

PBOT LTIC - SUMMARY NOTES FROM STAKEHOLDER WORK GROUP MEETING #4

December 14, 2015: PBOT LTIC Stakeholder Work Group Meeting #4 (1-2:30 pm)

Facilitator: Deb Meihoff (Communitas)

Staff/Consultants: Nick Popenuk (ECONorthwest), Bill Hoffman (PBOT), Christine Leon (PBOT)

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

Guests: Linda Bauer (East Portland Neighbor), Paul Grove (Home Builders Association)

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 #3 notes. Please direct comments/questions about SWG notes to Deb or Ali.

Overview of Proposed LTIC

Nick Popenuk provided an overview of the proposed LTIC. For details, please see the memorandums distributed on December 9, 2015: *Summary of Proposed Local Transportation Improvement Charge* and *Draft LTIC Rate Methodology*.

SWG Questions/Comments on Proposed LTIC:

QUESTIONS AND COMMENTS REGARDING THE PROPOSED LTIC RATE

- Concerned that the proposed rate per linear foot is too low: expect that builders will take advantage of the low rate in SW Portland.
 - *The fee was based on historically built projects because the methodology is the most defensible. As new projects are built, we can make sure the amount of the fee is being charged fairly based on a rolling average of the actual costs for completing the streets.*

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- Errol Heights in SE Portland is currently being discussed as the next LID project for local streets. The neighborhood is in an MS4 area, so there will be good data coming from that project moving forward.
 - The fee is not a bargain for homebuilders. If anything, the biggest plus for builders is the time savings (not having to go through the 6-9 month public works permitting process). Doing the projects a block at a time is a waste of money. It may be a bargain in some places, but it's a good place to start and it will adjust to reflect the actual costs of building the streets.
 - Right now, especially in SW, builders are getting waivers. The LTIC is better than nothing at all and will start collecting money.
 - Are there any MS4 projects in the datasets used to develop the LTIC rate?
 - *Yes, but not enough to distinguish an LTIC rate.*
 - Are the LID costs the full costs, or PBOT's contribution?
 - *The rate was based on the total cost of constructing the project.*
 - How will the LTIC rate be updated? How many completed projects will it take in MS4 areas to have two rates? How would you deal with outliers/how would the rate adjust?
 - *That level of detail will have to go into the administrative procedures guide. We know the concept (automatically update annually, based on projects completed).*
 - *Looking at other jurisdictions methodology will help here. A rolling average will help to guard against massive swings each year. We will need figure out the pace and time frame.*
 - *Once we work out the best method for calculating the rolling average, including how to control for outliers, we will email the methodology out to the SWG.*
 - Tech memo #1 included an estimate from Kittelson and Associates that improvement costs would be about \$600/ linear foot (but a project could range from 90%-140% of that number). Taking 115% of \$600 bumps the rate to \$690.
 - *Kittelson's initial estimate was based on a hypothetical street section. Now, we are asking them to review historical numbers of actual costs for local streets that the City constructed, and check inflation, etc. We will ensure they refer back to their original analysis and explain any differences from their previous analysis that was based on a hypothetical street section.*
 - In SW LTIC rate will eventually get higher, so the number is very fair (found a number right in the middle).
 - Developers think the fee is way too high (and it is), but can get people to agree. It's not just the developers' responsibility to fix SW Portland. There are a lot of people that should partake in that. \$30,000 for 50 feet paid by developers is more than anyone else will pay. Has spent hundreds of thousands of dollars putting in unhelpful

improvements and paying attorneys and engineers. It would have been much better to pay a fee that does something useful.

- Whatever the fee is, it has to be based on clear and strong empirical data rather than someone's gut reaction. This adds to the bottom line of housing affordability.
- This isn't a perfect system, the LTIC gets money collected, and hopefully the City does what they say they will and will start building local streets. With the current piecemeal approach, it'll never work. With all the development occurring in the City, there will be a lot of money relatively quickly (which is what everyone wants). Willing to support the LTIC even though the fee should be lower.
- The view is not uniform among members of the HBA. There are concerns around the size of the fee, but having certainty in the process and the ability to move forward quickly cannot be underestimated.
- We could argue all day whether the LTIC rate is too high or too low. As long as we have data backing it up, that's what we need. The more data we can collect and the more effort that is put into model projects is great. People say the fee is too high, but we don't have any data to back that up. We can't focus on a localized view, and base it on fact. You can get into a lot of trouble saying fee is too high or too low.

