



**MINUTES**  
**COMMUNITY DEVELOPMENT COMMITTEE**

**APRIL 8, 2009**

A meeting of the Portland City Council's Community Development Committee (CDC) was held on Wednesday, April 8, 2009, at 5:00 p.m. in Room 209 on the second floor of Portland City Hall. Present from the Committee were its Chair Councilor Cheryl Leeman and members Councilors Nicholas Mavodones and Daniel Skolnik. Present from the City staff were Associate Corporation Counsel Mary Costigan, City Manager Pat Finnigan, Business Development Representative Nelle Hanig, Planning and Urban Development Director Penny St. Louis Littell, Housing and Neighborhood Services Director T.J. Martzial, Economic Development Director Greg Mitchell, and Senior Executive Assistant Lori Paulette.

Chair Leeman opened the meeting noting that the meeting would be audio/video taped.

**Item #1: Minutes - Review and accept Minutes of previous meeting held on March 11, 2009.**

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

**Item #2: PowerPay Tax Increment Financing Request to redevelop the former Portland Public Market for their use.**

Mr. Mitchell said that PowerPay is an existing business in Portland currently located

at 280 Fore Street. He introduced its President Steve Goodrich and its consultant David Cohan.

Mr. Mitchell then gave the Committee an overview of PowerPay saying that it processes credit card payments for over 30,000 clients nationwide. It now needs to relocate to accommodate an expanding business. It has 113 employees and anticipates growing its employment level by another 102 at the former Portland Public Market (PPM) location.

The City's TIF policy guidelines indicate that a TIF development project limits a return to a developer of no more than 75% of the new tax revenue over the life of the district, and also requires that a TIF development project increase the assessed commercial tax value equal to or greater than \$2 Million over the original assessed value.

Mr. Mitchell continued saying that the City currently has eleven active TIF districts with varying terms and percentages. The current request represents a redevelopment of the PPM with a \$10 Million investment proposed. Financing sources will include New Market Tax Credits, owner equity, and traditional financing, but there is a financing shortfall of \$1 Million.

The terms of this proposed TIF District is for a 30-year district. For the first 8 years, 75% of the new taxes from the project would go the Developer (PowerPay), and 25% to the City's General Fund; years 9 through 30 would be a 50/50 split. Over the life of the District, the revenue stream to the Developer would total \$2,036,775 at the end of the District term, but the net present value (NPV) of that amount today is \$818,068. An annual average amount to the developer over the 30-year term is \$67,893, and the City's annual average revenue over the 30-year term is \$55,000 to the General Fund. These

amounts represent new taxes generated by the estimated increase value of \$5,000,000 over the now assessed value of just over \$1.8 Million. This \$1.8 Million, referred as the original assessed value (OAV), will continue to have 100% of those taxes from that OAV go directly into the General Fund for the life of the TIF District. It is only the percentages on the increased value that portions will go the Developer and to the City.

Mr. Mitchell noted that the assessed value a year ago was \$2.4 Million, and it is now \$1.8 Million due to the period of time it has remained vacant.

Mr. Mitchell then discussed TIF and its tax sheltering effect on State revenue sharing, school funding formula, and county tax. The TIF sheltering effect essentially saves the City \$.34 on every tax dollar that is sheltered in a TIF district. For instance, an increased in assessed value means that the City will lose a proportionate share of State revenue sharing. If that increased assessed value, however, were part of a TIF district, it would not be counted against State revenue sharing and the City would not lose funds from the increased assessed value to State revenue sharing; same with the School funding formula and county tax.

Regarding the location of the project, Mr. Mitchell noted that it was currently in the Creative Portland Development and Arts (CPDA) TIF district. Because the term of the CPDA is 10 years and is already activated, and because the PowerPay is not activated and being proposed for 30 years which is the maximum allowed by State law, he would recommend that the CPDA district be amended to take that PPM parcel out and have it be created as a standalone TIF District for the PowerPay project. Removing that parcel from CPDA will not have an impact on the overall performance of that TIF district.

Mr. Mitchell said that there are four areas of public benefit: (1) retaining a business, which is one of the most important activities for economic development, with good quality employment; (2) reuse/renovation/development of a challenging downtown building, creating a second floor to the building; (3) LEED design renovation, Gold Certification; and, (4) estimate of \$55,000 annually in new taxes to the City's General Fund.

