussed, in executive session, with the EDC during 2016.

At the January 3, 2017 EDC meeting, staff presented an overview of the Riverside Street property and the 7-acre site, including the recent need to install a City communication tower for its emergency management system. At the March 7, 2017 EDC meeting in executive session, staff discussed interest in this property and receive guidance on future negotiations. A draft Purchase and Sale Agreement was presented to the EDC in public session at its April 4, 2017 meeting. At that meeting, the EDC voted unanimously to recommend to the City Council approval of the Purchase and Sale Agreement for sale of this 7+/- acre parcel to AIM Riverside II, LLC in the amount of $604,800. At the April 24, 2017 City Council meeting, it voted unanimously to approve the Purchase and Sale Agreement. The proposed development for the 7-acre site includes multi-industrial tenant type development with over 75,000 square feet.

Thames Street Gravel Parking Lot. At the January 3, 2017 EDC meeting, staff presented an overview of this property, followed by a public hearing by the EDC on January 31, 2017. Next step was to finalize a Request for Proposals for a portion of the Thames Street property for sale to stimulate development on the site and a parking garage in the area for EDC review and recommendation to place out to bid. The draft RFP was presented to the EDC on March 29, 2017, for review and recommendation to issue the RFP for sale of a portion of the lot. This was another opportunity for public comment, as well as when the EDC reviews and recommends a purchase and sale agreement to the City Council, and again at the City Council when it takes up the matter.

At the March 29, 2017 EDC meeting, it voted unanimously to authorize staff to advertise the RFP for sale of a portion of the Thames Street property. Proposals are due in to the City May 4, 2017, and the EDC reviewed the two proposals, in executive session, at its May 9, 2017 meeting. This was followed by Developer presentations, EDC questions, public comment taken, followed by an executive session on May 23, 2017. At its July 19 meeting, City provided recommendations to sell the property, public comment taken, and followed by executive session; followed by executive sessions on June 6 and June 27 and July 19; and a public session, with public comment, on August 1 at which time it recommended to the City Council a Purchase and Sale Agreement to 0 Hancock Street LLC. The City Council approved the Purchase and Sale Agreement at its August 21, 2017 meeting.

Cotton Street Parking Lot. At the January 3, 2017 EDC meeting, staff presented an overview of this property – as well as update in executive session, followed by a City Council workshop on the proposed Amended and Restated Land Exchange Agreement with JB Brown, substituting the Cotton Street Parking Lot for the City’s One Cambridge Street lot. This item was on the March 7, 2017, EDC Agenda for a review and recommendation to the City Council, which resulted in a 2-0-1 vote (Thibodeau abstained) to forward to the City Council for approval. The public had an opportunity to comment at the March 7, 2017, EDC meeting and also had an opportunity for public comment again at the City Council meeting when it took up the matter on April 5, 2017, at which time the Council voted 8-0 (Thibodeau recused) to approve the land exchange.

Former Reed School. City issued a Request for Proposals for sale and redevelopment of the Reed School. Staff presented the proposed Purchase and Sale Agreement to the City Council at its May 15 meeting for review and approval. The Council voted unanimously (9-0) to approve the Agreement with Developers Collaborative Predevelopment LLC for the sale.

Strip of Land on Federal Street._At its March 7, 2017, meeting, the EDC reviewed an application to purchase a strip of City property on Federal Street, used as an access driveway to an abutting, landlocked parcel. Deed restrictions restrict its use as an access to the landlocked parcel. This was tabled for a tour of the property and taken back up at the March 29, 2017 EDC meeting, at which time the EDC voted unanimously to authorize staff to advertise for bid to the two abutting lot owners only. The Bid document was issued and the deadline to submit bids was set as May 12, 2017. The EDC reviewed the one bid received in open session, followed by ann executive session, at its May 23, 2017 meeting. At its June 6 meeting, the EDC voted unanimously for forward the Purchase and Sale Agreement, with New Height Group, to the City Council for approval. The City Council approved the Purchase and Sale Agreement at its June 19, 2017 meeting.

<u>City/MDOT/CPB2 Land Exchange</u>

The EDC reviewed the Land Exchange Agreement between CPB2/MDOT/City of Portland at its March 7, 2017 meeting. This was tabled for a tour of the land area being exchange between the Portland Company Complex and the Amethyst Lot. At the March 29, 2017 EDC meeting, it unanimously recommended that the City Council approved by the proposed Land Exchange Agreement. The City Council unanimously approved the Land Exchange Agreement at its April 24, 2017 Council meeting.

<u>Acquisitions</u>

Redlon Woods: The Land Bank Commission is interested in accepting donations, acquiring private property vacant land, and placing tax-acquired vacant parcels in this area of the City into the Land Bank. Because of the property acquisition, this will come before the EDC, as well as the Land Bank Commission (LBC) for recommendations to the City Council. At the January 3, 2017 EDC meeting, staff presented an overview of the Redlon area. At the EDC meeting on September 19, 2017, it reviewed the LBC's recommendation to the City Council for placing certain tax-acquired, City-owned, and a private donated vacant land parcel for placement in the Land Bank and recommended to the City Council to place the properties in the Land Bank. The City Council will take action on this matter at their October 2nd meeting.

<u>TIF Districts:</u>

Annually the Economic Development Department issues a City Fiscal Year Report related to Portland TIF District activity. This report is available on the City web page at: http://www.portlandmaine.gov/529/Tax-Increment-Financing. The 2017 Annual Report is expected to be presented to the EDC in November.

One recommended TIF District amendment to discuss, in 2017, is the possible geographic expansion of the Waterfront TIF District. The areas to consider including in the Waterfront TIF District are East and West Commercial Street properties due to planned private sector investment projects and supporting public infrastructure needs.

In addition, the Thompson's Point TOD TIF may be brought to the EDC for possible amendments, which amendments would need to be authorized by the City Council.

Next Steps: Presenting any private TIF District requests to the EDC for direction, along with revisiting the Waterfront TIF District boundaries for possible expansion.

Ordinance Amendments for the Permitting and Inspections Department

At the April 18, 2017 EDC meeting, it reviewed proposed Ordinance amendments for the Permitting and Inspections Department, at which time it was tabled to the May 9, 2017 EDC meeting. It was taken up at the May 9 meeting and the EDC voted to forward the amendments onto the City Council. The City Council voted to approve the amendments at its August 21, 2017 meeting.

Outdoor Seating for Food Service Establishments

Review current permitting process/ordinance and any barriers, particularly for older buildings. Staff is working on this topic. Updates will be provided when appropriate.

Open Forum for Restauranteurs: Forum for restaurant owners to talk about what is going well, what is not, and any other issues or comments they may have.

Re-write of Land Use Code Chapter 14. Funding is included in the City Manager's budget to hire Planning staff to undertake this rewrite.

Intern Program for both High School and College Students, perhaps 5 to 10 hours per week. This could be a public/private collaboration, perhaps with a task force and working with the School Department.

Food Trucks: Expand areas/times for the trucks to be in operation. (This may be a joint meeting of the EDC and the Health and Human Services Committee.)

Explore closing Exchange Street on certain days; more open storefronts. Work with Portland Downtown in exploring these ideas.

Convention Center: EDC to be provided periodic updates from the Maine Convention Center Collaborative.

Other Unanticipated Matters as they come up.