

Oct 31, 2012
G. Peterson Hmdout

MEMORANDUM

To: Joint Review Board Members and Mark Clear, Madison City Council President

From: Gary L. Peterson, AICP

Subject: Joint Review Board as part of a Tax Incremental District (TID) Approval Process

Date: August 23, 2010

We had discussed what the Joint Review Board could or could not do as part of the approval of the creation of a new or amended TID. I would like to comment on what I see is their function and authority.

First, when Wisconsin initiated the Tax Incremental Financing (TIF) Law there were no Joint Review Boards. The reason they were created was the law was abused. A couple of examples of abuse are: one, a new building is being built on one end of town and the TID boundary was drawn around the developing parcel, run down either side of a railroad right of way to the other end of town and then drawn around an area needing improvements. None of the money was spent at the generator site. There was absolutely no relationship between the two occurrences. A second example was when a new manufacturing development was announced a TID would be created in that area and the increment used to create a new industrial park on the speculation more industry could be attracted. Again no increment was used to support the original manufacturing facility.

I believe that just having a Joint Review Board stopped those abuses. I know of only one TID that has not been approved by a JRB, but there may be others. However, we do have the law and the law must be followed. I have included a copy of the State Status for TIDs at the end of this memo so you can review the law for yourself.

A TID cannot be created unless a majority of members present at the JRB meeting approve the creation resolution. The Joint Review Board must examine the record and establish its decision on the following 3 criteria:

1. Whether the development would occur without the use of tax incremental financing. This is the "but for" test. In a blight removal TID would the blight be removed without the TID? In one scenario would the development as proposed occur without financing under the TID law? In a second scenario is it so important to a City to remove blighted conditions that the increment may never pay back the TID costs, yet a TID is necessary to make changes. In either case it is an approval able TID.
2. Another criteria is whether the economic benefits of the TID to be created, as measured by increased employment, business and personal income, and property tax are sufficient to pay back TID costs. This is the desired outcome. However, it is not an absolute requirement the

(1)

increment pay back the TID cost. The TID may be so important, the blight so severe that partial recovery of the funds is better than no recovery. In either case this is an approval able TID.


3. Whether the benefits of the proposal outweigh the anticipated tax increments to be paid by the owners of the property in the overlaying taxing districts. The question is, is this a TID that will be a benefit to the TID district and the region? If it improves the TID district and the region it is an approval able TID.

The following is what a JRB cannot do:

1. Cannot determine the TID boundaries.
2. Cannot determine what activities are included in the TID Plan unless the activities are outside the TID district.
3. Cannot determine if an activity is TIF eligible.
4. Cannot determine if a TID should be closed out.
5. Cannot determine if a TID should be a Blight Removal TID, Mixed Use TID or Industrial TID.
6. Cannot determine how many years a TID plan projects the TID to stay open.
7. Cannot determine if it is an appropriate time to create a TID.
8. Cannot determine if their constituents do or do not support the TID.

An item a JRB can do is hold public hearings. No matter what the testimony is at a public hearing a JRB can only vote on the 3 items listed above. Nothing else can be taken into consideration.


(4m) Joint review board.


(4m)(a) 


(a) Any city that seeks to create a tax incremental district, amend a project plan, or incur project costs as described in sub. (2) (f) 1. n. for an area that is outside of a district's boundaries, shall convene a temporary joint review board under this paragraph, or a standing joint review board under sub. (3) (g), to review the proposal. Except as provided in par. (am), and subject to par. (ae), the board shall consist of one representative chosen by the school district that has power to levy taxes on the property within the tax incremental district, one representative chosen by the technical college district that has power to levy taxes on the property within the tax incremental district, one representative chosen by the county that has power to levy taxes on the property within the tax incremental district, one representative chosen by the city, and one public member. If more than one school district, more than one union high school district, more than one elementary school district, more than one technical college district or more than one county has the power to levy taxes on the property within the tax incremental district, the unit in which is located property of the tax incremental district that has the greatest value shall choose that representative to the board. The public member and the board's chairperson shall be selected by a majority of the other board members before the public hearing under sub. (4) (a) or (h) 1. is held. All board members shall be appointed and the first board meeting held within 14 days after the notice is published under sub. (4) (a) or (h) 1. Additional meetings of the board shall be held upon the call of any member. The city that seeks to create the tax incremental district, amend its project plan, or make or incur an expenditure as described in sub. (2) (f) 1. n. for an area that is outside of a district's boundaries shall provide administrative support for the board. By majority





