December 7, 2020 -
Vancouver City Council Meeting Minutes

WORKSHOPS

Workshops were conducted remotely over video conference utilizing a GoToMeeting platform. Members of the public were invited to view the meeting via the live broadcast on www.cvtv.org and CVTV cable channels 23 or HD 323, or on the City' s Facebook page, www.facebook.com/VancouverUS, or listen via the GoToMeeting conference call.

Councilmember Fox arrived at 5:14 p.m.

4:00-5:00 p.m. 2021 Federal Legislative Agenda

Joel Rubin, Federal Governmental Affairs Liaison

Summary
The City's federal governmental affairs liaisons provided Council with an overview of the proposed 2021 federal legislative agenda and an update on the status of City requests from the previous year.

5:00-5:30 p.m. Fall 2020 Zoning Code Amendments Follow-Up

Bryan Snodgrass, Principal Planner, 360-487-7946

Summary
Staff provided Council with an overview of three items being proposed as part of the annual review of the Comprehensive Plan and zoning code updates. This workshop was a follow-up discussion from the November 16, 2020,

workshop.

5:30-6:00 p.m. Transportation Benefit District 2020 Year in Review

Chris Malone, Public Works Finance and Asset Manager, 360-487-7711

Summary
Staff provided Council, also sitting as the Transportation Benefit District (TBD) Board of Directors, a review of the TBD's 2020 activities and budget, as well as a preview of the proposed budget and work plan for 2021, which will be brought before the TBD board for action on December 21.

REGULAR COUNCIL MEETING

This meeting was conducted remotely over video conference utilizing a GoToMeeting platform. Members of the public were invited to view the meeting via the live broadcast on www.cvtv.org and CVTV cable channels 23 or HD 323, or on the City's Facebook page, www.facebook.com/VancouverUS. Public access and testimony on Consent Agenda and Public Hearing items was also facilitated via the GoToMeeting conference call.

Call to Order and Roll Call

The regular meeting of the Vancouver City Council was called to order at 6:30 p.m. by Mayor McEnerny-Ogle. This meeting was conducted remotely over video conference.

Present: Councilmembers Fox, Paulsen, Lebowsky, Glover, Stober, Hansen, Mayor McEnerny-Ogle

Absent: None

Also present on the call were the following: Eric Holmes, City Manager; Jonathan Young, City Attorney; Amanda Delapena, Assistant to the City Council; Brian Carlson, Interim Deputy City Manager; Brent Boger, Assistant City Attorney; Cayla Cothron, Associate Planner; Chad Eiken, Community and Economic Development Director; Patrick Gilbride, IT Director; Rebecca Kennedy, Long Range Planning Manager; Aaron Lande, Senior Policy Analyst; Carrie Lewellen, City Treasurer; Ryan Lopossa, Streets and Transportation Manager; Jason Nortz, Development Review Manager; Peggy Sheehan, Community Development Programs Manager; Dan Swensen, Interim Public Works Director; and members of the public.

Approval of Minutes

Minutes - November 9, 2020

Motion by Councilmember Glover, seconded by Councilmember Fox, and carried unanimously to approve the meeting minutes of November 9, 2020.

Minutes - November 16, 2020

Motion by Councilmember Fox, seconded by Councilmember Stober, and carried unanimously to approve the meeting minutes of November 16, 2020.

Citizen Communication (Items 1-9) - see general protocol above

Mayor McEnerny-Ogle opened Citizen Communication and received the following testimony:

- Peter Fels, Vancouver, requested Council remove Item 5 from the Consent Agenda and consider it separately. He expressed concerns about it being sold privately, and urged the City to instead maintain ownership of the property and use it as a transitional housing facility for people who are experiencing homelessness.
- Glen Yung, Vancouver, spoke in opposition to Item 7, expressing concerns about waiving Park Impact Fees when there has already been noted a deficit in park land.

There being no further testimony, Mayor McEnerny-Ogle closed Citizen Communication.

Consent Agenda (Items 1-9)

Council requested Items 1, 5 and 6 be pulled from the Consent Agenda for separate consideration, as summarized below.

Motion by Councilmember Paulsen, seconded by Councilmember Stober, and carried unanimously to approve Items 2-4 and 7-9 of the Consent Agenda.

1. Approval of 2021 Council Meeting Schedule

Staff Report 176-20

Summary

City staff develops and publishes the annual Council meeting schedule and calendar every fall for the following year. Council Policy 100-32 includes a *provision for Council adoption of the upcoming annual Council meeting schedule on the first meeting of December each year.*

The annual schedule identifies the date, time and type of each Council meeting, as well as any Mondays when the Council will not meet. Per Council policy, the Council meets every first, second, third, and fourth Monday of each month, excluding any City-recognized holidays that fall on a Monday. Per City Charter, Council must meet at least twice per month for Regular meetings, which will typically fall on the first and third Mondays; Consent Agenda meetings with Citizen Forum fall on the second and fourth Mondays, unless otherwise pre-empted by a Regular meeting and identified as such on the approved schedule. Informational workshops may be held, as needed, before any Council meeting. The specific time and topic for each workshop will be identified on the published agenda for a given meeting date.

The 2021 Council schedule includes 24 Regular Council meetings, 18 Consent Agenda meetings, and 19 scheduled Citizen Forums. All City Council meetings will begin at 6:30 p.m., per Council Policy 100-32. Workshops will be held between 4:00 and 6:00 p.m., unless otherwise noted on a published agenda. Citizen Forums will be held for up to 90 minutes following the business items of the agenda.

Subject to Council approval, the 2021 annual schedule will be publicly noticed in The Columbian, and the calendar will be posted on the City's website and distributed to the media and all City departments. Copies of the printed Council meeting calendar may be requested by contacting the Council Assistant at 360-487-8605.

Any cancellations or changes to the annual schedule, or the addition of Council retreats or other special Council meetings, will be advertised in accordance with Council Policy and the Washington Open Public Meetings Act.

2021 Annual Meeting Schedule

All meetings begin at 6:30 p.m. | Workshops 4:00-6:00 p.m. (subject to change)

1/4/2021	*Regular Meeting*
1/11/2021	*Consent Agenda Meeting w/ Citizen Forum*
1/18/2021	*No Meeting - holiday (Martin Luther King Jr. Day)*
1/25/2021	*Regular Meeting*
2/1/2021	*Regular Meeting*
2/8/2021	*Consent Agenda Meeting w/ Citizen Forum*
2/15/2021	*No Meeting - holiday (Presidents Day)*
2/22/2021	*Regular Meeting*

3/1/2021	*Regular Meeting*
3/8/2021	*Consent Agenda Meeting w/ Citizen Forum*
3/15/2021	*Regular Meeting*
3/22/2021	*Consent Agenda Meeting w/ Citizen Forum*
3/29/2021	*No Meeting - 5th Monday*
4/5/2021	*Regular Meeting*
4/12/2021	*Consent Agenda Meeting w/ Citizen Forum*
4/19/2021	*Regular Meeting*
4/26/2021	*Consent Agenda Meeting w/ Citizen Forum*
5/3/2021	*Regular Meeting*
5/10/2021	*Consent Agenda Meeting w/ Citizen Forum*
5/17/2021	*Regular Meeting*
5/24/2021	*Consent Agenda Meeting w/ Citizen Forum*
5/31/2021	*No Meeting - holiday (Memorial Day)*
6/7/2021	*Regular Meeting*
6/14/2021	*Consent Agenda Meeting w/ Citizen Forum*
6/21/2021	*Regular Meeting*
6/28/2021	*Consent Agenda Meeting w/ Citizen Forum*
7/5/2021	*No meeting - holiday (Independence Day observed)*
7/12/2021	*Regular Meeting*
7/19/2021	*Regular Meeting*
7/26/2021	*Consent Agenda Meeting w/ Citizen Forum*
8/2/2021	*Regular Meeting*
8/9/2021	*Consent Agenda Meeting w/ Citizen Forum*
8/16/2021	*Regular Meeting*
8/23/2021	*No Meeting - mid-year break*
8/30/2021	*No Meeting - 5th Monday*
9/6/2021	*No Meeting - holiday (Labor Day)*
9/13/2021	*Regular Meeting w/ Citizen Forum*
9/20/2021	*Regular Meeting*
9/27/2021	*Consent Agenda Meeting w/ Citizen Forum*
10/4/2021	*Regular Meeting*
10/11/2021	*Consent Agenda Meeting w/ Citizen Forum*
10/18/2021	*Regular Meeting*
10/25/2021	*Consent Agenda Meeting w/ Citizen Forum*
11/1/2021	*Regular Meeting*
11/8/2021	*Consent Agenda Meeting w/ Citizen Forum*
11/15/2021	*Regular Meeting*
11/22/2021	*Consent Agenda Meeting w/ Citizen Forum*
11/29/2021	*No Meeting - 5th Monday*
12/6/2021	*Regular Meeting*
12/13/2021	*Consent Agenda Meeting w/ Citizen Forum*
12/20/2021	*Regular Meeting*
12/27/2021	*No Meeting - End of Year Break*

Request: Approve the 2021 annual City Council meeting schedule.

Amanda Delapena, Assistant to the City Council, 360-487-8605

Councilmember Fox noted the Council is planning a retreat for January. She asked whether the date had been confirmed, and if so, whether it could be added to the Council's adopted schedule for 2021.

