Board of Estimates TIF Subcommittee Report

Findings and Recommendations
Concerning TIF Policy

June 13, 2005

CONTENTS

Findings and Recommendations Concerning TIF Policy

1. TIF PROCESS

After significant discussion concerning the TIF Review process, the sub-committee made several recommendations:

1) **Establish a deadline to create new TIDs required to provide TIF assistance.** This recommendation involves situations where a developer requests TIF assistance where no Tax Incremental District (TID) exists. TIF Law requires that a TIF district be adopted by Common Council prior to September 30 in order for it to be effective as of the year of its creation. The typical TID creation process takes about five months, or it must start no later than April. Industrial TIDs take about four months to create (no blight study required), therefore the deadline for such requests for industrial development would be May 1. TIF Law also requires that all project expenditures demonstrate that "but for" TIF assistance, the project could not be built. This becomes problematic when a district is created and no such finding is reached for the developer's project.

   The members concluded that in order to create a TID prior to the statutory deadline of September 30, developers seeking the creation of a new TID as part of their request for TIF assistance must complete the gap analysis and land use approval process prior to April 1 (see simultaneous approval section in #9).

2) **Develop an annual vetting process for TIF projects in existing TIDs.** Developers are often unaware or ill informed about the City's annual budget cycle and are surprised when, at the conclusion of TIF negotiations, the project cannot be funded until the next budget cycle.

   In order to keep both TIF requests and the budget process in the same decision loop, the subcommittee recommends that TIF assistance requests for funding in the next years' capital budget would have to be submitted by a deadline (approximately June?). This approximate date coincides with the commencement of the annual capital budget cycle. Those projects that miss the vetting deadline may apply later but are subject to a 15-vote budget amendment.

   Requests would be predicated upon a mutual agreement had been reached concerning gap analysis and land use approvals between the City and the developer. Further, in the event that the requests exceed available City funds or concern projects that do not meet annual TIF goals or objectives, the City should explore a project evaluation and prioritization or "vetting" process that grades projects according to established TIF objectives and criteria.

3) **Create a TIF Pre-Application to be submitted to Board of Estimates.** Projects are often presented before the Board of Estimates that propose considerable policy exceptions, exceed zoning or land use guidelines or do not meet goals and objectives of TIF Policy.

   The subcommittee agreed that providing policy makers an earlier view of such potential issues was important and would recommend that staff create a TIF Pre-Application form with vetting criteria for developers to evaluate their potential eligibility for TIF consideration. On this form, developers must demonstrate gap, completion of due diligence concerning the site conditions and satisfactory meetings with the district alder and planning staff concerning building height, density and other land use issues. It is possible that such a Pre-Application could be available on-line so developers could gauge their eligibility for TIF consideration.

4) **Present potential TIDs to the Board of Estimates prior to starting the TIF creation process.** The subcommittee believed that staff should submit a general plan concept sometime during the early stages of developing a TID project plan. This would apply for TIDs that provided assistance to private development as well as TIDs created solely for infrastructure.

5) **Require developers to pay the non-refundable application fee.** This recommendation institutionalizes the application fee (currently .05% of the amount requested) to be paid to the City at the time of TIF Pre-Application.

6) **Establish a forum for developer appeal**. Generally, such appeals already occur before the Board of Estimates. The sub-committee agreed to institutionalize one developer appeal, after initial BOE review of the TIF Pre-application, as a part of TIF policy.

7) **Require developers to demonstrate due diligence on the purchase of land**. This would include requiring developers to option land while conducting studies of soil conditions, comparable land prices, environmental issues and initial meetings with the district alder and planning staff concerning building height, land use and other issues and provide such findings to the City**.**

8) **Explore BOE review of IZ Waiver requests**. The members proposed that BOE review IZ waiver requests, either independently or jointly with Plan Commission due to their direct impact on TIF.

9) **Implement simultaneous TIF and land use approvals**. Members expressed interest in pursuing a simultaneous process where consideration of TIF and the land use approval, which were often inter-related, would make more sense than a process where the land use is already approved and the City left with few options or adjustments that might make TIF assistance unnecessary or more feasible.

10) **Require developers seeking TIF to identify this in their land use applications and simultaneously apply for TIF.** Land use approval review and TIF consideration should be simultaneous.

2. TIF POLICY

The subcommittee also made the following recommendations concerning TIF Policy:

1) **Emphasize and uphold the 50% Rule.** TIF Policy stipulates that no more than 50% of the TIF generated by a private development project may be provided to that project as financial assistance. After much_discussion concerning possible criteria when council might make exceptions to the 50% policy the subcommittee concluded that, as most projects had been funded at or below the 50% rule, no changes would be made to this policy. The subcommittee concluded further that the 50% Rule was a sound policy, not arbitrary or capricious, and should be upheld, emphasized and explained earlier in the TIF Policy.

2) **50% Rule and Pay-As-You-Go.** However, with regard to the “pay-as-you-go” method of financing, the members concurred that all projects must pass a “but for” scrutiny, and no more than 50% of the TIF, with no exceptions, would be provided utilizing this method of financing.

3) **Council actions that make significant exceptions to TIF Policy must include a statement that demonstrates the public purpose for making the exception.** The subcommittee concluded that policy exceptions should only be made in rare instances. In

those cases, the resolution that authorizes TIF funding should state a detailed, specific and significant public purpose explanation for making the exception.

4) **Eliminate policy 3(b) concerning rental housing in projects of five acres or more.** This policy pre-dated the adoption of the Inclusionary Zoning ordinance requirement that now take precedence over this policy measure.

5) **Implement a rental equity kicker formula from existing examples.** The equity kicker formula for rental projects was a topic of much discussion. Historically, the City has required a "claw back" of funds upon the sale of a TIF-assisted project when profits received from this sale exceed the forecasts of the TIF application. Generally, the rental equity kicker has been a percentage of sale proceeds (ranging between four and seven percent). Two recent equity kickers were capped, i.e. payment could not exceed the total amount of TIF assistance provided to the project.

   Although there has been no objection to the use of a similar claw back for owner-occupied projects (50% of residual profit after audit of sales and cost), there has been objection to the formula for rental projects by some developers. Committee members requested private sector input at several instances, but no private sector solution was received other than the recommendation to remove the formula completely. Members concluded that in all probability, the City should require a rental project equity kicker.

   The sub-committee concludes that the City of Madison needs an equity kicker formula for rental projects and recommends that the Board of Estimates review the three existing equity kicker formulas for rental projects to select one that will become part of the TIF Policy.

6) **Strengthen the policy concerning land cost write-downs.** In the past, the City has provided TIF assistance in cases where the market value of land was above the cost required to make the project feasible for a different use. Staff testimony and committee discussion centered on increasing impact of land speculation within TIDs. The Mayor's report, in particular, noted that the continued TIF subsidy of this activity was sending an inflationary message to the marketplace.

   The City should adhere to either the existing or an amended land write-down policy and require that developers demonstrate the performance of due diligence, concerning land prices, site remediation, construction costs, building height, density and other issues prior to purchase (see Process #7).

7) **Acknowledge "Pay-As-You-Go" ("PAYGO") method of financing with underwriting caveats.** The committee recommends that PAYGO be acknowledged as one of several existing methods to finance TIF assistance, but the most expensive in terms of borrowing cost passed on to the City taxpayer. In all cases, consideration of such assistance shall pass a "but for" test by the City, PAYGO shall conform to the 50% standard and shall be compared on a case-by-case basis with other available financing methods.

8) **TIF assistance may not exceed the amount of developer equity invested in the project.** This underwriting practice was somehow omitted in the original TIF Policy document. This measure rectifies that omission.

3. TIF ISSUES NOT TAKEN UP BY THE SUBCOMMITTEE

1) **Review of the Affordable Housing Set Aside Program and Process.** This issue involves the review of both the need for the set-aside program since the adoption of Inclusionary Zoning ordinance (requiring all projects to set aside affordable units) and the operational mechanics of the AHSA program. The basic questions are: Is it still needed?

Does it work in its present form? CDBG staff provided a brief overview about the established AHSA review process and various timing and mechanical issues facing the process. A follow-up report and discussion by the sub-committee is occurred on April 25, 2005.

2) **Creation of a Small Capital ("Small Cap") TIF Assistance Program.** This proposal would recommend that TIF assistance be provided in smaller capital amounts (i.e. "small cap") for projects that achieve certain desirable City objectives, such as conversion/restoration of historic property, commercial facade improvements, conversion of architecturally significant property from rental to owner-occupied, etc. To date, the sub-committee has not discussed this proposal.

3) **Changes Caused by TIF Law Change.** There was no discussion concerning this issue. TIF Policy already provides that it must change with any changes in TIF Law. Staff provided a draft of some recommended policy changes attributable to the new TIF statute at the first meeting of the committee.

4) **Industrial TIF.** The committee reviewed a report produced by staff at the April 25, 2005 meeting but took no action. It is attached with this recommendation.

5) **Public Oversight, Input and Benefits of TIF.** There was discussion, but no action concerning methods that the public might have input into the creation of TIDs and investment of TIF funds over the life of the TID.

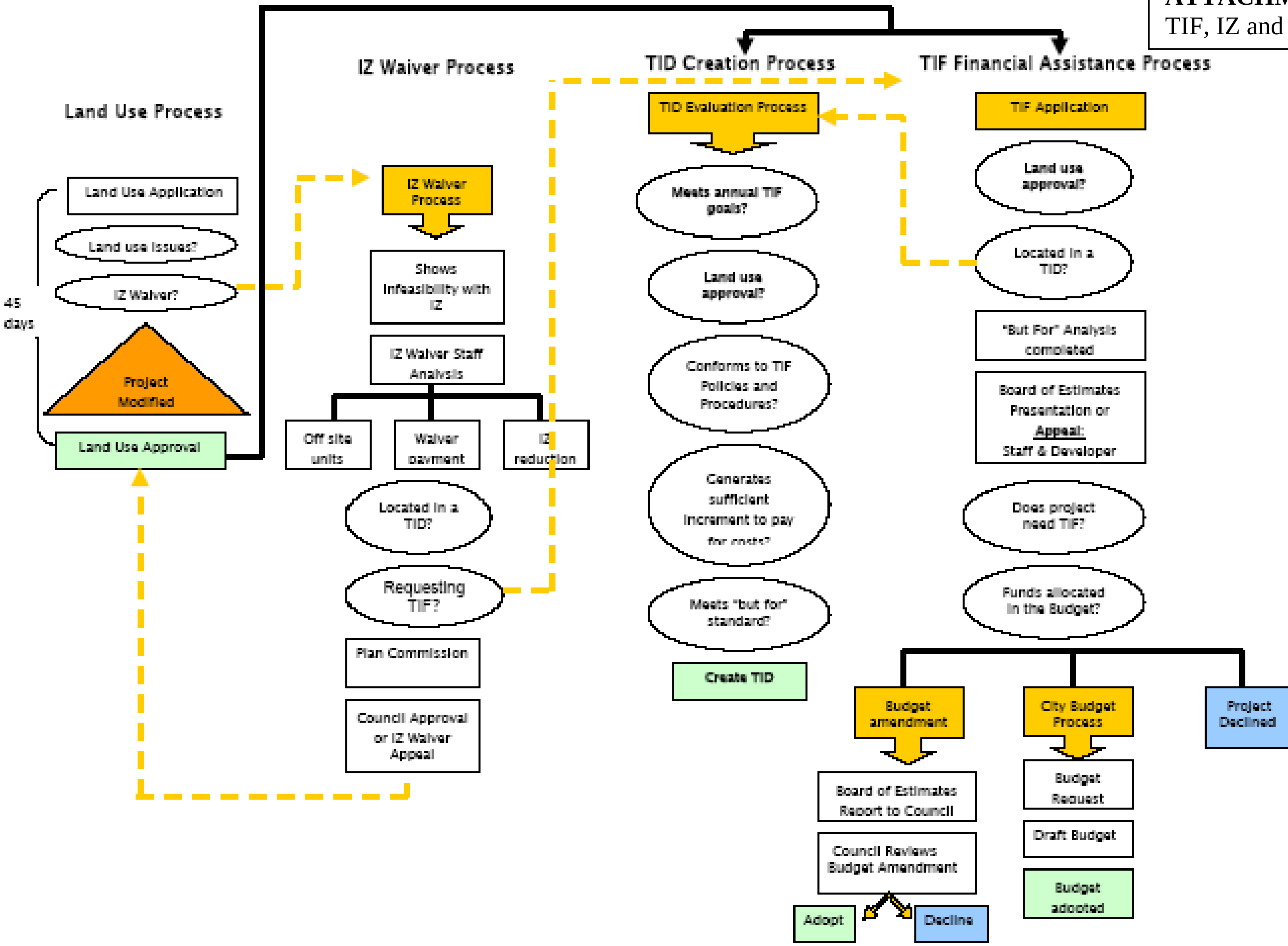
6) **Consider policy regarding the timing of expenditures with regard to the new TIF Law.** Changes in TIF Law enacted in 2004 enable cities to make expenditures for up to 15 years in industrial TIDs and 22 years in blighted TIDs. The committee concluded that there was some considerable risk in making expenditures after the first ten years of the TID life. Although taking no formal action, the subcommittee concluded that some lesser deadline (10 years?) be used for both industrial and blighted TIDs or develop different deadlines for either type of TID.