Chair Leeman thanked Mr. Mitchell for the outline and then asked if there was any public comment. There being none, the public comment session was closed.

Councilor Mavodones noted on Mr. Mitchell's cover memo in the packet under public benefit #4, that the memo probably did not get updated to reflect that the new taxes would be going into the General Fund, and not to support the Creative Economy TIF program now that the project site for PowerPay would be taken out of that TIF district and a new standalone TIF district for the PowerPay project being created.

Mr. Mitchell thanked Councilor Mavodones for the clarification and agreed.

Councilor Mavodones asked about the estimated 102 new positions that would be added at PowerPay's new headquarters, noting the New Market Tax Credit (NMTC) program has regulatory controls for monitoring that these positions do get added. He asked Mr. Goodrich how long before these 102 positions would be phased in.

Mr. Goodrich indicated employment is now at 125, so they are ahead of schedule. They are currently adding one to three people per month. Even with the economy as it is now, people are still using credit cards so the business is looking good. He expects that within two to three years, all 102 employees would be hired. All employees have health

benefits, and, because of the NMTC program, he would also be working with organizations to create employment opportunities for disadvantaged people.

Regarding the new taxes annually into the General Fund, Councilor Mavodones said that those taxes would be used at the discretion of the administration/Council, and Mr. Mitchell agreed.

Councilor Mavodones said that he supports this TIF project and PowerPay remaining in Portland. The former Portland Public Market building is a challenging building to convert. The City is well aware of that fact when the Portland Public Library was considering it for its operations.

Councilor Skolnik asked who the “developer” is who is getting the TIF funds, and Mr. Mitchell said that PowerPay is the developer receiving the TIF funds.

Councilor Skolnik asked about the TIF District should PowerPay go out of business.

Mr. Mitchell said that the TIF district is performance driven. Should PowerPay go out of business, there would be no TIF and no obligation on the City.

Councilor Skolnik asked about PowerPay’s \$1 Million gap for the project and the resulting TIF application to fill that gap. He noted on the spreadsheet on page four of the Committee packet that after 30 years, the Developer’s total share would be \$2,036,775.

Mr. Mitchell confirmed the \$2,036,775 at the end of 30 years. If you take that amount and convert it to Net Present Value, that amount today would be \$818,068. This is what PowerPay can take to the bank to assist with the financing package to help retire the debt.

Chair Leeman said that Councilor Mavodones took care of her questions. She supports this project and TIF request, particularly its proximity to the downtown and the

spin-off effect it will have on the downtown and its activities. The percentages in the first years, although a bit high, are worth it for the outcome and energy the project will create.

There being no further questions/comments, a motion was then made and seconded to forward this TIF request to the City Council with a recommendation that it be approved as presented. The Chair then asked for a vote on the motion and it passed unanimously.

**Item#4: Beckett Green/Adams School project progress report.**

The Committee's consensus was to take this item out of order.

Mr. Martzial said that the CDC was last updated on this project at its January 14 meeting. At that meeting, the Committee recommended that the project be put on hold until the new stimulus funding availability was determined, particularly the Neighborhood Stabilization Program (NSP).

Mr. Martzial said that NSP-1 funding was awarded to the City for \$1.3 Million according to a formula. There is now another round, NSP-2, of funding that will not be by formula but competitive. Avesta is planning to apply for funding through NSP-2. This will be important due to the fact that \$780,000 in Avesta's development budget was projected to be from the Federal Home Loan Bank of Boston's (FHLBB) Affordable Housing Program, which is now not available in 2009 due to the current economic situation; it is not yet known at this time if these funds would be available in 2010.

The Rules for the NSP-2 have not been published at this time. Mr. Martzial said the rules are due to the public on May 2<sup>nd</sup>. Site control may be necessary for Avesta to apply,

so a P&S Agreement may need to be negotiated or other document that would be sufficient for the application.

Mr. Martzial said that Avesta is not solely relying on NSP-2 funding, as they are adept at finding multiple financing sources for their projects.