City Manager Eric Holmes stated the Council's retreat date had been confirmed for January 16, and City staff is working to secure a facilitator to guide the discussions for the retreat. He stated there would be no issue adding the date to the calendar.

Motion by Councilmember Fox, seconded by Councilmember Hansen, and carried unanimously to approve the request with the additional retreat date to be added to the final schedule and calendar.

2. Approval of Purchasing Authority for Software and Related Services from SHI International

Staff Report 177-20

Summary

The City currently uses the State of Washington SHI contract to purchase software from multiple vendors, including Microsoft, Adobe, Avolve, Barracuda, Citrix, Infor, Kronos, NetMotion Wireless, OpenText, Pitney-Bowes, Qualys, RSA Security, VMware, and others. Because the State of Washington contract expires in April 2021, the City can lock in prices for major Microsoft subscription software purchases by utilizing the Sourcewell SHI contract through Sept. 2023.

Request: Authorize the City Manager or designee to approve purchases not to exceed $3,600,000 from SHI International Corp. on Sourcewell Contract #081419-SHI over the life of the contract.

Patrick Gilbride, Information Technology Director, 360-487-7650

Motion approved the request.

3. Approval of a tax-exempt qualified private activity bond issuance by the Vancouver Housing Authority

Staff Report 178-20

A RESOLUTION a resolution providing approval, solely for purposes of section 147(f) of the Internal Revenue Code, of the issuance of revenue obligations by the Housing Authority of the City of Vancouver in the principal amount of not to exceed $22,500,000, to finance the acquisition, construction, rehabilitation, and equipping of a multifamily housing complex to provide housing for low-income persons in the City of Vancouver, Washington.

Summary

The Vancouver Housing Authority (VHA) is planning the rehabilitation and equipping of a multifamily housing complex known as Plum Meadows located at 1919 West 34th Street, in the Fruit Valley Neighborhood of Vancouver. Plum Meadows will provide approximately 162 units of housing for low income persons in the City. VHA has requested the City's approval of the issuance of tax-exempt qualified private activity bond obligations ("bonds") to finance a portion of the costs of the Plum Meadows project.

If approved, the bond obligations would be issued pursuant to a plan of financing consistent with Treasury Regulations. The schedule for issuance will require that the first issue of the obligations for the project be issued no later than one year after the City's approval and that any subsequent issuance for the project be issued no later than three years after first bond issuance for the project. The maximum principal amount of the bond obligations for the project will not exceed $22,500,000.

Unlike "governmental" tax-exempt bonds, qualified private activity bonds may finance a facility to be used primarily by a private entity, so long as 95% of the proceeds of the bonds are applied to a qualifying purpose (here, provision of low-income housing) and certain other requirements are met. Among the special requirements applicable to qualified private activity bonds are those contained in Section 147(f) of the Internal Revenue Code (the "Code"). Under these provisions, added by the Tax Equity and Fiscal Responsibility Act and therefore often referred to by the acronym "TEFRA", are notice, hearing and local government approval requirements. These TEFRA requirements are intended to provide opportunities for the public to be made aware of projects to be financed with tax-exempt qualified private activity bonds.

Although the City's approval is required for the issuance of the Obligations, the City's approval does not create or imply any responsibility on the part of the City to issue the Obligations, to pay debt service on the Obligations or to determine whether the Obligations or the Project are financially feasible.

Request: On December 7, 2020, adopt the resolution authorizing issuance of tax-exempt qualified private activity bond obligations by the Vancouver Housing Authority to support the Plum Meadows project.

Jonathan Young, City Attorney, 360-487-8500

Motion adopted Resolution M-4106 to approve the request.

4. **Temporary license agreement with C-Tran for the Safe Park Zone for homeless residents with licensed vehicles to use the Evergreen Park and Ride located at 13601 NE 18th St., Vancouver, WA**

Staff Report 179-20

Summary
The Safe Park Zone has operated in the parking area immediately adjacent to C-Tran's Evergreen Transit Center, Park and Ride located at 13601 NE 18th St. since June 2020.

The agreement allows the City to offer space within the parking area for vehicular parking for individuals experiencing unsheltered homelessness who are presently residing in vehicles. There are currently 52 spaces, 38 reserved for cars/trucks and 14 for recreational vehicles. To date, the site has served an estimated total of more than 200 residents and averaged 85% capacity.

Safe Park Zone participants are expected to follow "Stay Home, Stay Healthy" protocols, which include remaining in and around their vehicles, practicing social/physical distancing of at least 6 feet and limiting their trips to those that are for verified essential services (e.g. food, medicine).

Only legally, licensed motor vehicles may participate in the program. Participants must sign and adhere to a Code of Conduct at registration to receive a placard for their vehicle. The Code of Conduct covers issues like the check-in/check-out process, social/physical distancing, personal hygiene, site maintenance, alcohol and drug use and other prohibited behaviors.

The agreement with C-Tran requires the City to provide security from 8 pm to 6 am, sanitation facilities (portable bathrooms and hand washing stations), and trash service. Employees from the Parks & Recreation Department are typically on site from 8 am to 5 pm. The City contracts with Phoenix Protective Services for after-hours security at the site running 5 pm to 6 am.

The City has partnered with the Clark County Food Bank to provide weekly food delivery at the site. Additionally, staff have worked with various service providers when appropriate for guests needs.

Request: Approve and authorize the City Manager to execute a temporary license agreement with C-Tran for the Safe Park

Zone for homeless residents with licensed vehicles to use the Evergreen Park and Ride located at 13601 NE 18th St., Vancouver, WA.

Aaron Lande, Senior Policy Analyst, 360-487-8612

Motion approved the request.

5. **Fire Station 1 Method of Disposition**

Staff Report 180-20

A RESOLUTION of the City of Vancouver authorizing a disposition method for Fire Station No. 1 located at 900 W Evergreen, Vancouver, Washington.

Summary

The City's former Fire Station 1, located at 900 W. Evergreen, was declared surplus property by City Council in 2015, and in 2018, a new Fire Station 1 was constructed at the intersection of Main Street and Fourth Plain Boulevard after the City purchased the property from the Oliva family. The building and property have remained unoccupied since the fire department vacated it in 2018.

In anticipation of the new fire station being constructed, the property was declared surplus by City Council in 2015. In 2018, the City was approached by Josh Oliva, whose family controls adjacent parcels and other properties in the immediate vicinity of the site, to purchase and renovate the building and property for creative office use, as part of a broader plan to revitalize other properties in their control for offices and residences, resulting in a more active entrepreneurial district. In the course of discussions to date with the prospective buyer, the City has explored the use of a Disposition and Development Agreement (DDA) as a way to perfect the sale of this property in the context of future development of abutting properties. The prospective buyer, while committed long term to adaptive reuse of their holdings in the vicinity of Station #1, is unable to commit at this time to specific terms of development/redevelopment through a DDA.

The City's surplus and disposition regulations permit direct negotiations with abutting property owners of city property to be disposed. City staff would like the opportunity to directly negotiate the terms of a sale of Fire Station 1 with West Evergreen LLC, and will return to Council with a draft purchase and sale agreement that formalizes the agreed to sale price, due diligence period, and the purchaser's commitment to improve the fire station property.

Request: On December 7, 2020, adopt a resolution approving the disposition method of the real property located at 900 W. Evergreen Boulevard (known as Old Fire Station 1).

Chad Eiken, Community and Economic Development Director, 360-487-7882

Councilmember Fox stated she shares some of the concerns expressed during Citizen Communication, noting there would be value for the City to retain the property, given the location and recent or upcoming facilities needs the City may have. She noted she was not on the Council when this property was declared surplus and would like to take some more time to research the proposal.

Chad Eiken, Community and Economic Development Director, provided a summary of the surplus and disposition process for this item and the proposal of the developer who had expressed an interest in the property.

Mayor McEnerny-Ogle asked if the purchase and sale agreement (PSA) has a timeline. Mr. Eiken stated those negotiations had not started yet, but the PSA would establish a timeline for the developer to make improvements to the site as well as to execute on the sales transaction.

Councilmember Stober stated that as part of the review of the multi-family tax exemption (MFTE) program, Council had asked for an inventory of affordable vs. market-rate housing in the downtown area, and he stated he is concerned about moving forward with sale of this property without have the results of that survey and being able to determine whether there is an imbalance of types of development downtown that the City should work to mitigate.

Mr. Eiken stated that staff had just received information about the housing inventory, explaining there are a total of 3,083 multi-family units in the downtown area, with 1,108, or about 36 percent, being income restricted. He explained many of those are under the state tax credit programs and are properties of the Vancouver Housing Authority. The remainder would have been built under the City's MFTE program.

Councilmember Stober stated he is interested in knowing the percentage of units that are also age restricted and have additional time to review and contemplate the implications of this report.

Councilmember Hansen stated that when the Council originally declared this property as surplus, the intent was to sell the old fire station properties to help pay for the new fire stations. Mr. Holmes confirmed that was the intended approach, explaining the general fund has essentially provided short-term financing to the fire fund to cover the construction.

Councilmember Fox stated she is concerned, knowing the price of real estate, that the City may have better uses for this property. She noted much has changed since the property was declared surplus in 2015.

Councilmember Glover stated she is supportive of going forward with the proposed disposition method, stating this process was set up a while ago, and the City knows the developer is invested in and has a vision for this area. She stated she can see many good opportunities for jobs with this project.