ATTACHMENTS A & B:

TIF, IZ and Land Use Process Chart

Mayor’s Recommendations

ATTACHMENT“A”
TIF, IZ and Land Use Process



ATTACHMENT "B"
Mayor's Recommendations

April 1, 2005

TO: The BOE TIF Subcommittee

FR: Mayor Dave Cieslewicz

RE: My recommendations on TIF policy.

Land costs.

- Concerned that we are sending inflationary signals to the marketplace.
- Strengthen current language about excessive land purchase write-downs.
- Current language: "Land purchase write-downs that greatly exceed the assessed value of the current land uses" are ineligible. Assign a specific percentage above assessed value, perhaps 10%.

Parking & Transportation

Underground parking is a major driver of TIF requests.

Limit to .8 per unit of owner occupied; .5 per unit of rental; 1 per 1,000 square feet of retail.

Can build more, but not with a public subsidy.

Provide more mobility with streetcars. Streetcars should be written into the project plans in the appropriate districts.

The 50% Rule

- It should be retained.
- If we go above it there should be a statement explaining the public purposes for which we are exceeding the rule.
- Develop some guidelines for this.

Equity Participation

- I strongly support it, but it should be in written policy.
- I can support any of the scenarios suggested by staff.

Grocery Stores

- Consistent with the report of the Neighborhood Grocery Store Task Force, they should be listed as a goal for the use of TIF funds.

- Suggested language in the Objectives section under Support Neighborhood Revitalization under (c) add: “Providing the full range of basic neighborhood goods and services and employment opportunities, <u>especially neighborhood grocery stores</u>.”

Pay As You Go

- I remain unconvinced that it is worth pursuing because of the higher interest payments, but I also remain open to the arguments.

Process Items

- Annual TIF budget evaluation. As part of the executive capital budget process the Comptroller will be asked to provide information about the status of each district.

- Annual TIF budget goal. Continue to establish an overall goal as I did this year. This does not mean it can’t be exceeded, but that extraordinary projects need 15 votes. Provides a break.

- Regular meetings of the TIF team. I will meet with the TIF team every two months and more frequently when necessary. Policy makers should not make promises outside of the TIF team.

- Parallel approvals. GDPs and TIF financing packages should be approved at the same Council meetings as in Monroe Commons.

ATTACHMENT C: Financing Alternatives, “Pay As You Go”

ATTACHMENT "C (1)"
Financing Alternatives,
"Pay As You Go"

EXCERPTS FROM THE BOE SUBCOMMITTEE MINUTES OF MARCH 9, 2005

Report of the Comptroller
Alternative TIF Financing Mechanisms

The following text is the Comptroller's report, taken from the March 9, 2005 TIF Subcommittee minutes. The text corresponds to the attached charts. Notes have been added to direct the reader to the appropriate chart for reference purposes.

<u>Alternative Financing Follow-Up</u>

As follow-up to last week's meeting, Dean Brasser was asked to present a report on the "pay-as-you-go" ("PAYGO") model using Stone House Development's "Madison Mark" project as a model.

Dean started with the discussion of the 2005 budget that includes the $7 MM authorization for TIF and handed out two charts. The first chart indicated the city's ratio of debt to equalized value as measured by the 5% expenditure cap. [See 1.1 & 1.2] Generally, he stated, the City's expenditures are at about 1% of equalized value, or about 20% of our borrowing capacity. However, the more we borrow, the more it impacts our AAA bond rating.

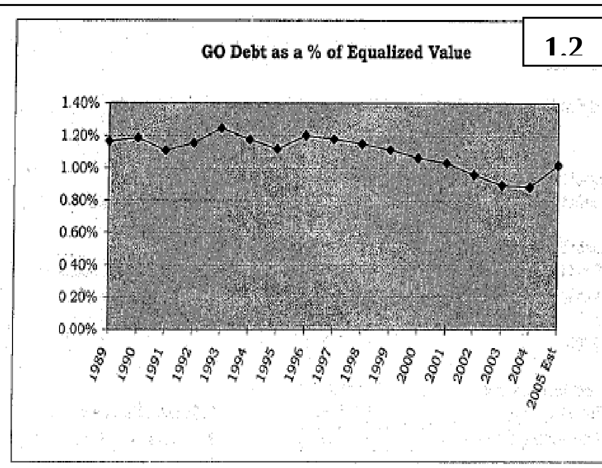
He noted that the more difficult issue is not borrowing, but paying it back. On the second chart [2] Dean demonstrated the ratio between the amounts of debt service to total General Fund expenditures. In the early 1990's the City was at 10%, after we constructed Monona Terrace in 1998-99, we increased to 12 and 13%. In 2000, the City took Monona Terrace of General fund support to be paid with room tax and a special storm water district, which dropped the ratio to 11%. In 2006, the City is hovering at 12%. If the City borrows what is included in the Capital Improvements Plan (CIP) budget, the percentage

1.1

City of Madison
Ratio of General Obligation Debt to Equalized Value
1989 thru 2005(Estimated)

Budget Year	General Obligation Debt	Most Recent Equalized Value	GO Debt as a % of Equalized Value
1989	62,125,943	5,334,462,000	1.16%
1990	67,681,724	5,709,180,000	1.19%
1991	69,030,201	6,229,400,000	1.11%
1992	75,675,496	6,550,915,000	1.16%
1993	86,826,470	6,964,184,800	1.25%
1994	89,251,835	7,581,595,000	1.18%
1995	92,863,450	8,306,368,500	1.12%
1996	109,152,868	9,093,362,900	1.20%
1997	114,051,571	9,671,053,800	1.18%
1998	118,847,799	10,332,251,000	1.15%
1999	121,707,563	10,939,193,300	1.11%
2000	121,464,683	11,446,834,500	1.06%
2001	127,346,535	12,351,593,400	1.03%
2002	131,230,000	13,677,854,400	0.96%
2003	134,765,000	15,073,829,000	0.89%
2004	143,565,000	16,239,031,200	0.88%
2005 Est	180,915,259	17,764,099,400	1.02%

1.2



could increase to as high as 16%.

Dean also noted that TIF borrowing is subtracted from the percentage of general fund calculation, therefore, theoretically we could borrow more for TIF projects if the TID demonstrated a strong ability to pay it back.

2.1

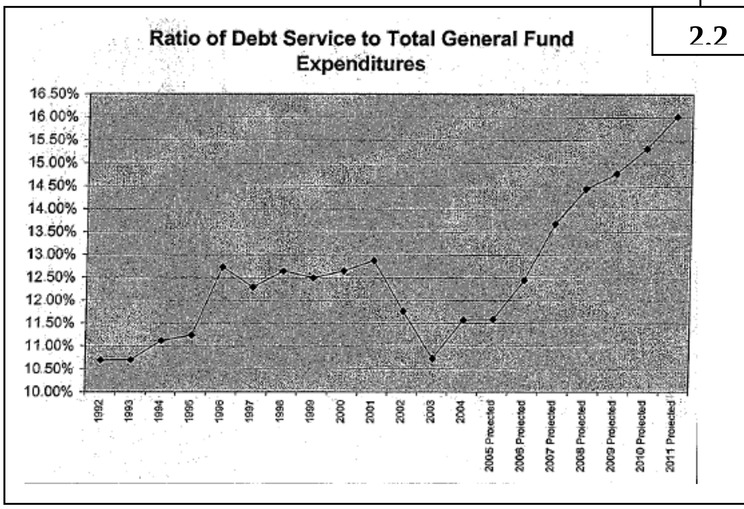
City of Madison
Ratio of Debt Service to Total General Fund Expenditures

1992 thru 2011(Projected)

Year	Debt Service	% Change	Expenditures	% Change	Ratio
1992	11,638,319		108,883,900		10 69%
1993	12,090,707	3 89%	113,057,982	3.83%	10.69%
1994	13,161,860	8.86%	118,436,855	4.76%	11.11%
1995	13,805,000	4 89%	122,919,229	3.78%	11 23%
1996	16,725,000	21.15%	131,390,822	6.89%	12 73%
1997	17,051,616	1.95%	138,754,494	5.60%	12.29%
1998	18,145,624	6.42%	143,567,683	3.47%	12.64%
1999	18,224,200	0.43%	145,900,321	1.62%	12.49%
2000	19,197,757	5.34%	151,833,834	4.07%	12.64%
2001	20,732,183	7.99%	161,020,255	6.05%	12.88%
2002	19,559,391	-5.66%	166,320,847	3.29%	11 76%
2003	18,346,342	-6 20%	171,089,821	2.87%	10.72%
2004	20,473,325	11.59%	176,959,171	3.43%	11.57%
2005 Projected	21,110,729	3.11%	182,291,150	3.01%	11 58%
2006 Projected	23,588,564	11.74%	189,604,398	4.01%	12.44%
2007 Projected	27,099,399	14.88%	198,095,708	4.48%	13.68%
2008 Projected	29,735,917	9.73%	205,862,115	3.92%	14.44%
2009 Projected	31,458,024	5 79%	212,868,008	3.40%	14.78%
2010 Projected	33,815,216	7.49%	220,667,500	3.66%	15.32%
2011 Projected	36,710,695	8.56%	229,168,548	3 85%	16 02%

Assumed future year interest rate is: 5.00%
Future year expenditures assume growth in non-debt service costs of: 3.00%
Future debt service assumes borrowing in 2005 as specified in CIP

Does Not Meet General Fund Debt Service Target of 12.5%



"Pay As You Go (PAYGO)"
Ald. Olson asked Brasser to comment on how PAYGO would compare as a financing method.

