Clackamas County
Coordinating
Committee

Agenda

Thursday, November 02, 2017
6:45 PM – 8:30 PM

Development Service Building
Main Floor Auditorium, Room 115
150 Beavercreek Road, Oregon City, OR 97045

AGENDA

6:45 p.m. **Pledge of Allegiance**

Welcome & Introductions
Chair Jim Bernard & Mayor Brian Hodson, Co-Chairs

Housekeeping
- Approval of October 05, 2017 C4 Minutes **Page 03**
- Meeting notice emails

6:50 p.m. **Housing Tools Discussion re SDCs and CET**
- Staff Memo and Materials **Page 05**
- SB 1533 (2016) **Page 15**
- Presentation materials from Alma Flores - Milwaukie **Page 20**

8:15 p.m. **Updates/Other Business**
- 2018 Regional Bond
- JPACT/MPAC Updates
- Other Business

8:30 p.m. **Adjourn**

General Information

Clackamas County Coordinating Committee

Current Voting Membership

		C4 Exec	C4 Metro	C4 Rural	JPACT	MPAC	R1ACT
Clackamas County	Chair Jim Bernard	●	●	●			
Clackamas County	Commissioner Paul Savas		●	●	●		●
Canby	Mayor Brian Hodson	●		●			●
CPOs	Laurie Freeman Swanson (Molalla CPO)	●					
Estacada	Mayor Sean Drinkwine			●			
Fire Districts	Matthew Silva (Estacada Fire District)	●					
Gladstone	Mayor Tammy Stempel		●				
Hamlets	John Meyer (Mulino Hamlet)						
Happy Valley	Councilor Markley Drake		●				
Johnson City	Vacant						
Lake Oswego	Councilor Jeff Gudman	●	●		●	●	●
Milwaukie	Mayor Mark Gamba		●			●	
Molalla	Mayor Jimmy Thompson			●			
Oregon City	Mayor Dan Holladay		●				
Portland	Vacant						
Rivergrove	Mayor Heather Kibbey		●				
Sandy	Councilor Carl Exner			●			
Sanitary Districts	Nancy Gibson (Oak Lodge Water Services)	●					
Tualatin	Councilor Nancy Grimes		●				
Water Districts	Hugh Kalani (Clackamas River Water)						
West Linn	Council President Brenda Perry		●				
Wilsonville	Mayor Tim Knapp		●		●		

Current Ex-Officio Membership

MPAC Citizen Rep	Betty Dominguez
Metro Council	Councilor Carlotta Collette
Port of Portland	Emerald Bogue
Rural Transit	Julie Wehling
Urban Transit	Dwight Brashear

Frequently Referenced Committees:

CTAC: Clackamas Transportation Advisory Committee (C4 Transportation TAC)
JPACT: Joint Policy Advisory Committee on Transportation (Metro)
MPAC: Metro Policy Advisory Committee (Metro)
MTAC: Metro Technical Advisory Committee (MPAC TAC)
R1ACT: Region 1 Advisory Committee on Transportation (ODOT)
TPAC: Transportation Policy Advisory Committee (JPACT TAC)

Clackamas County
Coordinating
Committee

Draft MINUTES

Thursday, October 5, 2017
6:45 PM – 8:30 PM

Development Service Building
Main Floor Auditorium, Room 115
150 Beavercreek Road, Oregon City, OR 97045

Draft MINUTES

Attendance:

Members: **Canby:** Brian Hodson (Co-Chair); **Clackamas County: Chair** Jim Bernard (Co-Chair); Paul Savas; **CPOs:** Laurie Swanson (Molalla); Marjorie Stewart (Firwood) (Alt.); **Estacada:** Sean Drinkwine; **Hamlets:** John Meyer (Mulino); **Happy Valley:** Markley Drake; **Lake Oswego:** Jeff Gudman; **Milwaukie:** Mark Gamba; **Molalla:** Elizabeth Klein (Alt); **MPAC Citizen Rep:** Betty Dominguez; **Sanitary Districts:** Nancy Gibson (Oak Lodge Water Services); **Transit:** Dwight Brashear (SMART); Eve Nilenders (Trimet); Julie Wehling (Canby); **Water Districts:** Hugh Kalani; **West Linn**: Teri Cummings (Alt); **Wilsonville:** Tim Knapp

Staff: Gary Schmidt (PGA); Trent Wilson (PGA)

Guests: Jaimie Huff (Happy Valley); Don Kemp (WES); Doug Riggs (West Linn); Diedre Landon (DTD); John Lewis (Oregon City); Mary Jo Cartasegna (BCC); Mark Ottenad (Wilsonville SMART); Lisa Batey (Milwaukie); Annette Mattson (CCBA); Theresa Kohlhoff (Lake Oswego); Mike Kohlhoff (Lake Oswego); Tracy Moreland (BCC); Alma Flores (Milwaukie); Sherilyn Lombos (Tualatin); Kathryn Krysier (NCPRD); Chuck Robbins (H3S); Steve Williams (DTD); Bernie Bottomly (TriMet); Greg Geist (WES); Karen Buehrig (DTD)

The C4 Meeting was recorded and the audio is available on the County's website at http://www.clackamas.us/c4/meetings.html Minutes document action items approved at the meeting.