Councilmembers Paulsen and Lebowsky echoed Councilmember Glover's comments.

Motion by Councilmember Glover, seconded by Councilmember Hansen, and carried 5-2 to adopt Resolution M-4107 approving the request. Councilmembers Stober and Fox voted No.

6. Evergreen School District Impact Fees

Staff Report 181-20

A RESOLUTION approving the reduction of school impact fees (SIF) for the Acero Parkside Project and Kestrel Apartments (Fifth Plain Creek Station) Project pursuant to Vancouver Municipal Code Section 20.915.020(C).

Summary

The City's impact fee program requires school districts to prepare and adopt CFPs meeting the specifications of the Growth Management Act (GMA) and City ordinances. Impact fees are calculated in accordance with the local jurisdiction's formula, which is based on projected school facility costs necessitated by new growth contained in the District's CFP. The formula allocates a portion of the cost for new facilities to the single family and multi-family house that create the demand (or need) based on a student factor, or the average number of students who live in new single family and multi-family homes. The formula also provides a credit for state match and Bond Proceeds (or property taxes).

In December 2019 the City Council adopted the Evergreen Public Schools Capital Facilities Plan 2019-2025 as part of the annual Comprehensive Plan and zoning map corrections, and text changes. The current SIF is listed on page 14 in the attached Evergreen School District Capital Facilities Plan and is reflected within VMC Table 20.915.060-1 School District Impact Fees. The SIF for multi-family development decreased by approximately 50% per multi-family unit from $7,641 to $3,753.

Importantly, while the City Council establishes the school impact fees by ordinance, it merely collects such fees from developers on behalf of the school districts.

The City recently received two separate requests from approved multi-family projects to reduce the impact fee amounts that were assessed under *the previous Evergreen Public Schools CFP. These projects include:*

1. *Acero Parkside D - 260 unit development located at 1330 NE 136th Avenue*
2. *Kestrel Apartments (aka 5th Plain Creek Station) – 178 unit development located at 15306 NE 4th Plain Boulevard*

Per VMC 20.915.020.C, the impact fee for new multi-family development is calculated at the time of site plan approval and due and payable at time of building permit issuance. The two projects noted above both received site plan approval in 2019 prior to the current Evergreen Public Schools CFP being adopted. Both developments subsequently applied for building permits in 2020. As a result, each project is required to pay the older Evergreen SIF of $7,641/unit that was in place at the time of site plan approval.

VMC 20.915.070.C further allows the development approval authority setting the impact fee, upon application by the developer, to reduce or eliminate such fee if it is shown that the formulae contained in Sections VMC 20.915.060 School Impact Fees does not accurately reflect traffic, park, or school impacts, respectively. The City Council is the authority that sets the impact fees.

Proponents of both developments are requesting that City Council reduce their SIF to the 2020 impact fee amount reflected in the current Evergreen Public Schools CFP because it is their position that the 2020 impact fee amount most accurately reflects that cost of the public school facility impacts.

Additionally, City staff ha heard from Evergreen School District regarding these requests and although they are not necessarily in support of these requests they are also not opposing them.

Request: Adopt a resolution approving the two requests to reduce the impact fee to the current 2020 Evergreen Public School impact fee for multi-family developments.

Jason Nortz, Development Review Manager, 360-487-7844

Jason Nortz, Development Review Manager, provided an overview of the request and summarized the recent history of the school impact fees.

Susan Steinbrenner, representing Evergreen School District, expressed concerns regarding this proposal, summarizing written comments (attached) she had sent to the City Council. She stated that the City establishes the timing of when impact fees are determined, which in this situation is at site plan approval. Developers are being asked to pay the higher fees because the City's ordinance requires that. The school district's Capital Facilities Plan

(CFP) in place during site plan approval for both developments accurately reflects the cost of school impacts at that time. The district complied with the City's ordinance by updating the CFP and calculating fees using the formula in the City's ordinance. The fees changed because the impacts development were having on schools had changed. She stated she agrees that developers should not pay fees based on previous and no longer relevant impacts, but the City's ordinance would need to be amended to require impact fees be collected at the time the building permit is pulled. This provision would align with other local jurisdictions as well.

Mr. Nortz stated he appreciates this issue and noted that staff and Council have been having discussions regarding the impact fee vesting issue. He stated the City's current code does allow developers the ability to make these requests, though.

Mayor McEnerny-Ogle asked whether there are other projects in the same situation and if they would be coming forward with similar requests. Mr. Nortz stated staff is aware of another project that could come before Council with a similar request at a future meeting, and there may be others as well.

Steve Horenstein, representing the Acero project, stated there is legal precedent from the Newcastle case in the 1990s where it was determined that impact fees cannot be vested under a development agreement under state law. He stated the usual problem developers face is between the time of site plan approval and permit issuance, fees typically go up and the developer must pay a higher rate. The opposite is the case for this situation. He stated the City's code needs to be updated to remedy the timing of impact feel collection, and the current request is a diplomatic way of fixing the conflict in the City code. He stated the City did not have authority to charge the higher impact fee rate to begin with because impact fees cannot be vested under state law.

Greg McGreevy, representing the Kestrel Apartments project, echoed Mr. Horenstein's points. He stated it has been a long process for the project to get to the point where it is about to pull permits, and the developer wants a fair and appropriate impact fee that accurately covers the current cost of the impact of the development.

Councilmember Stober asked for clarification of Ms. Steinbrenner's position on the proposed item. Ms. Steinbrenner stated the City needs to defend its ordinance, and the school district agrees with the developers that the impact fees should represent the impact of development at the time of development. She stated the City's ordinance creates the conflict and essentially allows developers to have it both ways, to pay a lower amount if the fee is lower when a development is approved, but not having to pay higher fees if they are higher when the building permit is pulled.

Councilmember Stober stated he wants to see this dealt with but thinks the City needs a methodology for more universally dealing with all projects where this conflict may apply. He stated he also questions why the City has been

discussing how to handle Park Impact Fee vesting if impact fees cannot be vested under state law.
Councilmember Paulsen expressed concerns about setting precedence in considering this current request and the broader issue of developers of projects further back in time that may have recourse if the City vested their fees when they should not have and the developer paid a higher rate. He stated the City needs to move quickly to align its code. He also questioned what kind of legal liability the City has in considering these projects.

City Attorney Jonathan Young stated the Newcastle opinion is not new. He stated it is the interpretation of the City Attorney's Office that while impact fees do not automatically vest, the legal precedent does not foreclose the possibility of vesting through either a local ordinance or through a development agreement. He stated he does agree with Mr. Horenstein in that the proposal before Council, which is allowed under the City's code, is a diplomatic solution to a gray are that has been illuminated by the present set of facts. And secondly, he agrees there are some improvements that can and should be made to City code, and his office has been working with the Community and Economic Development Department to work to bring those forward.

Mr. Holmes stated his understanding is the provision of elective vesting applies to all regulations that apply to a project at the time of vesting, and developers must comply with all regulations vested, not just impact fees. Mr. Eiken clarified that the vesting applies to land use regulations, and impact fees are not technically considered land use under the City's code. Mr. Holmes stated that Vancouver has for decades chosen to have a policy that is favorable to developments, and fees rarely go down. He stated this policy of vesting impact fees has been on the City's books for decades.

Councilmember Paulsen stated his primary concern is that the City have consistency and equity in how it remedies this situation. He stated he is in favor of a diplomatic solution in this particular instance but wants the City to take a comprehensive look at the issue of impact fee vesting.

Mr. Holmes stated that Mr. Young's advice is clear that there is a rather unique provision in the City's local impact fee code that allows this request to be before Council. He asked Mr. Young if the Council is required to take a particular action on the request or if it is discretionary. Mr. Young stated that his interpretation of the code is Council must consider the request, but the granting of the request is discretionary.

Motion by Councilmember Stober, seconded by Councilmember Paulsen, and carried unanimously to adopt Resolution M-4108 approving the request.

7. **Meridian Apartments 80% Impact Fee Waiver**

Staff Report 182-20

A RESOLUTION of the City Council of the City of Vancouver Washington approving a partial exemption of the collection of Traffic and Park Impact Fees in the amount of $92,045 for The Meridian Apartments development.

Summary
In 2016 Council approved Ordinance M-4154 allowing a partial exemption or full waiver of transportation and parks impact fees to spur affordable housing projects. A waiver of the school district impact fees is only available upon approval by the school district in which the project is located.

For residential developments of four or more units Council may, by resolution, partially exempt up to 80% of the transportation and park impact fees or fully waive 100% of the impact fees. If Council only partially exempts the development, up to 80% of the impact fee, there is no requirement to pay the exempted portion of the fee from public funds. For partial exemptions (80%) the remaining 20% of the impact fees are paid by the applicant.

<u>The Meridian</u>

The proposal is to build 46 new affordable housing units in three buildings. The units consist of single bedroom, multi-family dwelling units for low- and very low-income individuals and families. The project site is a vacant site located on the west side of NE 78th Avenue, between NE Fourth Plain Boulevard and NE 32nd Street.

The Impact Fee ordinance requires that tenant housing costs be no greater than thirty percent of eighty percent of the median family income adjusted for family size for Clark County, Washington, as reported by the United States Department of Housing and Urban Development. As of July 1, 2020, maximum housing cost for a household of four at 80% AMI is $1,843. The development will be exceeding the affordability requirement by serving tenants at 50% AMI for which the costs of a four-person household is $1,151.