Brasser stated that as long as the City still goes through the same underwriting standards, PAYGO is just another method to finance once the gap and policy standards have been met.

Brasser passed out the Stone House PAYGO model [3.1]. In this example, the project supported $1,023,000, which at the time represented 70% of the TIF. In earlier years, the project threw off less increment because it hadn't reached its full-assessed value yet. The next question would be to determine how to finance the $1 million of TIF assistance.

3.1

TIF Increment Projection - Stonehouse Wilson Street - FINAL @ 70% OF INCREMENT
TID # 25

	TAX RATE PROJECTION			INCREMENT CALCULATION			AVAILABLE FOR ASSISTAN	
YEAR	CITYWIDE TAX BASE AS OF JAN 1 PRIOR YEAR	NET TAX LEVY	TAX RATE	PROJECT VALUE AS OF JAN 1	INCREMENTAL VALUE AS OF JAN 1	INCREMENT REVENUE	INCREMENT AFTER COVERAGE	PRESENT VALUE
2003	14,232,947,650	327,357,796	0.02300	2,500,000				
2004	15,086,924,509	340,452,106	0.02257	5,000,000	2,500,000	0	0	0
2005	15,992,139,980	354,070,192	0.02214	10,000,000	7,500,000	56,415	39,491	34,172
2006	16,951,668,378	368,233,000	0.02172	10,200,000	7,700,000	166,052	116,236	93,566
2007	17,968,768,481	382,962,320	0.02131	10,404,000	7,904,000	167,263	117,084	87,673
2008	19,046,894,590	398,280,813	0.02091	10,612,080	8,112,080	168,455	117,919	82,137
2009	20,189,708,265	414,212,045	0.02052	10,824,322	8,324,322	169,628	118,740	76,939
2010	21,401,090,761	430,780,527	0.02013	11,040,808	8,540,808	170,782	119,547	72,058
2011	22,685,156,207	448,011,748	0.01975	11,261,624	8,761,624	171,917	120,342	67,476
2012	24,046,265,579	465,932,218	0.01938	11,486,857	8,986,857	173,034	121,124	63,176
2013	25,489,041,514	484,569,507	0.01901	11,716,594	9,216,594	174,134	121,894	59,142
2014	27,018,384,005	503,952,287	0.01865	11,950,926	9,450,926	175,216	122,651	55,358
2015	28,639,487,045	524,110,378	0.01830	12,189,944	9,689,944	176,281	123,396	51,808
2016	30,357,856,268	545,074,793	0.01795	12,433,743	9,933,743	177,329	124,130	48,480
2017	32,179,327,644	566,877,785	0.01762	12,682,418	10,182,418	178,360	124,852	45,360
2018	34,110,087,303	589,552,897	0.01728	12,936,066	10,436,066	179,376	125,563	42,436
2019	36,156,692,541	613,135,012	0.01696	13,194,788	10,694,788	180,375	126,263	39,695
2020	38,326,094,093	637,660,413	0.01664	13,458,683	10,958,683	181,359	126,951	37,127
2021	40,625,659,739	663,166,829	0.01632	13,727,857	11,227,857	182,328	127,630	34,722
2022	43,063,199,323	689,693,503	0.01602	14,002,414	11,502,414	183,282	128,297	32,468
						3,031,585	2,122,110	1,023,794
					NPV=	1,462,563	1,023,794	

ASSUMPTIONS:

Annual Increase in Citywide Tax Base	6.00%
Annual Increase in Tax Levy	4.00%
Annual Increase in Assessment after construction	2.00%
Percent of Estimated Increment Available	70.00%
Assumed Interest Rate (Discount Rate)	7.50%
NPV Assumes Discounting to	2003

He indicated that in the first example on the chart [3.2], the City borrowed $1 million as a tax-exempt general obligation borrowing with a 3.5% interest rate, but normally, TIF funds are provided as taxable borrowing. The total interest as a tax-exempt debt was $187,000, or total bond repayment of $1,187,000.

3.2

10 Year Debt Service - Level Principal
Actual 2003 Tax Exempt Borrowing Cost

Principal = $ 1,000,000.00
Rate = 0.034

Year	Principal	Interest	Total	Balance
2004	100,000.00	34,000.00	134,000.00	900,000.00
2005	100,000.00	30,600.00	130,600.00	800,000.00
2006	100,000.00	27,200.00	127,200.00	700,000.00
2007	100,000.00	23,800.00	123,800.00	600,000.00
2008	100,000.00	20,400.00	120,400.00	500,000.00
2009	100,000.00	17,000.00	117,000.00	400,000.00
2010	100,000.00	13,600.00	113,600.00	300,000.00
2011	100,000.00	10,200.00	110,200.00	200,000.00
2012	100,000.00	6,800.00	106,800.00	100,000.00
2013	100,000.00	3,400.00	103,400.00	-
	1,000,000.00	187,000.00	1,187,000.00	

The second example [3.3], if done today would represent a tax-exempt rate of 4%, which would cost $220,000 in interest or total repayment of $1,220,000.

3.3

10 Year Debt Service - Level Principal
Predicted Tax Exempt Borrowing Cost

Principal = $ 1,000,000.00
Rate = 0.04

Year	Principal	Interest	Total	Balance
2004	100,000.00	40,000.00	140,000.00	900,000.00
2005	100,000.00	36,000.00	136,000.00	800,000.00
2006	100,000.00	32,000.00	132,000.00	700,000.00
2007	100,000.00	28,000.00	128,000.00	600,000.00
2008	100,000.00	24,000.00	124,000.00	500,000.00
2009	100,000.00	20,000.00	120,000.00	400,000.00
2010	100,000.00	16,000.00	116,000.00	300,000.00
2011	100,000.00	12,000.00	112,000.00	200,000.00
2012	100,000.00	8,000.00	108,000.00	100,000.00
2013	100,000.00	4,000.00	104,000.00	-
	1,000,000.00	220,000.00	1,220,000.00	

The third example **[3.4]**, if done today, would represent a taxable issue at 5%. This borrowing would cost $275,000 in interest or total repayment of $1,275,000.

3.4

10 Year Debt Service - Level Principal
Predicted Taxable Borrowing Cost

Principal = $ 1,000,000.00
Rate = 0.05

Year	Principal	Interest	Total	Balance
2004	100,000.00	50,000.00	150,000.00	900,000.00
2005	100,000.00	45,000.00	145,000.00	800,000.00
2006	100,000.00	40,000.00	140,000.00	700,000.00
2007	100,000.00	35,000.00	135,000.00	600,000.00
2008	100,000.00	30,000.00	130,000.00	500,000.00
2009	100,000.00	25,000.00	125,000.00	400,000.00
2010	100,000.00	20,000.00	120,000.00	300,000.00
2011	100,000.00	15,000.00	115,000.00	200,000.00
2012	100,000.00	10,000.00	110,000.00	100,000.00
2013	100,000.00	5,000.00	105,000.00	-
	1,000,000.00	275,000.00	1,275,000.00	

The next example [3.5], demonstrated a longer-term debt. Typically, the City borrows for ten years. Spread out over 20 years, a taxable issue would cost 5.5% or total interest of $577,000—more than double total interest cost in earlier examples.

Finally, Brasser demonstrated the PAYGO method [3.6]. In the first years, the City can't make payments because increment payments are not being collected until the project is fully assessed. In other words, the loan is ballooning without adequate payment. The interest rate of this type of borrowing is a private sector rate of 7%. Dean noted that in the PAYGO example, every dollar of increment is used to retire an interest cost of $550,000. He added that because a developer will pay a higher interest rate than the City because of the City's relatively stronger credit rating, PAYGO is the more costly of the options presented. Delays in payments in the early years cause the total interest cost to increase.

When the City borrows, it does not incur additional closing costs. That will not be the case with PAYGO. In the example [3.7], Dean pointed out that the PAYGO debt would incur an additional $50,000 in closing costs. In this case, costs other than the loan itself are being paid with increment.

Brasser demonstrated the impact if the City made incorrect increment estimates or was too generous with TIF assistance to the developer. For example, if the project realized only 80% of its increment projections, the chart demonstrated that the additional interest repayment would

3.5

20 Year Debt Service - Level Principal
Predicted Taxable Borrowing Cost

Principal = $ 1,000,000.00
Rate = 0.055

Year	Principal	Interest	Total	Balance
2004	50,000.00	55,000.00	105,000.00	950,000.00
2005	50,000.00	52,250.00	102,250.00	900,000.00
2006	50,000.00	49,500.00	99,500.00	850,000.00
2007	50,000.00	46,750.00	96,750.00	800,000.00
2008	50,000.00	44,000.00	94,000.00	750,000.00
2009	50,000.00	41,250.00	91,250.00	700,000.00
2010	50,000.00	38,500.00	88,500.00	650,000.00
2011	50,000.00	35,750.00	85,750.00	600,000.00
2012	50,000.00	33,000.00	83,000.00	550,000.00
2013	50,000.00	30,250.00	80,250.00	500,000.00
2014	50,000.00	27,500.00	77,500.00	450,000.00
2015	50,000.00	24,750.00	74,750.00	400,000.00
2016	50,000.00	22,000.00	72,000.00	350,000.00
2017	50,000.00	19,250.00	69,250.00	300,000.00
2018	50,000.00	16,500.00	66,500.00	250,000.00
2019	50,000.00	13,750.00	63,750.00	200,000.00
2020	50,000.00	11,000.00	61,000.00	150,000.00
2021	50,000.00	8,250.00	58,250.00	100,000.00
2022	50,000.00	5,500.00	55,500.00	50,000.00
2023	50,000.00	2,750.00	52,750.00	-
	1,000,000.00	577,500.00	1,577,500.00	

3.6

"Pay-As-You-Go" Using 100% of Predicted Stonehouse Increme
No Closing Costs

Principal = $ 1,000,000.00
Rate = 0.07

Year	Principal	Interest	Total	Balance
2004	(70,000.00)	70,000.00	-	1,070,000.0
2005	(18,485.00)	74,900.00	56,415.00	1,088,485.0
2006	89,858.05	76,193.95	166,052.00	998,626.9
2007	97,359.11	69,903.89	167,263.00	901,267.8
2008	105,366.25	63,088.75	168,455.00	795,901.5
2009	113,914.89	55,713.11	169,628.00	681,986.7
2010	123,042.93	47,739.07	170,782.00	558,943.7
2011	132,790.94	39,126.06	171,917.00	426,152.8
2012	143,203.30	29,830.70	173,034.00	282,949.5
2013	154,327.53	19,806.47	174,134.00	128,621.9
2014	128,621.99	9,003.54	137,625.53	0.0
2015	(0.00)	0.00	-	0.0
2016	(0.00)	0.00	-	0.0
2017	(0.00)	0.00	-	0.0
2018	(0.00)	0.00	-	0.0
2019	(0.00)	0.00	-	0.0
2020	(0.00)	0.00	-	0.0
2021	(0.00)	0.00	-	0.0
2022	(0.00)	0.00	-	0.0
2023	(0.00)	0.00	-	0.0
2024	(0.00)	0.00	-	0.00
2025	(0.00)	0.00	-	0.00
2026	(0.00)	0.00	-	0.00
2027	(0.00)	0.00	-	0.00
2028	(0.00)	0.00	-	0.00
2029	(0.00)	0.00	-	0.00
2030	(0.00)	0.00	-	0.00
	1,000,000.00	555,305.54	1,555,305.53	

