MINUTES OF THE SPECIAL MEETING OF THE BOARD OF
ALDERMEN OF THE CITY OF OSAGE BEACH, MISSOURI
MAY 23, 2022

The Board of Aldermen of the City of Osage Beach, Missouri, conducted a Special Meeting on Monday, May 23, 2022, at 6:00 PM. The following were present in person: Mayor Michael Harmison, Alderman Tyler Becker, Alderman Richard Ross, Alderman Kellie Schuman, Alderman Phyllis Marose, and Alderman Kevin Rucker. Alderman Bob O'Steen was absent. City Administrator Jeana Woods was present and performed the duties on behalf of the City Clerk's office. Appointed and Management staff present were City Attorney Ed Rucker, Police Chief Todd Davis, and City Treasurer Karri Bell. Attorney Mark Spykerman with Gilmore & Bell, PC was also in attendance on behalf of the City.

UNFINISHED BUSINESS

None

NEW BUSINESS

City Attorney Ed Rucker and Attorney Mark Spykerman with Gilmore & Bell, PC presented a presentation on *TIF and Its Cousins: Design vs. Reality*, a presentation on Introduction to TIFs and Other Incentives. Questions and Answers followed the presentation. The presentation is enclosed as part of the meeting minutes.

ADJOURN SPECIAL MEETING

There being no further business to come before the Board, the meeting adjourned at 7:30 PM. I, Jeana Woods, City Administrator of the City of Osage Beach, Missouri, do hereby certify that the above foregoing is a true and complete journal of proceedings of the special meeting of the Board of Aldermen of the City of Osage Beach, Missouri, on May 23, 2022, and approved June 2, 2022.

Jeana Woods

Jeana Woods/City Administrator

Michael Harmison/Mayor

TIF and its Cousins, Design vs. Reality

City of Osage Beach, Missouri

April 2022

TIF: *DESIGN MEETS REALITY*

- No new taxes
- No increased tax rates
- No disruption of existing revenue streams
- Not tax abatement, only tax re-direction to approved project costs

TIF: *DESIGN MEETS REALITY*

- Public Private Partnership -- Not on my city's side of the table
  - Reasonable sales talk
    - But
  - Partnership: Two or more people carrying on as co-owners a business for a profit. R.S.Mo. 358.060 1
  - Three kinds of Profit in our economy
    - Rents
    - Capital appreciation (realized with a sale or leverage)
    - Depreciation against other the income
  - No developer wants to share any of those kinds of profit

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TIF: *DESIGN MEETS REALITY*

- What does Tax Increment Financing really do, a few observation from the City's side of the fence
  - Socialize part of the economic risk
  - The lure is the 2nd and 3rd order effects
    - Increased economic activity
    - Eventually increasing revenues
    - New Jobs
    - Attracting or retaining business

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TIF: *DESIGN MEETS REALITY*

- Vocabulary
  - PILOT – Payment in Lieu of Taxes
  - EATS - Economic Activity Taxes
  - SAF – Special Allocation Fund
  - RPC – Reimbursable Project Cost
  - Plan
  - Area
  - Project
  - Agreement

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TIF: *DESIGN MEETS REALITY*

DESIGN

1. City establishes a TIF Commission.
2. City identifies a targeted TIF Redevelopment Area.
3. TIF Commission reviews Plan and Redevelopment Area. TIF Plan is referred to the City Council.
4. City Council approves TIF Plan.
5. City solicits proposal(s) from developer(s) for TIF projects in approved Redevelopment Area.
6. Project(s) and developer(s) selected – TIF Commission and City Council.
7. TIF Agreement executed between City and developer(s) for approved TIF project(s).

CURRENT REALITY

1. Developer sees an opportunity in a particular location.
2. Developer prepares proposal for city. Commonly a draft TIF Plan and any other public funding sources (CID or TDD).
3. City reviews proposal, negotiates TIF Plan contents and TIF Agreement with Developer.
4. City solicits proposals from developers, usually only one proposal is received from initial Developer.
5. TIF Commission reviews TIF Plan, makes recommendation to City Council.
6. City Council approves TIF Plan and TIF Agreement.
7. TIF Agreement with Developer is executed within parameters of approved TIF Plan.