This request is for an 80% partial impact fee exemption. The transportation impact fees, based on the vehicle trips and designated fee subarea, are $35,062.50 (Exhibit A). After an 80% reduction ($28,050) the required transportation impact fee would be $7,012.50. Park impact fees are based on the number of residential units and the park district subarea. The site is located within Park District B, which has a rate of $1,739.00 per unit. The total park impact fee is $79,994 (Exhibit A). After an 80% reduction ($63,995.20) the applicant required park impact fee would be $15,998.80.

The project site is located within the Vancouver School District, which requires $2,381.93 per multi-family unit. City staff is expecting a response

from the school district soon. All impact fees are due prior to the issuance of building permits.

Request: Adopt a resolution approving exemption of 80% of Transportation and Park impact fees for the Meridian Low income housing development.

Peggy Sheehan, Community Development Programs Manager, 360-487-7952

Motion adopted Resolution M-4109 approving the request.

8. Appointments to the Public Facilities District Board

Summary

The Vancouver Public Facilities District Board (PFD) is a municipal corporation governed by a five-member Board of Directors. It was created by Vancouver City Council in 1999 to develop the downtown hotel and convention center. The PFD consists of two seats appointed at-large and three seats that require recommendations from outside agencies.

Committee 2 interviewed two applicants for two full-term positions; one at-large position and one position requiring a recommendation, and they recommend the appointments of Ashley Thomas-Velikokhatko and Elie Kassab, respectively; with their terms beginning immediately and expiring November 30, 2024.

Request: Appoint Ashley Thomas-Velikokhatko and Elie Kassab to the Vancouver Public Facilities District Board, terms beginning immediately and expiring November 30, 2024.

Council Committee 2

Motion approved the request.

9. Approval of Claim Vouchers

Request: Approve claim vouchers for December 7, 2020.

Motion approved claim vouchers for December 7, 2020, in the amount of $10,528,501.20.

Public Hearings (Items 10-13) - see general protocol above

10. **Surplus of Utility owned property - LM Shotwell LLC**

Staff Report 183-20

A RESOLUTION of the City of Vancouver declaring certain real property as surplus.

Summary

The property proposed for surplus is 5,817 square-feet section of land ("subject property") that is part of an approximately 0.59-acre parcel that houses a stormwater detention pond. The subject property is not used by the City of Vancouver for utility or other municipal purposes.

Upon purchase of the property several decades ago, the City of Vancouver placed a 6-foot cyclone fence on the property . The alignment of this fence has been assumed to be the boundary line of the property for many years. This assumption by both parties has provided for unintentional encroachment by the adjacent landowner. As a result of continued assumption of the fence as the property boundary, the adjacent landowner has maintained the 5,817 square-feet of property for several decades.

The City will reserve a maintenance easement for a storm sewer outfall to Burnt Bridge Creek. The City will also retain an emergency access and maintenance easement over the entire 5,817 square feet so that the City can respond in the event of an emergency such as a blocked stream causing flooding or to access the creek as may be needed for other purposes.

The Interim Director of Public Works has determined that the subject property is not needed for public utility purposes and cannot be put to another municipal use by the City of Vancouver. The City has been in discussions with the adjacent property owner regarding the encroachment. City staff would like to settle the matter by executing a boundary line adjustment and sale of the subject property as follows: (1) adjust the boundary line so that the subject property is incorporated into the neighboring parcel, (2) City of Vancouver to maintain access and maintenance easement over entire parcel being declared surplus and, (3) receive payment for the real property, which is 5,817 square feet. Fair market value was determined to be $6.30/square foot for surrounding developable parcels. Then a 70% discount was applied to account for this property being undevelopable due to it's proximity to Burnt Bridge Creek, and for the various easement encumbrances on the property, to arrive at a selling price of $1.89/square foot.

The subject property is shown on a map attached as Exhibit A. Exhibit B shows the property being transferred and is titled "City of Vancouver to LM

Shotwell LLC". The proposed boundary line adjustment is also shown on Exhibit D. The City of Vancouver will maintain an access and maintenance easement over the surplus property which is shown as Exhibit E.

Because the subject property was originally acquired for public utility purposes, RCW 35.94.040 applies to the surplus and disposition of the subject property, rather than VMC Chapter 3.30. RCW 35.94.040 provides that whenever the City determines that any land "is surplus to the city's needs and is not required for providing continued public utility service, then such legislative authority by resolution and after a public hearing may cause such lands, property, or equipment to be leased, sold, or conveyed," and that the resolution should state the fair market value or other consideration to be paid. Proper notice was provided and this matter is scheduled for public hearing on December 7, 2020.

Request: On December 7, 2020, following a public hearing, adopt a resolution declaring the real property described in this staff report to be surplus and authorizing disposition of the property by City Manager.

Dan Swensen, Interim Public Works Director, 360-487-7754

Dan Swensen, Interim Public Works Director, provided an overview of the proposed surplus action.

Mayor McEnerny-Ogle opened the public hearing and, receiving no testimony, closed the public hearing.

Motion by Councilmember Paulsen, seconded by Councilmember Lebowsky, and carried unanimously to adopt Resolution M-4110 approving the request.

11. Multi-Family Tax Exemption Program Changes to Area Median Income Limits

Staff Report 174-20

AN ORDINANCE related to multi-family property tax exemption, amending Vancouver Municipal Code Section 3.22.040; and providing for an effective date.

Summary

As permitted under RCW 84.14 the City of Vancouver adopted a multi-family tax exemption program in 1997 to stimulate the construction or rehabilitation of multifamily housing as part of the Esther Short Redevelopment Plan and create a more active and vibrant downtown. The

MFTE program was a major part of the City's downtown redevelopment strategy and provided an incentive to attract more residents to the downtown area. Currently, the City offers the MFTE program in two designated residential target areas: The Vancouver City Center Vision Area (VCCV) and the Fourth Plain Corridor Subarea (added in 2007). The City has approved 33 MFTE program applications to date representing an estimated $608 million in private investment. The City has approved over 2,700 units including 686 affordable units under the program.

As affordable housing became more of a crisis, state law was changed to allow the use of the exemption for affordable housing units. The Vancouver City Council enacted a modification to the city's MFTE program in January 2017. The City's 2017 modification made the following tax exemption options available to applicants:

- *An 8-year exemption for market-rate projects offering public benefits negotiated through a development agreement process.*
- *An 8-year exemption for projects with 20% of units affordable to households earning up to 100% of area median income (AMI).*
- *A 10-year exemption for projects with 20% of units affordable to households earning up to 80% AMI.*
- *A 12-year exemption for projects with 20% of units affordable to households earning up to 60% AMI.*

As these project applications were reviewed and processed the discrepancy between the restricted income levels defined in RCW 84.14 and local median incomes of Vancouver households became apparent. RCW 84.14 defines moderate and low income "for the county where the project is located, as reported by the United States department of housing and urban development.". HUD has grouped the median income for Vancouver households in a six-county Portland metropolitan statistical area in which the current median income is $92,100. The current median income specific to the City of Vancouver, using adjusted 2017 ACS data, is $64,900 which is 29.5% lower than the $92,100 Portland MSA area median income used by HUD. Using the MSA median income as the base line for income restrictions resulted in "affordable" units that were still outside the financial means of Vancouver residents.

City Council is authorized to adopt the more stringent affordability and income eligibility criteria underRCW 84.14.030(2): "The multiple-unit housing must meet guidelines as adopted by the governing authority that may include height, density, public benefit features, number and size of proposed development, parking, income limits for occupancy, limits on rents or sale prices, and other adopted requirements indicated necessary by the city or county."

The City Center Redevelopment Authority (CCRA) per their bylaws is charged with making recommendations to City Council regarding the Multi-

Family Tax Exemption Program. On September 21, City staff held a workshop with the City Center Redevelopment Authority to discuss the proposed adjustment to Area Median Income to reflect Vancouver's Median Household Income. The board agreed that affordable rents under the program should reflect rents that are based on Vancouver, versus more regionally-based incomes, but also expressed that impacts from this change to the new supply of affordable housing should be monitored over time. The CCRA will be making a formal recommendation to City Council prior to the public hearing date.

City staff are recommending using the more specific Vancouver median household income as the basis for establishing affordable rent limits. This would be accomplished by multiplying the maximum income and affordable rent levels obtained from the HUD area median income based on the Portland MSA income by 70% (a reduction of 30%).

City staff will conduct an annual analysis of the HUD area median income for Clark County in relation to Vancouver's median household income and adjust the reduction factor accordingly. This annual review will ensure that affordable housing rents stay relevant to the City of Vancouver population. Additionally, staff will monitor the future use of the affordable housing options under the program and will report any significant changes to Council that might warrant further adjustments.

Request: On Monday, December 7, 2020, subject to second reading and public hearing, approve the ordinance.

Chad Eiken, Community and Economic Development Director, 360-487-7882

Mayor McEnerny-Ogle read the title of the ordinance into the record.

Mr. Holmes noted there are a couple of new pieces of information that emerged since the Council's first reading on this, including additional stakeholder input and supplemental recommendations from the City Center Redevelopment Authority that just recently came through.

Mr. Eiken provided background information about the MFTE program and an overview of the proposed adjustments to the City's Area Median Income (AMI) thresholds to more accurately reflect the actual income levels within Vancouver without the Portland Metro Area income levels skewing those.