3.7

"Pay-As-You-Go" Using 100% of Predicted Stonehouse Increment
$50,000 Closing Costs

Principal = $ 1,050,000.00
Rate = 0.07

Year	Principal	Interest	Total	Balance
2004	(73,500.00)	73,500.00	-	1,123,500.00
2005	(22,230.00)	78,645.00	56,415.00	1,145,730.00
2006	85,850.90	80,201.10	166,052.00	1,059,879.10
2007	93,071.46	74,191.54	167,263.00	966,807.64
2008	100,778.47	67,676.53	168,455.00	866,029.17
2009	109,005.96	60,622.04	169,628.00	757,023.21
2010	117,790.38	52,991.62	170,782.00	639,232.84
2011	127,170.70	44,746.30	171,917.00	512,062.14
2012	137,189.65	35,844.35	173,034.00	374,872.49
2013	147,892.93	26,241.07	174,134.00	226,979.56
2014	159,327.43	15,888.57	175,216.00	67,652.13
2015	67,652.13	4,735.65	72,387.78	(0.00)
2016	0.00	(0.00)	-	(0.00)
2017	0.00	(0.00)	-	(0.00)
2018	0.00	(0.00)	-	(0.00)
2019	0.00	(0.00)	-	(0.00)
2020	0.00	(0.00)	-	(0.00)
2021	0.00	(0.00)	-	(0.00)
2022	0.00	(0.00)	-	(0.00)
2023	0.00	(0.00)	-	(0.00)
2024	0.00	(0.00)	-	(0.00)
2025	0.00	(0.00)	-	(0.00)
2026	0.00	(0.00)	-	(0.00)
2027	0.00	(0.00)	-	(0.00)
2028	0.00	(0.00)	-	(0.00)
2029	0.00	(0.00)	-	(0.00)
2030	0.00	(0.00)	-	(0.00)
	1,050,000.00	615,283.78	1,665,283.78	

push out the payment schedule from 2015 to 2019.

Brasser concluded that PAYGO could be an alternative in the event that the City cannot borrow through general obligation debt, but clearly PAYGO was a more costly alternative.

Onken asked members of the gallery for their comment on Dean’s presentation.

Bill White asked what impact PAYGO would have on the general obligation borrowing on the bar chart.

Brasser replied that PAYGO would not count toward general obligation borrowing. Generally the method is used because smaller cities are up against the 5% borrowing cap, which is not an issue for the City of Madison.

Ald. Van Rooy asked how it was that some developers were asking for all the tax increment in their TIF requests.

Brasser replied that some communities borrow against the entire estimated increment stream as part of an economic development strategy.

ATTACHMENT "C (2)"
Financing Alternatives,
"Pay As You Go"

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MEQUON, WI 53092-3365
262.241.4422 FAX: 262.241.4994
E-MAIL: mequon@springsted.com

SPRINGSTED
Advisors to the Public Sector

December 5, 2004

Dean Brasser, Comptroller
City of Madison
City-County Building, Room 406
210 Martin Luther King Jr. Blvd.
Madison, WI 53709

Dear Mr. Brasser:

Subject: Analysis of the Pay-As-You-Go TIF Structure

You have requested our analysis and opinion of a variation on the use of the Wisconsin TIF law that has become identified broadly as "Pay-As-You-Go" TIF financing. To summarize the concept, some developers and their investment bankers have been proposing to cities that the priority of the use of tax increment revenue be altered such that bonds issued to pay for the usual improvements made by city governments to give added value to land within a tax increment financing district be the second priority of use of the tax increment revenue. They propose that the first priority be given to repay revenue obligations to be issued by the City to the project developer to cover the developer's cost of the private improvements. These payments to be made by the City would only be paid when and if TIF increment revenue has been received. Hence, the name "Pay-As-You-Go."

The name carries an implication: that the City will not lose any tax revenue, because it will not be paid until and unless it is received. However, it would be incorrect to claim that the city would not be spending any tax revenue. Indeed, **all the revenue proposed to be used to pay for the private development is tax revenue.** Further, because that revenue would ordinarily be used to pay for the public improvements, but in Pay-As-You-Go it is being diverted to pay for the private improvements, it now becomes necessary to appropriate additional tax revenue to repay for the bonds that were sold for the public improvements. Only if there is sufficient TIF increment revenue remaining after the payment of the developer's project costs, would public improvements be paid from the increment. Should there be a shortfall, general tax revenue would and must cover the difference.

We believe the Pay-As-You-Go structure poses several conceptual problems. If those can be successfully addressed, the City will then be prepared to deal with procedural and technical terms.

Conceptual Concerns

- There is an imbalance between the actual cost to a city and the benefit a city is to receive. TIF was intended to stimulate development so that a city's tax base would be enhanced. A city would spend cash up-front to reap the benefits of an expanded tax base in later years. The Pay-As-You-Go proposal asks a city to make the up-front infrastructure expenditures, but then also to give up the future tax benefits, as well. To make a determination that a city benefits from this proposal, it would have to identify indirect benefits such as the value to the city of additional economic activity and the number of new jobs created by the private development, or the improvement of the city's appearance. Whatever these indirect benefits might be, they would have to be greater than the cost of both the public and the private improvements, because the city is paying for both from tax revenue.

- In traditional development, the incentive for a developer to control costs is that he must pay the expenses of developing the project. In Pay-As-You-Go, the incentive to control development costs is lost because the payment of those costs becomes the responsibility of the city. It shouldn't be surprising that all those parties who are involved with the various aspects of project development (including architects, engineers, attorneys, investment bankers, lenders, etc), are most enthusiastic about this new approach. They will all benefit from increased fees arising from a structure that removes cost control incentives. Documentation related to Pay-As-You-Go often explicitly states that all costs related to project planning and preparation are to be paid as a first claim upon the revenue, and the City's obligations may not be offset by shortfalls in the TIF increment revenue.
- Actual construction costs suffer from the same lack of cost control incentives. To further complicate this, there is potential for collusion between the developer and the contractor(s). This becomes more problematic if one person occupies both roles. Should the contractor inflate his construction costs and share the extra amounts with the private owner, the owner will realize a substantial windfall upon completion of construction.
- Because the tax increment revenue will be paying the debt service on the facilities developed for private use, the owner/operator of the project will receive a second windfall benefit in the form of reduced operating costs. Since debt service is a major expense of most businesses, this private user will have a huge advantage over competing businesses.
- At the end of the financing period, perhaps 10 to 20 years in the future, the private business owner will have free and clear title to the property that the city will have bought for him. As an earning asset, he will be able to resell the property for an additional windfall.
- With standard TIF arrangements, if the TIF increment revenue exceeds expectations, the City can retire its obligations ahead of schedule, close out the TID and return the property to the tax rolls of all taxing jurisdictions. The City is not likely to have this prepayment option on the Pay-As-You-Go obligations. That choice remains with the holder of the Pay-As-You-Go revenue bonds. It is likely to be in the interests of the bondholder to keep the bonds outstanding for the full length of the mortgage on the property.

her communities have been asked to consider using Pay-As-You-Go TIF incentives. ose requests have ranged from a city's agreeing to pay for the entire cost of private velopment, to the amounts being used only for the "public improvement" portions of the velopment. Our analysis indicates that communities whose location and other amenities offer 'ficient incentive for private development, are less likely to provide additional incentives to developers, and will use Pay-As-You-Go as a way to offset their risk rather than to provide additional incentive to developers. Examples of this limited application of Pay-As-You-Go might include only the following project components:

- those project elements that are to become publicly-owned
- those project elements that have a specific public purpose (examples: very low income housing or nursing care facilities)
- those project elements that are not required design elements, but whose inclusion will add significantly to the aesthetics of the community, but not uniquely to the value of the private development
- those project elements that solve an intractable problem of the community, (example: a commercial property that has been vacant for an extended period and has had a blighting influence on the surrounding area.)

These are actual examples of uses of Pay-As-You-Go in Wisconsin to date. The City of Madison's TIF policies track with these uses to a great degree. While the City has been willing to share up to one-half of the present value of its TIF revenue with certain types of development, it requires that all for-profit projects must be able to repay the TIF contribution to the project and a portion of the public improvements. Further, City TIF policy specifically prohibits mortgage guarantees.

While carefully worded Pay-As-You-Go documentation may avoid violating City TIF policies and adverse court determinations regarding the State TIF laws, the revenue obligations to be issued by the City to the developer contain obligations that may be adverse to the City's credit rating. The revenue obligations contain a "subject to appropriation" provision that is intended to avoid the legal pitfalls. When "subject to appropriation" clauses are applied to uses that are primarily governmental, they carry the implication that the City has a moral, if not a legal obligation to pay, even if the TIF revenue proves to be insufficient to require the legal appropriation.

Standard & Poor's Corporation, a nationally-recognized credit rating agency, has prepared a description of their analysis of the effect a city's failure to appropriate funds will have on its credit rating. We enclose a copy for your consideration. While it is clear that non-appropriation on an obligation of the type proposed in Pay-As-You-Go, (a revenue obligation privately placed with a developer), may not have automatic negative rating implications, the more highly focused the use of the proceeds is to the benefit of the government, the more likely it is that a payment default will carry negative rating implications. Equally as significant and more directly hurtful to issuers of defaulted obligations of this type, is that even if rating agencies have taken no negative actions, the market may well impose a penalty for non-appropriation the next time the issuer seeks to borrow funds.

Procedural Concerns

After the City has resolved the conceptual issues identified above, there is a great deal of additional analysis and negotiation that must be completed prior to the approval of a financing arrangement of this type. The underlying bond documents will set forth the detailed technical terms of the City's payment obligations. The City should be approving documents only in their final form, and should avoid entering into any preliminary agreements, or agreements in concept. Since "the devil is in the detail," the developer must understand that the detailed documents must be prepared and negotiated with the City staff (and any consultants retained by the City who represent the City's interests) wholly at the developer's expense, prior to consideration by the City Council or any of its committees. This will give the City an opportunity to consider options such as amending the priority of payment of expenses to be paid from the TIF increment revenue to provide payment of the City's general obligation bonds prior to payment of its revenue obligations. It may also wish to be very specific as to what kinds of expenses and specific amounts are to be reimbursed with the revenue obligations. The City will be in a far stronger position to negotiate these provisions if it has not previously approved the TIF proposal in concept.