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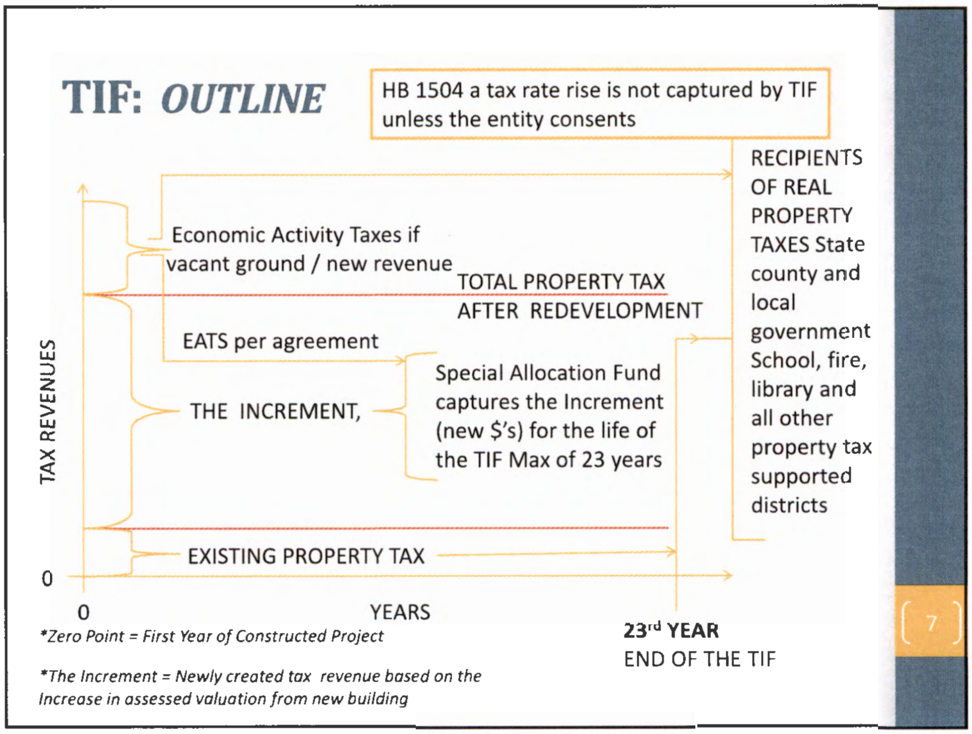

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TIF LIFECYCLE - *APPLICATION AND PLAN*

- Initial approach from developer to City
- Application package from Developer, City Staff review of application
- Governing Body approves funding agreement
- Governing Body may retain Planner for TIF Plan
- Governing Body retain outside counsel, if desired
- Governing Body forwards application to TIF Commission
- TIF commission meeting, set initial notices to taxing districts 45 days see 99.830.3
- Developer provides list of taxpayers of record in proposed redevelopment area
- Smaller taxing districts designate TIF commission member, number 11
- Planner make initial contact with assessor/collector, to confirm base values

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TIF LIFECYCLE - *TIF COMMISSION ACTION*

- Publish notice or request for proposals 99.820.1(3)
- Deadline for submission of proposals – two week notice 99.820.1
- Draft TIF Plan to Commission members and available for public inspection
- First publication of notice of public hearing 99.830.1, not more than 30 days prior
- Public notice of TIF commission orientation meeting.
- Mail notice to taxpayers in redevelopment area, not less than 10 days prior 99.830.1
- 2x publication of notice, not more than 10 days prior to public hearing 99.830.1
- Sunshine Law public notice at least four days prior to meeting, 67.2725
- TIF commission public hearing
- TIF commission vote within 30 days after public hearing concluded 99.830.3
- TIF commission recommendation to city within 90 days of hearing 99.930.3
- If Plan, Project or Area are amended, continue the public hearing, notice to all taxing jurisdictions, seven days prior to end of public hearing and reissue Sunshine Law 4 day notice prior to continued public hearing