QUESTIONS AND COMMENTS REGARDING HOW LTIC FUNDS MAY BE SPENT

- Would like LTIC to improve busier streets and state clearly that the money will be spent where it is generated.
 - *This project was intended to assess a fee on local streets. The next phase of work will identify different funding sources that could be used for local transportation improvement programs. The LTIC does not preclude investments in busier streets and pedestrian or bicycle improvements that are part of the local system.*
 - *In the memo, under the section heading "Applicability," change from "the LTIC will apply" to "the LTIC will be collected" to add clarity.*
 - *This summary memo is a document intended to provide clarity to the SWG. What goes beyond this is an administrative procedures guide that will be set up to allow for flexibility to spend LTIC on wide range of transportation projects, not just local streets.*
- How will this project deal with waivers on busy streets?
 - *This project was specifically scoped to address only local streets, because staff thought there would be a higher chance of success to get to an end result. We anticipate the next phase of work may touch on how to prioritize arterials and collector streets that are part of the local street system, but it will not be a comprehensive approach to arterial and collector deficiencies.*

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- *This project is specifically meant to deal with local streets, and we haven't gotten a charge from a director to look at how PBOT approaches the role infill development plays in improving the arterial and collector streets. However, we now have a good template to guide us.*
 - Has it been decided that the fee would be collected on local streets, but could be used on any streets?
 - *This memo does not state where the money will be spent, but there should be more clarification about where LTIC money could be spent. It would be separate but related to the next phase of work on local streets.*
 - A previous memo stated the City would have flexibility in spending the LTIC. Is this still the case?
 - *We will need a follow-on process, related to the next phase of work, to decide on how to spend proceeds from the LTIC. Nothing in the LTIC proposal would preclude this type of flexibility. The LTIC collection will be tracked at a neighborhood level so we know where the money is being raised. The next phase to develop a local streets program and upcoming updates to the SDC rate will be important, as both projects combined will add clarity on how the City plans to fund improvements on collectors and arterials in SW Portland and elsewhere. The LTIC cannot be spent until we have a planning process in place.*
 - Concerned that if someone pays the LTIC for their frontage, it will be spent on someone else's frontage that hasn't paid the LTIC.

OTHER COMMENTS AND QUESTIONS ON THE LTIC:

- If the City were to develop a similar fee on collectors and arterials, what would be the point of the SDC? The SDC is meant for collectors and arterials.
 - *There needs to be a larger citywide conversation about the next phase of work focused on building local street improvements. It would make sense that the City engage the neighborhoods to see where neighborhood priorities are, and SDCs could take that list under consideration, then the LTIC could be spent on local projects.*
- *There is heightened sensitivity in PBOT to collectors/arterials without sidewalks. Some possible funding solutions include TSP (most vulnerable users safety—pedestrian) and pursuit of federal and regional grants/funding. PBOT is also discussing project-sharing strategies with BES to align priorities and jointly work to fix problem areas.*
- For large lots, developers will likely build the local streets, rather than pay the LTIC (economies of scale).

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- We had previously discussed triggers (e.g. require building street improvements for lots on corners or adjacent to improved right of way, etc.). Is this included in proposed LTIC?
 - *To achieve the goal of administrative ease and to reduce the risk of potentially discretionary decisions about where the LTIC is applied, there are no triggers written into the proposed LTIC.*
 - Over the years, the time spent debating this has resulted in a lot of missed collection opportunities. We could spend all day discussing what the fee should be. After meeting with various neighborhood groups, the unanimous comment was to start collecting the money. However, there is still lack of trust that the City will spend the money on the right projects. Please make sure that any information distributed is clear that there will be neighborhood input as far as the spending goes.
 - We shouldn't waste too much time getting too detailed at the local level. The LTIC should be recognized at a City level.
 - The LTIC is great because there will be less reliance on the public works appeals. It will empower neighborhoods and reduce cost of the appeals panel.
 - The public works appeals panel denied more appeals than not. Neighborhood engagement resulted in many varied responses.
 - Developers don't get out of building improvements very often. It's not fair to think that developers are just getting waivers.
 - Really glad the public works appeals process is going away for the most part.
 - *There will be an appeals process for minor items; for instance if a builder thinks the number of linear feet is wrong, or they say there is a curb and City says they don't, etc. Not intended to have a large appeal process. No discretion/no other avenues. If you make the decision to go back to the old process of building the improvements instead of paying the LTIC, there will no longer an appeal available to adjust the improvement requirements, but a builder could, at any point, stop the public works process and pay the new fee.*
 - Trust issue: some people think builders will still get out of building and not pay the fee.
 - *The City will either get the improvement or the full amount of the fee on the development. We assume that developers will choose to pay the fee, but they could still choose to build the improvements.*
 - Not having the appeals process and just either doing the improvement or paying the fee is the simplest and best method.
 - What happens to all the waivers that have been issued?
 - *The waivers will stay (old and new). If a builder pays the LTIC, they will still be required to sign a waiver of remonstrance. Collecting the fee is good, but it won't add up to nearly enough money to build all problem streets.*

