



CITY OF WARRENSBURG, MISSOURI  
TAX INCREMENT FINANCING COMMISSION MINUTES  
September 11, 2015

**1. Call to Order**

The meeting was called to order by Chair George Wilson at 2:00 p.m. at the Warrensburg Municipal Center, 200 S. Holden Street.

**2. Roll Call**

Roll was called and members Marshall Abney, Daric Elwell, Linda Schnakenberg, Scott Patrick, Judy Vickrey, George Wilson, Andy Kohl, Shane Lockard, and Jeff Terry were present. Members Bob Lotspeich and John Yost were absent. Doug Harris was present as attorney and council to the TIF Commission. Harold Stewart, II, City Manager, and Barbara Carroll, Director of Community Development, represented the City of Warrensburg with their attorneys and council Sid Douglas and Rich Wood of Gilmore & Bell, and Jack Dillingham of Piper Jaffray. Applicants Jerry Franklin and Jeff Franklin were also present.

**3. Approval of Agenda**

Kohl moved to approve the agenda. Abney seconded. Approved 9-0

**4. Approval of 6/17/13 Previous Meetings**

Members reviewed the minutes. Elwell moved to accept the minutes from the June 17, 2013 TIF Commission meeting. Patrick seconded. Approved 9-0.

**5. Public Hearings**

a. Keystone & West View Pad Sites Tax Increment Financing Redevelopment Plan

Jerry Franklin addressed the Commission and provided an overview of the project. The Keystone property located at 403 E. Russell Ave. was acquired by J.W. Franklin Co. (as Keystone Hospitality, LLC) in 2008. Original discussions with the City before purchasing the property included plans for a 120 room Hilton Garden Inn, convention center, and performing arts center. Jerry Franklin stated that as the market deteriorated post-2008, the plan as presented at that time no longer made economic sense.

Jerry Franklin stated after working with the City, they prepared and submitted a plan that would allow two-thirds of the originally planned development to occur. The proposed hotel has been reduced to 83 rooms and will not be owned, constructed, or managed by J.W. Franklin Co., due to age and health reasons. Jerry Franklin addressed concerns he has heard that this project will be "another Hawthorne", and stated the Hawthorne project and the proposed project are not similar because the proposed TIF is a "Pay As You Go" arrangement.

Barbara Carroll asked the applicants to begin the slide presentation so the audience and Commissioners could see the property in question. Carroll stated the redevelopment plans submitted include the property at 403 E. Russell Ave., located on the north side of Russell Ave., and the two pad sites at West View, located on the south side of Russell Ave. which are currently being developed with an International House of Pancakes (I HOP) and the Rockin' Bubbles car wash. Carroll explained that in 2013 the City adopted

the *Economic Development Incentives Policy and Consideration* document for evaluating requests for financial incentives. That policy includes both qualitative and quantitative community fit analyses. Two of the requirements of the quantitative fit analysis are met by the proposed project including: #3 Capital Investment – The proposed project does include a capital investment in excess of \$1 million, and #8 Target Development – The proposed project is in an area targeted for commercial development in 2007 Comprehensive City Plan, and furthers the Strategic Plan action step concerning beautification near the Highway 50 / Maguire Street bridge.

Carroll stated the qualitative analysis is more subjective and requires staff to rate the project as Below Average, Average, or Above Average. Staff's evaluation which was based solely on investment by the applicant and not considering the possible construction costs by potential future owners, returned a rating of Average.

Rich Wood of Gilmore & Bell walked the Commissioners through their role in the TIF process and the recommendations and findings of Gilmore & Bell's analysis. Wood explained that approval of the redevelopment plan by the TIF Commission is a necessary step under Missouri's TIF Act. Wood entered Exhibits 1 through 13 into the record which included proof of public notices and the packet received by the Commissioners.

Wood stated the developers are primarily relying on the social liability of the Keystone property at 403 E. Russell Ave. to reach a finding of blight. Elwell asked if the rocks on site were removed would the property still qualify as blighted? Jeff Franklin responded that their main argument rests with economic liability since the property is not meeting its potential in the market place; the current tax evaluation is around \$10,500 per year and once redeveloped the tax evaluation would be around \$890,000 per year. Vickrey stated that the developers created the blight conditions when they tore down the hotel and left the pile of rocks on site. Jerry Franklin replied that there has been a misunderstanding about the rocks as they were supposed to be used as fill material and aggregate to reduce landfill waste and make the project more environmentally sustainable.