Agenda Item	Action
Approval of September 07, 2017 C4 Minutes	Minutes approved.
Approval of Updated Draft Bylaws	The proposed bylaws included in the Agenda Packet were approved, with the caveat to add an "s" to "representatives" on Page 2, paragraph 3, line 2.
2018 Regional Bond Discussion	Bernie Bottomly (TriMet) and Karen Buehrig (Clackamas County DTD) presented on the current status of the 2018 Regional Bond, sharing the timeline and expectations of C4 to agree upon recommended projects that would be polled in the region. C4 agreed to advance two proposals for polling purposes: I-205 Abernethy

	Bride and a suite of projects identified throughout many jurisdictions. The suite of projects include: Hwy 213 Improvements at Abernethy Rd and Beavercreek (CC), Hwy 43 Corridor (WL), Boones Ferry Rd. (LO), Railroad Ave (Milwaukie), 99E and McLoughlin Blvd. (OC), 172nd/190th Connector (HV), Trolley Trail Bridge (Gladstone), and a bike/ped bridge connecting Lake Oswego and Oak Grove. ***Successful motion:*** Advance I-205Abernethy Bridge and projects 2-8, plus 13 on the presented project list. (9 in favor, 5 against) ***Failed motion:*** Advance Sunrise Phase II over I205. (3 in favor, 11 against) C4 members requested that I205 be considered as a project that is "taken off the top," and not from only Clackamas County's allocated bond funds, because of its regional significance, and thus allowing Clackamas County to consider other project alternatives that would resonate with voters, like Sunrise Phase II. C4 members also expressed frustration at the process and the express timeline by which these project considerations needed to be made. Members expressed that a rushed process could thwart the regions ability to be successful, and that the projects put forward should be "bold". C4 asked that this information be memorialized in a formal recommendation to the appropriate body. Staff agreed to prepare a letter.
Housing Tools Discussion re SDCs and CET	Alma Flores (Milwaukie) and Chuck Robbins (Clackamas County Housing) presented a high level discussion on the role that a construction excise tax (CET) can play in the region. Alma shared about Milwaukie's reasoning behind advancing a CET, mainly to capture funds that would help the city support/ensure low income housing is prioritized in future development. This discussion ran short on time and members requested this discussion continue at the November meeting and include more dialogue about how SDCs impact development.
JPACT/MPAC Updates	JPACT: Regional Bond discussion are occurring at the JPACT Finance Subcommittee. Mayor Knapp acknowledge the conflict of Wilsonville being the JPACT rep for the cities because the regional bond does not include Wilsonville. MPAC: Entering discussions on the Construction Excise Tax, and a discussion about having a region-wide CET, which state law currently prohibits.
Other Business	None.

Adjourned at 9:00 p.m.

MEMORANDUM

To: Clackamas County Coordinating Committee (C4)
From: Trent Wilson, Clackamas County Government Affairs Specialist
Date: October 26, 2017

Subject: Housing tools discussion regarding SDCs and CET

Overview:

As a continuation of the housing affordability discussion, C4 members have asked to discuss system development charges (SDC) and the construction excise tax (CET) as possible mechanisms to address housing. Recommendations to date have included a proposal to consider the merits of "proportional" SDCs and to consider CETs as a mechanism to facilitate a housing trust fund.

Recommendation:

Staff recommends C4 discuss the merits of SDCs and CETs as possible tools to address housing in Clackamas County.

Key questions to address for CET:

- Should jurisdictions adopt a local Construction Excise Tax (CET) to help generate revenue to support housing programs, such as a Housing Trust Fund? (A consideration from the C4 Land Use Advisory Subcommittee Report)
- What would CET revenue fund?
  - Would it be specific to jurisdictions imposing the fund?
  - Would it be used countywide to serve agreed upon countywide needs?
  - Could a portion be used to offset potential reductions to SDC charges, to provide the funding for infrastructure needs?

Key questions to address for SDC:

- Are SDCs appropriate mechanisms to use to address housing affordability?
- Who is the appropriate beneficiary of potential SDC waivers or adjustments, and will restrictions be included to ensure long-term affordability?
- If so, should this be done through (1) project specific reductions, (2) a rate waiver or (3) "right-sizing" or "proportional" rates that would lower the cost of smaller residential development?

1. ***Project specific reductions:*** The applicant submits supporting documentation to justify a reduced SDC rate by demonstrating reduced impacts on the system(s) and the fee is calculated using those impacts. The development is creating less of

an impact and there is a direct correlation between the reduced rate and the reduced impact on the system.

2. ***Rate waivers:*** Developers can apply to have SDCs waived, but this presents other questions. For example, where would the agency recover the lost revenue to build the necessary infrastructure to support the additional population? Each system has an SDC based on capital project needs and projected growth, services relying on SDC would end up with a shortfall of SDC matching funds to add the necessary capacity to the system.

3. ***"Right-sizing" or "proportional" rates:*** This rate structure would be done through a methodology update and would shift the costs to other developments in the system. Such an update may have an unintended consequence on development costs throughout the County/City. Barrier to this methodology, where, or to whom, does the burden of paying for those improvements transfer to?

- If SDCs are used as a potential tool to address housing affordability, how do you ensure those cost savings are being realized by the project, not other items, such as the profit margin?