Dana Totman, President of Avesta, said that Mr. Martzial explained the status of the project very well. Avesta does plan to look at various financing sources for the subject project, just as it did for the Pearl Place project – the latter of which started with five financing sources and ended up with eight. He remains optimistic with the project and confirmed that this kind of housing project is needed in Portland. Mr. Totman said that he talked with real estate professionals who advised him of that and he is prepared to go forward. NSP-2 funding is the next logical step.

Mr. Martzial said that the Rules are due May 2, and then applications would be due in July 15, with awards anticipated in February 2010.

Chair Leeman said that she assumes that the building is secured and heated so that there will be no deterioration occurring.

Ms. Littell said that NSP funds are for areas of blighted neighborhoods and high foreclosure rates. The Adams School building is now beyond rehabilitation.

Chair Leeman said that when the NSP-2 rules have been promulgated, the Committee could have another update on the project.

Councilor Mavodones asked if there was anything to preclude the City to offer short-term leases for the School while this project continues.

Mr. Martzial said that he would check with Anita Lachance as she is overseeing the building structure.

Councilor Mavodones, noting Mr. Totman's comments that he was prepared to go forward with the project, said that he is also prepared to do whatever it takes to keep it alive. He asked about site control for Avesta.

Ms. Littell said that Avesta's attorney submitted a Purchase and Sale Agreement, but City staff is suggesting something less than a P&S but legally sufficient for Avesta's application for NSP-2 funding.

Chair Leeman asked if there were further questions/comments. There being none, she thanked everyone for the status report.

**Item #3: International Marine Terminal Lease Update**

Ms. Finnigan said that City staff has been meeting with MDOT and Port Authority officials to negotiate a lease for the International Marine Terminal (IMT). She then handed out the lease that has been negotiated, noting that the Committee had received a draft of it the day before. Ms. Finnigan introduced Rob Elder from MDOT, John Henshaw Executive Director of the Maine Port Authority (MPA), Jack Humeniuk of the Longshoreman's Association, Dick Ingalls – President of the Board of the MPA, and Patrick Arnold – Business Development and Marketing Manager of the MPA, who are available for questions/comments.

Ms. Finnigan then outlined various items in the lease for the Committee. First of all, the original reasoning for entering into the lease is to make the IMT fully functioning and to enhance its container activities. The State can bring the capital investment needed for the facility to improve it into a modern container facility.

Ms. Finnigan said that the initial term of the lease will be for three years, after which there are two five-year extension options, followed by two ten-year terms, for a total of

thirty-three years.

Rent for the facility for the first three years is the lesser of \$120,000 plus an annual escalator based upon the CPI, or one-third of the tenant's net revenues. This takes into consideration that the State will do a major investment of capital to get the facility back into shape. The rent for extended terms is the lesser of \$120,000 plus an annual escalator based upon CIP or one-quarter of the tenant's gross revenues.

Ms. Finnigan noted that the major cost for the City now is Homeland Security and operational expenses. The Port Authority will be the IMT operator responsible for all operations, meeting maritime regulations, and port responsibilities. The Port Authority will be permitted to make any alteration to the premises, including the demolition of any buildings at the site at its own costs upon written notice to the City. The Port Authority could assign the lease with City consent, and there are provisions for default.

Chair Leeman thanked Ms. Finnigan and asked if there were any public comments.

Steven Sharf said that as the Committee is seeing the lease for the first time as we speak, he is just hearing about it. The terms seem okay, but he would like the time to review the plan and the numbers. The City did spend about \$2 Million on the IMT terminal building a few years ago and questioned the need for its demolition. He suggested several years ago to sell the facility so that City would not have invested those funds into the building.

Regarding the leasing arrangements, Mr. Sharf would want to be sure that the State is not exempted from any regulatory requirements of the City and would want to have something written into the lease to that effect.

In the end, Mr. Sharf agreed that it would be good for the State to take over the facility.

John Henshaw, Executive Director of the Maine Port Authority, said that over the past six months, he and the City have had a good working experience in negotiating the lease for the IMT.

Councilor Skolnik asked Mr. Henshaw about the security model the Port Authority would be using.

Mr. Henshaw said that it would be modeled after the security plan the City uses. He will work with Fred Lamontagne and the Coast Guard on the plan now and work with it/them going forward.

Councilor Skolnik asked if the Port Authority would be at the front line for insurance compliance.