Summary

Pay-As-You-Go TIF proposals may range from something as advantageous to the City as having the developer obligated for the repayment of public improvements from the TIF increments generated by his project, to having the City obligated for the repayment of the costs of private improvements. Before the City commits itself to the concept, it should clearly establish where it wishes to place itself on that continuum. In making that determination, the City must understand that while TIF revenue is derived from money that the developer has paid, those payments are tax payment, just as all other property owners pay their taxes. In this instance, however, the developer is asking that his taxes be used to repay a portion of his project costs. A decision to do this poses serious public policy questions. Other public policy considerations include a potential decision not to appropriate funds under the terms of Pay-As-You-Go bonds. That decision carries potential credit implications associated with moral, as opposed to the legal obligation to repay. All of these matters should be carefully considered before proceeding with a project of this type. When the City has resolved these policy matters, it should require a complete examination of all documents relating to construction, and all documents securing the revenue bonds. Only after these steps have been thoroughly completed should the project be formally acted upon.

Respectfully submitted,

Springsted Incorporated

ATTACHMENT “C (3)”
Financing Alternatives,
“Pay As You Go”

CITY OF MADISON

OFFICE OF THE CITY ATTORNEY
Room 401, CCB
266-4511

Date: December 2, 2004

MEMORANDUM

TO: Jeanne Hoffman, Assistant to the Mayor

FROM: Anne P. Zellhoefer, Assistant City Attorney

SUBJECT: **"PAY AS YOU GO" TIF FUNDING**

The City has traditionally used five methods to fund both private and public TIF projects. These methods are: (1) to use tax increment which has been generated by a district to fund projects within that same district; (2) to use tax increment from a donor district to fund projects in a different, donee district; (3) to use the proceeds of general obligation borrowing; (4) to internally borrow money from other City funds, such as the special assessment revolving fund; and (5) to use the proceeds from the CDA’s issuance of its lease revenue bonds. Under the first four of these methods, loans to developers are made in a lump sum payment at closing, while lease revenue bond proceeds are disbursed by draws during construction. The City’s debt is repaid through the receipt of tax increment generated by the district, by developer cash payments, or both.

A different funding mechanism, which has been used by several Wisconsin municipalities, is being endorsed by private consultants and developers’ counsel. This mechanism is colloquially referred to as “pay as you go” because funds are distributed to the developer in annual payments over many years, rather than in a lump sum payment at closing. I will refer to this method as “tax reimbursement.” Under the tax reimbursement agreements I have read, a developer constructs a project using private loan financing, and the municipality promises to pay to the developer, over time, the amount of the developer’s bank loan, plus interest, using tax increment generated by the project. The developer and the municipality enter into a development agreement whereby the developer “buys” a municipal revenue obligation which has been “issued” by the municipality. Under the municipal revenue obligation, the municipality pledges to make payments, with interest, to the developer, according to an agreed upon schedule. The developer’s corresponding promise to the municipality is to construct a certain project at an estimated value in a TIF district. The municipality makes annual payments to the developer of collected tax increment, subject to annual appropriation. If in any year the tax increment collected by the municipality is less than the payment owed, the deficiency is carried forward to the next year, with interest, and the term of the municipal revenue obligation is extended to include additional payment dates until the municipality pays the full amount owing, or until the district terminates, whichever occurs first. By the terms of the development agreement, the municipality provides a pledge to the developer, and promises that the tax increment received from the project will be used only to pay outside consultants' fees and to reimburse the developer for its financing costs. In most cases, the developer receives 100% of the increment generated.

The tax reimbursement method as outlined above allows municipalities to circumvent the 5% debt limitation. This limitation, as set forth in the Wisconsin constitution and in Sec. 67.03, Wis. Stats., provides that the aggregate amount of indebtedness of any municipality shall not exceed 5% of the value of the taxable property located in the municipality as equalized for state purposes. (The City of Madison's direct debt is less than 2%.) The constitution exempts certain types of public utility financing from the debt limitation. A public utility is a revenue producing facility or enterprise owned by a municipality and operated for a public purpose. Sec. 66.0621(1), Wis. Stats. Common public utilities include parking systems, waste collection and disposal operations, and water systems. Under the tax reimbursement agreements I have reviewed, the TIF district or the project being funded is categorized as a public utility and the City's obligation to pay the developer is characterized as not being debt. In City of Hartford v. Kirley 172 Wis. 2d 191 (1990), the Wisconsin Supreme Court rejected the argument that TIF bonds were revenue obligations issued for a public utility and were therefore not debt. The court found that the TIF bonds were not "secured solely by the property or income of such public utility" as required by the constitution, but rather were secured by general property tax revenues. A municipal revenue obligation issued under the tax reimbursement method is also secured by general property tax revenues, and therefore, in my opinion, such an obligation is not a public utility financing and is not exempt from the constitutional debt limitation.

The tax reimbursement method of financing TIF projects would be contrary to several elements of the City's TIF Objectives and Policies. Madison uses a strict gap financing analysis as a part of the TIF application and review process in order to determine whether the "but for" test has been met. The City's TIF Objectives and Policies states that "TIF assistance in Madison is used only when the proposed development would not occur but for City assistance." In order to be considered eligible to receive TIF assistance in Madison, a project must first demonstrate gap. Under the tax reimbursement method, the developer funds the project privately and the City does not fill any financing gap. Instead of analyzing how much assistance the project may need, tax reimbursement looks to how much increment the project may generate.

The City's TIF Objectives and Policies also provides that no more than 50% of the net present value of tax increment generated by a private development project shall be made to that project as gap financing. This "50% rule" allows the City to use tax increment to fund public improvements and affordable housing projects within districts in addition to providing assistance to private development. Under the tax reimbursement method, the City must pledge all of the increment generated by the privately funded project to future payments to the developer, and none may be used for public improvements or other uses until the developer has been repaid in full. (One agreement I read obliged the municipality to pay two-thirds of the increment generated. This agreement, however, was still in draft form.)

The tax reimbursement method has been described as creating no financial risk for the municipalities that use it. I agree with this description. The tax reimbursement method, however, creates little or no financial gain for those municipalities either, since all or most of the increment during the life of the TIF District is given to the developer, and is not available to pay for City services rendered to the project or to fund public improvements or other TIF eligible projects.

From a legal perspective, if a tax reimbursement method were to be used by the City of Madison, I would advise: (1) that payments by the City be treated as debt backed by the City's taxing power and not as the financing of a public utility; (2) that the City's normal underwriting process and but-for analysis be retained to determine the project's level of need; and (3) that the City make payments to a developer based on gap, rather than on increment received, in order to avoid such payments being deemed an illegal tax rebate.

Please call me if you have any questions.

AZ:sob

cc: Dean Brasser
Don Marx
Joe Gromacki

ATTACHMENT "C (4)"
Financing Alternatives,
"Pay As You Go"

MEMORANDUM

By Larry Nelson

This memorandum has been prepared to detail concerns regarding the current proposals of developers and attorneys who wish to represent developers for TIF (Tax Increment Financing.)

We understand that those proposals have the following attributes:

- That the development would enjoy 100% of the tax increment for up to 27 years;

- That the city would transmit the tax revenues that would normally accrue to the City, Dane County and the School District(s) to the financial entity that holds the financial paper for the development;

- That the borrowing for the development would not be considered General Obligation Debt (contrary to the test case before the Wisconsin Supreme Court); and,

- That the legal test that the development cannot proceed without TIF would be ignored.

Finally, we understand that the slogan for this program is "pay as you go", which is very attractive and does not distinguish on who gets to pay and who gets to go.

We have the following concerns regarding modifications to the TIF programs as currently constituted and applied.

- First, the TIF program represents huge sums of money. Those who critically evaluate the need and public return regarding the proposals for development risk being termed obstructionist and lacking in vision.

- TIF financing has the potential to drive out private investment. The city has a number of legal firms that suggest that any developer demand "their TIF". Examples include the development of the Findorff Corporate Headquarters and the undergrounding of electrical transmission lines.

  One of the first TIF projects was the Mollenhoff project at Williamson and Blount Streets. TIF funded the undergrounding of electrical transmission lines. After that project, MGE refused to underground transmission lines without compensation from the city for over a decade. In the mid-nineties, MGE again began to partner with the city to underground transmission lines. When the city began to compensate MGE with TIF, the company resumed its previous policy of conditioning payment for undergrounding. In 2004, SBC adopted the same position and the 400 Block of W. Wilson Street continues to have overhead telephone lines.

- With the transmission of 100% of the increment to the developer's project, there will not be any funds to provide additional services for the new development.

  One of the attractive aspects of the Union Corners development is the potential for additional families in this aging neighborhood. However, the cost of services for this new development will have to be born by the other tax payers as the taxes for this development will accrue to the developer under the new TIF proposals.

  TIF was to have been a boon to existing tax payers, not a liability.

- The City of Portland has an enviable inter-city transportation system including a successful street car system. That street car system was paid for using an Oregon version of TIF. The proposed changes to our TIF policy would eliminate TIF to fund necessary improvements to our transportation system to serve the very developments that we are creating.

- It is our considered belief that TIF is the driving engine for the rapid increase in land costs in the isthmus. The increase in land costs and the attendant speculation, has increased the costs for existing businesses and residents. Ironically, we have to increase TIF to close a gap that was largely created by TIF.

  The proposed revisions to the TIF policy, that would eliminate the gap analysis, will further increase the cost of land in those areas in which TIF is available, and drive out development that is not financed by TIF.

- It is both the requirement of law and the demand of the public that the expenditure of public funds for public improvements should be a competitive procedure. That is not the case with the expenditure of TIF funding, where the costs are generally determined by legal, accounting, and construction firms that have a vested interest in the project.

  The proposed TIF policy changes, which eliminate the need for a "but for test" and gap analysis which further erode the public's review of this process and ultimately, public trust.

ATTACHMENT "D (1)"
Affordable Housing

CITY OF MADISON

INTER-DEPARTMENTAL
CORRESPONDENCE

DATE: November 21, 2002

TO: Members of the Board of Estimates

FROM: Hickory R. Hurie, CD Grants Supervisor

SUBJECT: **Report on a Draft Protocol to implement the BOE recommendations concerning the TIF 10% set-aside for affordable housing**

The Common Council adopted revised Tax Incremental Financing (TIF) objectives and policies that created a 10% set aside reserve for an affordable housing component within each residential TIF district. After some discussion among various policies groups and the Board of Estimates, the Mayor and BOE adopted a method to create ad hoc district committees as part of the establishment of each TIF district. The purpose of each district committee is to recommend investments of the TIF set aside funds into affordable housing projects which balance the general parameters of the City housing goals, and the specific needs of each tax incremental district.

On January 22, 2002 the Council adopted a second substitute resolution #58981 which charged the CDBG Office, with advice from CED staff, to make recommendations to BOE for the general parameters and primary choices for affordable housing investments from the TIF set aside, as well as terms and protocols to be used by each district-specific ad hoc group in establishing the affordable housing preferences for the TIF set aside funds.

The CDBG Office has spent the last several months discussing these choices with other City staff (including the TIF coordinator and the Assistant City Attorney) and some Council members, and recommends BOE adoption of the protocol attached to this memo. I have attached a draft resolution that the Board of Estimates may use to enact the protocol after you have discussed, revised, and amended this draft. Once adopted, the CDBG Office would use the protocol to administer the TIF Set Aside Funds.

