

## PBOT LTIC - SUMMARY NOTES FROM STAKEHOLDER WORK GROUP MEETING #3

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November 16<sup>th</sup>, 2015: PBOT LTIC Stakeholder Work Group Meeting #3 (1-3 pm)

*Facilitator: Deb Meihoff (Communitas)*

*Staff/Consultants: Nick Popenuk (ECONorthwest), Bill Hoffman (PBOT), Christine Leon (PBOT), Eric Shaffner (City Attorney)*

*SWG Members: Sue Williams, Kurt Kruger, Kyle Chisek, Marianne Fitzgerald, Maryhelen Kincaid, Jacob Sherman, Justin Wood, Dan Vizzini, Jane Leo*

Please note: These notes are not meeting minutes, but notes about general ideas, decisions, tasks, etc. Each section is formatted similarly:

- Description
- SWG Comments/Questions
  - *Staff/ECONorthwest responses*

### Introductions/Overview

Deb Meihoff provided an overview of meeting agenda. No comments on agenda or SWG #2 notes. Please direct comments/questions about SWG notes to Deb or Ali.

### Overview of Proposed LTIC Mechanism

Nick Popenuk provided an overview of the proposed LTIC mechanism. While the mechanism might not sound groundbreaking, it required a detailed exercise to get to the simple solution. All potential mechanisms were looked at, each with specific limitations and legal requirements. For a description of the selected LTIC fee mechanism, please see November 11, 2015 memo: *Discussion of Proposed LTIC Mechanism*.

### SWG Questions/Comments on LTIC Mechanism

- Need clarification on page 2 footnote (fee for development on problem streets in residential zones, four units or less)
  - *Then the current system should apply if you are building larger developments or in non-residential zones. We are trying to find a solution for single-family development on local streets where we know this problem exists (improvements not built because of waivers)*
- What costs/improvements are considered when establishing amount of fee?

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- *Full street improvements including stormwater. Historical cost numbers have been obtained by reviewing all the completed LIDs over the last decade, as well as private development costs (adjusting for differences in costs between private and City development of streets).*
  - Many LIDs have not gone through in SW because the costs were too high. Those LIDs should be considered as well. In SW, completed LIDs are few and old.
  - It's important to note that for LIDs that did not go through, numbers are only an estimate. LID estimates are almost always higher than the actual cost to construct / final LID assessment rate. The completed LID numbers are more accurate.
    - *It is easier to get East Portland numbers where more LIDs have been built over the past 10 years. There is potential for a different rate for SW than other parts of Portland. It's possible for the methodology going forward (after the rate is initially set) could be adjusted to reflect actual costs going forward. If actual costs end up being more or less than original example streets we used in the calculation, the rate could be adjusted accordingly.*
  - Why not find the exact cost now? The fee isn't going to reflect the cost of building the street, which will defeat the purpose because streets won't get built. Some developers will choose to pay the fee and others may build the improvement.
  - This system will find a better average. We don't want to get in a situation where we have a case-by-case basis because then we are back to square one. For example, one particular project that isn't big, where we spend twice the actual cost of improvements on engineering, surveying, and city fees. The cost per foot is so much more in small sections for private development.
  - Need to know what's included and what's not when calculating the average of systemwide costs. Projects with five or more units shouldn't be included, as it would skew the dataset.
    - *Every street is different, and there is not one number that applies everywhere. The street cost isn't black and white, it's a spectrum. Because the City has unpaved/underimproved streets and hasn't made a lot of progress improving them, there aren't a lot of numbers to work with. Recognizing that the number isn't perfect, it's the best number given available information. But it can be updated over time.*
  - How to address the issue of the estimation of cost. If the fee is too high, it won't be worth building the development. If the fee is too low, streets won't get built.
    - *The fee is simple, so developers will know how much it will be. If the developers don't think they can pay the fee and make a profit, they shouldn't be buying the lot at that price. Long term, it will be reflected in the market. Now is the time to make sure that we aren't setting a fee too high for citywide application. The fee won't have so much diversity on case-by-case basis, and we want to provide certainty/assurance up front.*

