



# City of Madison

City of Madison  
Madison, WI 53703  
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## Master

**File Number: 29485**

**File ID:** 29485

**File Type:** Resolution

**Status:** Report of Officer

**Version:** 2

**Reference:**

**Controlling Body:** COMMON  
COUNCIL  
ORGANIZATION  
L COMMITTEE

**Lead Referral:** TIF POLICY REVIEW  
AD HOC COMMITTEE

**File Created Date :** 03/13/2013

**File Name:** TIF Policy Introduction Reso

**Final Action:**

**Title:** ~~Accepting the revised TIF Policy approved by the Economic Development Committee on February 20, 2013 for Common Council consideration and adoption.~~ Adopting the revised TIF Policy.

**Notes:**

**CC Agenda Date:** 02/25/2014

**Agenda Number:**

**Sponsors:** Scott J. Resnick, Jill Johnson, Mark Clear, Paul R. Soglin, Shiva Bidar-Sielaff, Chris Schmidt, Sue Ellingson and Michael E. Verveer

**Effective Date:**

**Attachments:** TIF Underwriting Policy - Council President's\_TIF Policy Review Com.pdf, TIF Goals Objectives and Process - Council President's\_TIF Policy Review Com.pdf, Version 1.pdf

**Enactment Number:**

**Author:** Aaron Olver, Director of Economic Development

**Hearing Date:**

**Entered by:** afreedman@cityofmadison.com

**Published Date:**

### History of Legislative File

Version:	Acting Body:	Date:	Action:	Sent To:	Due Date:	Return Date:	Result:
1	Economic Development Division	03/13/2013	Referred for Introduction				
	<b>Action Text:</b>	This Resolution was Referred for Introduction					
	<b>Notes:</b>	Referred to TIF Policy Review Ad Hoc Committee.					
1	COMMON COUNCIL	03/19/2013	Refer	TIF POLICY REVIEW AD HOC COMMITTEE			Pass
	<b>Action Text:</b>	A motion was made by Bidar-Sielaff, seconded by Schmidt, to Refer to the TIF POLICY REVIEW AD HOC COMMITTEE. The motion passed by voice vote/other.					
	<b>Notes:</b>	Additional referral to Economic Development Committee, Board of Estimates					
1	TIF POLICY REVIEW AD HOC COMMITTEE	03/20/2013	Refer	ECONOMIC DEVELOPMENT COMMITTEE		01/15/2014	
	<b>Action Text:</b>	This Resolution was Refer to the ECONOMIC DEVELOPMENT COMMITTEE					

**Notes:**

1 TIF POLICY REVIEW AD 03/20/2013 Refer BOARD OF ESTIMATES 01/27/2014  
HOC COMMITTEE

**Action Text:** This Resolution was Refer to the BOARD OF ESTIMATES

**Notes:**

1 BOARD OF ESTIMATES 04/08/2013 Refer TIF POLICY REVIEW AD HOC COMMITTEE Pass

**Action Text:** A motion was made by Bidar-Sielaff, seconded by Clausius, to Refer to the TIF POLICY REVIEW AD HOC COMMITTEE. The motion passed by voice vote/other.

**Notes:**

1 TIF POLICY REVIEW AD 04/29/2013 Refer TIF POLICY REVIEW AD HOC COMMITTEE  
HOC COMMITTEE

**Action Text:** This Resolution was Refer to the TIF POLICY REVIEW AD HOC COMMITTEE

**Notes:**

1 TIF POLICY REVIEW AD 07/09/2013 Refer TIF POLICY REVIEW AD HOC COMMITTEE 08/01/2013  
HOC COMMITTEE

**Action Text:** This Resolution was Refer to the TIF POLICY REVIEW AD HOC COMMITTEE due back on 8/1/2013

**Notes:**

1 TIF POLICY REVIEW AD 08/01/2013 Re-refer TIF POLICY REVIEW AD HOC COMMITTEE 08/29/2013  
HOC COMMITTEE

**Action Text:** The Committee reviewed the previously handed out document that compared the adopted and EDC proposed policy. Referencing the EDC Proposal, Ellingson asked Olver where a Targeted Development Area (TDA) might be. Olver said many municipalities create a TID and then wait for a generator or a project. Olver said that the far west side was a potential location to create a TDA to help attract new development. Clear said that the EDC thought that a TDA could be something like a "pre-TID", where the City would give priority to the creation of a TID. Schmidt asked if a TDA concept should be in the Comp Plan. Rolfs and Gromacki said that many of these areas are already identified in other plans like the Comp Plan, Neighborhood Plans, or Special Area Plans. Gromacki said that this kind of concept could be moved to another document such as a TIF Master Plan. Ellingson said that the Comp Plan ordinance was difficult to amend and afforded the adjacent taxing jurisdictions the opportunity to comment on the Comp Plan. Gromacki said that any TDA that was put in would need to have protections for the City and a measured approach to spending until a generator was secured.

Consensus was to move the TDA discussion to the section of the Policy discussing the creation and amendment of a TID.

Discussion took place around how to condense the goals and objectives in the Policy document. Discussion took place around which version of Goals and Objectives to use as a starting point. Schmidt suggested splitting the Policy items from the City's underwriting criteria. Gromacki noted that the Policy portion could focus on the when, how, and why the City would create TIDs. He said an underwriting portion could be used to ensure security for the City and consistency for developers.

Consensus was to go with the EDC's proposed goals and move the Goals to a TID Creation Manual.

Discussion took place on the Ineligible Development items. Staff was asked to further refine what was meant by "luxury housing".

Consensus was to eliminate the simultaneous land use and TIF approval in the Adopted Policy.

Schmidt asked if the Application Fee language should be in an ordinance. Discussion took place on how to handle the Application Fee, and when to collect it. Gromacki and Olver noted that the current policy on the Application Fee was meant to also discourage applicants from making outrageous TIF requests and to discourage "tire kickers".

Consensus was to put the Application Fee, using the Adopted Policy language, into an ordinance.

Gromacki noted that the Application Fee went into the General Fund. The TIF Application Without a TID portion of both policies are mostly identical.

Consensus was to better the define the EDC phrase "but may bear additional risk to the developer".

Discussion took place on the Term Sheet. Gromacki said that the Term Sheet is a very practical item, and allowed consistency and transparency in the process. He said that the term sheet was the time to ensure that the resolution that went to Council accurately reflected what both sides had agreed to in negotiations. Paragraph 3.1(6) of the existing policy was amended to strike the first sentence and the words "prior to the closed session meeting..." Consensus was to continue to use a Term Sheet per existing policy, adding that Staff "may present its findings to BOE, if needed.

Consensus was to eliminate the requirement in existing policy that a TIF have a 12 year expenditure period.

**Notes:**

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|---|------------------------------------|------------|----------|------------------------------------|
| 1 | TIF REVIEW BOARD                   | 08/26/2013 |          |                                    |
| 1 | TIF POLICY REVIEW AD HOC COMMITTEE | 08/29/2013 | Re-refer | TIF POLICY REVIEW AD HOC COMMITTEE |

**Action Text:** Motion to refer by Ellingson, second by Verveer.

Verveer asked for a recap of the Joint Review Board (TIF Review Board) meeting on Monday to discuss the proposed TIF Policy. Bidar-Sielaff asked for MMSD to be included in future discussions on the policy, once a draft of the policy was created.

Discussion took place on the existing matrix. Consensus was to leave Section 4.1(1-5) as they were presented in both policy drafts.

Olver said the overall architecture of the EDC proposal divided projects into three categories; real estate projects (excluding affordable housing), affordable housing, and employer oriented projects. He said that for real estate projects the City would continue to apply existing "but-for" standards, and modified standards for the affordable housing and employer projects. He said the "competitive factors" analysis would only be applied for employer oriented projects. Olver also pointed out the issues with affordable housing tax credit projects, relative to the "but-for" test and WHEDA applications. Verveer asked Gromacki for his opinion, who said that the EDC proposal is very nebulous as to what a developer is eligible for, relative to TIF assistance. Gromacki noted that the Policy was originally adopted because developers and Council members wanted consistency and predictability among projects. He said that the EDC proposal's measures were murky and noted that the EDC proposal made gap analysis optional by inserting the word "or" before the subjective measures such as "competitive factor". If adopted, this language would make consistency and predictability difficult and developers would spend most of their efforts to make a political case against gap analysis. He said that the "but-for" standard in the EDC proposal for affordable housing projects would be difficult to justify, as most WHEDA projects had sufficient funding between equity, bank debt and WHEDA credits. Olver noted that the WHEDA application gave a varying degree of points to applications. Gromacki noted that the State had changed this rule over time as to how points were awarded for WHEDA applications.

Ellingson asked how these projects generally created incremental value, based upon their artificially low value from providing affordable housing. Olver noted that the EDC laid out criteria for these different types of projects. Ellingson said she felt that the Policy should have a separate policy on how to address affordable housing projects. Gromacki was asked to draft some sample standards for dealing with a "WHEDA gap". Gromacki noted that these standards would have to consider the gap, the health of the specific TID, and other factors to be considered.