If you have questions, please call me at 261-9240 or e-mail me at hhurie@ci.madison.wi.us.

cc: Mary Charnitz, Joe Gromacki, Warren Kenny, Mark Olinger, Anne Zellhoeffer

<u>TIF Set Aside Program Protocol</u>

<u>General Parameters</u>

All projects shall meet the general project parameters as follows:

- Applicants for TIF set-aside funds may be a registered non-profit tax-exempt corporation or a for-profit corporation or limited liability company.
- All applications for TIF set aside funds must include identification and site control of a specific site within the eligible district.
- All properties proposed for TIF assistance shall pay ad valorem taxes.
- A dwelling unit shall be defined as an 'affordable unit' where the tenants/owners are at target median income and pay no more than 30% of gross income for rent or Principal, Interest, Taxes and Insurance (and condo or homeowner association fees if applicable) respectively. (The Target median income shall be derived from the priorities established by the designated TIF District committee.) The period of affordability shall be the <u>greater</u> of 20 years or life of the tax incremental finance district.
- Rents for the affordable units cannot exceed the current Section 8 Fair Market Rent for the unit size, as determined by the Federal Department of Housing and Urban Development. The sole exception to this rent level is the 'exception rent' approved by the Community Development Authority for those units that have an approved Section 8 voucher holder, meet Section 8 Housing Quality Standards, and are specifically located within an 'exception rent' neighborhood designated by the Community Development Authority.
- Homeownership housing units shall be targeted to households who have not owned a home or property within the last three (3) years, except for individuals who qualify as displaced homemakers or who are dividing their household as a result of divorce or dissolution of a City registered domestic partnership.
- The term of the direct TIF assistance shall be a forgivable loan for the 'period of affordability'. If the rental housing is sold or changes use from the original agreement prior to the end of the period of affordability, then the developer/owner shall pay to the City an amount equal to the amount of the original TIF investment (plus the 'equity kicker' detailed below). For owner-occupied housing developed for sale to low-income buyers, the term of repayment for the developer will be transferred to the homebuyer, and to successive generations of income-eligible buyers until the end of the original period of affordability. In the event that the direct loan payback is received after the closure of the TIF District, the City shall deposit the funds in the Housing Trust Fund, less staff costs associated with the recovery of the funds.
- In addition to the original loan agreement and amount, the City will require the developer to enter into a developer agreement to pay to the City, upon sale or transfer of the assisted property during the period of affordability, a portion of the appreciated value that is determined by the percent that the TIF funds represent in the property. In the case of resale by an individual income-eligible buyer during the period of affordability, the City may roll the equity kicker due from the pre-20 year sale into financing for the next income eligible buyer with the terms of repayment equal to the pro-rated appreciated value of the equity kicker. The City shall deposit any repaid 'equity kicker' funds in the Housing Trust Fund for use for additional affordable housing.
- All projects must meet the "but for" criteria, which would certify that if not for the TIF funds the project would not occur. In no case shall the per-unit subsidy amount exceed $25,000 in rehab assistance or $45,000 for development of new units. An additional $5,000 per unit may be considered when necessary for projects to provide for fully

accessible units, high air quality, energy conservation or lead paint hazard reduction efforts. (Rehab means the labor, materials, tools and other costs of improving buildings, other than minor or routine repairs.)

- A minimum of 85% of TIF funds must be used for hard costs, such as construction costs, soils/site preparation, landscaping, etc.; 15% may be used for soft costs related to the capital improvements, development, or construction of the assisted unit(s). All TIF-covered costs must be demonstrated to be reasonable and comparable to the construction of other similar developments.
- The project may not exceed a 90% loan-to-value ratio, based upon the post-improvement value of the assisted unit.
- All TIF Set Aside funds must be expended within seven (7) years of the creation of the TIF district.

<u>Priorities and Preferences</u>

Each district-specific ad hoc group will determine the following priorities and preferences:

<u>Priorities</u>:

- Targeted distribution between ownership and rental options;
- Targeted income levels within the parameter of 80% County median income or below;
- Targeted distribution between improvement to existing property owners versus creation of new units.

` <u>Preferences</u>:

- Preferred size of the development (i.e., scattered size versus large complex, etc.);
- Preferred site to be developed or assisted.
- Preferred type of housing unit (i.e. SRO, small family, large family, single family, condo, etc.).

*Note: Program protocols will be implemented consistent with the previously approved “A Text Description of a TIF Affordable Housing Process” (attached).

ATTACHMENT "D (2)"
Affordable Housing

Department of Planning & Development
Inspection Unit

Website: www.cityofmadison.com

Madison

Madison Municipal Building
215 Martin Luther King, Jr. Boulevard
P.O. Box 2984
Madison, Wisconsin 53701-2984
TDD 608 266 4747
FAX 608 266 6377
PH 608 266 4551

DATE: May 17, 2005

TO: Board of Estimates

FROM: Thomas Hirsch, AIA, Chairperson
Housing Committee

SUBJECT: **City Policies on TIF**

At its meeting on May 4, 2005, the Housing Committee unanimously approved the Affordable Housing Subcommittee's recommendation on revisions to the City policies on TIF and instructed that they be forwarded to the Board of Estimates. They are:

1. A standardized analytical tool for the "but for" test should be promulgated.

2. The share of the increment made available to a specific development should remain at 50% unless justified by a demonstration of greater public benefits.

3. In mixed use developments, affordable housing units should receive an equitable share of TIF assistance along with economic development and infrastructure improvements.

4. The 10% set aside for affordable housing should be made available in addition to funds under #3 above if needed to attain minimum performance under IZ or better, and to avoid offsite IZ units.

5. There is adequate justification for the public to share in better-than-expected returns (e.g., sale of ownership units above the but-for test pro forma) *in proportion to the funds put forward by the parties, as is current policy in the 10% set-aside protocol.* For-rent developments typically have long holding periods and the calculation of appreciation is complex.

6. Refinancing under more favorable terms should also be subject to benefit-sharing as in #5 above.

ATTACHMENT "D (3)"
Affordable Housing

DATE: October 18, 2004

TO: Mayor Dave Cieslewicz
Board of Estimates Members

FROM: Thomas Hirsch, AIA – Housing Committee Chairperson

SUBJECT: **Housing Committee Consideration of TIF Policies**

Please be advised that the Affordability Subcommittee of the Housing Committee started its examination of City policies on Tax Incremental Financing relative to housing development in general, and affordable housing in particular, this week. During this initial discussion the following policy items of concern were identified:

1. Share of the projected increment available to the developer, to the City for its "hard costs", and to the City for district administrative costs and financing.

2. Amount required as an Equity Kicker, and whether this should be the same in both rental and ownership scenarios.

3. Ten Percent set aside for affordable housing

4. Calculation of Net Present Value of the increment

5. Interaction between TIF and IZ

The subcommittee is requesting presentations and data from Planning & Development staff at its November meeting (the second Wednesday of the month), and then will proceed to deliberate the above issues (and possibly others, as well). Such discussion is likely to extend into December, after which the full Housing Committee will consider recommendations.

At the meeting earlier this week, the Subcommittee learned of discussions between the BOE and citizens and staff and that some topics have proceeded quite far. We think it's important that you coordinate these with the Committee's work.

Affordable Housing Subcommittee

9 March 2005

At its regularly scheduled meeting, the Subcommittee discussed current City policies on TIF and agreed to submit to the BOE the following:

1. A standardized analytical tool for the "but for" test should be promulgated.

2. The share of the increment made available to a specific development should remain at 50% unless justified by a demonstration of greater public benefits.

3. In mixed use developments, Affordable housing units should receive an equitable share of TIF assistance along with economic development and infrastructure improvements.

4. The 10% set aside for affordable housing should be made available in addition to funds under #3 above if needed to attain minimum performance under IZ or better, and to avoid offsite IZ units.

5. There is adequate justification for the public to share in better-than-expected returns (e.g., sale of ownership units above the but-for test pro forma) *in proportion to the funds put forward by the parties, as is current policy in the 10% set-aside protocol.* For-rent developments typically have long holding periods and the calculation of appreciation is complex.

6. Refinancing under more favorable terms should also be subject to benefit-sharing as in #5 above.

Subcommittee members present were: Chair Brink, Hirsch, King, Villacrez and Zmudzinski.

ATTACHMENT E: Industrial TIF

ATTACHMENT "E"
Industrial TIF

The Evolution of Industrial TIF and TIF Policy in Madison

Community and Economic Development Unit
City of Madison
April 12, 2005

Purpose of this Report

As a part of ongoing discussions concerning the emerging City of Madison TIF Policy and recent changes to TIF Law enacted in 2004, staff has been asked to compile information concerning current industrial TIF performance, objectives and criteria toward consideration of future industrial TIF policy.

Background and Timeline

Although known mostly for making great strides using TIF to redevelop the urban center, the City of Madison has also effectively used the industrial TIF program to stimulate job retention and growth through industrial development (see the attached map for further reference). The following is a timeline description of Madison's industrial TIF activity:

1977 Using the recently enacted TIF Law, the City of Madison's very first Tax Increment District or "TID" is industrial. TID #1 (Broadway Industrial) is located in the southeast corner of Madison in the vicinity of Broadway and USH 51. It recovers all **$474,000** of its project costs through tax increment and closes in 1984 (approximately 7 years). Incremental value growth created: **$11,095,895**

1984 The City creates TID #12 (Broadway Industrial II) in the same general area of southeast Madison but with a broader boundary than TID #1. The City provides **$989,400** of TIF assistance for two small projects, including Four Lakes Label ($90,400) and W.T. Rogers ($899,000). The district closes in 1996 (approximately 12 years), having creating **$20,029,800** of incremental value growth.

The City creates TID #13 (Rayovac) in an effort to retain Rayovac as a major Madison employer (approximately 1,200 jobs at the time). **$3,200,000** of TIF assistance enables the company to purchase and develop land on the site where their headquarters is located today. TID #13 recovers all its costs through tax increments and closes in 1999 (approximately 15 years), having created **$19,808,400** of incremental value growth.

1992 The City creates TID #22 to assist the Blettner development of Madison Corporate Center on Madison's east side, near Milwaukee Street. The TID is bounded by Corporate Drive, Regas Road and Hwy 51. The City invests approximately **$5,600,000**, including $3,000,000 of infrastructure including grading and storm water drainage, $1,150,000 of right of way acquisition and relocation, and $1,450,000 of City borrowing cost to facilitate the project. As growth in this district lags significantly from projections, the City infuses **$3,250,000** of donor TIF from Districts #6 and #14 so that the district may be closed earlier without incurring additional financing costs. The district closes in 2001 (approximately 9 years), having created **$19,008,000** of incremental value growth.

1995 The City creates TID #24 (Southeast Industrial), covering the area around the original TIDs #1 and #12 and a significant amount of underutilized and vacant acreage in the southeast corner of Madison. In ten yeas of operation, the City invests **$2,175,000** in direct assistance to projects, including $1,400,000 to the

World Dairy Center and $775,000 to retain or attract 6 companies and retain 319 jobs and to create 89 new jobs. To date, the district has created **$93,157,700** of incremental value growth.