Attachments:

- Metro Memo on Regional Equitable Housing Investment Opportunities
- SB 1533 (2016 State Legislature)

Metro
600 NE Grand Ave.
Portland, OR 97232-2736

Memo

Date: August 25, 2017 DRAFT
To: Metro Council
From: Elissa Gertler, Planning and Development Director
CC: Martha Bennett, COO
Megan Gibb, Land Use and Development Manager
Emily Lieb, Equitable Housing Initiative Project Manager
Subject: Regional equitable housing investment opportunities

Like other regions around the country, the Metro region faces an urgent need to address a critical shortage of affordable housing. Rents are increasing faster than renter incomes, and more than 67,000 renters in our three-county region pay more than half of their income toward housing costs. Metro's Equitable Housing Initiative is working to build our region's capacity and Metro's capacity to respond through a multi-pronged approach that includes the following elements:

- Mitigate displacement and stabilize communities
- Maximize and optimize resources for regulated affordable housing
- Leverage growth for affordability
- Increase and diversify overall housing supply

Financial resources remain the biggest hurdle to ensuring adequate housing for the region's residents. Federal resources for affordable housing have continued to decline, and despite recent expansions in funding at the state level and within the city of Portland, a large funding gap remains to meet the need for housing affordable to households making less than 50% of area median income (AMI). It would cost about $900 million to construct sufficient new housing to close the region's 11,100-unit deficit of housing affordable to households making 30-50% of area median income (AMI), and approximately $5 billion to fill the 36,300-unit deficit of housing affordable to households making at or under 30% of AMI.[1]

This memo starts from an assumption that there are certain income levels currently not served by the private housing market—hence the need to undertake strategies not only to increase incomes and provide access to affordable transportation options, but also to increase the supply of publicly subsidized, regulated affordable housing. The memo and attachments outline the need for and advantages of a regional approach to address the challenge and lay out the policy and operational considerations that can inform the agency's next steps. As part of the Equitable Housing initiative, we have undertaken a technical analysis to identify the region's most significant areas of housing need, and the strategies that have been used successfully in other places to address similar challenges. The memo and attachments summarize the benefits and limitations of three potential investment strategies and two potential funding sources that have been informed by this research and additional initial stakeholder input, including feedback from our local city/county staff

[1] Assuming 4% tax credit leverage for wood frame or podium construction in medium cost areas, per unit gaps of $60,000 to $100,000 are achievable for affordability at the 60% of AMI level. Gaps to reach the 30% of AMI level are roughly double that amount. David Rosen & Associates Housing Affordability Gap Analysis, 2017. Housing deficit estimates are from the 2010-2014 Comprehensive Housing Affordability Strategy database (CHAS) produced by the U.S. Department of Housing and Urban Development (HUD) and U.S. Census American Community Survey (ACS).

partners. Finally, the memo includes recommended next steps for partner engagement, application of a racial equity lens, and continued development of programmatic elements.

The Planning department is seeking Council feedback regarding the overall direction and proposed next steps described in this memo.

Advantages of a regional approach

Our housing affordability challenges do not know jurisdictional boundaries, yet within our region, resources for investing in affordable housing are overwhelmingly focused within the city of Portland. More than half of our region's severely cost burdened households live outside Portland in the other 23 cities and counties that comprise Metro's jurisdictional boundary; however, only 33% of our region's 41,353 regulated affordable rental housing units are located outside Portland, and only 6% of existing $149 million of annual funding capacity for investing in affordable housing is focused outside of Portland in the rest of the region.[2]

Tackling the region's shortage of affordable housing will require new dedicated revenue tools, coordinated investment strategies, and a mix of short- and long-term approaches. While such tools and strategies could be pursued at the local level, our team feels strongly that a regional approach offers several advantages, including the ability to:

- Generate an investment strategy on the scale necessary to have an impact on serving regional needs
- Integrate affordable housing into communities across the region and strategically target investments to locations that offer the best balance of cost efficiency, leverage, outcomes for vulnerable communities and local needs
- Develop a regional housing strategy that responds to regional dynamics of market change and economic displacement
- Connect affordable housing investments to planning and policy related to transportation, natural areas, economic development, and racial equity
- Leverage state and federal resources to support coordinated investment strategies to address a critical regional need
- Spread the burden of revenue generation evenly across the region in a way that does not affect the competitive advantage of one jurisdiction over another
- Capture operational efficiencies of scale

Recommended strategies

Based on research, analysis, and stakeholder conversations over the past two years, staff have identified promising investment tools recommended for further exploration and development as part of a comprehensive regional investment program. We believe a successful regional program will include multiple components that fall within three strategic approaches:

[2] 2010-2014 Comprehensive Housing Affordability Strategy database (CHAS), U.S. Department of Housing and Urban Development (HUD) and U.S. Census American Community Survey (ACS); Metro 2015 Regulated Affordable Housing Inventory; David Rosen & Associates Inventory of 2016 Federal and Local Resources for Affordable Housing Investment.

- *Strategy #1: Anti-displacement and community stabilization.* Land acquisition, acquisition and rehabilitation of existing regulated and unregulated affordable housing, and gap financing to create or preserve housing opportunities for households at 0-60% of area median income (AMI) in locations with high displacement risk and/or access to transit, opportunities, and amenities.

- *Strategy #2: Homelessness prevention and deep affordability.* Flexible gap financing to support traditionally financed projects at 0-60% AMI, which face widening subsidy gaps due to rising construction costs and uncertainty in the tax credit equity market. This strategy could be coordinated with housing authorities' project-based rental assistance vouchers to include some units with deeper affordability to serve households with incomes at 0-30% of AMI.

- *Strategy #3: Mixed income communities and shallow subsidy.* Financial incentives for inclusion of affordable and "below market" units, typically 0-80% AMI, in new private market residential developments. Incentives could be tailored to local community needs in terms of what income level is served and whether the program is more targeted at private or nonprofit developers.

These three strategies and the program components within them are further described in *Attachment A*. In order to respond to the range of needs and contexts across the region, we anticipate that a regional equitable housing investment program would include multiple programmatic elements targeting different income levels and approaches. Most of these strategies are fairly scalable; however, start-up and overhead costs will vary. A summary of feedback on these strategies from local jurisdiction staff is included on pp. 5-7.