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- Four lots or less can be an issue. If someone comes in one or two at a time, they would pay the fee. It should be as simple as possible. Also, it needs to be clear whether this applies to lots or units.
    - If you do a land division with three or more lots in Washington County, you are required to make the street improvements.
  - Make sure that there are no barriers to development of a duplex on a single lot. Would like to make the fee apply per lot (or not per unit).
    - *Although exceptions exist, it should be kept simple. We want big projects to construct the required infrastructure, and not have the option to pay the fee. The fee is not appropriate for multifamily or commercial development. Will come back to number of lots/units issue.*
    - For multifamily, a per unit cost would likely result in a fee higher than the cost of improvements
  - Page 3 second bullet [in the 11.11.15 memo] needs clarification (flexibility on how the money is spent). Specifically, clarification needed on what improvements the LTIC revenue could be used for/whether it can be used for maintenance.
    - *This process is sufficient to get a fee that will be imposed on new development. This process is not sufficient to identify where the money should be spent in future years. The amount of money raised through the LTIC will not be sufficient to fix all streets. The City is proposing to spend the next year or two engaging in a larger community process to identify priorities and how the LTIC money can be combined with other sources to construct transportation improvements. At this point, flexibility on how the LTIC can be spent should be maintained (with sidebars) so as not to preclude options the community may want to pursue. We recognize that certain community members desire to see higher priority projects built. This is not intended to be final.*
    - Would like the LTIC revenue to go to street and stormwater improvements (not striping, maintenance, etc.)
  - Would not like to see the LTIC revenue spent on striping, but bike/pedestrian improvements may be okay. Do not spend on maintenance.
  - Understand that [once LTIC is in place], the money is collected now, and decisions on how to spend it will come later.
    - *Correct. We are trying to keep it open, but not so open where it could be used for something else.*
  - Before going to council, sidebars need to be in place, because trust in the City isn't there. Spending the revenue on capital improvements fine. But, it needs to be kept local and incorporate local input into how the money is spent. Having local control and keeping the funds geographically separate is important. Also, there needs to be waivers of remonstrance kept on busy streets.

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- *At this point, there are many ways to maintain geographic proximity. One way to do it is by neighborhood coalition. However, there may be projects that span multiple coalitions. Another way is spend the revenue 1000 feet of where it's collected. Or, over time, make sure that each neighborhood coalition gets their fair share, but pool it because money is coming in slowly. A recommendation is not being made now; the decision has to be a fundamental part of the comprehensive solution. This process addresses the amount of the fee and basis of collection, so we can start collecting revenue. We are also trying to keep these options open for the future process to sort out. All the money will be tracked geographically.*
  - There needs to be sidebars, but don't want to end up back at square one with a fee that's too high. No one will choose to pay the fee if it's the same cost to do the development.
  - Because of the small amount of money to be raised in each neighborhood coalition area, it doesn't seem practical to keep money in each coalition.
    - *Could have one project a year that rotates around city.*
  - Building local streets with infill development may not be as small amount of money as everyone thinks. As a developer, if there were a fee option, would have done six more projects the past few years.
  - Seeing the basis of the costs is important. LIDs that didn't construct were \$80,000/house.
    - *More difficult challenge than it seems. LIDs are subsidized with other City funding and are only engineering estimates (not built); there are so many different factors that go into project, as well as market forces. We have other engineering estimates that we can also use. We are seeking out real data on construction costs, so it is not a straightforward task.*
  - Concerns about the LTIC impacting housing affordability.
    - *Conversations with appraisers eased our concerns on this front. When estimating a home's value the appraiser doesn't consider any fees that were paid by the builder. They appraise the market value of property. Ultimately, the amount of the fee will either impact the builder's bottom line, or the current property owner selling to a builder that must accept a lower price.*
    - Do appraisers recognize the current status of local infrastructure? It will depreciate the land value on the unimproved street.
      - *Yes, to the degree that the lack of infrastructure is estimated to impact the market value of the property.*
    - Improvements themselves would make it less affordable than paying a fee?
      - *It's a wash on global affordability, because improvements have been or will be built somewhere.*
  - The new LTIC will impact the property owner hoping to sell the property for their retirement.

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## SWG Questions/Comments: LTIC Scoring on Criteria (from previous meeting)

- Administrative ease: not a lot of trust that the City will do anything easily.
- There are two parts to administration ease: collection and spending. Administrative ease talks about COLLECTION. Spending is beyond what we are dealing with the fee. As a developer, we want to be able to go and say “my fee is x”.
- There needs to be accountability. Every year, each neighborhood coalition should receive a report stating how much LTIC money was collected in the coalition area. If we track the money geographically, needs to be reported geographically. It needs to be simple so if there is turnover in the neighborhood coalition, it can be easily understood.
  - Agree that the location of LTIC collection needs to be reported.
  - The fee needs to address transparency of accountability.
- There should be a potential to update LTIC rate yearly or every two years, and there needs to be an easy way to update it (ex. calculating new average)
- Paving unpaved streets isn’t the largest problem in SW. Busy streets are a bigger problem.
  - *We want to move forward to a mechanism that won’t preclude us from paving streets. Ultimately, the City wants to spend the LTIC revenue on community’s biggest priorities.*