vote, the board may disband following approval or rejection of the proposal, unless the board is a standing board that is created by the city under sub. (3) (g).


(4m)(ae) 
(ae)


(4m)(ae)1. 
1. A representative chosen by a school district under par. (a) or (am) shall be the president of the school board, or his or her designee. If the school board president appoints a designee, he or she shall give preference to the school district's finance director or another person with knowledge of local government finances.


(4m)(ae)2. 
2. The representative chosen by the county under par. (a) shall be the county executive or, if the county does not have a county executive, the chairperson of the county board, or the executive's or chairperson's designee. If the county executive or county board chairperson appoints a designee, he or she shall give preference to the county treasurer or another person with knowledge of local government finances.

(4m)(ae)3. 
3. The representative chosen by the city under par. (a) shall be the mayor, or city manager, or his or her designee. If the mayor or city manager appoints a designee, he or she shall give preference to the person in charge of administering the city's economic development programs, the city treasurer, or another person with knowledge of local government finances.

(4m)(ae)4. 
4. The representative chosen by the technical college district under par. (a) shall be the district's director or his or her designee. If the technical college district's director appoints a designee, he or she shall give preference to the district's chief financial officer or another person with knowledge of local government finances.

(4m)(am) 
(am) If a city seeks to create a tax incremental district that is located in a union high school district, the seat that is described under par. (a) for the school district representative to the board shall be held by 2 representatives, each of whom has one-half of a vote. Subject to par. (ae), one representative shall be chosen by the union high school district that has the power to levy taxes on the property within the tax incremental district and one representative shall be chosen by the elementary school district that has the power to levy taxes on the property within the tax incremental district.

(4m)(b) 
(b)

(4m)(b)1. 

1. The board shall review the public record, planning documents and the resolution passed by the local legislative body or planning commission under sub. (4) (gm) or (h) 1. As part of its deliberations the board may hold additional hearings on the proposal.

(4m)(b)2.



2. Except as provided in subd. 2m., no tax incremental district may be created and no project plan may be amended unless the board approves the resolution adopted under sub. (4) (gm) or (h) 1, by a majority vote within 30 days after receiving the resolution. The board may not approve the resolution under this subdivision unless the board's approval contains a positive assertion that, in its judgment, the development described in the documents the board has reviewed under subd. 1, would not occur without the creation of a tax incremental district. The board may not approve the resolution under this subdivision unless the board finds that, with regard to a tax incremental district that is proposed to be created by a city under sub. (17) (a), such a district would be the only existing district created under that subsection by that city.

(4m)(b)2m.



2m. The requirement under subd. 2, that a vote by the board take place within 30 days after receiving a resolution does not apply to a resolution amending a project plan under sub. (4) (h) 1, if the resolution relates to a tax incremental district, the application for the redetermination of the tax incremental base of which was made in 1998, that is located in a village that was incorporated in 1912, has a population of at least 3,800 and is located in a county with a population of at least 108,000.

(4m)(b)3.



3. The board shall submit its decision to the city no later than 7 days after the board acts on and reviews the items in subd. 2., except that, if the board requests a department of revenue review under subd. 4., the board shall do one of the following:

(4m)(b)3.a.



a. Submit its decision to the city no later than 10 working days after receiving the department's written response.

(4m)(b)3.b.



b. If the city resubmits its proposal under subd. 4, no later than 10 working days after the board receives the department's written response, submit its decision to the city no later than 10 working days after receiving the city's resubmitted proposal.


(4m)(b)4.