Wood explained the "but for" test requirement, which requires the Commissioners to look at the redevelopment area as a whole to determine whether it would be reasonable to expect the property to be developed without the granting of the TIF. Wood stated this situation is unusual as the two West View pad sites included in the redevelopment area are currently under construction; the land included in TIF applications is usually vacant or has remnants of former businesses. However, the Commission can still make a finding in favor of the TIF since the "but for" test is for the area as a whole. There was additional discussion and clarification of the "but for" test.

Jerry Franklin responded to concerns about the current construction on the West View lots and stated that the Franklins have been working with I HOP for a number of years to find a site near the proposed hotel, and those discussions were to a point where I HOP needed a site now or they would walk away from development in Warrensburg. Rockin' Bubbles car wash was also ready to develop now or find a location in a different community. Since the Keystone site was not ready for development, the Franklins accommodated the developments on adjacent sites at West View. The economic value added from the West View development has been included in the Memorandum of Understanding (MOU) with the City. Jeff Franklin clarified that the MOU with the City

came prior to entering into contracts with I HOP, but the agreed upon sale price was reduced from \$12 per square foot to \$8.56 per square foot in anticipation of the TIF.

Wood introduced Jack Dillingham with Piper Jaffray who completed the Cost-Benefit Analysis and Financial Feasibility Analysis. Dillingham provided an overview of those findings and explained the findings are based on considering the return to the developer with and without a TIF against real estate industry standards. Three scenarios were projected with sales and property tax information:

1. As-is with no development
2. The applicants' projections for development
3. Half of the applicants' projected development

Dillingham continued explaining the incentive request that \$2.5 million in revenue be captured from a combination of sales and property taxes. The City has entered into an MOU with the applicant that allows half of the eligible economic activity taxes generated and all incremental property taxes to be captured up to a \$2.5 million cap. The incentive request equals 12.5% of the total development cost, including costs to potential future owners for development build out. In preparing the return analysis, information provided by the applicants was used. Considering a base year of 2008 (the date of purchase), the return to the applicants without a TIF is negative and the return with a TIF is 5.51%. Using a base year of 2015 (current), the return to the applicants with the TIF is 23.9%. The 2015 PriceWaterhouseCooper's Real Estate Investor Surveys were used to determine a 9.64% average rate of return required for developers to undertake similar projects. To reach a 9.64% rate of return without a TIF the applicants would need to sell the lots for approximately 2.75 times the anticipated sale price. These analyses take a more conservative approach than those presented by the applicant, and assume any taxes with a sunset will not be renewed. Scenario 2's anticipated TIF payout will be in 2021, and Scenario 3's anticipated TIF payout will be in 2025.

The following public comment was received by the Commission.

Scott Holmberg, 1226 Dustin's Way, appeared and stated as the Director of the Johnson County Sheltered Workshop he supports the applicants' TIF request because the City needs a better looking gateway, the Sheltered Workshop receives tax revenue and will benefit from the build out projected revenues, and the Franklins are strong members of the Warrensburg community.

Tom Annen, 205 E. Cleveland, appeared and stated as the representative for Country Kitchen he objects to the use of tax money being used to help reduce the development costs of a director competitor, and that the "but for" test has not been met since two new buildings are currently being built on the West View lots. Mr. Annen does believe the Keystone property is blighted, but stated the West View lots should not be included in the TIF area.

Terry stated that Scenario 2 proposed by the applicants projects the lots will sell at \$5.50 per square foot while the West View lots sold for approximately \$8 per square foot. Terry asked the applicants if there will be a cap on how much the lots can be sold for and stated his concern is the lots may be priced too high and continue to sit undeveloped. Terry further asked if there is money included in the plan to construct streets, and if the applicants intend to market the sites as is or if they will construct infrastructure to have shovel ready sites.

Jerry Franklin responded that I HOP purchased a flat lot with utilities that is not comparable to the site conditions at the Keystone property. There is some money included in the TIF plan and calculations for streets, but capping the sale price will overly complicate necessary site improvements such as additional streets, storm water, utilities, and other unknown factors. The applicants are willing to make some site improvements, however it is necessary to know an end user before improvements can be determined. Jerry Franklin further stated the public does not need to worry about the end sale price because they are protected by a 23 year TIF timeline or the \$2.5 million recapture cap, and the applicants will be the ones fronting all of the cost.

Carroll asked the applicants to advance the slide to show the proposed lot layout on the Preliminary Plat which includes no city streets and has been recommended for approval to the City Council with 5 conditions, one of which was to keep open conversations about a potential turn lane depending on future development and traffic counts.

Kohl asked if the payout is projected between 6 and 11 years, why the applicants are asking for a 23 year payout. Jerry Franklin responded that 23 years is the timeframe allowed by state statute.

Vickrey moved to close the public hearing. Lockard seconded. Approved 9-0.

