Limited Tax Exemption BIG LOOK
Policy Review Committee

Wednesday, October 19, 2011, 1: 30-3:30

Portland City Hall, Rose Room

Attendees:
County Chair Jeff Cogen
County Commissioner Deborah Kafoury
City Commissioner Amanda Fritz
City Commissioner Nick Fish
Marisa Madrigal- Chief of Staff for County Commissioner Deborah Kafoury
Andy Smith, Government Relations, City of Portland
Lisa Miles, Metro
John Miller, Oregon ON
Traci Manning, Portland Housing Bureau (PHB)
Becky Lee, County Commissioner Deborah Kafoury
Andre Baugh- Portland Planning Commission
Dan Eisenbeis- City Attorney's Office of Government Relations
Andy Smith- City Attorney's Office of Government Relations
Nancy Bennett- Multnomah County's Office of Government Relations
Andrea Matthiessen- Portland Housing Bureau
Uma Krishnan- Portland Bureau of Planning & Sustainability
Dory Van Bockel- PHB
Kim McCarthy- PHB
Javier Mena- PHB
Komi Kalevor- PHB
Annette Mattson- David Douglas School District

MINUTES ARE IN BOLD

AGENDA

1. Welcome & Introductions (5 min)

City Commissioner Nick Fish opens the meeting and asks everyone to introduce themselves.

Nick Fish welcomes Traci Manning as the new director of the Portland Housing Bureau.

The Chair of the Portland Planning & Sustainability Commission, Andre Baugh, is in attendance and acknowledges that the Commission is supportive of the recommendations from the Big Look thus far. The Commission views the Limited Tax exemption programs as being integral tools in the implementation of the Portland Plan.

The officiator of the meeting, Kate Allen, begins going through the agenda items.

2. Review Aug. 1 Meeting Summary– questions, comments?
   Please Review Attached prior to meeting

   There were not comments on last meetings minutes.

3. Report:
   Requested follow up from 8/1/11 discussion of Summary of Draft Recommendations

   - Program caps description, Target caps

     Foregone revenue is real and represents resources that all taxing districts cannot use. There are real benefits from this program. The recommendation is to combine the New Multifamily Unit Housing (NMUH) + Transition-Oriented Development (TOD) programs with an annual investment of revenue to not exceed an additional amount of $1,000,000 per year. The program does not currently have any cap. A "typical" 100-150 unit development is approx. $200,000-300,000 annual revenue, this will allow for 3-4 approval per year. <u>This figure of $1,000,000 per year will be assessed after 2 years.</u>

     A chart has been provided of the total units and investment of revenue for the Tax Exemption Programs (Non-Profit, NMUH, TOD, SFNC, Rehab) from 07-08 to 10-11. Commissioner Deborah Kafoury asks about the years trending before 07-08. Development has been slow over the past few years. However, Kate Allen mentions that over the past 6 months there have been more inquiries from developers than in the past 18 months.

     The Single Family New Construction (SFNC) will have new location priorities. There will be a cap of 100 applications per year. Currently, there are approximately 180 appl. per year. It is believed that the new location priorities will reduce applications. <u>This process will be assessed after 2-3 years.</u>

     Commissioner Nick Fish states that federal cuts in HOME, CDBG, and TIF funds are likely to occur. These are the resources used to support new affordable housing construction. There is also talk among candidates to cut SDC exemptions which is a tool used to incent affordable housing development. We should keep in mind that the reduction of these resources will make it even more difficult to develop affordable housing. We should be mindful that the Limited Tax Exemption program is another tool to spur affordable housing.

   - Competitive Process description

     PHB staff recommends that a competitive process such as a "NOFA" or Notice of Funding Availability that would be open 1-2 times a year. The applications will be

reviewed and ranked by the PHB Housing Investment Committee and additional stakeholders (such as the Bureau of Planning and Sustainability- to ensure alignment with Portland Plan) and a recommendation made to PHB Director for consideration by Housing Commissioner and ultimately City Council.

Commissioner Fish reinforces that the "NOFA" process shifts away from an 'entitlement model' that developers have expected exemptions. The NOFA period will also need to consider the timelines of the development process. Kate Allen affirms that the experts at PHB are looking at these potential timeline issues. Komi Kalevor states there may be hiccups in the first two years with developers but that being clear and transparent with the developers will minimize problems. He reminded the Policy Review Committee that many of these projects take up to four years.