Gromacki noted that the employment oriented projects category were very hard to quantify. He said if a company threatened to leave for another community, staff had no way to verify this statement. He also had no way to prove what is the right number concerning TIF assistance as the process turns into a bidding war.

Olver said there were several ways to look at a project, one was looking at the how much the project could afford to receive, another was looking at what kinds of jobs were being created. Gromacki noted that the EDC proposal allowed employment projects to completely skip the "but-for" analysis. Verveer asked Zellhoefer about her take on the proposed "but-for" standard used in the EDC proposal. Zellhoefer said she has always felt comfortable with gap analysis as it is numbers driven and is something that can be verified through experience. Schmidt said the core issue is whether or not the City wants to use TIF as a tool in competitive processes. Ellingson said that the Council currently makes a decision on these kinds of issues. Bidar-Sielaff said that if there is not tangible, impartial data to support these kinds of decisions, it would be difficult for staff to analyze and make a recommendation on these issue. Clear compared this to the Monona Terrace booking fund in that the City would be "buying business", otherwise the City would ignore the real world where companies make decisions on where to locate.

Ellingson asked if there were other tools that could be used in this game. Olver said the State had other tools to assist in these kinds of decision making processes. Bidar-Sielaff said that previous decisions from bidding wars such as EPIC and Spectrum Brands were based upon other factors than just TIF assistance. Schmidt asked what standards the State used when distributing incentives. Olver said many decisions were made based upon jobs created, amount of training required for the jobs, amount of capital investment for the project, the riskiness of the project, and other factors. He noted that the vast majority of benefits were tax credits, so they were after the fact types of awards. Schmidt asked if the standards were solid. Olver said the standards are inherently murky and had an element of art to them. Ellingson noted that the City does not generally do "art". Zellhoefer noted that it was easier to discuss gap analysis versus "competitive factors" when looking at statutory review. Ellingson asked for a clearer picture of how big an impact considering "competitive factors" would have on the

City. The Committee asked Gromacki to attempt to develop a TIF program for employers after reviewing the issues expressed in the EDC proposal and reconcile it with the gap analysis method in the current policy. Gromacki proposed the concept of making these kinds of loans as an end loan, tied to jobs created or retained, with specific dollars spent per job created or retained. Bidar-Sielaff asked what other tools were available to the City as a part of business retention / attraction program.

Gromacki was asked for his opinion on the use of the 50% rule. He said it provided funding to other projects such as infrastructure, while also providing the City with a solid starting point for negotiating with developers. Olver said that he felt that the City's starting point was already there, and that was gap, regardless of what the actual percentage was.

Consensus was for the Committee to review the concepts presented by Olver for how to address the 50% rule and discuss at the next meeting.

Motion for referral carried.

**Notes:**

1 TIF POLICY REVIEW AD 09/19/2013 Re-refer  
HOC COMMITTEE

TIF POLICY  
REVIEW AD HOC  
COMMITTEE

**Action Text:** Motion to refer to the next meeting by Clear, second by Bidar-Sielaff.

Gromacki provided an overview of the memo that he drafted at the request of the Committee at the previous meeting. He noted that the dilemma with WHEDA projects was that these types of projects under current WHEDA formulas did not have a gap. He said that one idea was to "create a gap", by requiring projects to have a higher percentage of units that were deemed "affordable" at a lower AMI. He noted that it was a simple fix by essentially "creating a gap", it allowed the project to still comply with the "but-for" test. Ellingson indicated that she would still like to see some numbers. Gromacki explained that the current situation would essentially "gift" TIF funds to projects, whereas the proposal was to create a gap that would also meet a greater public need. Olver noted that WHEDA credits were pass through credits from the Federal government and were the major option in the affordable housing game. He said that developers get one point on their application for every percentage point of outside funding for their project, up to 25%. Olver also said that the percentage of units that were identified as "affordable" in a project impacted a final WHEDA score. Bidar-Sielaff asked how the scoring was looked at within the City's various funding options, such as CDBG and TIF. Ellingson asked if there was any developer equity in the project. Gromacki noted that there was generally no developer's equity in these types of project. Bidar-Sielaff said that if there was any instance where the City should look at being flexible on TIF Policy and how funds were invested, it should be where affordable housing was considered.

Verveer arrived at 6:20 PM.

Discussion took place around how to calculate a percentage or value of TIF investments in a WHEDA project. Clear asked if it would make sense to include language specifically referencing WHEDA tax credits under 4.1.(7)(b) in the Staff memo discussing this item. Gromacki suggested including language that required that the proposed mix of unit counts and income targets would demonstrate a gap. Ellingson asked for some examples of projects as to how this would play out in real applications for TIF assistance. Olver suggested asking Natalie Erdman or an outside developer to come and discuss how this concept would work. Ellingson asked to have an outline of how the WHEDA policy works for the next meeting. Bidar-Sielaff asked to have Jim O'Keefe provide the Committee with information on how CDBG funds would also apply.

Gromacki reviewed the Staff proposal on competitive TIF incentives. He provided background on previous TIF loans to industrial users. He noted that many of the numbers there, including the proposed number of jobs, were starting points for discussion at the Committee level. He noted that the "funds per job" number in the memo was the same number as used by the SBA. Ellingson asked how these numbers would ultimately play out in a project.

Olver said that with the proposed standards it would still set hard lines that companies might not meet, versus eliminating a specific requirement to measure a project. He noted that gap analysis for companies that would own buildings would be challenging if they were competing against other communities for a project. Olver said that paying out incentives over time for jobs created or retained would probably work. He also put out the idea that a company might be redeveloping their existing site, versus moving to a new site. This type of project could encompass both jobs and real estate valuation. Clear said that he was still concerned about putting specifics around what projects were eligible for, but he did like the concept of giving projects that did comply with traditional gap analysis more, and projects that wanted to have gap analysis waived would be eligible for less. Bidar-Sielaff said that the fundamental question in front of the Committee was whether to have a "policy", like the City currently had, or the EDC proposal that was a set of "guidelines". Ellingson asked if the City could get some of the things that were identified in handout from Olver titled "Possible Reforms to the 50% Rule". Gromacki noted that many of these items were already provided to Council on current deals. Bidar-Sielaff noted that Council already provided exceptions when merited. Discussion took place around whether or not to include the current state of a TID in the analysis of a TIF loan. Bidar-Sielaff said she would like to have parameters for a proposal so decision makers could weigh it against the various risks that were in play.

Staff was asked to generate an example of a WHEDA project that demonstrated the affect of the proposed changes and a matrix of the proposed exceptions to the "50% rule". Staff was also asked to begin work on two separate documents that would split the TIF policy into a TIF Goals and Objectives Manual and an Underwriting Policies Manual. These two documents were to be presented at a future meeting after the Committee had completed its review of the comparison matrix between the Adopted TIF Policy and the EDC proposal.

Motion for referral carried.

**Notes:**

- 1 TIF POLICY REVIEW AD 10/03/2013  
HOC COMMITTEE

**Action Text:** Motion to refer to the next meeting by Ellingson, second by Bidar-Sielaff.

Verveer arrived at 5:04 PM.

Schmidt said he would like to step back and talk about how the entire process should play out, specifically when an application is received, how the review process should play out.

Motion by Bidar-Sielaff, second by Ellingson to suspend the rules to allow for additional comment. Motion carried.

Speaking In Support:

Brenda Konkel (Madison, WI) – Konkel spoke about the need for additional funds for affordable housing funds. She handed out a spreadsheet that described the affordable housing income levels for Dane County. She said that she usually pushed for income levels of 30% of AMI because that is where the most need is in the County. She said there is very little housing available for people who are making this level of income in the County; typically she sees 5-6 units per week that will work for people at this income level. Verveer asked Konkel if she had seen the draft of the policy that was being discussed. Konkel said that the primary issue she was concerned about setting the affordable housing levels at a number low enough to help the large number of people in need.

Schmidt asked the Committee what they would like to see in a process to review applications for funding when they do come in. Bidar-Sielaff said that one of the things she recognized as a part of this review of policy was that policy makers were not involved early enough in the process when a TIF application was being reviewed and considered. She said a process that was more along the lines of Plan Commission report and discussion among policy makers would provide more insight. Verveer said he would like to see a process where the Board of Estimates had a more rigorous role in the review of applications for TIF funding. He noted that in the past, the BOE was brought policy questions earlier in the review process, instead of later on after a tentative deal, that may or may not include exceptions, had been struck. He noted that in the past when deals were done in his district, TIF Staff had gone through the deal with him prior to the project coming the Council for action. Schmidt said that it appeared to him that the existing policy was drafted to eliminate this from the process. Verveer noted that the existing policy did include bringing projects to the BOE earlier on. Gromacki said the existing policy did allow for the BOE to address issues where there were disagreements between Staff and an applicant, but did not instruct staff to report to BOE earlier in the process.

Clear arrived at 5:20 PM.

Olver said his fundamental premise was that flexibility was good, as it would allow policy makers to tell staff what they would like to support with TIF funds. He said gap analysis and the 50% rule are the two primary items where there were issues in the EDC's opinion. He said that in his view, gap analysis worked 90% of the time. Discussion took place around what projects the City may or may not have lost due to the City's TIF Policy. Olver said maybe policy makers wanted to set up speculative TIDs where they would like to see projects occur, including in high need neighborhoods. He said the benefit of flexibility was that it would send a message to staff and the developers about what the City would like to see for development areas.