4. Before the joint review board submits its decision under subd. 3., a majority of the members of the board may request that the department of revenue review the objective facts contained in any of the documents listed in subd. 1, to determine whether the information submitted to the board complies with this section or whether any of the information contains a factual inaccuracy. The request must be in writing and must specify which particular objective fact or item the members believe is incomplete or inaccurate. Not later than 10 working days after receiving a request that complies with the requirements of this subdivision, the department of revenue shall investigate

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the issues raised in the request and shall send its written response to the board. If the department of revenue determines that the information in the proposal does not comply with this section or contains a factual inaccuracy, the department shall return the proposal to the city. The board shall request, but may not require, that the city resolve the problems in its proposal and resubmit the proposal to the board. If the city resubmits its proposal, the board shall review the resubmitted proposal and vote to approve or deny the proposal as specified in this paragraph.

(4m)(b)4m. 


4m. The board shall notify prospectively the governing body of every local governmental unit that is not represented on the board, and that has power to levy taxes on the property within the tax incremental district, of meetings of the board and of the agendas of each meeting for which notification is given.

(4m)(c) 


(c)

(4m)(c)1. 


1. The board shall base its decision to approve or deny a proposal on the following criteria:

(4m)(c)1.a. 


a. Whether the development expected in the tax incremental district would occur without the use of tax incremental financing.

(4m)(c)1.b. 


b. Whether the economic benefits of the tax incremental district, as measured by increased employment, business and personal income and property value, are insufficient to compensate for the cost of the improvements.

(4m)(c)1.c. 

c. Whether the benefits of the proposal outweigh the anticipated tax increments to be paid by the owners of property in the overlying taxing districts.

(4m)(c)2. 

2. The board shall issue a written explanation describing why any proposal it rejects fails to meet one or more of the criteria specified in subd. 1.

(4m)(d) 

(d) Before a city may make or incur an expenditure for project costs, as described in sub. (2) (f) 1. n., for an area that is outside of a district's boundaries, the joint review board must approve the proposed expenditure.

(5) 

(5) Determination of tax increment and tax incremental base.

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To: Economic Development Subcommittee on Tax Incremental Financing
(TIF) Policy

From: Gary Peterson, AICP

Subject: Draft GOALS AND OBJECTIVES

Date: October 10, 2012

1. To substantially increase the City's Assessed Value
 - a. By maximizing the City's use of TIF as measured by maintaining 8 to 11.9% of the City's total Assessed Value in TIF increment
 - b. By using the TIF State Statute as the Base of the TIF Policy
 - c. By using TIF proactively to stimulate development

By utilizing the above Goals and Objectives the following opportunities will open to the City:

- Industry, High Tech, Commercial, Residential and mixed use developments thus creating jobs and providing a need for housing for all employees
- Work Force Housing by utilizing excess cash in maturing Tax Incremental Districts (TID) through Purchase and Rehabilitation of existing structures and Purchase and Construction of new structures
- Prepare TIF Plans that provide opportunities to address needs identified in the course of implementation
- Fund Sustainable activities in whole or in part that reduce storm water runoff; reduce energy consumption; energy generation; energy sharing; benefit low and moderate income people; increase recycling; and reduce consumption of virgin materials
- Fund TIF projects utilizing Developer Pay-as-you-go and City Borrowing
- Fund activities that retain 100% of storm water on parcels
- For other hard surface development, create innovative storm water filtration systems
- Remove Blight from our neighborhoods and non-residential areas
- Utilize TIF to construct and rehabilitate public schools after promoting a change in State Statute 66.1105 (by taking public schools out of prohibited uses and putting into permitted uses)
- Develop Blight Removal TIDs, a strategy that completely removes Blight
- Amend the City's Special Assessment Policy to permit TIF to pay for all TIF eligible activities in TIDs



To: Susan Schmitz, DMI President

From: Gary Peterson, AICP

Subject: Comparing Madison's use of Tax Incremental Districts (TIDs) to Other Wisconsin Communities

Date: January 10, 2012

The following Table includes the 47 communities in Wisconsin with a population exceeding 15,000, with a TID that includes increment and was incorporated prior to 1980. Of the 47, Madison has the second largest population of 233,209 compared to Milwaukee's 594,833 and the second most total assessed value of \$21.9 billion compared to Milwaukee's \$27.9 billion.