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TIF LIFECYCLE - *PLAN AND AGREEMENT*

- Sunshine law 4 day notice of Governing Body meeting 67.2725
- Introduce ordinance to approve a plan, at least 14 days after but not more than 90 days following to commission public hearing. 99.820.1(1)
- Governing body meeting and approve TIF plan. 99.820.1(1) and 99.820.3. 2/3 to Pass if Commission votes "No". 99.825.2
- Notification to County Assessor and County Clerk 99.855
- Negotiation of TIF Agreement with developer.
- Sunshine notice 4 days prior to governing body meeting
- Approval of Project ordinance/redevelopment agreement with developer 99.820.1(2)
- Execution of TIF Redevelopment Agreement pursuant to local ordinance

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TIF LIFECYCLE - *CONSTRUCTION & OPENING*

- Developer acquires ground for project, if not already owned
- Construction begins
- Substantial completion of project, as defined by TIF agreement
- Notification to DOR re EATS
- Certificate of occupancy is issued / doors open for business
- Receipt of developer's application for reimbursable project cost
- Approval / denial of reimbursable project cost application
- New tax bills from county collector
- Property owner pays BASE Tax and PILOTS
- Collector forwards "Base Tax" to government recipients, and PILOTS to City
- City deposits PILOTS in Special Allocation Fund created by TIF agreement
- Payment of reimbursable project costs from SAF as approved (payments can include debt service on bonds issued to fund reimbursable project costs)

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TIF: *FLOW OF FUNDS/PILOTS*

1. Plan adopted
2. Assessment of project after improvements
3. Collectors bill for base and increment
4. Payment of base disbursed to recipients as before the TIF Agreement
5. Payment of value of the increment in lieu or taxes to the collector
6. Collector forwards PILOT to city of deposit into Special Allocation Fund
7. Funds disbursed to developer for approved reimbursable project costs

-or-

7. Funds disbursed to bond redemption

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TIF: *FLOW OF FUNDS/EATS*

1. Agreement adopted
2. Economic (Sales) activity begins within project
3. DOR collects EATS
4. DOR pays the EATS base to recipients as before the TIF Agreement
5. The City collects the captured EATS increment for deposit into Special Allocation Fund
6. Funds disbursed to developer for approved reimbursable project costs

-or-

6. Funds disbursed to bond redemption

TIF LIFECYCLE - *YEARLY OPERATIONS*

- New tax bills from county collector
- Developer pays BASE Tax and PILOTS
- Collector forwards "Base Tax" to government recipients PILOTS to City
- City deposits PILOTS in SAF created by TIF agreement
- Payment of reimbursable project costs from SAF as approved
- Repeat yearly for EATS, as received
- Repeat yearly for PILOTS as received
- City monitors performance agreements for public participation, claw backs, performance standards this may involve review or disclosure of developer's information, as set forth in redevelopment agreement

TIF LIFECYCLE - *YEARLY OPERATIONS (2)*

- City prepares and submits to the Missouri Department of Economic Development a yearly report pursuant to 99.865.1 R.S.Mo. for each redevelopment plan and redevelopment project.
- City publishes an Annual Statement for each plan and project including PILOTs received and spent, the status of the plan and projects and outstanding indebtedness 99.655.2 R.S.Mo.
- City holds a public hearing every five years after the adoption of the plan to examine progress of the plan and project under the time schedule in the plan 99.865.3 R.S.Mo.

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TIF LIFECYCLE - *WIND UP AND CLOSE*

- Computation of final year of program governed by:
  - Redevelopment agreement
  - Complete reimbursement of all reimbursable project costs
  - Exhaustion of any monies in SAF with no further funds forthcoming.
- City and developer agree on conclusion of TIF contract and wind up of Project.
- Notification to collector/end of agreement/no more PILOTS/ all taxes to taxing entities
- Notification to DOR /end of agreement/no more EATS / all taxes to taxing entities
- Termination of special allocation fund.
- Close and save files as public records.