TID #24 Company	Year	TIF Loan Amount	Jobs Retained	Jobs Created
World Dairy Center*	1995	$ 1,400,000	NA*	NA*
Kornell Properties	1997	200,000	65	10
Westphal Associates	1999	50,000	20	0
Temperature Systems, Inc.	2001	75,000	74	3
Jaeckle Wholesale, Inc.	2002	100,000	55	0
FE Petro/Franklin Fueling Systems	2003	200,000	65	70
Isthmus Engineering	2004	150,000	40	6
TOTAL		$ 2,175,000	319	89

*World Dairy Center is an industrial park land development project. To date, no data is available as to the number of jobs retained or created as a result of businesses constructing facilities in the industrial park.

2001 Madison Common Council adopts a TIF Policy document that includes industrial and economic development objectives and policies.

2004 The Wisconsin Legislature enacts sweeping TIF Law changes, effective October 1, 2004. These changes include reducing the life of industrial districts from 23 to 20 years and increasing the expenditure period from 7 to 15 years.

A city may also amend an industrial TID to add an additional 5 years in the 18th year of the district's life provided an independent audit demonstrates to the Joint Review Board that the district is unable to pay off its project costs within 20 years of its creation.

2005 The City is considering the creation of TID #34 (Covance) in northeast Madison to pay for public improvements that will facilitate the estimated $57,000,000 Covance expansion project. The City forecasts that tax increments on the estimated $25,000,000 incremental value could pay for approximately **$6,700,000** of public improvements.

Applicable TIF Objectives and Policies

TIF Objectives The following objectives, listed under the heading "Support Economic Development" are intended to "stabilize and diversify the City's economic base" by:

a) Improving public infrastructure

b) Supporting development of industrial sites to attract new industries and provide suitable locations for expansion and relocation of existing industries.

c) Providing financial assistance to new and existing businesses.

TIF Policies The following TIF policies are applicable to industrial development:

Policy 2 (a) Speculative Office Development**—**Speculative office development is an ineligible use of TIF.

Policy 2 (c) Land Purchase Write-Downs—The City of Madison shall not write down land purchase prices that greatly exceed the assessed value of the current land use(s) as determined by the City.

Policy 4(a) "But for" Determination**-**TIF Law requires that the City demonstrate that projects receiving TIF must demonstrate that but for TIF, the project could not occur. TIF Policy reaffirms the Law and underscores that this analysis will be conducted on every project.
Policy 4(e) 50% Rule**—**No more than 50% of the net present value of the tax increment generated by a private development shall be made available to that project as gap financing.

Policy 8(b) TIF Generators**—**TIF Policy requires that a proposed TID must demonstrate a near-term TIF "generator". The generator must have an incremental value (total value – base value) of at least $3 million.

9 (e) Prevailing, Living Wage Non-Discrimination Ordinances**—**Madison General Ordinances 4.20 and 4.23 concerning applicants receiving City funds must pay a prevailing and living wage and conform to MGO 3.58 concerning Non-Discrimination.

Summary and Findings

TIF & Growth

Generally, industrial TIF has been a good investment for the City of Madison, as the following illustrates:

1. To date, the City of Madison has invested **$12,163,000** of TIF toward industrial projects.

2. Industrial TIDs account for **$163,099,795** of value growth.

3. $1 of TIF investment has yielded $13 of value.

4. 22% of the value in all City TIF districts has occurred in industrial TIDs.

5. The four industrial districts that have closed recovered their costs and closed on an average of 10 years.

TIF Law Changes:
Advantages & Challenges

As indicated in the timeline above, the Wisconsin Legislature enacted several dramatic changes to industrial TIF. Here are some of the advantages and challenges that may affect an emerging industrial TIF Policy:

Advantages:

1. Lengthening the expenditure period allows the City to time expenditures closer to the generally slower pace of industrial park absorption—which in most cases could span ten to fifteen years or more.

2. Extending the district's life by 5 years, provided an independent audit demonstrates to the Joint Review Board, in the 18th year that the district is

unable to pay all its costs, enables the city to make adjustments if unanticipated shortfalls occur.

Challenges:

1. Should TIF investment be made during the last few years of the allowable expenditure period (10^{th} through 15^{th} years)—knowing that there would only be a few years left to collect tax increment? Without some system of protections, TIF expenditure in those final years would be risky.

2. The 5-year extension is comforting but it may only be made in the 18^{th} year. Such an extension may not generate enough tax increment, in all cases, to cover the amount of expenditure made in the final years of the expenditure period. Again, a judicious review of TIF expenditures in these final years will be paramount.

3. The State of Wisconsin Department of Revenue assesses manufacturing property making it difficult to forecast the incremental value accurately.

4. TIF Law requires that property within an industrial TID must remain zoned industrial for the life of the district. This may be difficult to track and/or guarantee over time.

5. The new TIF Law is ambiguous regarding the extension of the district expenditure period and required closure. On the one hand, it requires that a district must close when tax increments fully recover project expenditures but also dictates that the district may make expenditures for up to 15 years. Which occurs first? Does the district close when all costs are recovered or does it remain open 15 years expire? How does this apply to districts that still have vacant industrial land that hasn't been improved yet?

6. The future political impact of longer TID life on overlying tax jurisdictions. As voting members of the Joint Review Board, overlying districts may be less likely to approve future districts if the average district life begins to extend longer than the City's historical 12-year average, especially in tight budget times.

Other Industrial TIF Policy Questions

In addition to existing TIF Policy and changes in the TIF Law, there are other emerging questions and issues are likely to impact an industrial TIF Policy.

1. The law still only allows TIF to be used for land and other capital expenditures and all projects must meet a "but for" test. What other tools are out there to grow industry?

2. There is a limited supply of industrial land in the City's corporate boundary. How much will we need? What planning solutions are out there? Does the City acquire more industrial land?

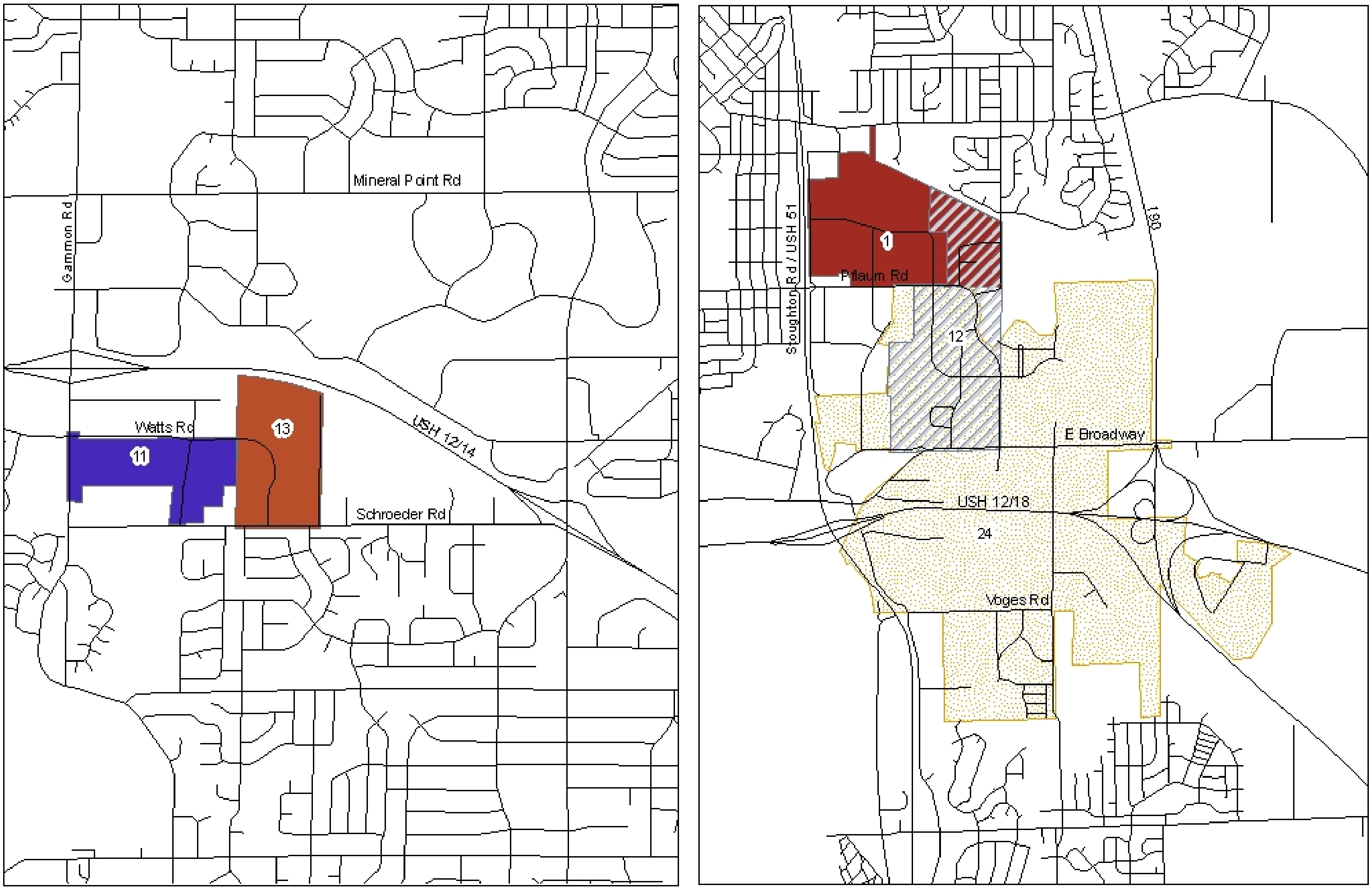
3. "Greenfield TIF", or how to use TIF and still achieve a balance between land use economics, job creation and preservation of open space? What needs to happen?

4. Land use economics--especially dramatic TIF write-downs on land prices. This is the biggest issue with any kind of TIF right now. At what point, if any, is writing down land for jobs worth the impact on the increment and market values (i.e. lowering assessed values)?

5. TIF assistance and job creation—should there be standards? Are there targeted industry clusters? What if the jobs aren't created/retained? What business retention and expansion policies exist for major, long-standing employers?

6. TIF for "boundary hopping" companies. When is winning a business from our neighbors (Fitchburg, Middleton, Verona) a good deal for all? When is it not such a good deal? Should the City consider an anti-piracy policy?

7. What programs exist or can be created for small businesses that do not meet minimum TIF underwriting standards (i.e. less than a $3,000,000 incremental value), yet create jobs?



City of Madison
Southeast and
Southwest TID's

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CEDU 20 April 2005
DWR (SE_SW TID 041905)

ATTACHMENT F: Other TIF Input

ATTACHMENT "F (1)"
Other TIF Input

CITY OF MADISON
Common Council
INTER-DEPARTMENTAL
CORRESPONDENCE
210 Martin Luther King, Jr. Blvd., Rm. 417
266-4071

DATE: April 15, 2005

TO: Mayor Dave Cieslewicz
Members of the Board of Estimates Subcommittee on TIF

FROM: Ald. Ken Golden, District 10 KG/

SUBJECT: **Input**

The two recent TIF districts and issues in my district, combined with many, many community discussions about TIF and Monroe Commons, have sparked increased interest on my part in this subject. In fact, if the subcommittee is still meeting and if Warren is no longer going to be a member (and I recommend that we recreate the subcommittee so he can continue on it if he's willing to serve), I am certainly willing to take that seat. In fact, I think we may want to have a broader, more participatory process involving the wider community instead of just a small group of insiders.