Mr. Eiken summarized the feedback staff had received from a series of listening sessions with developers who utilize the MFTE program, stating there was a strong consensus that the profit margin in multi-family housing is thin and the proposed 30 percent drop in the income threshold would make it harder for affordable projects to generate enough rent to make the projects feasible. He stated staff heard that it would be unlikely any of these developers would participate in the program for the affordable housing projects. He stated another concern expressed was there may be projects currently in process, and so the request of those developers is that such projects already started but not approved be vested to the current standard.

Mr. Eiken stated the CCRA has discussed this issue on several occasions, including a special meeting on December 3 during which the CCRA voted on a recommendation to the Council. He stated that while the CCRA supports the City's efforts to incentivize the construction of more affordable housing and agrees that income levels in Vancouver are generally lower than in the Portland area, they express significant concerns with making proposed changes at this time due to the uncertain economic conditions ahead. He stated ultimately the CCRA voted to recommend the City delay the changes until the program is evaluated comprehensively. They also recommended that further study be undertaken to evaluate whether the proposed changes to the definition of what is affordable will result in a program that will still be attractive to developers. Mr. Eiken stated the CCRA also provided supplemental comments (attached) which were provided to the Council.

Mayor McEnerny-Ogle opened the public hearing and received the following testimony:

- Glen Yung, Vancouver, spoke in support of the proposed amendment to the MFTE income limits, and urged the Council to have a broader discussion regarding the effectiveness of the overall program in incentivizing development.

- CarolLee Braithwait, Vancouver, spoke in support of the proposed amendment to the MFTE income limits, and stated it may open up the market to new developers who are building affordable housing.

- Lisa Nelski, Vancouver, expressed concerns regarding the overall MFTE program, stating it encourages a cycle of poverty and discourages homeownership. She stated she would support the proposed amendment to the MFTE income levels, but does not support the program as a whole.

There being no further testimony, Mayor McEnerny-Ogle closed the public hearing.

Councilmember Paulsen asked for which types of projects the MFTE program can be utilized. Mr. Eiken and Peggy Sheehan, Community Development Programs Manager, explained it can be used for apartment projects and homeownership of condos if the project is a building of four or more units. It can also be used to support rehabilitation of an existing building if the building has been vacant for at least one year or the developer has worked out relocation assistance for existing tenants. Councilmember Paulsen also asked if the program can be refined for certain uses and if it can be used differently in different parts of the city. Mr. Eiken stated that targets may be established for specific areas.

Councilmember Paulsen stated that the projects that have taken advantage of this program have provided benefits to the community beyond just affordable housing. He stated he does not think the Council is ready to make the proposed change yet, and expressed concerns that if the income thresholds were lowered, the MFTE program would become unused by local developers. He stated that while the program may not be providing the amount of affordable housing desired at the levels proposed, it is still providing benefits in the community and it can be refined in ways that could increase the benefits to the community. He stated additional comprehensive review and possible revisions to the program need to be done, and the City should not essentially shelve the program in the meantime.

Councilmember Glover echoed Councilmember Paulsen's comments, stating it has been a good tool in the downtown area and the time is right to have a broader conversation about housing options and goals. She supported deferring this action until the Council has more data and can have a broader conversation about the program as a whole.

Motion by Councilmember Glover, seconded by Councilmember Lebowsky to delay the public hearing and return the item to staff.

Councilmember Fox agreed that the program needs more work on some of the issues raised but she stated she fully supports making this particular change to the income thresholds now. She stated it would show the community that the City is making progress on something that is well overdue and show the Council's commitment to press on and look at how to fine tune the overall program. She stated she would not support the motion on the table.

Councilmember Stober stated it is not this particular program alone that causes development to happen. It took particular developers with a long-term vision of the city to take a risk and invest in the downtown area to spur the growth that has occurred in recent decades. He stated the 12-year option at the highest affordability levels is rarely utilized by developers, while the market rate option is the most frequently used, and that option would still be available if Council approved the proposed changes to AMI levels. He stated his primary concern is the 100 percent AMI option because he believes it allows developers to build a project with no public benefit at the current 100 percent AMI level, which is not affordable for Vancouver residents. As such, these projects essentially provide market-rate units without having to provide any public benefit. He stated he wanted to see, at a minimum, the Council place a moratorium on the 100 percent AMI MFTE option so this loophole is closed while the Council considers improvements to the overall program.

Councilmember Hansen stated he agrees with Councilmembers Paulsen and Glover, noting that the building of Heritage Place downtown really spurred development and growth, and that project essentially kick-started the MFTE program and the revitalization of downtown. He stated not everyone who lives in Heritage Place is wealthy; they are people who invested everything to move downtown because they wanted to live downtown. He expressed concerns that the program would not be utilized if the income levels were changed as proposed. He agreed that the current levels should not be considered affordable.

Mr. Holmes clarified that the intent of the motion is for staff to return the item to staff for staff to bring back a broader policy discussion for the Council and an evaluation of the overall program. He stated this conversation can be worked into the Council's January retreat.

Motion carried 5-2 to return the item to staff. Councilmembers Stober and Fox voted No.

Motion by Councilmember Stober seconded by Councilmember Fox to place a moratorium on applications for the 100 percent Area Median Income (AMI) multifamily tax exemption option.

Mr. Holmes asked for clarification on whether such a moratorium could be affected by the motion at this meeting or if the motion would have to direct staff to bring back an ordinance to enact the proposed moratorium. Mr. Young stated the question is whether this would be a true moratorium or whether it effectively would direct staff not to process the 100 percent AMI affordable housing applications. He stated he is unclear because it does affect land use processes and an owner's rights to bring and process applications.

Mr. Holmes suggested Mr. Young take a few minutes to research the matter and the Council could revisit the motion under Communications.

12. Banking Services Contract Amendment

Staff Report 172-20

AN ORDINANCE authorizing the execution of a contract amendment with Bank of America N.A., a national banking association (hereinafter "Contractor"), to continue the provision of professional banking services (hereinafter "Services") to the City of Vancouver, Washington ("City"); authorizing a contract amendment extending the contract beyond its original five (5) year duration; providing for severability; and setting an effective date.

Summary

The City currently is under contract with Bank of America for general banking services. This includes depository account services, electronic payment services, settling credit/debit card transactions for money the City collects for its various fees and services, and other banking transactions. Council authorized the City Manager or his designee to sign banking services agreements with Bank of America from January 1, 2016, through

December 31, 2020, for a total contract not-to-exceed amount of $4,000,000. City Charter Section 11.05 requires City Council approve the execution of contracts with a duration of more than five (5) years by Ordinance.

Staff has been working on issuing a new RFP for banking services and anticipates releasing the RFP in late November 2020. Due to a delay in getting the RFP released, and then receiving responses, and negotiating a new contract, staff is requesting that Council authorize a one-year extension of the existing banking services agreement with Bank of America to expire on December 31, 2021. Staff anticipates the RFP will be released in late November 2020, and a new contract will be entered into prior to March 31, 2021. The new contract will be presented to Council for approval prior to March 31, 2021. If the same financial institution is selected, the new contract authorized by Council would supersede this amendment. However if a different financial institution is selected and the contract is approved by Council, the existing banking services would need to be extended through December 31, 2021, to allow time for checks to clear or go through the unclaimed property process, and to transition other banking services to the new City bank accounts.

The existing banking service contract was initially estimated at a not-to-exceed amount of $4,000,000 over the life of the contract. In the last year of the contract, the City is fast approaching the $4,000,000 total contact limit due to a higher prevalence of credit card utilization by City customers than had originally been anticipated. Staff is recommending adding an additional $1,500,000 to the contract limit for a total of $5,500,000 through the contract extension. Originally about 90% of the banking service fees paid were attributed to credit/debit card processing fees added on by Visa/MasterCard/Discover. Currently merchant service fees represent 97% of the total annual fees paid for banking services. Over the past 5-years, the City has implemented new software payment systems that allow more citizens and businesses to pay for City fees and services by credit/debit card on-line. Most recently the City implemented the on-line permit module, which has significantly increased payments by credit cards through the Community and Economic Development department. Parking is also seeing an increase as more pay stations were added.

Request: On Monday, December 7, 2020, subject to second reading and public hearing, approve ordinance.

Carrie Lewellen, City Treasurer, 360-487-8482

Mayor McEnerny-Ogle read the title of the ordinance into the record.

Carrie Lewellen, City Treasurer, provided an overview of the proposed contract amendment.

Mayor McEnerny-Ogle opened the public hearing and, receiving no testimony, closed the public hearing.

Motion by Councilmember Paulsen, seconded by Councilmember Stober, and carried unanimously to approve Ordinance M-4322.

13. **Six-month extension of temporary moratorium prohibiting the establishment of new, or expansion of existing, large-scale fossil fuel facilities**

Staff Report 173-20

AN ORDINANCE extending the six-month moratorium enacted by Ordinance No. M-4295, prohibiting the establishment of new, or expansion of existing, large-scale fossil fuel facilities, for an additional period of six months; directing staff to continue efforts to develop recommendations addressing the circumstances necessitating the moratorium; and establishing an immediate effective date.

Summary

The current moratorium prohibits the acceptance, processing, and granting of applications for permits for establishment of new, or expansion of existing, large-scale fossil fuel facilities until December 8, 2020. This provides time for work to continue on updates to the Strategic Plan, VCCV, Title 20 updates, and the drafting of a Climate Action Plan. This extension would keep the current moratorium in place until June 8, 2021.