Mr. Henshaw said it would have that responsibility for the IMT. Fred Lamontagne has the responsibility for the Port of Portland and the Maine Port Authority (MPA), as the operator for the IMT, would have all responsibility for the IMT, including the security and insurance.

Councilor Skolnik asked about a summary of overhead expenses of insurance, maintenance, marketing, and net versus gross revenues.

Mr. Henshaw said that the MPA will actively market the facility, and insurance and maintenance are general costs included under the lease for the MPA to bear.

Snowplowing is one of the major costs for the facility, but the MPA is aware of it and is included in its budgeting. During the first three years of the Lease, the City is to receive the lesser of \$120,000 plus an annual escalator based upon the CPI, or one-third of the

tenant's net revenues. After those first three years, the City will receive the lesser of 25% of gross revenues or \$120,000 per year, with an escalator built in according to the CPI.

Regarding marketing, Councilor Mavodones said that with all of the marketing currently done by the MPA, the IMT can only benefit from being added into the mix. Regarding any potential for fish processing and the City already having the Fish Exchange, he asked Mr. Henshaw if he saw any potential competition issues.

Mr. Henshaw said that marketing of the IMT will be more along the lines of vessel marketing, particularly starting with the Halifax feeder service.

Councilor Mavodones stated that vessel marketing would be better, particularly with the Fish Exchange already in place. He then asked about the timing of the demolition and repairs.

Mr. Henshaw said that there are funds to make near term improvements, including lighting and refer plugs, both of which need to be moved to the perimeter of the facility and updated/replaced. The Governor has proposed funding to do IMT improvements as part of the Transportation bond issues which is expected to be part of the November ballot.

Councilor Mavodones asked about any zoning issues, and Ms. Costigan said that zoning is included in section 28 of the lease. Councilor Mavodones agreed with the previous statement made by Mr. Sharf that the Port Authority not be exempt from local zoning.

Councilor Mavodones asked about any potential neighborhood issues, and if this had been addressed in the lease.

Ms. Finnigan said although this was brought up during discussions, the lease does not refer to neighborhood issues.

Mr. Humeniuk said that originally there was one neighborhood issue having to do with lighting, and the lighting was then shielded from High Street. As Mr. Henshaw said earlier, the lighting will be moved and updated which would be an improvement.

Councilor Mavodones said the IMT building does need to be torn down. It would be good for the Council to have information on how much funding went into repairing the building. Regarding the transfer bridge, he asked if it would remain for roll-on/roll-off.

Mr. Henshaw said that it does need work to improve it for heavy trucks. At present, it will be left as it is until there is need to improve it for use or dismantled.

Chair Leeman asked about the City land across Commercial Street from the IMT site.

Ms. Finnigan said that that land is not part of the leased area, and Chair Leeman requested that the City obtain an appraisal of that land.

Regarding ongoing maintenance, Chair Leeman requested that language be built into the contract for regular maintenance with certain benchmarks like, for instance, at the end of three years an assessment for needs could be done. She requested that ongoing maintenance language be tightened up.

Chair Leeman asked about accounting information.

Mr. Henshaw said that at the end of a fiscal year, MPA would have 30-60 days to compile data on the previous year. Based on the actual data compiled, it would then confirm the annual lease payment due.

Chair Leeman asked if there were any projections done.

Mr. Henshaw said that he could do projections but not with a lot of confidence because the facility has been largely empty. He does have near term projections.

Chair Leeman said it would be good to have to see the near term projections, as well as information on what the facility has cost the City.

Ms. Finnigan noted that for the City to realize a \$120,000 annual payment would be a banner year for the facility.

The Committee then discussed property boundaries looking at a map provided, as well as potential business coming to the facility and spinoff benefits.

Chair Leeman then asked if there were further questions/comments. There being none, a motion was then made and seconded to recommend to the City Council that it approve of this lease with the Maine Port Authority, with the caveat that ongoing maintenance of the facility be further tightened up in the lease, and that part of the backup information for the Council include costs incurred in the recent past to improve the IMT terminal building. This motion was then voted and passed unanimously.

There being no further business to come before the Committee, the meeting was then adjourned at approximately 6:30 p.m.

Respectfully submitted,

Lori Paulette