MINUTES
PRYOR ECONOMIC DEVELOPMENT TRUST AUTHORITY
REGULAR MEETING
MONDAY, SEPTEMBER 13TH, 2021
12:00 P.M.

THE PRYOR ECONOMIC DEVELOPMENT TRUST AUTHORITY MET IN REGULAR SESSION IN CITY COUNCIL CHAMBER, 12 NORTH ROWE STREET, PRYOR, OKLAHOMA AT THE ABOVE DATE AND TIME.

1. CALL MEETING TO ORDER, PRAYER, PLEDGE OF ALLEGIANCE – MR. SORDAHL.

The meeting was called to order by Fred Sordahl at 12:00 p.m. Prayer and Pledge of Allegiance were led by Scott Miller.

2. ROLL CALL – MRS. COATS.

Roll call was conducted by Mrs. Coats. Trustees present included: Fred Sordahl, Arianna Derr, Don Berger, Scott Miller, Larry Williams and Larry Lees. Trustees absent: Darrell Moore, Gene Dillard, Kim Ritchie and Jared Crisp.

Others present: The Public Finance Law Group Attorney Nathan Ellis, Main Street Director Jennie LaFave, MAIP representative Sherry Alexander, Ober & Littlefield representatives Christie Littlefield and Regan Eardman, Retail Attractions representative Rickey Hayes, Pryor Schools Superintendent Dr. Lisa Muller, FIT representative Chris Calvert, Hardy Enterprises representative Jack Hardy, Lonnie Green, Tim Lawson and Terry Aylward.

3. APPROVE MINUTES FROM THE AUGUST 9TH, 2021 MEETING.

Motion was made by Miller, second by Derr to approve minutes from the August 9th, 2021 meeting. Voting yes: Williams, Derr, Berger, Miller, Sordahl. Voting no: none.

4. PETITIONS FROM THE AUDIENCE.

There were no petitions.

5. PRESENTATION – NATHAN ELLIS.

Mr. Ellis, an attorney with The Public Finance Law Group, provided a presentation regarding Tax Increment Financing (TIF). He provided an outline for all to follow (included in the minutes). He stated that he has worked with Pryor before, when we were working on the 2019 Bond Project.

Mr. Ellis stated that not every TIF District is a good idea. He also stated that there are a number of steps that have to be followed, which he outlined. There is another option called a Sales Tax Rebate, which would take place between the City and an individual business owner.

Mayor asked if Mr. Ellis could give examples of other cities we could identify with, and Mr. Ellis stated that Broken Bow and Elk City are good city TIF projects to look at.

Jack Hardy handed out an article he found in the Tulsa World regarding TIF Districts that he felt everyone would find interesting.

Rickey Hayes stated that of the different types of TIF Districts, the majority of the ones he has been involved in through PFLG have been project-driven. Broken Arrow's Rose District was more vision-driven.

Williams asked Ellis what the time frame would be, to which Ellis stated that once the project plan has been established it might take six to eight weeks. It could take approximately four months from beginning to end.

Mrs. Littlefield pointed out that the city does not necessarily have to have money up front. You can use a debt vehicle and use the TIF as collateral. That way you can have these funds up front and move forward.

6. FORUM OF PRYOR MAIN STREET CORRIDOR MERCHANTS AND PROPERTY OWNERS.

This was included in Item 5.

Sordahl stated that he would like to see certain items on the agenda for the next meeting, including:

1. Discuss, possibly recommend Council action regarding making changes in the downtown corridor that can be done now
2. Discussion regarding TIF Districts:
   a. Is it something we want to consider?
   b. Who do we need to get involved and partner with?

If anyone has any other items they would like to discuss, please let us know so we can add them to the agenda.

7. ECONOMIC DEVELOPMENT UPDATES – MAYOR LEES.

Mayor agrees that we have several good tools at our disposal that can be used to move forward.

8. ADJOURN.

Motion was made by Miller, second by Derr to adjourn at 1:30 pm. All voted yes.

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TAX INCREMENT FINANCING IN OKLAHOMA

COMMON QUESTIONS AND CONSIDERATIONS

PURPOSE OF THIS OUTLINE

The purpose of this outline is not to solve specific legal problems that can arise in connection with the creation of Tax Increment Financing ("TIF") Districts. Rather, the purpose is to help identify pertinent issues that should be taken into consideration during the TIF Process. As to specific applications of federal tax law requirements, you are encouraged to contact your legal counsel or advisor. The key topics we will address include:

- Overview of the TIF Process
- Types of TIF Districts
- Reasons for Creating a TIF
- Financial Impacts of a TIF
- Challenges of Start-Up Financing
- Common Arguments Against Creating a TIF