Yet we rank 6th with the total number of TIDs and 3 other communities have the same number as Madison. There are 24 communities with older TIDs. Only 8 have less increment as a percent of their total assessed value and only 11 have less increment per capita in TIDs.

Middleton, Fitchburg and Monona (8,273 people, 4 TIDs, oldest established in 1991 and 10.1% in increment) all have a greater percentage of increment in TIDs than Madison.

Tax Incremental District (TID) comparisons of Wisconsin Municipalities with over 15,000 people, Increment in a TID and Incorporated before 1980

City/Village	Pop 4/1/10	Current Number of Districts	Year of the oldest District Established	In 2011 Total \$ TID Increment in the Municipality	Percent of Increment as part of the Total Assessed Value in 2011	2011 Total TID Increment Per Person in \$
Appleton	72,623	6	1991	164,420,800	3.43	\$ 2,264.03
Ashwaubenon	16,963	2	2008	15,444,900	0.72	\$ 910.51
Beaver Dam	16,214	3	1994	73,594,000	6.85	\$ 4,538.92
Beloit	36,966	9	1990	253,015,490	16.23	\$ 6,844.55
Brookfield	37,920	1	2004	72,871,500	1.2	\$ 1,921.72
Cudahy	18,267	1	1994	205,468,300	16.43	\$ 11,248.06
De Pere	23,800	4	1996	98,921,500	5.61	\$ 4,156.37
Eau Claire	65,883	6	1997	64,501,700	1.52	\$ 979.03
Fitchburg	25,260	4	2003	125,083,400	5.02	\$ 4,951.84
Fond du Lac	43,021	6	1992	22,586,100	0.85	\$ 525.00
Franklin	35,451	2	2005	112,702,900	3.07	\$ 3,179.12
Germantown	19,749	3	1989	142,652,250	6.07	\$ 7,223.26

(Limit to establish a new District is 12%)



Green Bay	104,057	14	1998	152,668,300	2.58	\$ 1,467.16
Greenfield	36,720	2	2007	2,257,800	0.08	\$ 61.49
Howard	17,399	6	1992	59,244,100	4.42	\$ 3,405.03
Janesville	63,757	18	1985	133,338,200	3.38	\$ 2,091.35
Kaukauna	15,462	3	2000	22,047,200	2.37	\$ 1,425.90
Kenosha	99,218	12	1979	458,805,500	7.62	\$ 4,624.22
La Crosse	51,320	11	1987	240,282,500	7.79	\$ 4,682.04
Madison	233,209	11	1995	382,688,400	1.74	\$ 1,640.97
Manitowoc	33,736	11	1989	140,274,800	7.1	\$ 4,158.02
Marshfield	19,118	6	1993	48,108,200	3.52	\$ 2,516.38
Menasha	17,353	10	1986	64,815,100	6.3	\$ 3,735.09
Menom Falls	35,626	7	1991	212,132,200	4.78	\$ 5,954.42
Menomonie	16,264	5	2001	27,748,800	3.07	\$ 1,706.15
Mequon	23,123	2	2002	11,801,600	0.29	\$ 510.38
Middleton	17,442	2	1993	268,038,600	10.1	\$ 15,367.42
Milwaukee	594,833	43	1991	1,093,691,800	3.91	\$ 1,838.65
Muskego	24,135	3	2000	584,632,900	2.22	\$ 24,223.45
Neenah	25,501	4	1993	121,035,200	6.31	\$ 4,746.29
Oak Creek	34,451	7	1999	33,053,000	1.07	\$ 959.42
Oconomowoc	15,759	2	2001	212,719,100	11.07	\$ 13,498.26
Oshkosh	66,083	18	1989	308,458,800	8.17	\$ 4,667.75
Racine	78,860	13	1983	171,760,650	4.51	\$ 2,178.05
River Falls	15,000	6	1988	40,053,900	4.85	\$ 2,670.26
Sheboygan	49,288	8	1988	151,894,600	5.87	\$ 3,081.78
S. Milwaukee	21,156	4	2000	40,241,900	3.21	\$ 1,902.15
Stevens Point	26,717	4	2005	42,996,200	2.78	\$ 1,609.32
Sun Prairie	29,364	5	1997	103,198,200	4.2	\$ 3,514.45
Superior	27,244	4	1996	39,091,100	2.38	\$ 1,434.85
Watertown	23,861	4	1991	87,998,400	6.35	\$ 3,687.96
Waukesha	70,718	11	1989	148,594,600	2.58	\$ 2,101.23
Wausau	39,106	6	1990	198,815,100	7.5	\$ 5,084.01
Wauwatosa	46,396	5	1995	238,446,400	4.55	\$ 5,139.37
West Allis	60,411	8	1994	104,098,600	2.66	\$ 1,723.17
West Bend	31,078	10	1995	129,185,300	5.27	\$ 4,156.81
Wi Rapids	18,367	2	2004	13,860,600	1.37	\$ 754.65