Key policy considerations related to the equity and cost effectiveness that would need to inform the design of a regional investment program include:

- *Who is served?* Households with the lowest income levels have the greatest need for affordable housing, but deeper income targeting requires more subsidy per unit, thereby reducing the number of households that can be served. For example, a strategy targeting households at 80% of AMI will be able to support more units with a shallow subsidy than a strategy serving households at 30% of AMI, which requires a much deeper per unit subsidy. It is worth noting: our analyses do not show a deficit of rental housing affordable at the 50-80% or 60-80% AMI levels anywhere in the region.[3]

- *Where is housing built?* It's more expensive to produce affordable units in locations with high land costs; however, these locations are often the places that offer better access to transportation, services, and jobs. Focusing investments in low or medium-cost areas with increasing land values could help prevent displacement, ensure income diversity in high-opportunity areas, and capture value created by the real estate market.

[3] 2010-2014 Comprehensive Housing Affordability Strategy database (CHAS), U.S. Department of Housing and Urban Development (HUD) and U.S. Census American Community Survey (ACS). A similar conclusion was reached by a Johnson Economics of 2015 data from Axiometrics, ACS, and Metro's 2015 Regulated Affordable Housing Inventory.

- *What type of housing (new or preserved)?* Acquisition of existing units for preservation as affordable housing is more cost effective than new construction in low- to middle-cost areas; however, this strategy does not increase the overall supply of housing and is limited to locations where existing naturally occurring affordable housing exists. More research is needed to understand specific preservation opportunities across the region and how they would align with different income targeting and location priorities.

- *What revenue tool could be used to support it?* Two funding tools that have been identified as having near term potential include construction excise tax (CET) and general obligation (GO) bonds. These tools have different implications in terms of potential scale, permitted uses and compatibility with identified investment strategies, anticipated geography (region as a whole vs. non-Portland balance of region), implementation requirements (legislative and voter approvals), and who would be impacted (i.e., who pays, who benefits). These considerations are discussed further in the next section. .

Potential funding sources

Two revenue tools identified as having near term potential include construction excise tax (CET) and general obligation (GO) bonds. These tools are complementary. While either tool could be pursued and implemented independently, it is anticipated that a regional program supported by both of these funding tools would generate stronger stakeholder support and serve a range of housing needs and local market contexts. If the region chose not to pursue either of these funding sources, other potential options include attempting to build a regional housing investment consortium or collective impact approach, pursuing federal or philanthropic grants, or attempting to develop a private funding source. Such strategies would all likely result in a much smaller scale of impact than the two funding sources detailed here.

Considerations	Construction Excise Tax	General Obligation (GO) Bond
Scale	$10.8 million/ year	Potentially $500 million or more. For example, Metro's 2006 Parks bond was $XXX million. The proposed TriMet transportation bond will be $1.7 billion.
Permitted uses	According to the formula laid out in SB 1533, 15% of proceeds are passed to the Oregon Housing and Community Services Department (HSCD) for homebuyer assistance programs, 50% of residential revenues must be used for developer incentives, and the remaining 35% of revenues from a residential CET and all revenues from a commercial CET can be used	Currently, local GO bonds for affordable housing are subject to a requirement that a public agency own and operate the asset until the bond is repaid. These requirements create limitations for the ability to use bond investments to leverage traditional finance tools such as tax credits. However, discussions are underway to pursue a constitutional amendment in 2018 that would

	at local discretion.	modify those requirements to create greater flexibility.
Anticipated geography	Locations where a local CET is not currently in place. (Currently, Portland is the only Metro jurisdiction with a local CET, but others are considering it.)	The three-county region
Approvals required for implementation	State legislative approval is necessary to enable Metro to be authorized to use the CET enabled by SB 1533. Regional voter approval may also be necessary to raise a spending cap on excise taxes in Metro's charter.	Regional voter approval would be required for a GO bond. State voter approval would be required for the constitutional amendment that would provide more flexibility for this strategy.
Who pays?	While it is often assumed that "developers pay" for a CET, it is possible that some or all of these costs may be passed on to tenants in new residential or commercial building.	Costs would be spread across existing property owners throughout the region. Due to Measures 5 and 50, this means that existing inequities in the property tax system would be perpetuated.
Current use for affordable housing	There are currently seven local jurisdictions around the state of Oregon that have adopted a CET for affordable housing under the authorization provided in SB 1533. Currently, Portland is the only jurisdiction in the Metro region with a CET; however, other jurisdictions, including Milwaukie, are considering a CET.	The State's Local Innovation and Fast Track (LIFT) program is funded by $40 million GO bond committed by the state legislature in 2015. In 2016, the City of Portland passed a $258 million bond—the largest housing bond ever passed by Portland voters, with a price point of $75/voter/year—focused on building or preserving 1,300 units of affordable housing over the next 5-7 years.

Feedback from Local Jurisdiction Staff

In August, Metro Planning staff met with planning, community development, and housing authority directors from across the region to discuss their perspectives on the need for regional approaches to funding and investment in equitable housing, and on the identified investment strategy options.

General themes included:

- There is widespread recognition among both staff and elected leaders that housing affordability is a regional challenge that requires regional solutions. Participants expressed general support for Metro to convene a conversation around regional opportunities.
- Several participants expressed concerns about fair allocation of resources and the need for strong local participation in the design and/or administration of new investment programs. Additional concerns were raised about the need to align new

program criteria with existing funding programs to avoid creating another layer of complexity for the already challenging process of lining up multiple funding sources to make affordable housing projects pencil out.