## Remaining Questions

Although the preferred mechanism has been selected, there are details on how the mechanism would be implemented that require additional decisions to be made. Nick Popenuk went over each remaining question, followed by SWG discussion. For details of the remaining questions, please see November 11, 2015 memo: *Discussion of Proposed LTIC Mechanism*.

### **QUESTION 1: Where should the LTIC Apply?**

- Lots without curbs is easiest for the development community. Hoping to get a situation where developers give money to the City, and then the City spends it. Applying the fee citywide and getting credits would be a hard sell for development because it would be so confusing for development and administratively complicated.
- There should be local control/local input. Neighborhoods are unique as far as stormwater costs. We have many lots without curbs, but no one wants sidewalks, and it would be impossible to put them in. Would like to put that money somewhere where the neighborhood wants a street. There could be a grant program.
  - *Reminder that this question addresses where the money is raised, not where the money is spent.*

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- If there is a specific subset of streets defined as problem streets, it is not as clear in SW neighborhoods.
  - The language in the memo is not precise. The memo should state that this is a trigger, and address at what point the LTIC is triggered.
  - It's simple to see if there is a curb on the lot.
  - There are other elements to consider, including adjacent land uses, traffic functions, pedestrian networks, whether it is a destination, stormwater, landslide hazard, and slope (20% or greater). Like the simplicity of lots without curbs, but it doesn't work everywhere.
  - Would like to see flexible street design (not one citywide design).
    - *Will be addressed in next phase of project.*
  - If the rate is right (with a good dataset supporting rate), supportive of the simplicity of curb or no curb. Useful for developers and for homeowners thinking of selling their lots.
    - *The developers haven't indicated that they would go through the 8-9 months review, appeals, and design process that may be a little less expensive. Confident that although developers have the option of going through the process, they won't opt out of fee.*
  - The City would collect more money with this system.
  - The cost of improvements lot by lot is much more than the cost of building a whole street. Therefore, a per lot cost is too high for the basis of the LTIC. For developers, it's a time issue more than a cost issue, because it takes so long to go through the process.
  - Supportive of the lots without curbs option. The LTIC has to work for developers. We should keep the process as simple as possible, because builders are the ones that are directly affected by the basis/process. Even though loopholes can always be found, curb or no curb is the simplest option. A curb is a curb, and we need to honor the fact that it's the simplest way.
    - Looking specifically at the example of curb and no sidewalk: the City currently requires sidewalk improvements anywhere in the City. If a developer built a property, a sidewalk would be a condition of development anyway.
  - What happens if topography doesn't allow for the building of a sidewalk?
    - *If there is a curb, there is a consistent line that the sidewalk needs to be built on. If you don't have curb, then the right of way is less clear and sidewalks may not be able to be built in alignment, etc.*
  - Portland is now mainly infill. There will be spot lots where there is a street and curb, where you can build one house.
    - *With a more comprehensive program, there may be an option to build a sidewalk down the road.*
    - *The single family standard currently includes the cross section of street with sidewalk.*

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- If there is no curb, will it be possible to appeal out of improvements. If the default is the fee, can you choose improvements, then appeal?
    - *No, that would not be possible. Additionally, feasibility is based on singular sidewalk and not a waiver for perpetuity. It just means that the property owner agrees to participate in a bigger or more comprehensive project in the future.*
    - The curb is a magic line that makes the process objective. The question can be asked and answered at the counter in 10 minutes without a second guess. It can be clearly tracked in the system. Different than having to hire an engineer or go through the public works process. Most public works appeals don't focus on lots that have curbs anyways.
  - The "losers" under the LTIC are the developers that would have gotten out of making any improvements through the appeal process (under the system now, they may not have done anything). They now would pay the fee. The "losers" help to balance some of the projects that are more challenging.
    - *Under the current system, generally, about a third of infill development is made to build local street improvements to a full standard, a third is made to build some street improvements but not fully to standard, and a third are not required to build any street improvements (for a variety of reasons).*