Bidar-Sielaff said she felt that the City Council was not brought in on the negotiations for TIF funding early enough, such as in closed session in the Board of Estimates. She said that she would like to see the Council articulate its goals and review them on a regular basis. Bidar-Sielaff said she would like to see this process happen with every project that came to the City, regardless of whether or not it fit within the adopted policy framework. At Verveer's request, Gromacki went through the current process for the review of projects that have applied for TIF funding. Verveer also asked Gromacki to review the process, relative to interaction with the BOE and other City bodies. Gromacki noted that the TIF application fee was only collected when an agreement on the actual TIF assistance was close. This timing was to ensure that the final number for assistance was set so the fee could be accurately calculated.

Olver said that there are occasional moments where there are policy triggers that need to be decided. He noted that this might be an obvious moment for the BOE or the Mayor to review the project and give staff an indication on the policy decision that would be made.

Schmidt asked Bidar-Sielaff when she would like things to go to BOE. Bidar-Sielaff said she would like to see projects go to BOE earlier in the process. She said this would provide a place to also see



where things went off course if a project was rejected or the developer pulled out. She said if all parameters were met, then the only time that BOE would need to see it would be at introduction. She said if there were roadblocks or exceptions to the policy, these could be brought to the BOE before a final project was approved or agreed to.

Clear said the point of the TIF Policy was to provide Staff and potential applicants where exceptions would be made. Schmidt said he was very frustrated with and tired of hearing unfounded stories of TIF projects that didn't go through or even come to Madison, without hearing numbers, names or examples. He said the WHEDA gap and the greenfield TID issues still needed to be addressed. He said that without hearing specific numbers or examples, why would the Council throw out the current policy? Bidar-Sielaff said that the EDC Proposal seemed to be going towards "guidelines" as opposed to "policy". "Guidelines" in her view were softer and murkier than "policy". She said if switching from "policy" to guidelines" was the direction of the Council, then the Council needed to have a much more involved role with the review of a project. Bidar-Sielaff said that even if there was a balance between "guidelines" and "policy" and the Council had to have more involvement, she pointed out that this would make Staff's job more difficult as Staff was still being asked to implement policy as set by the Council, not guidelines.

Ellingson said she found it very difficult to judge all of the hypothetical projects. Ellingson said it might be good to ask Gromacki to draft a hypothetical policy that would address the issues identified by the Committee, but that would still be workable. Verveer stated that Gromacki's September memo did just that. Ellingson said she felt that the process was okay the way it currently worked, given the level of detail that was involved with a TIF project. Ellingson said she would like to see a more robust report, including all of the factors that the Council should be considering. She said she would like to see reports that addressed the age of the TID, competitive factors, the type of project, etc. She also asked to see reports on why projects failed, such as the 800 Block of East Washington Avenue. Gromacki and Olver provided an overview of the two previous projects that did not occur on the 800 Block of East Washington Avenue.

Ellingson said she would like to see a clear policy, along with a Council briefing when there are projects that do fall through to help everyone learn from the process, or when there are large projects that do succeed. Bidar-Sielaff said she felt that Gromacki's September 19, 2013 memo and that put the concepts in the September 19, 2013 memo in matrix form that was provided to the Committee for this meeting was a good start. She wanted to see the Staff Team membership as represented in the EDC Proposal, and their responsibilities identified, and how the members produce the written TIF report. She said that the written report should include both the hard numbers but also some qualitative information in the report such as the life of the TID and the overall financial status of the TID. Verveer asked Gromacki to share examples of previous Staff Reports. Clear noted that the reports that Planning Staff created for a project would be a good model, indicating where items either met the relevant policies or where they did not. He also noted that other Agencies could also be involved with the crafting of this report.

Ellingson said she would still like to see a draft of a policy from Staff, based upon the input from the Committee.

Olver noted that there are projects that are coming forward, specifically Judge Doyle Square, that will challenge the existing TIF policy. Schmidt said that those types of projects generally saw a greater deal of oversight anyway and did not require revising the entire policy. Clear noted that the bottom line was that the Council was still the backstop and made a decision on every TIF loan. Bidar-Sielaff said that the current policy was set outside of specific goals for projects. She would like to see a policy that melds the two ideas of goals and objectives while also providing some specific numbers that outline what the development community can expect. She posed the following questions for the Committee to discuss. Who is the Staff Team? Who runs the staff team? Who writes the report to Council? Bidar-Sielaff also wanted to see a better summary of these items for the Council, along with a better defined Staff Team, and a further discussion of how and when the process should come to policy makers with exceptions or a description of the project in question.

Schmidt asked if the policy should include a specific discussion of land banking projects and how these exceptions should be made. Olver said the Committee and Council should articulate as clearly as possible what they would like to see in a Policy. Schmidt said it appeared that the Committee would like a baseline policy to measure a project against, and then identify where the Council would consider exceptions.

Verveer made a motion to suspend the rules to allow additional speakers, second by Ellingson.

Motion carried. There were no additional speakers, other than an acknowledgement of the comments provided via e-mail by Susan Pastor.

Motion for referral carried.

**Notes:**

1	TIF POLICY REVIEW AD HOC COMMITTEE	11/04/2013	Referred	TIF POLICY REVIEW AD HOC COMMITTEE
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**Action Text:** This Resolution was Referred to the TIF POLICY REVIEW AD HOC COMMITTEE

Motion to refer to the next meeting by Verveer, second by Clear.

The Committee discussed the Draft Goals and Objectives document. The Committee discussed what was meant by the term "Luxury Housing". The consensus was to define luxury housing as "any housing that is more than 100% of the market rate".

Consensus was to have Staff provide the BOE a quarterly update on TIF projects in closed session.

Discussion took place around the process of developing the Term Sheet and negotiating the proposed TIF loan. The Committee also discussed who was on the TIF Team and what that makeup would look like. Bidar-Sielaff said it would be a good idea to have a well defined TIF Team that also represented all of the potential funding pools that could be applied to a project. Consensus was to include the EDC Proposal for the "TIF Team" in the Goals and Objectives document. Verveer asked Olver and Cover what the current practice was. Olver said that there are many projects that never make it to a TIF Team, as they are very straight forward. These projects are negotiated with the TIF Coordinator, a resolution is drafted and presented to the Alder, and then sent to the Common Council. He said that as projects are more complicated or sensitive, either he or Cover would get involved, along with other staff including the Finance Department, Planning, Engineering, and others as necessary. Verveer and Bidar-Sielaff said they would like to see this process become more formalized and codified.

Alder Rummel asked if there was a way to formalize how and when to inject the alder into the conversation regarding an application for TIF funding. Bidar-Sielaff said that it would be good to include the alder early on, but it could cause problems when it came to negotiating a TIF deal.

Verveer said that in his experience he had never been to a TIF Team meeting, but that had never been a problem. He said that it might be good to have a more formalized process for including the alder, but he did not want to "meddle" in negotiations between Staff and a prospective applicant. Olver noted that there were generally two types of meetings, one with a developer to negotiate and work through issues, and another where City Staff met with a larger group, sometimes with the alder or Mayor's Office present, to discuss larger issues related to a proposed TIF project.

Consensus was that when an application for TIF funding was received that an alder should be notified by sending them a copy of the TIF application.

Verveer left at 5:58 PM.

Bidar-Sielaff asked Monks what triggered bringing in the Mayor's Office or the District Alder. Monks said that they relied upon the EDD Director to make the call when to involve the Mayor or District Alder. Bidar-Sielaff said that whatever triggered bringing in the Mayor's Office should also trigger bringing in the District Alder for an update. Alder Rummel said that whenever there are policy issues the District Alder should be involved immediately, as it provided a range of information and opinions. Olver said that there are a range of meetings that happened, from formal meetings to informal meetings that lasted no more than a minute. Monks noted that when the EDD Director was involved, the Mayor's Office was informed of TIF projects. Schmidt asked if the Mayor's Office was not aware of specific TIF projects. Monks said the EDD Director was aware of all projects, but the Mayor's Office was only involved when there were issues that required resolving.

Motion to suspend the rules by Ellingson, second by Clear to suspend the rules and allow another speaker.