Request: On Monday, December 7, 2020, subject to second reading and public hearing, approve ordinance.

Aaron Lande, Senior Policy Analyst, 360-487-8612

Mayor McEnerny-Ogle read the title of the ordinance into the record.

Aaron Lande, Senior Policy Analyst, provided an overview of the extension request and an update on the work plan to date.

Mayor McEnerny-Ogle opened the public hearing and received the following testimony:

- Jean Avery, Vancouver, spoke in support of the moratorium extension.
- Susan Saul, Vancouver, representing the Vancouver Audubon Society, spoke in support of the moratorium extension.

- Phoebe Abbruzzese, Vancouver, representing Skyview iTUNA, spoke in support of the moratorium extension.

- Cathryn Chudy, Vancouver, spoke in support of the moratorium extension.

- Don Steinke, Vancouver, spoke in support of the moratorium extension.

- Alona Steinke, Vancouver, spoke in support of the moratorium extension.

- Janet Hedgepath, Vancouver, spoke in support of the moratorium extension.

- Peter Fels, Vancouver, spoke in support of the moratorium extension.

- Delaney Humber, Vancouver, spoke in support of the moratorium extension.

- Oliver Gibbons, Vancouver, representing Skyview iTUNA, spoke in support of the moratorium extension.

- Jonah Kropp, Vancouver, spoke in support of the moratorium extension.

- Sharon Miller, Vancouver, spoke in support of the moratorium extension.

- Ryan Welch, Vancouver, representing Skyview iTUNA, spoke in support of the moratorium extension.

- Caroline, Ceravolo, Ridgefield, Washington, spoke in support of the moratorium extension.

- Caleb Ceravolo, Ridgefield, Washington, spoke in support of the moratorium extension.

- Megan Sarkissian, Ridgefield, Washington, spoke in support of the moratorium extension.

- Rick Marshall, Camas, Washington, spoke in support of the moratorium extension.

- Jim Byrne, Ridgefield, Washington, spoke in support of the moratorium extension.

- Theodora Tsongas, Portland, Oregon, spoke in support of the moratorium extension.

- Ryan Rittenhouse, Portland, Oregon, representing the Friends of the Columbia Gorge, spoke in support of the moratorium extension.

- Kate Murphy, Portland, Oregon, representing Columbia

Riverkeeper, spoke in support of the moratorium extension.

- Eric Strid, White Salmon, Washington, representing Columbia Gorge Climate Action Network, spoke in support of the moratorium extension.

- Elijah Cetas, Milwaukie, Oregon, representing Breach Collective and the Portland Harbor Community Coalition, spoke in support of the moratorium extension.

- Rebecca Ponzio, Seattle, Washington, representing Washington Environmental Council and Washington Conservation Voters, spoke in support of the moratorium extension.

There being no further testimony, Mayor McEnerny-Ogle closed the public hearing.

Councilmember Fox asked for more information about the proposed work plan and expectations of the work that will occur and when the Council might see proposals on policies if this moratorium is extended.

Mr. Lande stated staff's next step will be to present initial work to the Planning Commission in late February, followed by additional research into what policies other communities in the Northwest have in place. Staff would then draft initial policy language and check in with the Council sometime in the spring, followed by refinement at the Planning Commission level. He noted there would need to be SEPA review as part of the process as well, as this would require amendments to Title 20. He stated he is unsure whether all of the work would be completed within the next six months. If not, it may require a request of Council to extend the moratorium for an additional six months to wrap up the process.

Cayla Cothron, Associate Planner, added that the SEPA review is standard for any Title 20 code amendments. She stated staff would be evaluating environmental acts and other community impacts through the review process. She stated that process generally is in advance of a public hearing, but after the draft language stage, with a 14-day public comment period followed by a 14-day appeal period.

Motion by Councilmember Stober, seconded by Councilmember Hansen, and carried unanimously to approve Ordinance M-4323.

Communications

Mayor McEnerny-Ogle returned discussion to the motion to place a moratorium on 100 percent AMI MFTE applications.

Mr. Young stated that based on his research, such a proposal would not be a land use zoning moratorium, so essentially the Council is free to take a vote on suspending the 100 percent AMI MFTE option by instructing staff not to bring forward such applications to Council; directing staff to return a resolution to Council that would suspend that part of the City's code; or by directing staff to craft an ordinance that would amend the City's code by striking that option.

Councilmember Stober clarified that he would want applications under that option to proceed through the process and be reviewed. He would want the processing of new applications to be suspended until the subject of the overall MFTE program is returned to Council for further formal action.

Councilmember Paulsen stated he agrees the MFTE program is one tool and not the only tool responsible for the development activity the city experiences. He noted that the majority of the housing inventory downtown has been constructed since 1997, and about half of that inventory was constructed after 2017. He noted that the 100 percent affordability rate set by HUD is essentially workforce housing, which is also needed in Vancouver. Councilmember Paulsen also noted that the program is bringing density to the downtown area and improving the vibrancy of downtown and business districts. He stated increased density leads to many other benefits in the community. He stated his biggest concern is dampening the momentum that the MFTE program seems to be stimulating and at a very difficult and uncertain time in the economy. He stated he preferred leaving the program in place and acknowledging what the community is actually getting from it and study it some more to find better solutions to improve the system as a whole.

Councilmember Lebowsky stated she agrees with the approach Councilmember Paulsen had outlined.

Councilmember Stober asked staff to provide the breakdown between the projects at 100 percent AMI and market rate. Mr. Eiken stated there have been 14 applications total submitted since 2017, five under the market rate option, five at the 100 percent AMI, and then four submitted under the 80 percent AMI level.

Motion to place a moratorium on the processing of applications to the multifamily tax exemption program under the 100 percent AMI option failed, 2-5. Councilmembers Stober and Fox voted Yes.

A. From the Council

B. From the Mayor

C. From the City Manager

a. Impact Fee Vesting: Change to VMC 20.915

Mr. Holmes stated that Council's earlier discussion regarding impact fees had provided staff with direction to move forward, and as such, staff would forego making this presentation at this time.

b. Unsheltered homelessness - legal issues (City Attorney update)

City Attorney Jonathan Young provided Council with an overview (detailed in attached memo) of legal issues pertaining to the City's response to clean-up and safety concerns related to homeless encampments.

Mr. Lande provided an update regarding the availability of amenities and severe weather housing for people who are experiencing homelessness over the coming winter months.

Adjournment

9:58 p.m.

DocuSigned by:
Anne McEnerny-Ogle
58CB15C0632F403...
Anne McEnerny-Ogle, Mayor

Attest:

DocuSigned by:
Natasha Ramras
BCF6734E40E94AE...
Natasha Ramras, City Clerk

Meetings of the Vancouver City Council are electronically recorded on audio and video files. The audio files are kept on file in the office of the City Clerk for a period of six years.

From:	Delapena, Amanda
Cc:	Holmes, Eric; Eiken, Chad; Nortz, Jason; Boger, Brent; Young, Jonathan
Bcc:	Ty Stober (councilor@tystober.com); "citycouncillebowsky@gmail.com"; Fox, Sarah; Glover, Linda; Hansen, Bart; Lebowsky, Laurie (City Council); McEnerny-Ogle, Anne; Paulsen, Erik; Stober, Ty
Subject:	FW: School Impact Fee Question
Date:	Monday, December 7, 2020 4:17:00 PM
Attachments:	image001.png image002.png

Council,

Please see the email below from Susan Steinbrenner, Evergreen Public Schools, regarding reduction of the school impact fee for two projects (Item 6 on tonight's agenda).

Amanda Delapena | Assistant to the City Council
Pronouns: She/Her/Hers

CITY OF VANCOUVER, WASHINGTON
Mayor/City Manager's Office
P: (360) 487-8605 | **Relay:** 711
www.cityofvancouver.us | www.cityofvancouver.us/socialmedia

From: Susan Steinbrenner <Susan.Steinbrenner@evergreenps.org>
Sent: Monday, December 7, 2020 3:58 PM
To: Delapena, Amanda <Amanda.Delapena@cityofvancouver.us>
Subject: School Impact Fee Question

Hi Amanda,
Below is the information I sent to Jason Nortz and cc:d Chad Eiken in regards to the School Impact fees. Please incorporate the email below into the public comment, with emphasis on the following:

1. The City of Vancouver establishes the timing of when impact fees are determined, in this situation, at site plan approval. Developers are being asked to pay the higher fees is because the City's ordinance requires that. The CFP in place during site plan approval for both developments accurately reflect the cost of school impacts at that time.
2. The district complied with the City's ordinance; we updated the CFP and calculated fees using the formula in the City's ordinance. The fees changed because the impacts development were having on schools changed.
3. If the City of Vancouver were to adopt an ordinance to collect impact fees in place when the building permit is pulled, we would not be in this position. The City's ordinance would align with other local jurisdiction's ordinances (City of Camas, Clark County).
4. In approving the resolution, the City of Vancouver is allowing development to have it both ways - vest and pay a lower amount if the fee is lower when a development is approved, but not if fees are higher when the building permit is pulled.
5. Evergreen Public School respectfully advocates for the City to amend its ordinance to pay the impact fees that are in place when the building permit is pulled. Fees in place when building

permits are pulled are more accurate in capturing the impacts development has on schools.