Source: US Census and Wisconsin Department of Revenue Data.



**Wisconsin Department of Revenue
Bureau of Equalization
TIF Value Limitation Report**

Municipality	CoMun Code	TID No.	Base Year	2012 TID Current Value	2012 TID Value Increment	2012 Muni Total TID Increment	2012 Muni Total TID Current Value	2012 Muni Equalized Value	5% Test	7% Test	12% Test
Little Chute	44146	001	1990	14,493,200	6,765,550						
	44146	002	1996	31,254,200	27,244,000						
	44146	003	1999	56,197,800	48,172,000						
	44146	004	2007	8,596,900	5,183,500						
				TOTAL	87,365,050		110,542,100	665,478,600			13.13%
Livingston	25147	001	1992	2,365,200	2,315,600						
	22147	002	1996	548,900	255,600						
				TOTAL	2,571,200		2,914,100	28,587,600			8.99%
Lodi	11246	003	2005	419,000	258,000						
				TOTAL	258,000		419,000	232,176,500			.11%
Lomira	14146	004	2006	13,291,200	12,397,200						
				TOTAL	2,579,600		13,291,200	150,440,000			8.24%
Lone Rock	52146	001	1992	3,184,800	2,579,600						
				TOTAL	2,579,600		3,184,800	33,782,900			7.64%
Loyal	10246	001	1995	834,500	647,300						
	10246	002	2006	5,820,200	2,378,900						
				TOTAL	(1,098,700)		6,654,700	51,864,000			5.83%
Luck	48146	002	2002	4,410,900	14,200						
	48146	003	2005	3,536,600							
				TOTAL	14,200		7,947,500	65,103,400			.02%
Luxemburg	31146	001	1995	26,806,500	22,086,300						
				TOTAL	10,047,300		26,806,500	165,005,800			13.39%
Madison	13032	0020	2006	34,894,100	10,047,300						
				TOTAL	10,047,300		34,894,100	390,653,400			2.57%
Madison	13251	025	1995	180,707,400	142,100,700						
	13251	027	1998	25,794,700	21,249,100						
	13251	029	2000	61,571,600	19,830,200						
	13251	032	2003	515,440,700	119,969,600						
	13251	033	2004	22,466,600	21,139,300						
	13251	035	2005	54,941,500	29,140,900						
	13251	036	2005	78,902,500	20,536,000						
	13251	037	2006	50,834,300	7,367,400						
	13251	038	2008	47,425,500	(6,778,200)						
	13251	039	2008	278,634,000	15,377,500						
	13251	040	2009	141,704,200	(23,471,100)						
	13251	041	2011	23,108,900	4,405,600						
					TOTAL	401,116,300		1,481,531,900	21,697,080,900		