**QUESTION 2: On what basis should the LTIC be applied?**

- Linear feet of frontage makes the most sense, as it is what developers base their costs on. It is more scalable to everyone. The flat fee is less fair than linear feet of frontage. It is also easiest on staff.
- Can there be a combination of frontage and units (some formula to break it out)? This would help to address flag lots and a situation where there are five condos on a lot with a small amount of frontage.
  - *If a flag lot is already a flag lot, the developer would be paying a small fee. The question is whether we think that this will happen frequently enough to consider.*
  - *The same is true of the five-condo situation. If a developer was building condos, they would still be improving only that stretch of road (despite how many units are on the property).*
- Corner lots [with unimproved streets on two sides] will get double-hit.
- Realize that it's more simple to just calculate by linear feet of frontage, but there needs to be a multiplying factor for number of units to account for increased traffic.
  - *The argument makes sense, but if we base the fee on increased traffic, it is considered an impact fee (like an SDC). We are choosing to not use an impact fee for the LTIC. If our methodology is clearly tied to impacts, it may be legally an impact fee, which means it would have to fulfill all the legal requirements of an impact fee.*

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- The units are incorporated into the already established SDC's. The root here is the frontage, which doesn't change depending on number of units built. Frontage is what we should be focusing on. The SDCs are separate, and impact is addressed there.
  - Linear feet makes a lot of sense. We could get hung up on flag lots, but those are extreme cases that will balance out. The frontage is a clean way to calculate the fee. It makes sense for the corner lot to pay for both frontages (how it currently is). From a simplistic perspective, it's useful for all parties.
  - Willing to back away from units, simply by the fact that it'll complicate the math. It would be hard to figure out, as the number of units could change over time. However, would prefer square feet.
  - Need to consider whether this would impact Accessory Dwelling Units (ADUs). Heard from people considering building ADUs who think that a fee would make building ADUs infeasible.
    - *No one is going to pay a fee on an ADU that is equal to the price of the ADU. We anticipate using the same types of new construction that trigger street improvements under the current system.*
  - Is it possible to charge a flat fee per lot? Would it make sense?
  - It should be simple for the developers.
  - *Note that this comes down to fairness: whether we think we are charging the right amount to the right people.*
  - Would prefer lots. Requires nuances to get into linear feet of frontage on curved streets or cul de sacs, from an administrative standpoint.
  - *Note that we are assuming that once a property pays, it's paid.*

**QUESTION 3: *Should there be any variation in the rate of the LTIC?***

- Developers already know MS4 areas have problems [*MS4 areas are areas specifically defined as having special stormwater system needs*]. Having 2-tiered system (a surcharge in MS4 areas) goes with general consistent thinking of most developers that there will be issues and additional costs to develop in MS4 areas.
- Would like to see a 2-tiered system. Don't care if it's east of the Willamette River/west of the Willamette River, or MS4/non-MS4.
- East and west is simple
  - *Some areas on the east side have stormwater challenges similar to the west side.*
- MS4 delineation is the federal regulation. Speaking from the standpoint of BES policy, that delineation makes sense. However, it does require a mapping system to show all

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properties in MS4 areas. Drawing the line down the river is simple but imprecise. Should be simple if it has to be a judgment call.

- Whatever is decided would have to be in an automated system, and MS4 areas wouldn't be difficult to map. However, if the designation is not automatically computed it could be easy for staff to get into the habit of assuming east/west even if actually based on MS4 areas.
  - *Need to check GIS system to make sure it can be easily automated to avoid the problem.*
- MS4 area designations are stable.
- In favor of MS4 as the determinant, and would like to get the information on PortlandMaps.
- 95% of properties will be right if the split is east/west, although there will be some exceptions on both sides that will average out.
  - *Need to make sure the difference in fee isn't arbitrary.*
- The equity issue: Need to be sensitive of City's message of unity (one system, everyone pays). For example, BES says everyone pays for stormwater, but the LTIC splits.
  - Neighborhoods currently pay stormwater fees even though some don't use the system.
  - *Note that each area is different (it's not black and white), which adds a challenge. The difference between east/west needs to be articulated.*
- If there is one universal fee, we may end up back at square one, because the fee will be too high.

#### **QUESTION 4: Should there be any credit in place?**

- Universal response: no.

#### **Final Comments**

- Would be helpful for this to wait to go to council until January.
  - *The project team doesn't anticipate going to council until late January at the earliest, but mid-February is the most likely timing.*

*Note: Most of the next SWG meeting will be spent discussing the next phase of the project, a comprehensive solution to improving local streets.*