Susan Steinbrenner
Executive Director of Facilities
(360) 604-4077
Evergreen Public Schools

From: Susan Steinbrenner
Sent: Friday, November 20, 2020 5:32 PM
To: Nortz, Jason <Jason.Nortz@cityofvancouver.us>
Cc: Mike Merlino <Michael.Merlino@evergreenps.org>; Eiken, Chad <Chad.Eiken@cityofvancouver.us>
Subject: School Impact Fee Question

Hi Jason,
Hope all is well. Just wanted to let you know that Amy Zoltie from Hurley Development reached out to give me a heads up that they are disputing the City's calculation of school impact fees on the Kestrel Apartment multi-family project in Orchards. I understand from Amy's email that City Council may be discussing school impact fees at the meeting on December 7th, but the agenda is not yet posted, so I'm not sure what is being discussed.

For the record, I disagree with Hurley's statement that "the original 2019 school impact fees were excessive, did not accurately reflect actual school impacts . . . ". Acero's letter contained a similar accusation - "Evergreen School District concluded in late 2019 that it had erroneously overstated the cost of development in its jurisdiction". The district complied with the City's ordinance. We updated the CFP to reflect passage of the bond and calculated fees using the formula in the City's ordinance. The fees changed because the impacts development were having on schools changed.

We will not accept a settlement agreement that suggests the district's fees were erroneous or the district did something wrong – we followed the City's ordinance and process. It's the City ordinance and choices that are creating the conflict, hence the City needs to defend its ordinance or reach an agreement that doesn't put the District in a compromised and inaccurate position. Developers should not have it both ways – vest and pay lower amount if fee is lower when development is approved but not if fees were higher when development was approved.

We support the City revising the code to calculate school impact fees at the time of building permit application as it would more accurately represent the current situation and align with timelines in other local jurisdictions.

If you have any questions, please let me know. Thanks.

Susan Steinbrenner
Executive Director of Facilities

(360) 604-4077
Evergreen Public Schools

From: Susan Steinbrenner
Sent: Monday, November 2, 2020 4:50 PM
To: Nortz, Jason <Jason.Nortz@cityofvancouver.us>
Subject: RE: School Impact Fee Question

I've had a couple of conversations with Brent, but I am not sure what the resolution is – Brent wanted the District to make an exception, but like I said, we aren't in a position to change the timing of collection since that is a City code. I was copied on Steve's letter, but from what I understand, Brent is working with Chad on a resolution. Attached is the last correspondence I had from Brent.

Susan Steinbrenner
Executive Director of Facilities
(360) 604-4077
Evergreen Public Schools

From: Nortz, Jason <Jason.Nortz@cityofvancouver.us>
Sent: Monday, November 2, 2020 3:05 PM
To: Susan Steinbrenner <Susan.Steinbrenner@evergreenps.org>
Subject: RE: School Impact Fee Question

Sue,
The City is considering the timing of assessing impact fees but that won't happen for a little bit. In the meantime we have the two projects I spoke to earlier that have both made requests of the City to allow them to pay the SIFs that are currently active. In my conversations with Brent he mentioned the district was aware of Acerro's request and that Steve H. had spoke to you all about this. I asked Greg McGreevy with Hurley's team to contact you but that sounds like it hasn't happened.

From: Susan Steinbrenner <Susan.Steinbrenner@evergreenps.org>
Sent: Monday, November 2, 2020 2:46 PM
To: Nortz, Jason <Jason.Nortz@cityofvancouver.us>
Subject: RE: School Impact Fee Question

Hi Jason,
All is quiet on this end, except that we don't have kids in school! So far, nobody from Hurley has reached out about the 5th Plain Creek project, but our position would be the same as the Acero project, in that the district is not in a position to revise the fee amount since the City establishes the timing of when impact fees are collected. I heard from Chad that the City is considering revising the code so that impact fee rates would be calculated and collected when the building permit is issued, which we would support as I'm fairly certain other districts would support as well. I would be happy

to set up a meeting with the other districts if you think that would be helpful.

Susan Steinbrenner
Executive Director of Facilities
(360) 604-4077
Evergreen Public Schools

From: Nortz, Jason <Jason.Nortz@cityofvancouver.us>
Sent: Monday, November 2, 2020 2:22 PM
To: Susan Steinbrenner <Susan.Steinbrenner@evergreenps.org>
Subject: School Impact Fee Question

Sue,
Hope this email finds you well. The last we talked about this issue it was in regard to the Accero Parkside project. We received a similar request from Hurley's project at 5th Plain Creek. Has anyone from his team contacted you about this?

Clyde Holland
CEO | Chairman

November 23, 2020

Chad Eiken/Director
Eric Holmes/City Manager
City of Vancouver
415 W. 6th Street
Vancouver, WA 98660

Chad and Eric:

Thank you for including us in your analysis of changing the MFTE rental rates for the City of Vancouver. Please see our attached worksheet providing our analysis on the effects this will have on the marketplace.

We believe the goal is to provide affordable workforce housing for Vancouver. The change you have proposed will be applied to all new proposed projects going forward. As outlined this will save individuals who occupy these new units the $483 monthly or $5,796 annually.

Our understanding is that the State of Washington provided the MFTE program so that Cities could incentivize housing production in their communities to benefit the entire Community. Originally both Portland and Vancouver did not require affordable units to be set aside as each set aside unit reduces the value of the incentive and makes it less likely that new units will actually be added. While this was the case Portland's SMSA (until the incentive was removed in Portland in 2007) achieved rent levels that were approximately 30% less than Seattle and an individual at 60% of AMI could afford a 2 bedroom apartment. Since the incentive was removed and additional affordable requirements imposed this incentive was insufficient to continue adding housing that kept pace with demand. As a result, today it takes approximately 130% of AMI to afford a 2 bedroom unit in the Portland SMSA.

The reason for this is as follows:

When you lower the rent on the 20% of the units gaining a lower affordable unit you raise the rent required to rebalance the revenue on the 80% of the remaining units. Your analysis provides the following rental rate decreases:

Clyde Holland
CEO | Chairman

	Potential Savings	Additional Cost to 80% units
Average MFI %	($483)	$121
Studio	($517)	$129
1BR	($621)	$155
2BR	($726)	$182
3BR	($800)	$200

So going forward the average market rate units in Vancouver will have to rise an additional $121 monthly or $1,452 to produce the same average revenue to the community.

Using a 150 unit project the number of affordable units that will receive this discount will be 20% or 30 units. These 30 units will save on average $483 month or $5,796 annually. Or in total the rent savings from all 30 units will be $173,880 annually.

The cost of this increased incentive is on average $121 to each of the market rate units in downtown Vancouver. We estimate that today we have 2,000 units in downtown. To rebalance the required rents each of these units market rents will have to increase on average $121 monthly to offset this incentive or $1,452 annually. This translates into a cost of higher rents in the City of $242,000 monthly or $2,904,000 annually or said another way an additional annual expense of $96,800 to market rate units in the City for each of the 30 affordable units in this example. The MFTE affordable benefit is only 8 years, however without this incentive to encourage new development the increased monthly cost goes on into the future until the incentive requirement is reversed and then would rebalance through an increased supply of units over time.

Adopting this additional incentive will have a number of what we believe are unintended consequences. First if this proposed requirement was in place we would not have been able to finance either Vancouver Center or Block 10. As it was we had to subsidize the capital requirements in order to successfully close these two new developments. Had we not financed these the amount of sales tax we are paying on the projects would not be paid, we would also not be paying property taxes on these communities after the MFTE time period expired, there would be approximately 300 less individuals living in downtown supporting local businesses. The cost to the City of Vancouver would quickly escalate into millions of dollars and lower values on the commercial buildings from the lack of density and individuals in downtown.

If the objective is to have 30 units with these lower rents a voucher program would be dramatically less expensive than burdening new projects with these requirements.

Clyde Holland
CEO | Chairman

We understand that we are developers and there are those that feel "developers only care about making more money" so they discount our opinions and the actual effect that their decisions have on the market place. What we suggest is to Hire an expert economic forecaster to run a model of these requirements looking at the full housing market costs and benefits. If the conclusions differ greatly from what we have outlined send us the bill and we will pay it as a contribution to the struggling families in our community.

If you would like more affordable housing for our workforce then we are pleased to work with the development community to provide you with a full list of recommendations. The key is to remember when you make housing more expensive you actually do make it more expensive. That said if you want to make it more affordable we are a willing partner to work with you to find ways to have the City succeed, to provide housing at lower rents to individuals and families and to provide for increased revenues to the City without raising taxes on your in place businesses.

This would seem to be a great way to bring together our community around a noble goal that will benefit our community for generations. We stand ready to engage with you in this effort.

Clyde Holland
CEO/Chairman
Holland Partner Group

cc: Greg Daniels
Jamison Loos

Vancouver MFTE Program Change Analysis

11/20/20

150 UNITS

30 AFFORDABLE UNITS @ $493 SAVINGS

$14,490/monthly

$173,880/annually

Current Rent Summary (8-Year MFTE Abatement)	Average Rent (Monthly)	Average Rent ($/SF)	Average SF
Market Rate Rents (New Construction)	$1,911	$2.53	754
Portland MSA Affordable Rents (100% AMI)	$1,507	$2.00	754
Vancouver Discounted Affordable Rents (75% AMI)	$983	$1.30	754

Market Rent to Cover Vancouver Affordability	Average Rent (Monthly)	Average Rent ($/SF)	Average SF
Market Rate Rents Increased to Offset Vancouver 75% AMI Discounted Affordability (New Construction)	$2,042	$2.71	754
Vancouver Discounted Affordable Rents (75% AMI)	$983	$1.30	754

EST 2000 UNITS IN VANCOUVER PAY HIGHER RENT.