Speaking in support of the EDC Proposal

Carole Schaeffer (Smart Growth Greater Madison) – Schaeffer said that she had five meetings in the previous year with developers and Staff, but because of TIF Policy they could not come forward with a TIF application to the City. She said Joanna Burish of Welton Enterprises lost both Mead & Hunt and a manufacturer from China because there was not a TID in place, and there were no assurance that they could get an approval. She said that the other communities were able to move faster to capture projects. She expressed concern that the proposed job requirements in the proposed language were arbitrary and could tie the City's hands in attracting businesses. Bidar-Sielaff asked if the alder of the district was involved in these projects. Schaeffer said that there was no way to do it, due to the structure of the existing TIF Policy. She specifically said that there are areas in the perimeter of the City of Madison that could not compete with surrounding communities. Schaeffer said that the Mayor of the City of Middleton said he loved Madison's TIF Policy as it was "building Middleton". She said

that the EDC's Proposal called for identifying targeted areas was a sound idea, but there should not be TIDs created all over the City. Ellingson asked Schaeffer why other municipalities were able to move so much faster. Schaeffer said they had existing TIDs that were open and ready to provide assistance. Gromacki asked Schaeffer was at liberty to discuss the terms and conditions of the Mead & Hunt deal. He noted that Welton was not the only suitor for that tenant. She said that there were several other developers that were involved. She also noted that one of the problematic items was creating a loan that was not a rent write down. She said the first problem was that there was not a TID in place. She noted that in many cases the City could not compete with the rents that were being offered in Middleton. Schmidt noted that one of the key challenges was not having a TID, and the existing policy specifically forbids the development of greenfield TIDs. He asked for other examples of projects that did not happen in areas that were not greenfields. Schaeffer said that she did not hear about those projects on a regular basis, but she heard more about these issues in the edge of the City. Schmidt asked if there were other areas where there were concerns about the existing policy. Schaeffer said the 50% rule, the equity participation, and the conservative assumptions that were included in the existing underwriting process were major hurdles.

Alder Rummel noted that the expansion or creation of a TID with a requirement was a catch 22. Olver noted that the policy of having a generator prior to creating a TID was generally a good idea. Olver provided the general overview of the TID creation process. Bidar-Sielaff said that the creation of a TID and the requirement of a generator should be separated. She asked Olver how this process could play out. Olver said that the EDC Proposal was to set forth a TDA map that was approved by Council, and then have Staff create TIDs when it was appropriate. He noted that if a new TID was created in a speculative fashion, it would be a challenge to create a TID and then keep spending in the TID to a minimum to ensure it did not become distressed while also ensuring that it was closed due to paying off all of the expenditures. Gromacki and Rolfs highlighted the fact the Middleton was also writing down rents, which is currently forbidden by current policy. Gromacki also said that writing down rents would decrease the assessed value, which was counter to the goal of TIF. Gromacki said that if a greenfield TIF is created, it would be difficult to have it be a donor, due to the fact that the school districts are different from TID to TID (Middleton / Cross Plains versus MMSD), and State Statute requires that all of the overlying taxing jurisdictions in a donor / recipient TID be the same.

Discussion took place around when greenfield TIDs should be created and under what conditions this should be done. Alder Rummel said that the existing policy allowed for the consideration of greenfield TIDs, under the annual strategy review. Ellingson asked how spending could be controlled in a speculative TID to ensure that TIDs were not distressed. Ellingson said she would like to see a policy about spending in a speculative / greenfield TID. Schmidt asked under what conditions the City would consider spending money in a TID when there was no generator.

Staff was asked to draft a framework for expenditures to apply to TIDs that did not have a generator. Schmidt asked if there was also a desire to create a TID where areas were identified for redevelopment.

Staff was asked to add an item to the Goals and Objectives regarding an annual strategy review for the creation and amendment of TIDs, along with an annual review of the entire policy.

Motion for referral carried.

**Notes:**

1	TIF POLICY REVIEW AD HOC COMMITTEE	11/08/2013	Re-refer	TIF POLICY REVIEW AD HOC COMMITTEE
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**Action Text:** This Resolution was Re-refer to the TIF POLICY REVIEW AD HOC COMMITTEE,

Motion to refer to the next meeting by Clear, second by Ellingson.

Discussion took place on the Draft TIF Loans Underwriting Policy. Staff was asked to write a brief introduction to the document.

Consensus was to leave the section on Land Costs, Environmental Remediation, Assessable Infrastructure, Operating Costs, and City Fees as presented in the Draft TIF Loans Underwriting Policy document.

Discussion took place around the proposed "but for" language. It was noted that the "but for" language that was proposed may need adjusting so it matched up with the proposed language in the section "Types of TIF – Assisted Projects". Gromacki outlined the proposed language that lays out the WHEDA Gap. Olver and Gromacki noted that there could be an instance where a project proposal comes forward that still has a gap, but is a blend of units and affordability levels, it would be an exception to policy. Discussion took place around setting an average of affordability for units for WHEDA projects, so a proposal could have a range of affordability. Alder Rummel asked if the language in the proposed language "but for" section would need to be adjusted, given that it would require exhausting all other sources of funds. Gromacki suggested modifying the language to allow TIF assistance to a WHEDA project if the project was within a certain percentage of a WHEDA score that would be likely to be successful.

Consensus was to direct staff to draft language to tie the formula for a tax credit project to the tax credit funding scoring formula, while also requiring the developer to provide their own tax credit scoring sheet to Staff for review. Consensus was to have the TIF Report include information on how the proposed TIF Loan would affect the score for tax credits relative to known previous successful scores.

Consensus was also to add to the Draft Goals and Objectives Policy a section in the "TIF Report" on the expected affects of the Tax Credits on the TIF application.

Gromacki provided an overview of the "Jobs Project – Pay for Performance" section of the Draft Underwriting Policy. Clear said he was concerned about the potential for increased risk if an employer did not have as positive a growth and was depending upon the TIF end loan, this could cause a downward spiral if things went poorly, the employer did not create the jobs, and then did not receive the TIF assistance.

Consensus was to direct Staff to modify the Draft TIF Policy to allow Staff to make a recommendation on the appropriate timing of assistance to a Jobs TIF Project, whether that is an end loan, an upfront loan, or a percentage at the beginning and the end.

Discussion took place around whether or not to include language requiring "career ladders" in the jobs creation requirements. Concern was whether a small employer would even have career ladder options to provide to employees. Alder Rummel also indicated that she would like to see jobs with solid pay and also job security.

Consensus was to strike the language requiring a "career ladder".

Consensus was to maintain the 60% bonus in the "TIF - Jobs Project" section, assuming that the 50% rule was maintained in the policy.

Discussion took place around how to verify that a request for TIF funding assistance was also receiving financial incentive bids from other communities.

Motion for referral carried.

**Notes:**

1	TIF POLICY REVIEW AD HOC COMMITTEE	11/15/2013	Referred	TIF POLICY REVIEW AD HOC COMMITTEE	12/09/2013
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**Action Text:** This Resolution was Referred to the TIF POLICY REVIEW AD HOC COMMITTEE due back on 12/9/2013.

Motion to refer to the next meeting by Ellingson, second by Clear.

Schmidt provided an overview of his vision for how the remainder of the process would play out.

Consensus was to keep gap analysis as a component of TIF Reports.

Discussion took place on the TIF Report and what should be contained therein.

Consensus was to maintain the section titled "Equity Greater than, Equal to TIF" as drafted. Consensus was to remove the requirement that Non-Profits have a specific equity contribution for a project.

Consensus was to indicate in the Policy that Non-Profit applications for TIF assistance would be analyzed on a case-by-case basis.

Bidar-Sielaff said that the 50% Rule had served the City well to provide a baseline for future analysis. She said a TIF Report should include a specific reference to where a project falls relative to the 50% Rule. Ellingson asked where projects are generally coming in at. Gromacki said that projects have been all over the board, from 19% up to 70%. Bidar-Sielaff asked what triggered Staff bringing an exception forward to Council. Gromacki said that this occurred when both sides determine when they have come as far as they can toward reducing the gap. Clear indicated that he felt that it was important for the ratio to be known, whether that was above or below 50% of the tax increments generated, but that the rule itself did not serve the City well in that it set up a scenario where a project would be "red flagged" by this type of analysis. Gromacki provided an overview of where the 50% Rule came from when the original TIF Policy was generated. He noted that the Comptroller at the time the TIF Policy was created felt that a lower number should be used, as it helped to reduce risk, and most requests would always be above that. He said this would provide the City with a stronger bargaining position. Cover said that every TIF request for a project was different, and every project was different. He said that 50% was a number that was just out there. He said that not all projects that came in under 50% were automatically good projects. He said no matter what happened, there would be an analysis from Staff on that project. Schmidt asked how Staff would deal with this issue if there was no set standard, and all projects would come in maxing out their requests to 100%.

Verveer arrived at 1:38 PM.

Cover said that this would then fall to Staff to identify what the actual gap was and to recommend an appropriate number. Bidar-Sielaff said that she was concerned that she would like to see a balance and to set a parameter around this type of analysis. She said it was good to have an expectation for both sides, and it would allow Staff to negotiate on this issue from a position of strength. Ellingson asked if it will be obvious, once the Policy is completed, what is a good project and what isn't. Clear said that the guidelines could prove counter-productive in that a poor project that did meet the guidelines and ask for TIF. Bidar-Sielaff said that this was only one of many criteria that would be looked at when a project was evaluated. Discussion took place around developing a point system for the review of TIF applications. Bidar-Sielaff said that having an objective criteria to review projects was critical, and that everything was going to be filtered through each decision maker's perspective. Clear indicated that he had a draft matrix for the evaluation that was discussed at EDC. Verveer said that the 50% Rule provided a solid foundation for the redevelopment of infrastructure. Clear was asked to provide the draft scoring matrix to the Committee members for the next meeting.

Bidar-Sielaff described a potential scoring matrix that would outline the 8 goals identified in the Goals, Objectives, and Process document and how a plan did or did not achieve those goals.

