

No Standing News

Since we have no standing, we stand with those left standing

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Serving the Outlaw City of Missouri

Important announcement for Rolla Students!

In response to "Guilty until lawyered-up" segment in the March 5, 2004, issue of No Standing News, NSN has been contacted by **a local attorney who is willing to represent students charged with violation of the co-curricular** or "zero-tolerance" policy especially if the alleged conduct occurred off-campus and/or not at a school sponsored activity. **If you are a Rolla student and have disciplinary action pending against you** for alleged violation of this policy and you cannot afford legal representation please contact rwash@earthlink.com or call 364-5084.

Secret TIF Contract: City Hall gives Kaplan their "deep pockets" and will pay developer 7% interest on \$15.5 million for 23 years!

The St. Louis Developer with the "Deep Pockets" turns out to have no pockets at all. As it turns out the City of Rolla will be Kaplan's "deep pocket." In a nutshell: the city is going to finance the whole \$15.5 million dollar project with a "TIF Note" or construction loan to Kaplan - not just the \$3.9 million that they told everyone was the city's limited giveaway to the developer. They will also pay Kaplan 7% interest to use their credit. The TIF debt will be for 23 years - not the 7 to 13 years they claimed. The contract lets Kaplan walk out on Rolla at anytime up to completion of the project with no penalty *and they can take the property with them or sell the property and this contract to anyone without penalty of any kind!*

The council always rely on "staff recommendations," take a blind vote and later, when things start going wrong, they ask, "When did we pass that and why didn't somebody tell us what was in it?" That's going to happen again. The deal in this contract isn't the same one that was explained to the public, it's not the one discussed and voted on by the TIF Commission and it's highly unlikely the council understands the financial risks it represents. Was this what Kaplan Co. had in mind from the beginning when they sized up the amateur real estate developers in city hall? No wonder that after a show of reluctance which brought capitulation to all their demands, David Wright quickly signed this contract. It's also easy to see why Morgan, Butz and Petersen kept the TIF contract hidden as long as possible and now are rushing it through at a special council meeting on Monday, March 29. They have to get Kaplan's contract passed before the council realizes what the huge financial risks the city is taking in the 57 page contract.

Does the council understand the difference between the TIF Notes and TIF Bonds? In reading the contract posted on the NSN website at: [REDEVELOPMENT AGREEMENT](#) it's important to understand the difference

between TIF Notes and TIF Bonds because it's not clearly explained in the contract and it certainly hasn't been clearly explained to the public. Does the council understand the consequences of failure if this retail gamble doesn't work - and work well - for the next 23 years?

Here's how **Mr. Mello**, Kaplan's TIF attorney from Armstrong Teasdale explained the difference between TIF Notes and TIF Bonds to the Aldermen of the City of Ballwin, Missouri. "Mr. Mello said this is a TIF Note Ordinance, not for the issuance of [TIF] bonds. The **notes issued are given to the developer**, which represents the City's obligation to repay all reimbursable project expense from the TIF revenues **when and if the revenues are generated by the shopping center**. Initially, the notes will be held by the developer during the construction phase. These are at the developer's risk. **(But in Rolla's case Kaplan is earning 7% interest on the \$15.5 million - some risk!)** When the center is open and the underwriter is satisfied that the projected tax revenue stream will be sufficient to amortize the TIF bonds, **("if" they are satisfied)** the notes would be redeemed and bonds issued for purchase by the public. At that point, a new interest rate will be established, hopefully lower than the interest rate negotiated on the TIF notes. **(We hope it's lower than the 7% Kaplan will be getting)** The proceeds go to pay down the bonds." (Comment and emphasis added)

The TIF Note is like a \$15.5 million construction loan to Kaplan Co.; it's also like a Loan Guarantee from the City of Rolla so Kaplan can get financing from their bank. But didn't Kaplan claim they could get their own construction financing? Only after the project is "substantially completed" (whatever that means) will the remainder of the \$15.5 million (minus the \$3.9 to \$4 million

the city is giving to Kaplan for the land purchase) be converted into city-issued, TIF Revenue Bonds and repaid out of half the new sales taxes and seized property taxes **IF** – and this is the big **IF** – there is sufficient cash flow to pay off the bonds. **IF** the underwriters find that the sales taxes from the new tenants and the seized property taxes *won't pay off the remainder of the debt*, then the big TIF Note they handed over to Kaplan at 7% interest *can't* be converted into Bonds.

IF that happens, who will be left holding the bag on the approximately \$11 million Note for the next 23 years while also paying Kaplan 7% interest? Why the City of Rolla of course. Whoever “negotiated” this contract with Kaplan shouldn't be allowed to count the change from the soda machines. **IF** the council members have read this contract can they explain why, by their vote on Monday, they will *be automatically approving the attached “Exhibit G,” the TIF Note which could give Kaplan Co. the whole \$15.5 million for 23 years and in addition, why they are agreeing to pay Kaplan 7% interest on the \$15.5 million TIF Note?* Can they explain why none of this was ever revealed to the public? **IF** they haven't read it and **IF** they don't understand the risk they're taking with the city's future, they should vote no.