OVERVIEW OF THE TIF PROCESS

- Authorized by Article 10, Section 6C of the Oklahoma Constitution
- Title 62, Oklahoma Statutes, Section 850 *et seq.*, referred to as the "Local Development Act"
- Resolution of Intent passed by governing body of City or County
  - Creation of Statutory TIF Committee
  - Members include:
    - Representative of governing body as Chairman
    - Representative of Planning Commission (if applicable)
    - Representatives from each affected taxing jurisdiction
    - Three at-large representatives; if primarily retail, at lease one representative of the retail community
- Drafting of Project Plan
  - Information necessary to define sources of TIF revenues:
    - Proposed capital investments
    - Projected sales
    - Applicable tax rates

  - Information necessary to define uses of TIF revenues:
    - Project Summary
    - Specific Project Improvements
    - Estimated Costs
- Recommendations by TIF Committee and Planning Commission
- Public Hearings – minimum of two
  - Questions and Answers Hearing
  - Public Comment Hearing
- Formal action by governing body
  - Approval of Ordinance or Resolution formally creating TIF District and adopting the Project Plan
- Negotiation and adoption of development agreement(s) for the purpose of implementing the TIF District

<u>TYPES OF TIF DISTRICTS</u>

- Developer driven vs. Governmental driven
- Comprehensive Development Plan (large area) vs. Targeted Development (single business)
- Retail vs. Industrial vs. Housing
- Incentive Districts vs. Increment Districts
- Revenue Sources
  - Sales Tax
  - Ad Valorem Tax
  - Hotel/Motel Tax
  - PILOT payments
  - Others?

<u>REASONS FOR CREATING TIF DISTRICTS</u>

- Primary Objectives
  - Attract major investment to an area
  - Serve as a catalyst for retaining and expanding employment in an area
  - Promote economic development to increase tax revenues, raise property values, and improve economic stability
  - Preserve and enhance the tax base
  - Make possible investment, development and economic growth which would otherwise be difficult or impossible without the project and the apportionment of taxes from within the TIF
- Economic Development Tool
  - May provide a competitive advantage in recruiting business over similarly situated areas
  - Improving the job market locally by attracting industry creates more opportunities to realize increases in population, sales tax collections, and ad valorem tax collections
  - Increasing the retail market locally can attract new sales tax dollars to a community and decrease drain of sales tax dollars to surrounding locales
- The "But For" Test
  - A litmus test for creating a TIF is whether the development would occur, to the same degree, in the same manner, without the creation of a TIF District
  - "but for" the creation of the TIF District, the manufacturer would have located somewhere else

FINANCIAL IMPACTS OF TIF DISTRICTS

- Taxing Entities forego incremental increase in tax revenue for a period of time
  - Up to 25 full fiscal years
  - Up to 100% of incremental tax revenues
  - Baseline revenues unaffected
- Does not affect the tax rates
- Does not forgive obligation to pay taxes
- Tax Revenues are "invested" in the Project
  - Essentially, the taxpayers pay the respective taxes as they ordinarily would, but the tax dollars are allocated to specific components of the Project rather than to general revenue sources for the taxing jurisdictions
  - A TIF intercepts the tax revenues before they are designated for specific purposes e.g. school sinking fund, dedicated capital improvement sales tax
- Sales Tax Implications
  - Municipalities rely on sales tax revenue for operations and capital improvements
  - TIFs allow for capture and use without regard to the sales tax purpose stated in the applicable ordinance
    - "Pure" sales tax rebates would have to come from revenues levied for an appropriate purpose
  - Cannibalization
    - Creation of a TIF district may create competition for the same sales tax dollars (customers shop at the TIF store rather than the Town store)
    - Creation of a TIF may cause a transfer of sales tax dollars from the general fund to the TIF fund (Town store closes and moves into the TIF)
    - Some Sales Tax TIFs incorporate a form of "Transfer Adjustment"
      - Baseline sales tax level for TIF and for City generally
      - Offsets for relocating business
- Ad Valorem Tax Implications
  - Baseline assessed value is calculated at the time of TIF creation – TIF only gets ad valorem revenues to the extent the Baseline is exceeded
  - Schools – General Fund
    - Schools are allowed general fund revenues based on a per pupil formula as designated by the State
    - Schools levy for general fund operations (typically around 36 mils). The State appropriates dollars to make up the difference between local ad valorem collections and the allowed per pupil total
    - Revenues captured by the TIF are effectively offset by state appropriations. But…
      - If there is a State level revenue shortfall, and everyone receives a percentage reduction in state appropriations, the larger the overall appropriation for each district, the larger the impact that cut might have
  - Schools – Sinking Fund
    - Schools levy for sinking fund requirements based on the upcoming year's debt service requirements
    - Levy will vary from year to year as bonds are issued and paid off, and as the tax base increases or decreases
    - The creation of a TIF doesn't directly impact the levy rate – new ad valorem tax is generated within the TIF and used for TIF purposes, and the sinking fund levy is paid from the original tax base. But…
      - Incremental value of TIF cannot be included in a schools bonding capacity