Schmidt said without a number, it would be very likely that the request for TIF in new projects would increase. Gromacki said that having a firm "line in the sand" provided Staff with the ability to look at a request and to push back when appropriate. Cover said that City Staff had the expertise to identify when a TIF request was legitimate or not. Bidar-Sielaff asked Cover how the City could prevent TIF requests from increasing if the 50% Rule was eliminated; how could the City negotiate from a position of strength without this Rule.

Olver arrived at 2:08 PM.

Cover reiterated that he had confidence in Staff to analyze projects and to identify the appropriate gap.

Ellingson said she liked that “bands” that were identified in Olver’s memo of November 30, 2012.

Verveer said that he supported modifying, not replacing, the 50% Rule, potentially with the approach suggested by Olver. Clear suggested that in the “bands of investment” approach, the higher the percentage of TIF requested, the higher the expectations would be for a project. Verveer indicated that the Committee should have a discussion of Community Benefits, as to how it may apply for “extra credit” on a project. Olver outlined his memo on “bands of investment” of TIF percentage, as it relates to how the criteria would apply. Olver noted that the definitions in the “bands” memo would need to be further refined, but that things may not get to an objective standard. Schmidt noted that things such as Project Labor Agreements and Card Check Neutrality could be incorporated into this. He noted that he would like to see Community Benefits with defined numbers.

Verveer left at 2:21 PM.

Ellingson asked if it would make sense to add incentives to specific Community Benefits type of requirements. Consensus was to craft a flexible series of “increment bands” based upon the Nov 30, 2012 memo that Olver drafted for the EDC. Ellingson and Bidar-Sielaff indicated that they were concerned with the policy objectives and wanted to see where these would fit into the project review. Gromacki, Olver and Rolfs were directed to draft this memo on “increment bands” for the next meeting.

Discussion took place around the issue of rent write downs. Gromacki noted that when rents go down, values go down, which is counter to the purposes of TIF. Consensus was to keep the language regarding the prohibition of rent write downs.

Discussion took place around whether or not to require TIF projects to be self supporting. Consensus was to keep the existing language regarding self supporting projects.

Consensus was to maintain the existing mortgage guaranty language.

Discussion took place around the personal guaranty. Gromacki noted that, to date, the City had not had an exception to the personal guaranty. He said that only one developer had an issue with providing a personal guaranty for projects in the City. He noted that personal guaranty put a physical person behind a project, as opposed to an LLC that usually did not have large assets backing it. It was noted that the existing personal guaranty applied to both the increment guaranty and the project guaranty. Bidar-Sielaff asked to have the City Attorney to draft language on contractual guaranties and one for increment guaranties, which would be more flexible. Olver noted that with a specific developer there should be a personal guaranty.

Consensus was to request the City Attorney to investigate, relative to the section on Real Estate Taxes, what the status of PILOT language is in State Statutes.

Discussion took place around the section on “Private Development Projects Used by Government Units” in the adopted policy. Consensus was to keep the existing adopted language in the policy.

Consensus was to remove the Equity Participation Payment requirement.  
Consensus was to remove the language regarding ADA Compliance and Living Wage Ordinance, as this was already a requirement under City Ordinances.  
Consensus was to maintain the existing language regarding land use contract violations.

Discussion took place around the Acceptable Methods for TIF Funding. Consensus was to move this to the TIF Goals, Objectives, and Process document. Consensus was to use the proposed EDC language.

Motion for referral carried.

**Notes:**

- 1 TIF POLICY REVIEW AD 11/25/2013  
HOC COMMITTEE

**Action Text:** Motion to refer to the next meeting by Ellingson, second by Clear.

Atty Zellhoefer addressed AB 522. She noted that the bill, as proposed, codifies what the City is already doing in its existing practices relative to PILOT payments.

Verveer arrived at 2:11 PM.

Zellhoefer deferred to Dave Schmediecke whether or not PILOT payments would count against the City's overall levy. The Committee asked to have Schmediecke to come to the next meeting to discuss the City's receipt of PILOT payments and the impact on the statutory limits.

Zellhoefer indicated that a personal guaranty was backed by a physical person who would reimburse the City for any expenses or gap that appeared in the project. Bidar-Sielaff said that their discussion took place as to how to protect the City. Zellhoefer noted that the City has always had a second mortgage on the property to ensure that the City's loan would be repaid if there was a default or bankruptcy. She noted that in recent projects, the City had been getting personal guarantys from developers, even when the dollar amounts were vastly different. Verveer asked if the upcoming Union Corners deal had a guaranty. Zellhoefer said it was a non-recourse loan with no personal guaranty for the project. She noted that the Council ultimately retained all discretion on these issues. Zellhoefer was asked to further research if new PILOT payments would affect the City's levy. It was noted that there were several projects in recent history where personal guarantys, increment guarantys and project guarantys that had come into play when projects either fell short of their guaranteed increment or did not conform to the approved plans and specifications.

Consensus was to retain the existing language in the draft policy regarding PILOT payments.

Discussion took place around what to do regarding increment guarantys.

Consensus was to use the EDC language regarding increment guarantys.

Clear suggested language to be included in the EDCs proposed language regarding both project and increment guarantys. Consensus was to go with this modified EDC language.

Consensus was that a personal guaranty should be the status quo. Rolfs suggested additional language that further laid out the personal and corporate guaranty preferences, and the Committee agreed by consensus.

Ellingson said she would like to see bands of investment, without a particular number. Each band would describe the key risks that are part of the project, that describe what the City would expect and what process the City would use. Verveer said he agreed with the principle of what Ellingson suggested, but he asked if Staff thought it was workable. Gromacki said that some of this language left a lot open to interpretation, as opposed to objective standards. Olver said that when communities used the band systems or point systems, policy makers were using them to send a signal to the development community on what they were looking for in a project. Bidar-Sielaff said that a way to address this may be to eliminate the percentage entirely, but to keep the criteria that policy makers were looking for in a project. She said this would allow staff to do gap analysis and then forward a project to policy makers to make a final decision. Gromacki commented on how projects currently work their way through the system for TIF assistance.

Clear suggested language to deal with this issue. The language he suggested was:

"3.1 (6) Common Council Consideration of TIF Loans

The common council, advised by the Board of Estimates, makes the final decision on approval of a TIF loan. In evaluating a TIF proposal, the BOE and council shall consider the following factors:

How the project meets the city's and district's TIF goals (describe scoring system here)

Whether the loan amount is appropriate and in the public interest.

The financial risk to the city, including such factors as

The health of the district, including existing debts, remaining lifetime, and future public improvements required by the district plan, Capital Improvement Plan or by the project itself

The loan amount percentage of NPV of increment. Generally speaking, higher percentages increase the risk to the city and reduce the amount of increment available for public improvements, future loans, and cash out at district closure.

The catalytic effect of the project within the district and the surrounding area

Other tangible and intangible value created by the project, such as job creation and blight abatement



3.5(f) Loan to Value Percentage: the percentage of the proposed loan amount to the estimated NPV of the increment generated by the project."

Schmidt asked if Staff had an idea about what needs for increment were identified in the TID when an application for assistance came in. Gromacki and Olver spoke about the places that would identify costs for a TID, such as the Project Plan and the CIP. Gromacki noted that Project Costs in TIDs frequently shifted around during the implementation phase.

Verveer said he liked the language Clear proposed, but would like to see increased predictability, while also attaching numbers to this language. Discussion took place around how to construct bands that would be practicable for Staff to refer to during implementation. Olver suggested a scoring system based upon the goals that had already been agreed upon by the Committee. He also suggested de-coupling the increment percentage from a final "scoring system" that would address the goals and objectives identified in TIF Policy. Discussion took place around how to set up and structure a scoring system. The Committee discussed whether to use other types of objective criteria, such as debt coverage ratio, equity leverage ratios, or tying TIF to debt service. Consensus was to ask Staff to identify additional fiscal items that could be included in the TIF report.

Consensus was to ask Staff to draft a scoring system.

Motion for referral carried.

**Notes:**

- 1 TIF POLICY REVIEW AD 12/09/2013  
HOC COMMITTEE

**Action Text:** Motion to refer to the next meeting by Clear, second by Bidar-Sielaff.

Consensus was to add a statement regarding the "Purpose of the Document" to the introductory language.

Discussion took place on the TIF Goals, Objectives, and Process document. Discussion took place around removing the language referencing "career ladder" jobs from the Goals section. Weir asked if the term "family supporting" could be defined by the City's "living wage" ordinance. Rummel suggested using the "housing wage" to define the term "family supporting job".

Consensus was to remove the language regarding "career ladder jobs" in Section 1.

Discussion took place around a definition for "market rate housing". The language was amended to add "at the time of application" at the end of Section 2.1, in reference to when the actual market rate rents would be determined.

Discussion took place around who should be charged with an annual review of the TIF Policy. Clear suggested having the EDC review the TIF Policy on an annual basis.

Consensus was to have the EDC review the TIF Policy on an annual basis.