The following are some of the provisions in the Kaplan contract that have not been discussed or explained by the council or the TIF Commission:

- **After completion of the condemnation process, “the City shall promptly, at a time and place designated by Developer, convey to the Developer by Special Warranty Deed all right, title and interest in and to any such parcel acquired in connection with or as a result of the condemnation proceeding.”** At this point Kaplan Co. will own the property and the city has to reimburse them for up to \$4 million of the cost – an outright gift to Kaplan of \$4 million, just one of many found in this contract. Kaplan Co. can then, in their “sole discretion,” decide that the project is “no longer economically feasible” and walk away with the deeds in their possession. Kaplan can then sit on the property until the economy improves, sell it, or use it as collateral for another project. In fact, the contract allows Kaplan to sell or “assign” their interest in this TIF project to anyone without city approval and the city would suddenly be dealing with a new developer they've never heard of. But read on, it gets worse...

- **The city will pay Kaplan 7% interest on the \$15.5 million TIF Note they're giving KAPLAN!** Would you co-sign a \$15.5 million loan for your brother-in-law and then *pay him* 7% interest for guaranteeing his debt – a debt he may stick you with at any time? That's idiotic – Kaplan Co. should *be paying the city* 7% for providing the construction loan and credit guarantee that apparently Kaplan Co. can't get without the city's backing.

In section 5.1.1, the contract says, “*during such time as the Developer owns all of the outstanding TIF Notes*” the city will pay Kaplan 7% interest and that “*All TIF Notes shall have a stated maturity of January 4, 2027.*” What a windfall for the Kaplan Real Estate Company! When does Mr. Deep Pockets, the big real estate development company from St. Louis, start putting their own money at

risk? So far the only risk is on the city's side. But it gets worse...

- **The contract lets Kaplan pull out of the deal at any time up to the completion of the project leaving the city flat with an unfinished or “substantially completed” project and a huge debt.** “*At any time prior to the delivery of the Certificate of Substantial Completion, the Developer may, by giving written notice to the city terminate this Agreement and the Developer's obligations hereunder if the Developer determines, in its sole discretion, that the Redevelopment Project is no longer economically feasible.*” Kaplan doesn't have to prove it; they just have to declare that it is “no longer feasible.” The City can only terminate this contract if they can prove default or breach of the contract and meet other vague criteria. But it gets worse...

- **Kaplan Co. will disclose key information on the leases and the alleged “nationally known chains” only to the city's bond counsel and underwriters after they sign a confidentiality agreement “acceptable to the developer.”** Why is Kaplan allowed to keep these retail contracts a secret until the bonds are ready to be issued (that's not until after construction is almost complete) and Kaplan already has the \$15.5 million in their control or already spent? This information is critical to determining if the project debt will cash-flow or flop. Before the public provides \$15.5 million financing, why they see Kaplan put up or shut up? Which one of the big retailers Kaplan claimed they could bring in - **Kohl's, Target, Walgreens or Home Depot** – has really signed a contract and for how long? Keep reading, it gets worse...

- **Why is Kaplan Co. only required to provide financial statements ‘proving’ that the company has a Net Worth of only \$1 million against the city's risk of \$15.5 million?** (“Net Worth” is the total assets less total liabilities as reported on Kaplan's financial statements which are produced by – you guessed it - Kaplan's office.) For a \$15.5 million project that's a joke. This is not even a forfeitable bond. Tiny as it is it's not even backed up by the assigned personal assets of any of the principal owner(s) of the company. There is no penalty for Kaplan if company assets fall below this figure. The contract doesn't require disclosure of Kaplan Co's ownership, doesn't require disclosure and commitment of any and all majority owners and affiliates or any of the other disclosures or commitments normally required in a deal like this. Kaplan Co. can, in fact, transfer all assets to a new corporation, including the property obtained by condemnation, drop the city a bye-bye note and walk away. There is no penalty for Kaplan Co. if they default on a little town out in the country whose “bizzness leaders” thought they were smart enough to play Kaplan's game.

- **Why will it cost \$11.5 million for what is basically a 90,000 square foot insulated box with plumbing, electric and a parking lot?** The Recreation Center, Splash Zone and rebuilding the Ber Juan pond cost \$11.7 million and those were much more complicated and more expensive construction projects. Kaplan hasn't shown any detailed construction estimates to show why construction will cost \$11 million. There's also nothing in

the contract that limits Kaplan to only spending the \$15.5 million line of credit on *this* project. The city does, have seventeen other TIF projects in their new amended comprehensive plan don't they? One contract clause in fact, requires the developer to get prior approval of the city council before forming a "Transportation Development District or Community Improvement District." Why a new taxing district and another TIF project are even mentioned in this contract is also something no one has explained.