- Across the region, city and county staff are being directed by their councils to identify new policy and funding solutions to address growing local concerns about homelessness, displacement vulnerability for renters, and the need for permanently affordable housing to serve households at a range of income levels—from growing houseless populations to the local workforce.
- Smaller jurisdictions feel they lack the technical capacity to facilitate affordable housing development and expressed interest in a regional technical assistance program, whereas several larger jurisdictions felt they had significant staff expertise but lacked the resources and in some cases the staff capacity for implementation.

Themes related to how the strategies described in Attachment A might relate to identified needs and existing programs or gaps to address them included:

- Nearly everyone we spoke with expressed concerns about the need for new solutions to address growing homelessness challenges. Housing authorities saw an opportunity to combine new gap financing with their existing federal rental assistance vouchers and align investments with social services to develop new permanent supportive housing for service-dependent low-income households.
- Housing authority staff also identified a growing need for flexible funding to fill the widening gap for traditionally financed affordable housing projects at 30-60% AMI. Current projects in the pipeline have been experiencing delays due to rising construction costs and uncertainty among tax credit equity investors.
- City and county staff saw an opportunity for coordination between regional housing and transportation funding discussions. Several participants pointed to opportunities for land acquisition and preservation in the SW Corridor.
- Jurisdictions with a lot of naturally occurring affordable housing expressed interest in a preservation strategy that would improve habitability of units while also protecting affordability.
- Several participants saw an opportunity for developer incentives to support inclusion of 80% AMI rental units in new market rate development to support mixed income buildings. Even in locations where most market rate development is currently affordable at 80% AMI, staff saw an opportunity to bring more income diversity to neighborhoods while also protecting long-term affordability in the face of anticipated market change.

Participants also identified three areas not included in the strategies summarized in *Attachment A*:

- In addition to general preservation strategies, several participants specifically pointed to the need to stabilize communities in mobile home parks. New state resources have been dedicated to this issue, but several participants felt it merited additional consideration as part of a regional strategy. This is something we would like to further explore in the next phase of this work.
- Several participants talked about the need to broaden access to homeownership both through the development of more modest "missing middle" housing options and also through targeted homeownership assistance programs. Such a strategy

would be supported to some extent by a CET due to the requirement that 15% of funding be allocated to the state to provide down payment assistance.
- Several participants, particularly in Clackamas County, pointed to the need for new solutions to provide temporary housing for the homeless, and more regional coordination around services for the homeless. We believe there is an opportunity to explore how a regional investment program could support homelessness efforts. With regard to coordination of services, the HUD regional field office could potentially serve as a regional coordinator.

Finally, feedback related to revenue approaches included:
- Some jurisdictions had concerns about the potential impacts of construction excise tax on development, given rising construction costs and already high system development charges (SDCs). At the same time, jurisdictions in Washington County have been fielding increasing inquiries from private developers following adoption of Portland inclusionary housing policy, which may create additional appetite for development outside of Portland.

Based on this feedback, we believe there is general support for the list of strategies described in Attachment A, but recommend continued engagement with city, county, and housing authority staff—as well as with a broader range of stakeholders—to design a program that will serve a wide range of needs and local contexts.

Partner Engagement, Racial Equity Approach, and Proposed Next Steps

Based on the findings presented above and our discussions with internal and external stakeholders, we recommend the following next steps:

Racial Equity Analysis. Over the next several months, we will be working with internal and external partners to identify how efforts to advance regional affordable housing can best align with Metro's adopted racial equity strategy and provide maximum benefit to resident of color in our region. Strategies designed to increase access to housing for residents with lower incomes do provide some targeted benefit to people of color, who experience disproportionate levels of low income compared to white populations; yet more can and should be done to explore how regional affordable housing revenue and investment strategies can maximize benefit to people of color. Staff will explore multiple next steps, including engagement, collaborative partner dialogue, and analysis to understand the potential equity impacts of revenue and investment strategy decisions, and to ensure that a racial equity lens approach is applied to these discussions. This information will be used to inform next steps and recommendations and will support existing timelines and program development.

Investment Strategies and Tools. Based on feedback from local jurisdiction staff, we recommend additional consideration of how mobile home park preservation and homeownership assistance might factor into a regional investment approach, and additional consideration for how a regional housing investment program could be aligned with homelessness efforts across the region. Additional research is also needed to understand the best scale and targeting for a land acquisition and/or acquisition of naturally occurring affordable housing program.

Revenue Options. Further cost-benefit and legal analysis is necessary to understand the impacts of potential revenue tools and implications for program development, and political feasibility research is recommended to understand the viability of each of these strategies.

Stakeholder Engagement. On September 13, staff will present an update on this work to the Metro Policy Advisory Council (MPAC). We will also continue to engage city and county planning and community development staff and public housing authority staff, for-profit and non-profit developers, and funders and lenders to better understand their perceptions about how a regional strategy could respond to local needs and align with existing programs. Key stakeholders include:

- City and county community development and housing departments
- Local council and policy staff
- Public housing authorities
- Oregon Housing & Community Services (OHCS)
- Funders and community development finance institutions, including Network of Oregon Affordable Housing, Community Housing Fund, and Enterprise Community Partners
- Foundations, including Meyer Memorial Trust
- Private and nonprofit affordable housing developers
- Social service providers
- Advocacy groups and coalitions working on housing and equity issues, including the Welcome Home Coalition and Washington County Thrives Initiative
- Community leaders representing vulnerable communities, including partners on Metro's adopted Equity Strategy
- SW Corridor Equity & Housing Advisory Group

Enrolled

Senate Bill 1533

Printed pursuant to Senate Interim Rule 213.28 by order of the President of the Senate in conformance with presession filing rules, indicating neither advocacy nor opposition on the part of the President (at the request of Senate Interim Committee on Workforce and General Government)

CHAPTER ....