Discussion took place around how to identify and set up a speculative TID. Gromacki noted that it might work better to address these issues on a case-by-case basis, as these TIDs would be different in every location. Olver said that the generator requirements for the creation of a TID could be a barrier to the creation of a speculative TID. He said that the creation of speculative TIDs could allow the City to react faster to commercial or industrial opportunities, but that if the funding wasn't managed carefully, the TID could be overspent quickly and wind up underwater. Rummel said that her district had some de-facto speculative TIDs, such as TID #37, and that they were underperforming. Schmidt suggested language to be added for Section 3.2 on how to address the creation of speculative TIDs. This language was, "The Common Council may consider a TID without a generator on a case-by-case basis with due consideration to risks and costs and compliance with adopted plans and policies."

Consensus was to add the language suggested by Schmidt to address the creation of speculative TIDs.

Weir noted that she would like to avoid the issue that happened with TID #40, which has spent in excess of \$520,000 all while property values went down. The Committee asked Olver to create language to address the creation of speculative TIDs. Bidar-Sielaff asked to have staff identify which areas would potentially be included in these speculative TIDs. It was noted that this information was provided to the Committee at a previous meeting in a Power Point presentation. Weir said she was concerned that the City was building up areas that were already doing well, and she had concern regarding areas that were not doing as well.

Schmidt stepped out and Alder Clear took over as chair.

The Committee discussed the draft TIF Loan Underwriting Policy.

Schmidt returned.

Other than typographical corrections, discussion took place around how to craft language to address the WHEDA gap analysis. No changes were made to the existing language concerning affordable housing.

Gromacki reviewed the Jobs Projects analysis as outlined in the draft TIF Underwriting Standards. Weir asked what would happen if only a fraction of the jobs were created in a "Jobs Project". Gromacki noted that the funds for that portion of the funds would not be disbursed. Schmidt suggested if the 50% rule was eliminated and a jobs prospect asked for a gap analysis waiver, the funding per job could be cut to 2/3 of the SBA amount. Rummel asked if something could be done to ensure that construction jobs were held to a higher standard such as union labor, project labor agreements, and other community benefits.

Consensus was to leave the language regarding the jobs projects funding percentages as they were drafted.

Staff was asked to re-number the TIF Underwriting criteria.

Consensus was to add the language suggested by Clear at the Nov 25, 2013 meeting regarding language to be included in the TIF Policy. This language was:

"3.1 (6) Common Council Consideration of TIF Loans

The common council, advised by the Board of Estimates, makes the final decision on approval of a TIF loan. In evaluating a TIF proposal, the BOE and council shall consider the following factors:

How the project meets the city's and district's TIF goals (describe scoring system here)

Whether the loan amount is appropriate and in the public interest.

The financial risk to the city, including such factors as

The health of the district, including existing debts, remaining lifetime, and future public improvements required by the district plan, Capital Improvement Plan or by the project itself

The loan amount percentage of NPV of increment. Generally speaking, higher percentages increase the risk to the city and reduce the amount of increment available for public improvements, future loans, and cash out at district closure.

The catalytic effect of the project within the district and the surrounding area

Other tangible and intangible value created by the project, such as job creation and blight abatement

3.5(f) Loan to Value Percentage: the percentage of the proposed loan amount to the estimated NPV of the increment generated by the project."

The Committee discussed the draft scoring format. Schmidt asked the Committee if it wanted to set a threshold for each of the Objective and Subjective scores. Weir said that she said that the term "Subjective" made her uncomfortable when looking at the different scoring sections. Ellingson asked to see some sample scoring sets, based upon past projects. Clear said that this may change the nature of applications, based upon what the City asks for in the scoring metric. Discussion took place around whether or not mixing the Objective and Subjective scoring systems would lead to projects trying to game the system, and whether or not to mix them for a final score. Gromacki noted that by adding a score sheet, this would add time to the TIF application process. Bidar-Sielaff discussed the process that could take place using this type of scoring process.

Consensus was to remove the "Objective" and "Subjective" labels.

Clear suggested that staff provide the last 10 TIF Loans to the Committee so each Committee member could also score the previous 10 TIF Loans as a field test. Staff was asked to score the previous 10 TIF Loans and to provide the financial data that would help complete these draft scores. Bidar-Sielaff said she liked a simpler kind of scoring method that was easier to review for policy makers. She also suggested adding a "not applicable" response that would be added to address projects that did not cover a specific category. Rummel noted that there may be some subjective bias in the Committee's scoring efforts, given the fact of hindsight. Extended discussion and disagreement took place around scoring previous projects as a field test. Gromacki suggested that the Committee members score each of the applications in the section previously labeled "Subjective" so members could see first-hand whether the process would meet their objectives. Olver proposed that the 8 Goals be completed and submitted by the TIF Applicant, to be reviewed by Council. The Committee opted to discard the "Score Sheet" approach and attach the 8 Goals to the TIF Application to be filled out by the TIF Applicant.

Consensus was to include the 8 Goals identified in the TIF Goals, Objectives, and Process in the TIF Application. The Committee asked to see a copy of the current TIF Application.

Consensus was to allow a maximum of two (2) pages for a developer's response to the eight (8) questions / Goals identified in the Goals, Objectives, and Process document. Gromacki asked if Staff received an application with more than 2 pages, should it be rejected. Consensus was that the 2 page maximum must be adhered to for an application to be acceptable.

Schmidt noted that there were two additional items that needed discussion; community benefits and sustainability. He asked if there is a desire to set a minimum expectation / standard for these items.

Consensus was to ask future TIF applicants how the TIF goals would apply, asking staff to respond to this in the TIF report, and to ask how the project conformed to the City's Sustainability Plan.

Ellingson left at 3:43 PM.

Verveer asked if the Committee had discussed setting a goal of using the 50% Rule. He noted that some of the increment is generally used for public works projects, as this was important in his view. Gromacki reviewed the development of TIF plans and how the increment generated and spent was estimated.

Bidar-Sielaff left at 3:52 PM.

Discussion took place around how to manage a TID to ensure that there was sufficient incremental revenue to complete capital projects for the City's benefit. Clear suggested adding an additional item that asked for Staff to make an assessment of the request relative to the request for assistance's impact upon the City's ability to spend on other projects. He also asked if the Project Plan could be used to set aside a TIF amount for infrastructure, with the rest set aside for TIF Loans. Gromacki said TIF Project Plans were estimates and that costs shifted over time. He noted it would be problematic to set aside increment with any accuracy. He said increment was the critical factor in paying for infrastructure; if projects did not occur or too much increment was used for TIF Loans, nothing would be left for infrastructure. Verveer asked, wasn't infrastructure why the original 50% Rule was created? Gromacki said, yes, this was why it was originally created.

Consensus was to direct Staff to craft language to be added to the "Goals" section of the Goals, Objectives, and Process document that would set a maximum percentage of increment directed towards a project at 50%.

Motion for referral carried.

**Notes:**

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|---|---------------------------------------|------------------------------------------------------------------------|----------|------------------------------------------|
| 1 | TIF POLICY REVIEW AD<br>HOC COMMITTEE | 12/17/2013                                                             | Re-refer | TIF POLICY<br>REVIEW AD HOC<br>COMMITTEE |
|   | <b>Action Text:</b>                   | This Resolution was Re-refer to the TIF POLICY REVIEW AD HOC COMMITTEE |          |                                          |
|   | <b>Notes:</b>                         |                                                                        |          |                                          |
| 1 | TIF POLICY REVIEW AD<br>HOC COMMITTEE | 12/20/2013                                                             |          |                                          |

**Action Text:** Motion to adopt the Policy as recommended by the Committee by Clear, second by Bidar-Sielaff.

Schmidt reviewed the documents provided to the Committee. The Committee began with the Goals, Objectives and Process document. Ellingson asked when the TIF Team came into play in the review of an application. Gromacki said this usually occurred when the analysis of a project was completed. Ellingson asked if the phrase "as necessary" is required to be in the Policy. Gromacki noted that more complex projects required more staff, but "standard" projects did not require the review or input of a large number of staff.

Consensus was to modify Section 3.1(3).

Consensus was to modify Section 3.1(5) to remove the words "as necessary".

Bidar-Sielaff asked if the Committee should move Goal #1 to the bottom of the list to ensure that there was no perception that this was the most important goal. Clear said he was not concerned with this being the first goal. Ellingson said given how the program was set up, growing the property tax base was the first goal, and Schmidt agreed. Clear said that the most important thing was growing the commercial property tax base to reduce the burden on homeowners.

Consensus was to change the Goals to being lettered instead of being numbered.

Consensus was to change the language in 3.1(7) to add the language "... less than or equal to...".

The Committee discussed the introduction to Section 3.2. Gromacki noted that sometimes alders held public meetings to introduce the concept of TIF and TIDs. These meetings often were helpful to address questions at the neighborhood level about TIF.

Consensus was to use the language added by Schmidt.