The reason I'm writing, though, is to offer some general input and ideas concerning our approach to TIF that have been ruminating in my inexperienced head. I shared them verbally with Judy, and while she certainly didn't endorse them, I think her reaction was positive enough to the matters I mentioned that I thought I'd share them with all so they can at least become part of the discussion.

There are two ideas and approaches I'd like to share and encourage we work toward. The first involves our tendency to create policies to which TIF proposals must adhere versus something more flexible, like a guideline. When a proposal doesn't adhere to a specific policy, I've observed that we end up debating the lack of adherence and sometimes lose sight of the underlying reason for the policy. For example, when Monroe Commons exceeded the 50% requirement, much of the debate focused on the fact that it was so out of whack with that requirement; none of the discussion focused on how that affected the City. This is why we have the 50% requirement, so why not connect the dots? Had the public been awake to watch the discussion, their understanding of TIF would still have been nil. Nobody would know why the 50% requirement exists. As an aside, some of the technical terms we have created, like 'equity kickers,' also tend to make the process appear to be an almost mystical religion with its own liturgy and language.

My idea is to look at this and every one of our TIF <u>policies</u> and determine why we have them. Instead of simply creating a checklist to ascertain if a project complies with the policies, I suggest we convert the policies into guidelines. In any kind of staff checklist form, we wouldn't necessarily ask, "Does the project adhere to this guideline?" We would express the underlying reason for the guideline. If the 50% guideline is to reduce our risk if a project goes south, say that. Then, when we make a judgment about whether or not to award the TIF assistance, we make the decision based on our assessment of risk, not on the basis of some arbitrary percentage. Why 50%? Why not 53% or

61%? Fifty percent is a dartboard number. If we're going to govern by our policies rather than be governed by them, we should be in a position to make judgments about the efficacy of the project and whether or not it places us at risk, not whether it meets a standard fifty-four people in Madison know about, twenty-three of whom understand it.

The warrants that Traffic Engineering (TE) and the Pedestrian/Bicycle/Motor Vehicle Commission (PBMVC) use are a good analogy. TE has warrants for crossing guards, traffic signals and stop signs. Warrants advise the PBMVC, but it is the commission that makes a decision. Their decision might be contrary to the underlying findings in the warrant analysis. Oftentimes we simply approve something in spite of the warrant because there seems to be a logical reason for doing what is being recommended; we recognize that the warrants (read: policies) perhaps didn't measure some factor that we intuitively think or know should have been measured.

I believe the same might be the case with TIF. If we have criteria, and we say that a particular project doesn't meet our criteria but somehow transcends the existing policy discussion by bringing something new to the table, and we all value that new factor, we can feel free to vote for it, even when it doesn't meet the warrants. Did we ever anticipate historic preservation issues in the Tobacco Warehouse? Did we have the word grocery in the pages of policy? Those are good examples of transcended issues we failed to anticipate and which caused or may have caused us to stretch our policies.

The second issue about which I want to make a suggestion concerns priorities. We seem to be operating our TIF program on a "first come, first served" basis. I was lucky enough to have the two projects in my district come before the Randy Alexander project and the recently created industrial TIF district. It seems to me that the Community Services Commission (CSC) does a much better job of allocating its funds by first producing a document that, in essence, includes two pieces of information: first, what they are willing to fund that year, and second, what priorities they have for the funding that year. For example, the CSC may not want to fund mental health services because that is a Dane County responsibility, so they say they won't. If someone applies and gets denied, there's a clear reason for the denial. On the other hand, if they're willing to fund rape prevention and developmental services for children in a preschool or daycare mode in a challenged neighborhood, we often see the CSC making the hard decision and asking us to concur that one of these gets priority over the other.

I think we should use that approach in dealing with TIF, particularly if there are limits on how much we can borrow in a particular year. If we have worthy projects that we just can't afford in a given year, and if the project itself can endure the delay, we could carry them over, much like we might carry over projects in the Community Enhancement Program. I realize the level of funding with TIF is much more significant, but I think the analogy works. I think we could really engage the public. Rather than having to pass/fail every project that comes along, one by one, comparing it to itself, if a project comes in during the year and it doesn't represent a priority, we could delay it, particularly if we know other, higher priority projects are coming in. Again, it gives us a chance to govern rather than be governed.

I've actually gone longer than I intended, but I hope this adds to and stimulates the discussion. I will certainly be an active participant when this report comes back to the Board of Estimates, whether I'm on the Board or not. Thanks much for your attention.

cc: Members of the Common Council
Alder-elect Jed Sanborn, District 1
Alder-elect Lauren Cnare, District 3
Alder-elect Tim Gruber, District 11
Alder-elect Isadore Knox, Jr., District 13
Alder-elect Larry Palm, District 15
Alder-elect Noel Radomski, District 19
Mark Olinger, Director, Planning and Development
Dean Brasser, City Comptroller
Don Marx, Real Estate Manager, Community and Economic Development Unit
Joe Gromacki, Real Estate Development Specialist, Community and Economic Development Unit

ATTACHMENT "F":
Other TIF Input

To: Madison Common Council TIF Subcommittee
From: Progressive Dane Economic Issues Task Force
(Brian Larson, Vicky Selkowe, Shelley Fite, Tami Friedman, Marsha Rummel, Stephanie Rearick, Shawn Eisele, Brenda Konkel)
Re: Public Investment, Public Returns – TIF Reforms
Date: APRIL 1, 2005

BACKGROUND:

The people of Madison want a strong economy, a healthy environment, quality jobs, and the basic amenities that make our city a great place to live. We often rely on the private sector to pursue projects that will help improve our quality of life. In turn, the private sector often seeks support from "the public" – those of us who live and work in Madison, and support it with taxes – to get these projects off the ground. Tax Incremental Financing (TIF) has become an increasingly important tool for promoting economic development goals.

It is reasonable for us to support, with our taxpayer dollars, projects that will improve the lives of community residents. But it is equally reasonable to expect a return on our investment – to make sure that: 1) these projects do not harm our city and its people; and 2) the benefits that derive from these projects accrue to the people of Madison, not simply to the private developer or business owner who wants our financial support.

In light of the City's commitment to limit borrowing for TIFS, it is especially important that we spell out our expectations for urban redevelopment. Below, we outline the types of conditions and specific ideas for reform that will make the development process in general – and TIF authorization in particular – more responsive to community needs.

I. A CITY-DRIVEN AGENDA

Currently, Madison's TIF allocation process operates on a first-come, first-serve basis. Whichever developer shows up first and can get his or her project approved, gets funding, without any long-term planning, budgeting or prioritization. There is no opportunity for elected officials, neighborhood organizations and planning councils, local businesses and property owners and the public at large to provide input as to what the priorities for TIF should be in a given time period.

We envision a reformed TIF process that is City driven, not developer driven. In this reformed process, the City would hold annual public hearings with stakeholders to gather input on where City TIF dollars should be spent during that time period. Based on this public process, the City could then: 1) set priorities for specific geographic areas or projects; 2) budget its TIF funding accordingly; and 3) inform the development community of these priorities.

II. A PARTICIPATORY PROCESS

The TIF process now is largely incomprehensible to even relatively engaged and aware residents and key decisions are made with limited public scrutiny. The process should be reformed to include specific ways to gather public and stakeholder input and create an oversight committee for each TID.

In order to ensure that the TIF process is citizen-driven, rather than developer-driven, Madison should develop a clear, specific definition of blight. Such a move would actually be beneficial both for residents and for developers seeking TIF money. The public can feel confident that their tax dollars are subsidizing improvements only in those areas that would not be redeveloped without subsidies and that can have the greatest positive impact on the City's quality of life and the overall tax base. Developers can ask for TIF dollars with better understanding and preparation, increased transparency in the process, and assurance that their proposal is being examined based on clearly defined criteria, rather than bias or whim.

For many projects blight can be applied to almost any area a developer wants assistance in developing. That is unworkable. Madison should follow the lead of many other jurisdictions to explicitly restrict blight to urban or residential areas, in order to avoid using blight to foster sprawl. It should further explicitly ban a blight label from being used for TIF developments in environmentally sensitive areas or on farmland. The City must tighten the general definition of blight.

A community impact statement that reviews economic, environmental, transportation, housing and cultural resources should be undertaken by the City when a TID is being considered to insure that the community benefits. We should establish clear mechanisms for determining eligibility. Is the area truly blighted? Does it meet "but-for" test? In what way does project meet city needs? Hold public hearings on impacts.

Directly notify area residents in and adjacent to the district of the proposal to create a TIF and establish an Interested Parties Registry in order to inform stakeholders of the progress of the TIF. Once the TIF is created, notify those who register of subsequent requests for TIF funds.

Create a stakeholder based TIF Oversight Committee for each district that shall include residents, neighborhood associations, neighborhood based community organizations, business district associations, property owners, local businesses, district employees and the Alder and County Board supervisor with the power to review implementation goals.

III. TANGIBLE BENEFITS

The public must be able to know that it can expect to receive certain benefits in exchange for TIF. All too often, developers are willing to include some of these benefits as part of their proposal, but the details are often left to the last minute and commitments are frequently not secured in a way that binds the developer to actually provide them. Moreover, oversight and accountability mechanisms are lacking to ensure that, post-approval, the developer does indeed live up to its commitment to provide those benefits.

Following is a list of possible benefits – provided by the developer or the municipality, as appropriate – that the public could expect to receive in exchange for TIF. Many of these benefits would be items that the developer would commit to providing as a condition of TIF approval. They should be spelled out in a binding legal contract that contains enforcement mechanisms and penalties for noncompliance.

- **Jobs:** Create a certain number of jobs, provide certain types of jobs with specific wages and benefits, provide jobs to particular residents (of a defined geographic area, members of minority or disadvantaged populations, etc.), and/or utilize TIF for job training and placement. (For the most part, these expectations should apply to the developer and the construction contractors and subcontractors and the businesses that operate in the TID after the development is built.)

- **Environment:** Conduct environmental impact study, use recycled materials, reduce hazardous waste, promote air quality and water management. Establish green building standards. Promote open space and parkland improvements.
- **Community services:** Use a share of TIF funds for child care centers for workers employed in TID, prioritize projects and services needed in particular neighborhoods (grocery stores, drugstores, health clinics, banks and credit unions etc.), and/or inform and protect neighborhoods and pedestrians during construction
- **Housing:** Require a minimum share of affordable housing units, conduct housing impact study if displacement expected, provide funds for relocation of displaced residents and/or establish low-interest loan fund for affordable housing developers and small cap loans for rehab to residential property owners. Establish transit demand management strategies to limit TIF expenditures for structured parking.

Economy: Conduct economic impact study, set aside share of TIF dollars for small or locally-owned business creation and expansion, façade improvements and/or forbid businesses that have abandoned other communities to relocate to Madison from receiving TIF dollars.

Accountability: Hold regular meetings of Joint Review Board to track TID revenue performance. Insure that expenditures appear in city budget. Place a ceiling on City's TIF commitments. Establish clear guidelines for clawbacks and equity kickers. Have TIF contribute to cost of additional public services created by the TID. Require annual reporting by the developer. Hold public hearings if changes are proposed for the TIF including land use, boundary amendments, or to donate the TIF increment to another TID.