AN ACT

Relating to affordable housing; creating new provisions; amending ORS 197.309, 320.170, 320.176 and 320.186 and section 1, chapter 829, Oregon Laws 2007; repealing section 9, chapter 829, Oregon Laws 2007; and prescribing an effective date.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 197.309 is amended to read:

197.309. **(1) As used in this section:**

(a) "Affordable housing" means housing that is affordable to households with incomes equal to or higher than 80 percent of the median family income for the county in which the housing is built.

(b) "Multifamily structure" means a structure that contains three or more housing units sharing at least one wall, floor or ceiling surface in common with another unit within the same structure.

[*(1)*] **(2)** Except as provided in subsection [*(2)*] **(3)** of this section, a [*city, county or*] metropolitan service district may not adopt a land use regulation or functional plan provision, or impose as a condition for approving a permit under ORS 215.427 or 227.178[,] a requirement**,** that has the effect of establishing the sales **or rental** price for a housing unit or residential building lot or parcel, or that requires a housing unit or residential building lot or parcel to be designated for sale **or rent** to [*any*] **a** particular class or group of purchasers **or renters**.

[*(2)*] **(3)** [*This*] **The provisions of subsection (2) of this** section [*does*] **do** not limit the authority of a [*city, county or*] metropolitan service district to:

(a) Adopt or enforce a [*land*] use regulation, [*functional plan*] provision or [*condition of approval*] **requirement** creating or implementing an incentive, contract commitment, density bonus or other voluntary regulation, provision or [*condition*] **requirement** designed to increase the supply of moderate or lower cost housing units; or

(b) Enter into an affordable housing covenant as provided in ORS 456.270 to 456.295.

(4) Notwithstanding ORS 91.225, a city or county may adopt a land use regulation or functional plan provision, or impose as a condition for approving a permit under ORS 215.427 or 227.178 a requirement, that has the effect of establishing the sales or rental price for a new multifamily structure, or that requires a new multifamily structure to be designated for sale or rent as affordable housing.

(5) A regulation, provision or requirement adopted or imposed under subsection (4) of this section:

(a) May not require more than 20 percent of housing units within a multifamily structure to be sold or rented as affordable housing;

(b) May apply only to multifamily structures containing at least 20 housing units;

(c) Must provide developers the option to pay an in-lieu fee, in an amount determined by the city or county, in exchange for providing the requisite number of housing units within the multifamily structure to be sold or rented at below-market rates; and

(d) Must require the city or county to offer a developer of multifamily structures, other than a developer that elects to pay an in-lieu fee pursuant to paragraph (c) of this subsection, at least one of the following incentives:

(A) Whole or partial fee waivers or reductions.

(B) Whole or partial waivers of system development charges or impact fees set by the city or county.

(C) Finance-based incentives.

(D) Full or partial exemption from ad valorem property taxes on the terms described in this subparagraph. For purposes of any statute granting a full or partial exemption from ad valorem property taxes that uses a definition of "low income" to mean income at or below 60 percent of the area median income and for which the multifamily structure is otherwise eligible, the city or county shall allow the multifamily structure of the developer to qualify using a definition of "low income" to mean income at or below 80 percent of the area median income.

(6) A regulation, provision or requirement adopted or imposed under subsection (4) of this section may offer developers one or more of the following incentives:

(a) Density adjustments.

(b) Expedited service for local permitting processes.

(c) Modification of height, floor area or other site-specific requirements.

(d) Other incentives as determined by the city or county.

(7) Subsection (4) of this section does not restrict the authority of a city or county to offer developers voluntary incentives, including incentives to:

(a) Increase the number of affordable housing units in a development.

(b) Decrease the sale or rental price of affordable housing units in a development.

(c) Build affordable housing units that are affordable to households with incomes equal to or lower than 80 percent of the median family income for the county in which the housing is built.

(8)(a) A city or county that adopts or imposes a regulation, provision or requirement described in subsection (4) of this section may not apply the regulation, provision or requirement to any multifamily structure for which an application for a permit, as defined in ORS 215.402 or 227.160, has been submitted as provided in ORS 215.416 or 227.178 (3), or, if such a permit is not required, a building permit application has been submitted to the city or county prior to the effective date of the regulation, provision or requirement.

(b) If a multifamily structure described in paragraph (a) of this subsection has not been completed within the period required by the permit issued by the city or county, the developer of the multifamily structure shall resubmit an application for a permit, as defined in ORS 215.402 or 227.160, as provided in ORS 215.416 or 227.178 (3), or, if such a permit is not required, a building permit application under the regulation, provision or requirement adopted by the city or county under subsection (4) of this section.

(9)(a) A city or county that adopts or imposes a regulation, provision or requirement under subsection (4) of this section shall adopt and apply only clear and objective standards, conditions and procedures regulating the development of affordable housing units within its jurisdiction. The standards, conditions and procedures may not have the effect, either individually or cumulatively, of discouraging development of affordable housing units through unreasonable cost or delay.

(b) Paragraph (a) of this subsection does not apply to:

(A) An application or permit for residential development in an area identified in a formally adopted central city plan, or a regional center as defined by Metro, in a city with a population of 500,000 or more.