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Use of TIF Revenues

- Issue: What are the potential uses of TIF revenues?
- Issue: How have municipalities expended TIF revenues?

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Community Improvement District / CID

- Formation:
  - Petition of property owners
  - Approval of petition by City ordinance
- Governance:
  - Separate Board of Directors, typically appointed by the Mayor with the consent of the Board of Aldermen
- Revenue Sources:
  - Additional sales tax, property tax, and/or special assessment *within CID boundaries only*
    - Tax Addition; not Tax Redirection or Tax Abatement
- Uses:
  - Public infrastructure
  - Remediation of blight
  - Services (security, etc.)
  - Often used in connection with TIF to provide additional funding for redevelopment project costs

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Transportation Development District / TDD

- Formation*:
  - Petition of property owners to Circuit Court
  - Projects approved by MoDOT or applicable "local transportation authority"
- Governance:
  - Separate Board of Directors elected by the property owners
- Revenue Sources:
  - Additional sales tax, property tax, and/or special assessment *within TDD boundaries only*
    - Tax Addition; not Tax Redirection or Tax Abatement
- Uses:
  - Streets, sidewalks and other transportation-related public infrastructure
  - Sometimes used for parking lots, but must include some "public" use
  - Often used in connection with TIF to provide additional funding for redevelopment project costs

*Cities and other local transportation authorities may also directly petition for creation of a TDD. This alternative procedure is usually only used for TDDs encompassing large areas and many property owners.

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Statewide Tracking of TIF Uses

Department of Economic Development categories of TIF expenditures:

1. Public Infrastructure
2. Site Development
3. Rehabilitation of existing buildings
4. Acquisition of land or buildings
5. Other (includes professional fees, financing costs, landscaping costs, planning, other not listed above)

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TIF: *DESIGN MEETS REALITY*

Conclusions –

- To the Lawyer, TIF is a hammer,
  - It is the use not the item that determines moral result of its impact
- How many are too many TIFs?
  - One failure is a problem
  - Multiple projects within budget and on time are taken for granted
- Cannibalism: Schumpeter's Creative Destruction
- This is competition, get used to it.

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TIF: *DESIGN MEETS REALITY*

- Real Estate Investor -vs- Developers
  - Investor, the owner of a property that needs a TIF to help finance acquisition, construction, and development
    - Often a newer developer
    - Undercapitalized
    - Locked into a specific location
    - No significant prior projects completed
    - Often over-estimates the usefulness of TIF
  - Developer, in the business of building operating and selling real estate projects
    - Finds a market
    - Options a property
    - Does a deal
    - Builds a project
    - Experienced, capitalized, better lawyered and financed than the city

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TIF: *DESIGN MEETS REALITY*

- Accountability Measures
  - Financial Performance
    - Spending
    - Revenues
    - Jobs Created
  - Construction and occupancy schedules
    - Clear the ground
    - Build and open the project
  - SO HOW DOES THE CITY ENSURE IT GETS THE BENEFITS PROMISED IN THE PROJECTIONS

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TIF: *DESIGN MEETS REALITY*

- Enforcing the Deal
  - Meet your financial projections
    - Don't mess up our credit history
  - Meet your schedule
  - Public participation / Excess profits
    - Was TIF really necessary
- Remedies:
  - Pay-As-You-Go or Developer-held TIF Notes: withhold or payment of TIF revenues from SAF
  - TIF Bonds:
    - Withhold payment of bond proceeds for project costs
    - Specific performance

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TIF: *DESIGN MEETS REALITY*

Any 3rd year law student can kill off a deal,
you're here to make one, so
Never let the perfect become the enemy of the good:

OUR GOAL IS ALWAYS **A DEFENSIBLE DEAL**

1. PROPORTIONATE
2. ACHIEVABLE
3. ACCOUNTABLE
4. TRANSPARENT

The Editorial Board -vs- Mick Jagger

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Author / Presenter

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