2,000 X 121

242,000/monthly

2,904,000/annually

Market Rent Increase Summary	Average Rent (Monthly)	Average Rent ($/SF)	% Increase
Market Rate Rents (New Construction)	$1,911	$22,932.00	
Market Rate Rents Increased to Offset Vancouver 75% AMI Discounted Affordability (New Construction)	$2,042	$24,504.00	
Total Increase	*$131*	*$1,572.00*	*6.86%*

8-Year MFTE Abatement	% MFI	0 Bdrm	1 Bdrm	2 Bdrm	3 Bdrm
Proposed Vancouver Discounted Rents (70% AMI)	$1,128	$1,209	$1,451	$1,668	$1,870
Current Portland MSA Affordable Rents (100% AMI)	$1,611	$1,726	$2,072	$2,394	$2,670
Difference	($483)	($517)	($621)	($726)	($800)
INCREASE IN MARKET RATE UNITS TO PROVIDE THE ADDITIONAL BELOW MARKET RATES	$121	$129	$155	$182	$200

Developer Feedback on MFTE Program
City Listening Sessions: Sept-Nov 2020

Summary

City staff held a series of four listening sessions (by video conference) with development stakeholders, most of whom have recently participated in the city's Multi-Family Tax Exemption (MFTE) Program. Meeting invitations were sent to 50 developers or consultants familiar with the program, and approximately 25 people participated in the meetings. The sessions were held on September 21 (two sessions), and on November 20 and 23.

Attendees included: Matt Grady, Fred Dockweiler, Ian Johnson, Phil Hays, Dave Campos, Garret Hodgins, Elie Kassab, Tim Leavitt, Ryan Zygar, Greg Daniels, Jamison Loos, Alkash Patel, George Diamond, Marc Heffron, Dave (Alliance Residential), Greg McGreevey, Patrick Ginn, Phil Wuest, Scott Vanderhofen, Frank Stock, Albert Angelo III, Dean Kirkland, Victoria Kirkland, Dana , Peggy Sheehan (City) and Chad Eiken (City). Phil Wuest, Lance Killian, and Clyde Holland sent more detailed written comments after the listening sessions, some of which are included below.

Below is a summary of comments received at the meetings and in subsequent emails from stakeholders:

- Rents for Clark County and Vancouver are likely much lower than what we would find if we only looked at newer projects, because the studies include housing stock that is 10-20-or more years old, which have much lower rents because they are older and possibly in poor shape.

- The City should be accounting for the "bump" in net income that Vancouver residents receive compared with Portland residents, who have to pay state income tax. Their point was that yes, incomes and rents are higher in Portland, but should be "grossing up the incomes" to reflect a true picture of the difference in incomes, which might show that it is not a 30% difference.

- Land, soft costs (engineering, architecture) and construction costs are the same as Portland (except downtown Portland), but that in Vancouver, there is sales tax on construction which Portland projects do not have. One developer stated that the tax benefit sometimes is enough to just cover the sales tax on construction.

- The City should consult with housing developers who specialize in affordable housing to understand how to make sure that affordable housing can be developed in the City of Vancouver.

- Affordable housing will not be feasible without public subsidy/support and understanding what may be necessary is critical to actually achieving the intended outcome of affordable housing being constructed.

- How important is increasing housing supply in urban/targeted areas? The MFTE program was created on a certain premise which still holds true and in some respects is even more exaggerated now with increased costs, accelerated climate change, etc. Certainly any incremental costs makes the feasibility of underwriting a project more challenging – other factors (market rent, etc.) being held constant.

- There is a common mis-conception that multi-family housing has a high return profile – that is not correct…these projects have fragile under-writing. Typically multi-family housing has one of the lowest return and highest equity profiles (for various reasons) of most real estate product types. The MFTE program has made a material difference in the expansion of the urban housing supply and density (particularly in downtown Vancouver) which is now gaining some momentum.

- Adding a fee in lieu seems reasonable (and for the right cause), it is additional cost and at a minimum should be considered in light of any other fees or charges that the City might consider increasing or imposing over time (cumulative effect can be very real).

- Is affordable housing important in urban areas (yes!)? Adjusting the AMI levels to the actual levels in Clark County makes sense, but will further complicate the underlying feasibility of affordable housing. Affordable housing simply does not pencil without public subsidy, and as we all know communities need to be doubling down on expanding affordable housing with the growing need (and extreme deficit that already exists).

- The MFTE program helps, but is only one of many cost-reducing structures that is required to make an affordable housing project financially feasible. This change to the AMI will effectively reduce the revenue potential of an affordable housing project, making it that much more challenging to under-write and may have the un-intended consequence of constraining supply.

- Has the Council explored other ideas like tax increment financing (which can be plowed back into affordable housing programs) within these prescribed areas as a means of helping support more affordable housing, or looked at other jurisdictions for ideas on how to further enable the creation of affordable housing (ie. Oregon's passage of Measure 102 in 2018)?

- The conditional certificate for Roosevelt Commons (attached here), which we're scheduled to submit for finalization this week, requires ongoing compliance with VMC 3.22, demonstrated by annual reporting. If the draft ordinance is adopted in the current form with an effective date early in 2021, will Roosevelt Commons need to demonstrate compliance with the 80% that is currently in effect or the 55% threshold in the revised Section 3.22? As drafted, it appears to me that the project would have to demonstrate compliance with 55% AMI. If that is the case, we will remove the property from the MFTE program.

- Using Roosevelt Commons as a general example, we believe the proposed code change will work against the City's affordable housing goals. The present value of the modified MFTE program for Roosevelt Commons at 55% AMI would be about -$154,000 over the ten year abatement period (or -$15,400/year or -$1,284/month). That loss arising from program participation is based on reduction in collected rents of about $350,000 to $400,000 measured against the benefit of the property tax savings over the same time period. Participating in a program with negative returns doesn't make sense.

- For Roosevelt Commons, a 36 unit project (each a 4-bedroom townhome) with 8 units currently rented to residents qualifying under 80% AMI criteria, the effect of the code change will be to remove the below-market-rate-rent units from available inventory. As the current leases come up for renewal, we will have to convert them to market rate if the proposed changes are adopted.

- During the stakeholder input process, we mentioned that the Vancouver AMI (as proposed) doesn't have a direct relationship to development/construction of new rental housing stock. In terms of construction costs and lending/underwriting requirements, it's a regional market. Rents are also very similar throughout the market area. I believe it will be significant challenge for market-rate projects that could otherwise provide 20% of units at below market rents at 80% AMI to be able to justify participation financially at 55% AMI.

- Because we don't believe the revised program criteria will work for project underwriting anything but project that are already receiving other subsidies, we believe that the proposed code change will result in a drop in program participation and reduction in the total number of units available at below-market rents in Vancouver.

- I trust you know we are in favor of and support affordable housing as an essential element of a healthy housing market and we are working to be part of a solution – it seems this new ordinance hasn't been fully vetted and balanced to make sure it continues to encourage and stimulate affordable housing.

- If there were lower parking ratios and opportunity for a density bonus in conjunction with MFTE program participation, that could help offset the impact of lower income limits.

- Decrease in rent revenue from the change would need to be made up from other non-restricted rents.

- I'm not sure extending the period will help. The math is really whether the annual reduction in property taxes is more or less than the reduction in rent collected. If that holds, then extending the period won't really have an impact on participation.

City Center Redevelopment Authority

MEMORANDUM

TO: Eric Holmes, City Manager
CC: Richard Keller, President, City Center Redevelopment Authority

FROM: Chad Eiken, Executive Director
City Center Redevelopment Authority

DATE: December 7, 2020

SUBJECT: **CCRA Recommendation Regarding MFTE Program Change**

On December 3, 2020, The City Center Redevelopment Authority met at a special meeting to consider the proposed changes to the Area Median Income threshold used by the Multi-Family Tax Exemption Program. Following a presentation by staff and discussion by the board, CCRA approved the following motion:

"The CCRA Board recommends that City Council delay any decision with regard to the MFTE Program until impacts on both the market and non-market (affordable) aspects of the program can be considered in totality; and, that further study is undertaken to evaluate whether or not the proposed changes in definition of what is affordable will result in a program that will still be attractive to developers."

Motion by D. Ewing
Seconded by J. Onder

Additional comments during discussion of the motion which CCRA asked to be communicated to City Council are as follows:

- *The economy is still fragile; we are in uncertain economic times*
- *The City is attempting to jumpstart the development in the Waterfront Gateway area and CCRA is reluctant to see any changes that would make this more difficult;*
- *Housing in the downtown is subject to higher land costs versus other areas of the city and (relative to cost of construction), when you compare Portland to Vancouver, developers in Vancouver must pay sales tax on construction which adds significant cost; and*
- *The CCRA Board is very much in support of adjusting the program to incentivize the construction of more affordable housing, but further study is needed to ensure that any such adjustments do not significantly reduce the number of new units that are built.*

Motion was passed by a vote of 6-0.

Due to time constraints, full minutes of the meeting were not available in time for tonight's public hearing, but staff will be available for any questions.