(B) An application or permit for residential development in historic areas designated for protection under a land use planning goal protecting historic areas.

(c) In addition to an approval process for affordable housing based on clear and objective standards, conditions and procedures as provided in paragraph (a) of this subsection, a city or county may adopt and apply an alternative approval process for applications and permits for residential development based on approval criteria regulating, in whole or in part, appearance or aesthetics that are not clear and objective if:

(A) The developer retains the option of proceeding under the approval process that meets the requirements of paragraph (a) of this subsection;

(B) The approval criteria for the alternative approval process comply with applicable statewide land use planning goals and rules; and

(C) The approval criteria for the alternative approval process authorize a density at or above the density level authorized in the zone under the approval process provided in paragraph (a) of this subsection.

(10) If a regulation, provision or requirement adopted or imposed by a city or county under subsection (4) of this section requires that a percentage of housing units in a new multifamily structure be designated as affordable housing, any incentives offered under subsection (5)(d) or (6) of this section shall be related in a manner determined by the city or county to the required percentage of affordable housing units.

SECTION 2. ORS 320.170 is amended to read:

320.170. (1) [*Construction taxes may be imposed by*] A school district, as defined in ORS 330.005, **may impose a construction tax only** in accordance with ORS 320.170 to 320.189.

(2) Construction taxes imposed by a school district must be collected, subject to ORS 320.179, by a local government, local service district, special government body, state agency or state official that issues a permit for structural improvements regulated by the state building code.

SECTION 3. Section 1, chapter 829, Oregon Laws 2007, is added to and made a part of ORS 320.170 to 320.189.

SECTION 4. Section 1, chapter 829, Oregon Laws 2007, is amended to read:

Sec. 1. (1) A local government or local service district, as defined in ORS 174.116, or a special government body, as defined in ORS 174.117, may not impose a tax on the privilege of constructing improvements to real property except as provided in [*sections 2 to 8 of this 2007 Act*] **ORS 320.170 to 320.189**.

(2) Subsection (1) of this section does not apply to:

(a) A tax that is in effect as of May 1, 2007, or to the extension or continuation of such a tax, provided that the rate of tax does not increase from the rate in effect as of May 1, 2007;

(b) A tax on which a public hearing was held before May 1, 2007; or

(c) The amendment or increase of a tax adopted by a county for transportation purposes prior to May 1, 2007, provided that the proceeds of such a tax continue to be used for those purposes.

(3) For purposes of [*this section and sections 2 to 8 of this 2007 Act*] **ORS 320.170 to 320.189**, construction taxes are limited to privilege taxes imposed under [*sections 2 to 8 of this 2007 Act*] **ORS 320.170 to 320.189** and do not include any other financial obligations such as building permit fees, financial obligations that qualify as system development charges under ORS 223.297 to 223.314 or financial obligations imposed on the basis of factors such as income.

SECTION 5. ORS 320.176 is amended to read:

320.176. (1) Construction taxes imposed [*under ORS 320.170 to 320.189*] **by a school district pursuant to ORS 320.170** may be imposed only on improvements to real property that result in a new structure or additional square footage in an existing structure and may not exceed:

(a) $1 per square foot on structures or portions of structures intended for residential use, including but not limited to single-unit or multiple-unit housing; and

(b) $0.50 per square foot on structures or portions of structures intended for nonresidential use, not including multiple-unit housing of any kind.

(2) In addition to the limitations under subsection (1) of this section, a construction tax imposed on structures intended for nonresidential use may not exceed $25,000 per building permit or $25,000 per structure, whichever is less.

(3)(a) For years beginning on or after June 30, 2009, the limitations under subsections (1) and (2) of this section shall be adjusted for changes in construction costs by multiplying the limitations set forth in subsections (1) and (2) of this section by the ratio of the averaged monthly construction cost index for the 12-month period ending June 30 of the preceding calendar year over the averaged monthly construction cost index for the 12-month period ending June 30, 2008.

(b) The Department of Revenue shall determine the adjusted limitations under this section and shall report those limitations to entities imposing construction taxes. The department shall round the adjusted limitation under subsection (2) of this section to the nearest multiple of $100.

(c) As used in this subsection, "construction cost index" means the Engineering News-Record Construction Cost Index, or a similar nationally recognized index of construction costs as identified by the department by rule.

SECTION 6. ORS 320.186 is amended to read:

320.186. A school district may pledge construction taxes **imposed pursuant to ORS 320.170** to the payment of obligations issued to finance or refinance capital improvements as defined in ORS 320.183.

SECTION 7. Sections 8 and 9 of this 2016 Act are added to and made a part of ORS 320.170 to 320.189.

SECTION 8. (1) The governing body of a city or county may impose a construction tax by adoption of an ordinance or resolution that conforms to the requirements of this section and section 9 of this 2016 Act.

(2)(a) A tax may be imposed on improvements to residential real property that result in a new residential structure or additional square footage in an existing residential structure, including remodeling that adds living space.

(b) An ordinance or resolution imposing the tax described in paragraph (a) of this subsection must state the rate of the tax. The tax may not exceed one percent of the permit valuation for residential construction permits issued by the city or county either directly or through the Building Codes Division of the Department of Consumer and Business Services.

(3)(a) A tax may be imposed on improvements to commercial and industrial real property, including the commercial and industrial portions of mixed-use property, that result in a new structure or additional square footage in an existing structure, including remodeling that adds living space.