The Committee discussed Section 3.4. Schmidt said that he drafted this section based upon the input from the Committee and his previous experiences with TIF in the City. He noted that he was using this to expand upon the nine goals and how they will be evaluated. Bidar-Sielaff noted that the intention of this section was not to exclude particular applicants, but to provide guidance to Staff. Clear said he was concerned that the language, while not intended to be prescriptive or exhaustive, could very easily become just that. He wanted to ensure that there was a way for policy makers to review varying types of applications in changing conditions, having this kind of language might pose a problem down the road. He recommended having this section removed. Bidar-Sielaff said she was fine with the proposed language, and would like to see it posted publicly. She noted that the annual review could allow the policy to be modified if questions were found to be a problem. Clear said there was an additional concern that this could lead to applicants "teaching to the test", which was to proscriptive in his view. He felt this would make applications less creative.

ACA Zellehofer addressed the questions brought up by Bidar-Sielaff at the previous meeting. Zellhoefer said that the City was prohibited from requiring certain levels of wages during the construction phase. She said that the City's Living Wage ordinance would apply to all staff of a developer, all developer staff working on site, and all of their contractors. She noted that it did not apply to the tenant of the building. She said that the City could require labor agreements of a developer for the construction of the project when TIF funding was used. Zellhoefer said that the City was not pre-empted from requiring tenants to hire people from within a certain distance from a project, but the enforcement would be difficult.

Olver noted at the previous meeting that discussion took place around providing an additional incentive to a TIF applicant if they met certain goals for things such as utilizing women and minority owned contractors during design and / or construction. Zellhoefer said that this would pass legal muster, as long as there were eligible project expenses. Schmidt said if something like this were added, it should be added to the Underwriting section. Schmidt said that the fundamental question was whether or not to provide Staff direction on the Goals. He said if there were no examples, it would be challenging if not impossible for Staff to in effect, read policy maker's minds. Olver said it might not be a bad thing to provide direction to Staff by providing a list that was neither proscriptive nor exhaustive. Bidar-Sielaff said an alternate way of doing this was to make statements that were examples of what the City was looking for, instead of asking a series of questions. Gromacki said that the developer would want to know what the language in Section 3.4 would mean and how it would impact their application. He said developers would invariably ask Staff how to address this particular section when applying for funds. Ellingson said she liked the idea of adding this language to the TIF

application, instead of in the Goals, Objectives and Process document. Bidar-Sielaff and Clear suggested putting this item in Section 3.1, under the Goals. Ellingson said she liked having this in a separate section. Olver noted that 3.4(1) and 3.4(9) were sections that Staff should probably evaluate, and not have the applicant address these items. Bidar-Sielaff said she liked the idea of working in references to appropriate plans, ordinances and other documents that specifically dealt with each of these goals. The Committee then re-drafted Section 3.4.

Consensus was that the re-written Section 3.4 was acceptable.

The Committee moved on to review the edited version of the Underwriting Policy.

Consensus was that the edits to the Underwriting policy were acceptable.

Schmidt indicated he would write an overview of the process prior to the Council taking up this item. It was noted that this would be referred to both the EDC and the BOE. It was noted that the recommended Underwriting Policy and Goals, Objectives and Process documents would be the report of the Committee.

Consensus was to allow Staff and the Chair to make non-substantive changes to the document

Motion to recommend adoption of the TIF Policy Review Ad Hoc Committee's documents and to allow Staff and the Chair to make any necessary changes to correct any inconsistencies, carried.

**Notes:**

1	ECONOMIC DEVELOPMENT COMMITTEE	01/15/2014	Return to Lead with the Following Recommendation(s)	TIF POLICY REVIEW AD HOC COMMITTEE	Pass
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**Action Text:** A motion was made by Resnick, seconded by Schramm, to Return to Lead with the Following Recommendation(s) to the TIF POLICY REVIEW AD HOC COMMITTEE.  
To recommend approval of this ordinance with the following amendment:  
• Change the text in TIF Loan Underwriting Policy, Section 1, subsection 14) a) to mirror the text in Section 1, subsection b) to allow corporate guaranty in both subsections.

The motion passed by voice vote.

**Notes:**

1	COMMON COUNCIL	01/16/2014	Re-refer	COMMON COUNCIL ORGANIZATIONAL COMMITTEE	02/04/2014
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**Action Text:** This Resolution was Re-refer to the COMMON COUNCIL ORGANIZATIONAL COMMITTEE  
**Notes:** Additional Referral: Common Council Organizational Committee

1	COMMON COUNCIL	01/21/2014	Refer	SUSTAINABLE MADISON COMMITTEE	Fail
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**Action Text:** A motion was made by Ahrens, seconded by Rummel, to Refer to the SUSTAINABLE MADISON COMMITTEE. The motion failed by the following vote:

**Notes:**

Ayes: 8 Lisa Subeck; Michael E. Verveer; Shiva Bidar-Sielaff; Marsha A. Rummel; Larry Palm; David Ahrens; Denise DeMarb and Anita Weier  
Noes: 11 Ledell Zellers; Lauren Cnare; Steve King; Scott J. Resnick; Paul E. Skidmore; Maurice S. Cheeks; Chris Schmidt; John Strasser; Joseph R. Clausius; Mark Clear and Matthew J. Phair  
Excused: 2 Paul R. Soglin and Sue Ellingson

1	COMMON COUNCIL	01/21/2014	Refer	COMMON COUNCIL ORGANIZATIONAL COMMITTEE	02/04/2014	Pass
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**Action Text:** A motion was made by Ahrens, seconded by Rummel, to Refer to the COMMON COUNCIL ORGANIZATIONAL COMMITTEE. The motion passed by voice vote/other.

**Notes:**

1	BOARD OF ESTIMATES	01/27/2014	Return to Lead with the Recommendation for Approval	TIF POLICY REVIEW AD HOC COMMITTEE	Pass
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**Action Text:** A motion was made by Schmidt, seconded by Verveer, to Return to Lead with the Recommendation for Approval to the TIF POLICY REVIEW AD HOC COMMITTEE. The motion passed by voice vote/other.

**Notes:**

1	COMMON COUNCIL ORGANIZATIONAL COMMITTEE	02/04/2014	RECOMMEND TO COUNCIL TO ADOPT - REPORT OF OFFICER		Pass
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**Action Text:** A motion was made by Ald. Scott Resnick, seconded by Ald. Shiva Bidar-Sielaff, to approve.

Amendments to City of Madison TIF Goals, Objectives, and Process Document

1st Amendment -SECTION 1: TIF GOALS

Add, "(not in priority order):

Madison's goals for the use of TIF include (not in priority order)

\* Amendment APPROVED.

2nd Amendment - SECTION 1: TIF GOALS to Section 1 (B.)

Delete "family supporting" and add "living wage as defined by MGO 4.20":

Fostering the creation and retention of living wage as defined by MGO 4.20 jobs.

\* Amendment FAILED. No: Schmidt, Resnick, Skidmore, Ahrens, Phair – Aye: Rummel, Weier

2nd Amendment -SECTION 1: TIF GOALS to Section 1 (E.)

Add, "or enhancement of historic districts especially landmarked and contributing building":

Assisting in the revitalization of historic or architecturally significant or deteriorated buildings or enhancement of historic districts especially landmarked and contributing buildings

\* Amendment APPROVED.

3rd Amendment -SECTION 1: TIF GOALS to Section 1 (F.)

Delete, "options" and add "types"

Add, "Including housing that is for those earning 40% or less of the area median income."

Creating a range of housing types and specifically encouraging the development of workforce and affordable housing. Including housing that is for those earning 40% or less of the area median income.

\* Amendment failed: No: Schmidt, Resnick, Skidmore, Ahrens, Phair, Weier – Aye: Rummel

After discussion the amendment was amended to read:

Delete "Including" and "40% of or"

Add, "much"

Creating a range of housing options types and specifically encouraging the development of workforce and affordable housing. Including especially housing that is for those earning 40% or much less of the area median income.

\* Amendment, as amended, APPROVED.

4th Amendment -SECTION 1: TIF GOALS to Section 1 (G.)

Add, "green":

Funding public improvements that enhance development potential, improve the City's green infrastructure, enhance transportation options, and improve the quality and livability of neighborhoods.

\* Amendment FAILED. No: Schmidt, Resnick, Skidmore, Ahrens, Phair – Aye: Rummel, Weier

5th Amendment – SECTION 2: INELIGIBLE DEVELOPMENT

Add: 2.5 Development, which Include Tenants Who are Not Honoring Labor Agreements.

The City will seek to avoid providing TIF to developers or to projects with tenants which are not honoring labor agreements.

After discussion on the difficulties of enforcing the provision, the amendment was not considered.

\* Amendment NOT CONSIDERED.

6th Amendment – SECTION 3: TIF PROCESS to Section 2 (8) (f):

Add: iii. Number of rehabbed contributing buildings in a historic district.

\* Amendment APPROVED.

7th Amendment – SECTION 3: TIF PROCESS to Section 3.4 TIF Goals Policy Guidance.

Incorporate amendments from Section 1: TIF Goals and amend the following"

Add, "and has designed historic district to help achieve this goal":

3.45 (5)

Assisting in the revitalization of historic or architecturally significant or deteriorated building or enhancement of historic districts especially landmarked and contributing buildings. The goal of the Madison Landmarks Ordinance is to preserve, protect, enhance and perpetuate and improve historically and architecturally significant building and neighborhoods and has designed historic district to help achieve this goal.