**6. Reports of Committees and City Staff - none**

**7. Unfinished Business - none**

**8. New Business**

- a. A RESOLUTION OF THE CITY OF WARRENSBURG TAX INCREMENT FINANCING COMMISSION RECOMMENDING APPROVAL OF THE KEYSTONE & WEST VIEW PAD SITES TAX INCREMENT FINANCING REDEVELOPMENT PLAN, RECOMMENDING A DESIGNATION OF BLIGHT WITHIN THE REDEVELOPMENT AREA, RECOMMENDING DESIGNATION OF A REDEVELOPMENT PROJECT AREA AND APPROVAL OF A REDEVELOPMENT PROJECT WITHIN THE REDEVELOPMENT AREA, AND RECOMMENDING APPROVAL OF A DEVELOPER TO THE CITY COUNCIL OF THE CITY OF WARRENSBURG, MISSOURI

Chair Wilson asked for a motion to approve the resolution. Kohl moved to approve the resolution. Abney seconded. Wilson asked the Commissioners to review the resolution and its findings.

There was no additional discussion of Finding 1A regarding the completeness of the plan.

There was discussion of Finding 1B regarding blight. Elwell stated the plan area has always been considered one of the hottest corners in Warrensburg and he finds it hard to conceive as blighted with new development currently being constructed on the West View lots. Lockard shared Elwell's concern and referenced the concerns of Tom Annen; Lockard further questioned whether the area met the definition of blight before the West View lot developments. Wilson stated there is a memo from staff about the definition of blight. Harris clarified that the question of whether these properties are blighted is a policy consideration for the Commission to decide, as they do meet a legal definition of blight. Kohl asked if the Commission can find and recommend that part of the area is blighted and part is not. Terry

asked if the Commission can make amendments to the resolution. Lockard stated his concern with the definition is one of perception, not legal. Kohl agreed with the concerns about new buildings currently under construction. Vickrey agreed that the blight claim doesn't pass the "smell test" since the developer tore down the hotel himself and the other lots have new development. Harris and Wood clarified that the Commission is passing judgment on the plan as presented and that modifications would require additional public notice, but amendments to the resolution may be presented.

There was discussion of Finding 1C regarding the "but for" test. Abney stated he finds it difficult to include the two West View lots in the "but for" test, but agrees the Keystone property is blighted and satisfies the test. Lockard stated having to consider the project area as a whole plan complicates the decision since the Commission can see new development happening. Terry stated the benefit of having current development is the TIF will be paid off earlier since there is guaranteed tax generation. Lockard referenced Scott Holmberg's comments and stated there is a benefit to all taxing districts in the end.

There was no additional discussion of Finding 1D regarding conformance with the Comprehensive City Plan.

There was discussion of Finding 1E regarding the dates of completion. Kohl asked if the timeline had to allow for up to 23 years. Harris stated that anything up to 23 years is allowed by state statute. Wood stated there are two ways to cap the applicants' return, either by number of years or by the recapture dollar amount which has been set at \$2.5 million. Kohl stated that allowing up to the 23 years for the TIF makes it so nothing else can be done as an incentive, but limiting the timeline would allow another developer to come in if the proposed plan is not completed. Harris confirmed a cap on the number of years would provide an earlier reset date if the applicants fail to perform as proposed. Lockard asked if the presence of a TIF prevents changes to the plan. Douglas responded that scope of development within the TIF can change, however the TIF would have to run its course before another TIF could be considered for the plan area. Terry stated that business owners will not get a benefit from the TIF without guaranteed lower land cost or build to suit with lower rents and he would like a mechanism to cap the sale price of the land.

There was no additional discussion of Findings 1F, 1G, 1H, 1I regarding a relocation assistance plan, cost-benefit analysis, gambling establishments, and direct benefit to development of the parcels.

Wilson directed the Commission that they could continue to discuss, vote for the resolution as is, entertain amendments, or have a meeting within the next 30 days to take action if the Commissioners need more time. Kohl stated the only objections thus far were whether the land meets the criteria for blight and whether the West View lots should be included in the plan area. Terry stated he also has concern with the sale price of the land.

Terry moved to add a clause as 2H to the resolution that deducts any lot sales in excess of \$9 per square foot from the TIF recovery cap after deducting development costs incurred by the developer in addition to those not already contemplated in the plan. Harris clarified that the motion is to consider net proceeds over \$9 per square foot to reduce the TIF recapture. Abney seconded. Lockard asked for clarification on the intent of the motion. Terry explained a cap on the sale price of land would eliminate concern that the land sits undeveloped for the duration of the TIF because it was listed at too high of a sale price and that any profit over \$9.00 per square foot would be deducted from the final payback from the TIF so the