Andre Baugh mentions that the Planning Commission would not do a case-by-case review of every application. The Commission is drafting the idea of doing a periodic review (quarterly or bi-yearly) to ensure that the projects fit the Portland Plan.

- Financial need test – to replace IRR analysis

PHB staff in the Housing Development Finance Department recommend that based on the complexity of project and ownership structure of a project the appropriate test- may be Internal Rate of Return (IRR) or 10 Year Cash on Cash return. Upon initial review, the developer return cannot exceed 10% to get exemption. Extended Use Agreement executed at project closing requires developers to submit annual reports for return analysis and would be subject to recapture of return in excess of 10%.

Commissioner Fritz is concerned with a flat number developer return of 10% and would like this to be explored further.

Staff Follow up: The current rate of return cap of 10% using either the IRR calculation when the complexity of a project merits that review or the "cash on cash" review appropriate for most developments submitted to PHB for approval, remains a reasonable test for a 10 year investment. Equity investors in today's real estate market can find a return of 12-15% and higher depending on the level of risk. Developers of the mixed-income multi-family projects are accepting a lower rate of return in part because the improved financial viability of the project with the exemption reduces their risk of financial loss.

Because rental housing development activity is expected to increase over the several years, the demand for units may drive expectation of return higher. For the purposes of capping the developers return analyzing anticipated project performance at application AND actual project performance annually, staff recommends retaining the 10% cap.

Alternatively, the return cap could be indexed to the prime rate such that at application, using the current prime rate of 3.25% + 5 points would result in a cap locked for the life of the exemption of 8.25%. Anticipating that prime rate will one day rise again, the max return could be capped so that it did not exceed 10%. Staff would need to further analyze any unintended negative consequences of this approach.

- Process to address citywide distribution – *review attached draft metrics concepts*

  Staff at the Bureau of Planning and Sustainability created analysis.

  The analysis presented 3 issues: 'Unequal citywide distribution of tax exempt properties and affordable housing access,' 'unequal citywide access to family sized housing,' 'unequal and unpredictable impact on taxing districts', the approaches, opportunities, and the challenges.

  The Ramona is brought up as an example of bringing family sized units into the Pearl district which is a 'deprived family unit area.'

  Andre Baugh reiterates that the Bureau of Planning and Sustainability is interested in using this program to provide more family-sized units.

- Affordability thresholds MFI Modeling – using Jill Sherman model

  The application threshold is for 20% of units to be at 80% MFI for rental and for homeownership units to be at 100% MFI.

  Commissioner Debra Kafoury states that a 100% MFI unit would rent at $1,200 and an 80% MFI unit would rent at $1,000. She states the 80% MFI unit is still not affordable. She poses whether a $200 reduced rent per month per unit is worth exempting taxes of $130,000 per year?

  Powerpoint presentation was revised to display rents & discounts from market for the "model" project.

  County Chair Jeff Cogen states that this project may have been built without a tax exemption. Additionally, by providing a tax exemption for 20% at 80% as opposed to 100% MFI, the developer increases their Debt Coverage Ratio (DCR). Effectively, this increases their cash flow.

- Public Benefits, Links to Portland Plan – *review attached BPS memo to Planning and Sustainability Commission*
  - New threshold requirements – location, green bldg.
  - Analysis of benefits used
  - Public benefit short list, priorities

  Kate Allen reiterates that PHB staff is looking hard at anti-displacement and anti-gentrification.

Kate Allen reviews the analysis of Public Benefits options used from 2000-2010 which was provided by Bureau of Planning and Sustainability. She reviews a chart that shows the spectrum of proposed benefits from the LTE Programs. Of the public benefits, there are three (3) critical benefits: <u>1> accessible units (universal design), 2> larger units and 3> walk/roll to (grocery stores, shops, schools, day care, referral services)</u>

Commissioner Fritz asks how the 'accessible units' fit into the public benefits as isn't there already a threshold for providing 'accessible units.' It is pointed out that that the developer would need to provide additional accessible units to the standard.

Staff Response: In the City, the State's uniform building code (UBC) for accessibility applies to all public areas of a multi-family building (common areas and parking lots), but not to the residential units in the building.