After discussion the language was amended to read:



Delete “,and” and “has designed” and “to help achieve this goal.”

3.45 (5)

Assisting in the revitalization of historic or architecturally significant or deteriorated building or enhancement of historic districts especially landmarked and contributing buildings. The goal of the Madison Landmarks Ordinance is to preserve, protect, enhance and perpetuate and improve historically and architecturally significant buildings, neighborhoods, and historic districts.

\* Amendment, as amended, APPROVED.

Amendments to City of Madison TIF Loan Underwriting Policy Document

1st Amendment to SECTION 1: TIF LOAN UNDERWRITING to Section 1 (8)(a):

Add, “or accomplishes rehabilitation of contributing building in a designated historic district in a blighted TID.”

a. (Re)Development Project. The construction, rehabilitation or expansion of a structure that creates property tax increment in a blighted area TID or accomplishes rehabilitation of contributing buildings in a designated historic district in a blighted TID. TIF assistance shall be determined by gap analysis conducted through a formal TIF Application submitted by Developer.

Amended to read:

Delete, 2nd “in a blighted TID.”

a.(Re)Development Project. The construction, rehabilitation or expansion of a structure that creates property tax increment in a blighted area or accomplishes rehabilitation of contributing buildings in a designated historic district. TIF assistance shall be determined by gap analysis conducted through a formal TIF Application submitted by Developer.

\* Amendment, as amended, APPROVED.

2nd Amendment to SECTION 1: TIF LOAN UNDERWRITING to Section 1 (8)(c)(4) and (8)(c)(4) b)

Add, “Substantiation of jobs so created must be provided in a manner similar to that done to substantiate compliance with affirmative action requirements”

Delete, “greater”

Add, “confidential”

4) Jobs Project – Gap Analysis Waiver. Gap analysis may be waived only if an eligible Employer proposes to retain and/or create at least 100 full-time, living wage jobs, and meets one or more of the following criteria and upon acceptance of the City’s Jobs Project TIF Loan offer, provides a sufficient tax increment guaranty to repay the Jobs Project TIF Loan and a guaranty that living wage jobs, as defined by MGO 4.20, shall be created and/or retained over a period not to exceed five (5) years. Substantiation of jobs so created must be provided in a manner similar to that done to substantiate compliance with affirmative action requirements. A waiver may be granted under one or more of the following conditions:

b) The Employer is soliciting or has received financial incentive bids from other communities that do not require gap analysis. The City will give consideration to applicants that provide confidential documented proof of such bids.

After discussion, the amendment was not considered.

\* Amendment NOT CONSIDERED.

3rd Amendment to SECTION 1: TIF LOAN UNDERWRITING to Section 1 (9)(h)(2)

Add 3) Number of rehabbed contributing building in a historic district to h.:

h. If applicable:

- 1) Quantity of living-wage jobs created and/or retained
- 2) Quantity of affordable housing units and level of affordability
- 3) Number of rehabbed contributing buildings in a historic district

\* Amendment APPROVED.

4th Amendment - Economic Development Committee Amendment from 1/15/14:

To recommend approval of this ordinance with the following amendment:

• Change the text in TIF Loan Underwriting Policy, Section 1, subsection 14) a) to mirror the text in Section 1, subsection b) to allow corporate guaranty in both subsections.

\* Amendment from EDC was not considered.

A motion was made by Ald. Marsha Rummel, seconded by Ald. Scott Resnick, to RECOMMEND TO

COUNCIL WITH THE FOLLOWING RECOMMENDATIONS - REPORT OF OFFICER. The motion passed by voice vote/other.

**Notes:** ADOPT as AMENDED - Documents: TIF Goals, Objectives & Process and TIF Loan Underwriting Policy

1 COMMON COUNCIL 02/25/2014 Adopt the Following Amendment(s) Pass

**Action Text:** A motion was made by Schmidt, seconded by Clear, to Adopt the Following Amendment: To amend the title to "Adopting the revised TIF policy." The motion passed by voice vote/other.

**Notes:**

1 COMMON COUNCIL 02/25/2014

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### Text of Legislative File 29485

#### Fiscal Note

The resolution accepts the recommendations of the Economic Development Committee regarding revisions to the city's policies on use of tax incremental financing (TIF) for development projects.

Under state law, the city is authorized to establish tax increment districts (TID) based on blight conditions and an analysis that development in the district would not occur "but for" creation of the district. Property tax revenue generated by the growth in property values after the district is established are not available to the taxing jurisdictions for services, but are instead made available for grants and loans for development projects and infrastructure expenditures in support of additional development. Districts can be created for a maximum duration of 27 years, with project expenditures allowed within the first 22 years. Districts must be closed when all planned expenditures have occurred and any debt issued to finance those expenditures has been retired.

Approval of tax increment districts and a plan for expenditure of property tax revenues generated by the district is made by a joint review board consisting of representatives from the affected taxing jurisdictions (i.e., city, school district, county and technical college district). Actual expenditure of revenues generated within a tax increment district is subject to approval by the Common Council primarily through adoption of projects in capital budgets.

The recommendations call for added flexibility in defining eligible projects (the city's "but for" test -- the development would not occur "but for" the tax incremental financing) and determining the amount of tax increment generated by a development that can be allocated to project financing (set at 50 percent under the current policy - the "50 percent" rule). Changes include incorporating any competing offers for project development from other communities (both adjacent to Madison and in the broader regional and national context) into the "but for" analysis. The recommendations envision continuing current financial due diligence analyses, but adding the competitive considerations into the decision-making process.

Other significant changes include the elimination of required equity sharing of TIF-supported

projects that generate profits through a sale of the development (e.g., in 2011 and 2012, the city received equity payments of \$525,000 and \$450,000, respectively). The committee recommends that this equity sharing element be removed from the policy as an incentive to more development.

The goal of these recommendations is to foster more economic development and related job creation in the city in response to much greater competition from surrounding communities, the region, and nationally. Such development should result in expansion of the city's property value, thereby reducing the share of property taxes paid by existing residences and businesses for services provided by the city, school district, county and technical college district. Additional economic development also provides the city with more flexibility under state-mandated levy limits to raise the revenues necessary to support essential services, including first responders and law enforcement.

Given the various factors involved in determining TIF projects and the difficulty in predicting overall economic growth, the financial impacts are indeterminate. Generally, the city's overall property tax rate ("mill rate") for all taxing jurisdictions is increased in the short-term due to allocation of the property value growth in a tax increment district to expenditures within that district rather than being available for service mission of the taxing jurisdictions. However, the property value growth would have been presumably much less without creation of the district and the development that is assumed to occur.

Expenditures within a TID are often "front-loaded" by issuing debt to support immediate development-related investments in the district. This debt is then retired using the tax revenues generated from the property value added through the new development and appreciation of existing property within the TID. This "front-loading" does present a risk to the city in the event that the expected growth in property value necessary to finance the expenditures does not materialize. For that reason, the rigorous financial due diligence must be exercised in both the creation of TIDs and in expending projected TID resources for developer assistance and infrastructure investments.

As an example of the potential risks, as of September 1, 2012, the city has two TIDs that have actually seen property values fall since inception of the district. While this decline in value is probably the result of the severity of the recent economic recession, the result is that no incremental tax revenues are being generated to pay for the \$7.5 million of costs incurred in these districts. Both districts have between 21 and 22 years remaining to realize growth in property values to recover these costs.

Generally, TID supported development in the city has expanded the tax base and these proposed changes may allow for further expansion of the tax base. For example, if an additional \$100 million of assessed property value were added due to closure of a tax increment district in 2013 (equal to approximately 0.5% of total assessed value) it would have reduced taxes on the average value home by \$10. Assuming that \$100 million of property value was added due to new construction in TIDs, allowable growth in 2013 under the levy limits would have increased from 0.74% to 1.2% (approximately \$600,000).

**Title**

~~Accepting the revised TIF Policy approved by the Economic Development Committee on February 20, 2013 for Common Council consideration and adoption.~~ Adopting the revised TIF Policy.

**Body**

WHEREAS, on September 17, 2012, Mayor Paul Soglin charged Madison's Economic Development Committee with the task of reviewing Madison's Tax Increment Financing Policy

and proposing modifications; and,

WHEREAS, the Economic Development Committee created a subcommittee to gather public input, study Madison's competitive position, and create TIF policy recommendations; and,

WHEREAS, a subcommittee of the Economic Development Committee considered all input provided; and, either accepted, rejected, or combined suggestions into a single set of recommendations; and,

WHEREAS, the Economic Development Committee has worked to encourage flexibility in Madison's TIF Policy while maintaining fiscal responsibility and accountability provisions, and,

WHEREAS, the Common Council created a TIF Policy Review Ad Hoc Committee to provide additional review and oversight of EDC's recommendations; and,

NOW THEREFORE BE IT RESOLVED that the Common Council thanks the Economic Development Committee for their work; and,

BE IT FURTHER RESOLVED that the Common Council accepts the attached document as the official TIF Policy of the City of Madison; and,

BE IT FINALLY RESOLVED that the Common Council directs the Department of Planning, Economic and Community Development, the City Attorney, the Finance Department, and other responsible staff to begin immediate implementation of the approved policy.