(b) An ordinance or resolution imposing the tax described in paragraph (a) of this subsection must state the rate and base of the tax.

(4) Taxes imposed pursuant to this section shall be paid at the time specified in ORS 320.189 to the city or county that imposed the tax.

(5)(a) This section and section 9 of this 2016 Act do not apply to a tax described in section 1 (2), chapter 829, Oregon Laws 2007.

(b) Conformity of a tax imposed pursuant to this section by a city or county to the requirements of this section and section 9 of this 2016 Act shall be determined without regard to any tax described in section 1 (2), chapter 829, Oregon Laws 2007, that is imposed by the city or county.

SECTION 9. (1) As soon as practicable after the end of each fiscal quarter, a city or county that imposes a construction tax pursuant to section 8 of this 2016 Act shall deposit the construction tax revenues collected in the fiscal quarter just ended in the general fund of the city or county.

(2) Of the revenues deposited pursuant to subsection (1) of this section, the city or county may retain an amount not to exceed four percent as an administrative fee to recoup the expenses of the city or county incurred in complying with this section.

(3) After deducting the administrative fee authorized under subsection (2) of this section and paying any refunds, the city or county shall use the remaining revenues received under section 8 (2) of this 2016 Act as follows:

(a) Fifty percent to fund developer incentives allowed or offered pursuant to ORS 197.309 (5)(c) and (d) and (7);

(b) Fifteen percent to be distributed to the Housing and Community Services Department to fund home ownership programs that provide down payment assistance; and

(c) Thirty-five percent for programs and incentives of the city or county related to affordable housing as defined by the city or county, respectively, for purposes of this section and section 8 of this 2016 Act.

(4) After deducting the administrative fee authorized under subsection (2) of this section and paying any refunds, the city or county shall use 50 percent of the remaining revenues received under section 8 (3) of this 2016 Act to fund programs of the city or county related to housing.

<u>SECTION 10.</u> Section 9, chapter 829, Oregon Laws 2007, is repealed.

<u>SECTION 11.</u> A city or county may not adopt a regulation, provision or requirement under ORS 197.309, as amended by section 1 of this 2016 Act, until the 180th day after the effective date of this 2016 Act.

<u>SECTION 12.</u> This 2016 Act takes effect on the 91st day after the date on which the 2016 regular session of the Seventy-eighth Legislative Assembly adjourns sine die.

Passed by Senate February 26, 2016

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Lori L. Brocker, Secretary of Senate

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Peter Courtney, President of Senate

Passed by House March 3, 2016

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Tina Kotek, Speaker of House

Received by Governor:

........................M.,..., 2016

Approved:

........................M.,..., 2016

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Kate Brown, Governor

Filed in Office of Secretary of State:

........................M.,..., 2016

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Jeanne P. Atkins, Secretary of State

CONSTRUCTION EXCISE TAX DISCUSSION

CONSTRUCTION EXCISE TAX

- SB 1533B allows cities and counties to enact a Construction Excise Tax to fund affordable housing initiatives.

  The following is a CET summary of the key provisions of this bill.

  Establishes a new authority for cities and counties (not Metro) to impose a Construction Excise Tax on construction of new structures or construction adding square footage to an existing structure. Cities and Counties may impose a CET on:

  • Residential construction, at a rate of 1% of the value of the permit value of the construction

  • New commercial and industrial construction, with no cap on the rate of the CET

CET—REVENUE ALLOCATION

The local government imposing the CET may retain 4% of the CET revenues as a fee for administering the tax. After this fee, the residential CET revenues are to be distributed as follows:

- 50% to developer incentives as set out in Section 1 of the bill
- 15% to Housing and Community Services Department to fund homeownership programs that provide down payment assistance
- 35% for affordable housing programs and incentives as defined by the local jurisdiction

For a CET imposed on commercial or industrial development, 50% of revenues after the administrative fee must be expended on programs related to housing

STAFF RECOMMENDATION--RESIDENTIAL

Staff proposes that a Milwaukie CET program be established in the following manner:

- 1 percent of permit valuation for new and additional square footage of residential construction.
- 1 percent of permit valuation on new commercial or industrial development.

The collected Residential Tax revenue will be distributed as follows:

- 15 percent to the State Housing and Community Services Department.
- 50 percent for developer incentives for building affordable housing at 80 percent or below of median family income (MFI) and should include SDC and Permit Waivers and discounts on the public area requirements, when applicable.
- 35 percent for programs and incentives of the city toward affordable housing 60 percent and should include SDC and Permit Waivers and discounts on the public area requirements, when applicable.

CITY OF MILWAUKIE

STAFF RECOMMENDATION--COMMERCIAL

The collected Commercial Tax Revenue would be distributed as follows:

- 50 percent for affordable housing incentive for housing projects at or below 120 percent of MFI (Workforce Housing) and should include SDC and Permit Waivers and discounts on the public area requirements, when applicable.
- 50 percent for citywide economic development projects and programming with emphasis placed on areas that the city has adopted plans in place (e.g. North Milwaukie Industrial Area Plan, Moving Forward Milwaukie Plan, and South Downtown Plan)

CITY OF MILWAUKIE

STAFF RECOMMENDATION--EXEMPTIONS

Required State Exemptions:

- Affordable Housing at or Below 80% MFI
- Public Improvements Under Public Contracting Code
- Schools, Hospitals, Worship, Agriculture, Non-Profit Care

Recommended Additional Exemptions:

- Affordable For-sale Housing—at or below 80 percent MFI
- Accessory Dwelling Units for 5 years
- Improvements when value is less than $100,000

Questions?