For all new construction units built with HUD funds, developers must adhere to the requirements of Section 504, the federal law that protects qualified individuals from discrimination based on their disability. The nondiscrimination requirements of the law apply to (employers and) organizations that receive financial assistance from any Federal department or agency. The Section 504 requirement is that 5% of units are fully accessible to a person who has mobility impairment inclusive of 2% of units fully accessible to persons who have sensory impairment. In a typical 50 unit project 3 units would be mobility accessible and 1 of those would be sensory accessible.

Currently the TOD program includes additional accessible units as one on the menu of Public Benefits, of which applicants must provide three. The accessibility Public Benefit is described in **3.103.040.D.1** as:

At least 20 percent of the rental units must be dedicated and fully accessible during the term of the exemption by covenant to households which include persons with special needs, such as the mentally or physically disabled or other categories of persons as defined by the Federal Fair Housing Amendments Act of 1988;

Staff recommend retaining this as the standard in the new program, and updating it as other guidance from Planning and Sustainability is available.

Kate review the Goals, Current, Practice, and Propose changes of the Multi-Unit/Transit Oriented Development Limited Tax Exemption Program for Streamline, Location, Affordability, Public Benefits, Equity, and Affordability.

Commissioner Fritz would like to see an additional public benefit. She would like for shared community spaces to be a mandatory component of Multi-Unit developments.

Commissioner Fish mentions that we should be cognizant of limited tax exemptions that are within Urban Renewal Areas. We need to consider the diminishing financial resources and whether applying TIF funds to LTE projects would be efficient.

Commissioner Fish points out that the Tax Exemption program could align with the Micro-districts that Jeff Cogen and Mayor Adam are working on.

Commissioner Fritz would like to ensure that commercial exemptions are not given to enterprises that will compete with established and successful local businesses.

Traci Manning inquiries about the exemption process for the commercial space of a multi-use building. Additionally, how is the financing for the project approved without a commercial space being leased? And, is there a way to dictate the tenant (ala food market) of the commercial space. The PHB team and the Planning and Sustainable Development have been examining these issues. There is consensus that these issues should be further addressed.

Traci Manning says that the market rate rents of particular neighborhoods need to be assessed when developing affordable housing. There is agreement that this is a very important.

Kate Allen reviews the Goals, Current Practice, and Proposed Changes to the NMUH/TOD and the SFNC programs.

Annette Mattson from the David Douglas school district hands out a document (2010-2011 School District Assessed Value per ADM). The document shows that the David Douglas School District has the lowest Assessed Value per Average Daily membership (weighted) of all school districts in Multnomah, Clackamas, and Washington Counties.

There was discussion over the proposed change of restricting the Single Family new Construction LTE's in neighborhoods east of I-205. This would limit the amount of tax exempt properties in the David Douglas school district. However, the SFNC program incentives homeownership which is also of value to the David Douglas school district. There is consensus that this topic should be evaluated further.

Andre Baugh reaffirms that the LTE programs are strongly connected with the Portland Plan. The plan wants to encourage housing that is close to schools, food markets, and services. This is especially important for low-income families who proportionally pay much higher housing and transportation costs.

4. Discussion – Ready to Move Recommendations to Policy Change?

County Chair Cogen states that while much progress has been made there are still some items that need to be further discussed. He feels that we are getting very close to the conclusion to this but we need to do some more analysis on East Portland. Commissioner Fish states that agreements have been made on creating caps and

merging the NMUH and TOD program. He agrees with Chair Cogen that more progress needs to be made concerning East Portland. He proposes that we work out some specific cases.

Andre Baugh states that a draft of the Portland Plan is coming out within the month and then the Comprehensive Plan will be follow.

Commissioner Fritz feels that this process has been very valuable but that she would like to have another meeting to further discuss East Portland along with other issues she brought up in today's meeting. Commissioner Fish states that the process of the Big Look has been very valuable and that another meeting should be scheduled for November 2011.

5. Next Steps, Process Conclusion

Goals of this group:

1. **Review current abatement programs including preliminary recommendations by ECO NW and other changes raised by the Committee. Recommend potential changes to taxing jurisdictions. Local legislation needs to be approved by City Council, Multnomah County and other taxing jurisdictions by ~~Summer~~ Fall 2011.**
2. **If any statutory changes are recommended, work on potential draft legislation for 2012 *or 2013* legislative session. Legislative proposals need to be drafted by Fall 2011.**