        - If future development did in fact occur without TIF, then levy would be spread over larger base, thus reducing levy rate
- Schools – Building Fund
    - Schools are permitted to levy (approximately 5 mils) for a capital building fund – essentially for capital expenditures
    - This revenue represents the true "cost" of a TIF to a school.
        - If the TIF is not created and no development occurs, the School hasn't really lost anything; if the TIF causes development and the revenues are captured, the School ends up in the same position during the term of the TIF and better after the TIF expires
        - However, if the TIF causes a population increase at the local school, the School may realize additional capital needs but not benefit from part or all of the new building fund revenue that would otherwise result from the population growth caused by the TIF
    - Some ad valorem TIFs incorporate a form of offset for the schools
        - TIF may designate specific capital projects necessary to support development
        - TIF statutes allow for a portion of TIF revenues to be designated as a revenue offset to make up for revenue foregone by a taxing entity that may realize a tax burden by creation of the TIF
- Other Taxing Jurisdictions
    - May include County, County Health Department, EMS Districts, Libraries, Career Tech Systems, Community Colleges, Others?
    - General Fund levies represent the foregone revenue
        - Actual impact would largely depend on the size of the levy and the overall size of the tax base – the larger the tax base, the lower the relative impact
        - Opportunity for offset and/or designation of specific projects within the TIF
    - Sinking Fund levies captured by the TIF do not directly affect the fiscal budget of the taxing jurisdictions; the TIF just limits the available tax base similar to school sinking funds

<u>CHALLENGES OF START-UP TIF FINANCING</u>

- Need capital at the start of Project, but no revenues are generated until the Project is completed!
- What do you use to pay Project costs?
    - Developer
        - Could pay costs up front, be reimbursed as TIF revenues are realized
        - Could purchase TIF bonds up front, repaid from TIF revenues
        - Developer has incentive to make Project successful
        - Developer takes the risk on Project Costs
    - Municipality/County
        - If there is no single lead developer, the governing body may be the "Developer"
        - Could pay costs up front and be reimbursed, but must budget and commit other revenue sources
        - Could issue TIF bonds, but start-up financing will require greater security than just TIF revenues
            - Third party purchasers (banks, bondholders) are unlikely to accept speculative TIF revenues as the only source of repayment

- Will have to pledge sales tax, utility, or GO taxing authority (including the requisite voter approval)
- Pledging other sources may impair ability to issue debt for other purposes
- Consideration must be given to financing impacts beyond the TIF

- A mature TIF District will have a historical basis for revenue projections, which makes stand-alone financing significantly more attractive to a prospective lender/debt purchaser

COMMON ARGUMENTS AGAINST CREATING A TIF

- "You are creating an unfair competitive advantage for businesses in the TIF!"
  - The public effectively subsidizes the otherwise private development
    - TIF creates the newest and latest at a lower relative development cost
    - Existing businesses have been around for 30 years and never got any help from the City!
      - Is that completely true? (Street and utility improvements, other capital improvements and/or programs that serve the community and allow and/or encourage commerce to exist)
  - Different municipalities have differing approaches to capital infrastructure costs
    - Growth pays full costs of development
    - Users pay full cost of development
    - The local approach may impact public attitudes
- "You are taking money away that should be used to educate my children!"
  - The loss of ad valorem revenue can impact the quality of education at local schools
    - General fund revenues are more or less offset by state appropriations; the only real impact is on building fund revenues (sinking fund levies are based on debt service requirements so they don't generate additional revenue)
    - If the project results in an increase for the student population:
      - More students mean increased capital costs for schools, with no new building fund revenue or bonding capacity generated from the TIF development.
      - However, more students mean more general fund revenue via per pupil state appropriations
      - Further, population growth may spur collateral increases in the ad valorem tax base (housing starts and other resulting development outside the TIF)
    - Important to consider capital needs of schools and other community resources that will be critical in support of a successful development
- "All the businesses (and the sales tax they generate) are moving to the TIF, which means we are going to have to start laying off police and fire personnel!"
  - Unchecked cannibalization, whether of existing businesses changing location or retail dollars just moving to the newer store, represent a serious threat to municipal finances
    - Well reasoned mechanisms for controlling cannibalization can be created based on the relevant factors
      - Shared allocation of TIF revenues between development and taxing entity
      - Minimum growth levels
      - Transfer adjustments (offsets) for relocating businesses
    - For sales tax TIFs, due consideration must be given to the impact a TIF (and any revenue transfers resulting therefrom) will have on any sales tax that may be pledged to outstanding debt
      - TIF acts as an intercept, so it is effectively "senior lien" above existing debt

- "You didn't let the people vote!"
  - The gist of the legal argument is that the TIF doesn't levy a new tax, and it is a constitutionally created mechanism that was already approved by a statewide vote, so there is no requirement that a TIF be voted on by the general public.
    - TIF Ordinance is subject to referendum and initiative petition process just like any other municipal ordinance
    - Debt Issuance by a City requires a vote of the general public; however, debt issuance by a public trust on behalf of the City may be approved by the respective governing bodies pursuant to the Oklahoma Public Trust Act (Title 60, Oklahoma Statutes, Section 176 *et seq.*, as amended)