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- The status of waivers of remonstrance needs to be clear, as it is very important when it comes down to the title transfer.
 - *The waiver system in place today will remain the same after the LTIC. Unless a developer builds the improvement, a waiver will be issued.*
 - Are new waivers going to have the same financial commitment/will properties that have paid the LTIC be subject to future local improvement costs?
 - *The next phase of work to develop a comprehensive local street program, will be defining the overall system of funding, which could involve waivers, those who paid or did not pay the LTIC, etc. There will need to be rules and policies moving forward. For now, paying the LTIC doesn't excuse you from your LID responsibility. However, people paying the LTIC would likely not be paying the LID later. A home appraisal won't be affected because a developer paid the LTIC. The homebuyer likely paid little to no portion of the LTIC, so for them to get an automatic discount on an LID doesn't make sense at this point in time.*
 - We are now setting an expectation that a waiver is worth \$30,000 [\$600/lf for a typical 50' frontage].
 - Not all SWG members are on the same page about who pays. Need clarification on who will pay the fee.
 - *What works best for the City is to not have any discretion over who builds street improvements vs. who pays. It will be up to the builder to make that decision - both options will be available. The LTIC will be the default option. However, there is the option for the developer to work with the City to design and build the street (developers can choose to opt out of the fee). The fee is due when they come in for the permit at the beginning of a project and the calculation will be formulaic. No room for negotiation.*
 - What happens if you have two lots of record but only one lot is being built on (and other similarly atypical circumstances)?
 - *Will have to work with staff to iron out the technical details of when and where the LTIC applies. This information will be included in administrative procedures guide.*
 - BPS is taking a look at the lot confirmation process, which may affect when the LTIC applies, but that won't be known until later in 2016.
 - Would like to have clear administrative rules that will be posted on the website.
 - When draft rules are sent to the SWG, can we include some examples?
 - *Yes, anything that is not self-explanatory will need to have a diagram/example.*
 - Refrain from saying that new construction is adding to traffic, because the new home isn't always the reason for additional street usage (for example, an existing home with one person living there can be sold to a family of 6).

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- Why would developers pay the fee instead of build the improvements?
 - *Developers would pay fee most of the time because of the time-savings. The cost is about the same, but time is important to developers (having the project move efficiently from beginning to completion). Many developers have suggested they would rather pay the fee today, than go through the months of the current, uncertain process.*
 - The current permitting process was engineered around days of doing subdivisions and building new roads. It was not set up to deal with small lots in the middle of a block, etc. which leads to an expensive process. Couldn't be happier that the LTIC is happening. It's a win for everyone, although of course it will require adjustments throughout implementation. This reduces conflict between City staff, developers, and neighborhoods. So much time has been wasted, so it's exciting to see that we are close.

Overview of Phase 3: the Comprehensive Local Street Program

Bill Hoffman provided an overview of the framework for developing a Comprehensive Local Street Program. See handout: *DRAFT Comprehensive Local Street Program Implementation Plan*.

SWG Questions/Comments:

- The mileage of problem streets should be higher than listed in the handout.
- Are shared street standards included?
 - *Yes.*
- Make sure the public is involved at every stage of the process (not just in a last phase).
- This is better than the current system. However, it requires trust in the City. Would like some sidebars and make sure it's not just including local streets. Requires community involvement to identify community priorities, which may be broader than local streets.
 - *We will need to include more specific language about how we will spend the LTIC money, and do not want to assume that the LTIC will be incorporated completely into building local street improvements. It needs to have its own process to identify how to spend the LTIC revenues.*
 - *In some cases, you have to talk about the larger system in the context of local streets. In some ways, this process is designed to do this. Philosophically, we are in agreement. But we don't want to diminish our commitment to local streets because it is a glaring hole in current system.*
- Few people in the development community would argue that money should go to local streets. Most developers would support spending money on a collectors/arterials. Also, it's important to remember that scattered infill development will not fix local streets by itself. This at least helps to solve some of the problem.
- Don't let the things you cannot do interfere with things that you can do. This is not perfect, but it will be good.

LTIC Implementation Timeline

Nick Popenuk provided an overview of the timeline for LTIC implementation. For details, please see the memorandum distributed on December 9, 2015: *Summary of Proposed Local Transportation Improvement Charge*.

In early January, ECONorthwest will have draft materials to send out to the SWG. The timing is fairly critical. If the City Council approves the LTIC as scheduled, it will take effect in early April.