• **Why is the TIF Commission not mentioned anywhere in the contract as having a role in reviewing and verifying the bills Kaplan will submit for payment from the "reimbursable project costs" or tracking and monitoring any of the other complex contract terms?** Kaplan isn't required to report to the council more than once a month. There is no independent construction management on this project to see the bills aren't ...well...mistaken, or submitted for payment without proper verification; a common problem with TIF projects and credulous city bureaucrats who know nothing about construction. Are John Petersen and John Butz going to approve all bills Kaplan submits? That prospect alone is reason enough for the council to vote no.

The TIF Commission sits for 23 years, each of them for four-year terms. What will they do for the next two decades – just watch from the sidelines? The TIF statute required the TIF Commission to find that "*the project as proposed is financially feasible.*" By their majority vote last November, the TIF Commissioners officially declared that to be their opinion whether that's how they worded the motion or not. How did they make that determination without seeing this contract? If this turns out to be a mess, the six permanent city members of the TIF Commission, **Tom Thomas, Bill Marshall, Julie Turley, Harry Kiefer, Lou Magdits** and

Jeff Shields, are in this up to their necks even though the information they had at the time of the official hearing was incomplete and entirely different from what has now been revealed in the secret contract. Why did the TIF Commission not have another meeting to discuss and vote on this contract? Why were they passed over?

Bill Marshall voted against the TIF Plan because he could foresee serious financial flaws in the deal. The reality may be even worse than he thought four months ago. The alarm of an experienced banker should have been a red flag to the council. Unfortunately, they weren't paying attention.

The Pontius Pilate Vote. At their March 1st meeting, council members were relieved to find out that the only TIF problem they *think they have* will be taken out of their guilty hands. If they think that's their only problem it's only because they don't understand what's in the rest of the contract. After they approve the contract on March 29, Kaplan Co. will take over their power of eminent domain, hire the lawyers at the city's expense and exercise the council's power without the council having to take any other votes. You could see the relief on some faces as they finally absorbed that one fact - they won't personally have to take the dreaded public vote to dispossess their own constituents; Kaplan will do the dirty work for them. It's a distinction without a difference but one that will give place to for some council members such as **Jimmy Dale Williams** and **Jim Rolufs**. They both declared they would never, NEVER vote to condemn anyone's home or property. Now they don't have to, they only have to vote to let Kaplan Co. do it for them. When they vote on Monday night, will Morgan provide a basin of water for the ritual hand-washing?

City/School Shotgun Wedding showing cracks

School board threatens to prevent building inspections. At the school board meeting on Thursday, March 11th Assistant Superintendent, **Aaron Zalis**, was upset that their new "partners," the City of Rolla, won't give them free building codes inspection on the grade school building expansions. If it weren't for being publicly shamed into it they wouldn't be having any codes inspection at all even though their architects have repeatedly said that local codes inspection is welcome because "another pair of eyes" is often helpful in spotting something that may be overlooked. At most the architects will be on site only once a week and the rest of the time Zalis, The Art Teacher turned Construction Supervisor, will be in charge of something he knows absolutely nothing about. Zalis explained that they were just trying to minimize every possible cost but the city unreasonably insists on being paid at least \$15,000 to do codes inspection on the three buildings and that's just not fair. After all, **Adams and Strassner** sold their votes on the TIF project to the city to get something in return because it

sure wasn't good for the school district; now they can't even get free codes inspection? What kind of 'partners' are these?

City responds. At the city council meeting the following Monday, Butz pleaded the school board's case and said they demanded free inspections *or they wouldn't allow any codes inspection at all!* Council member **Jimmy Dale Williams** came unglued at their arrogance and said if they were willing to risk children for a few bucks it showed what kind of phonies they really were. **Charlotte Wiggins** (best buddy of school board member **Annie Bass**) took Williams to task. Now, now, she chided Williams, we must not say things about our dear school "partners" that we'll regret later. Williams shot back that he'd say what he pleased and he'd say it to her face not behind her back like everyone else. Ouch!

It's about time Wiggins and Bass quit pushing this shotgun wedding between the city and the school board. They're not good at it, their "touchy feely" approach to government relations is absurd and their willingness to sacrifice even public safety inspection to their quid-pro-quo

idea of a "partnership" is not in anyone's best interest - except Wiggins and Bass.

Terry, we hardly knew ye. When they hired the Bickert executive search firm it cost the board the same amount - \$15,000 - to find Terry Adams; a dubious investment in light of the fact that Adams is already trying to jump ship. He's one of three finalists for the job of Parkway superintendent. At the time **Jim Burns** called that \$15,000 "chump change." Now the same amount of "chump change" is more important to them than the safety of 4,000 children and school employees. Guess it all depends on what your priorities are.

Morgan puts \$1 Million bounty on Poor Ole Buehler Park. Administrator **John Butz** advised the council in closed session on March 11, that the City had been contacted by developers **Jack Dietzmann** and **Mike Woessner** about selling "the western portion" of Buehler Park. Butz reminded the council that they had agreed that "unsolicited" offers would be put to the council and if the council determined the offer to be in the city's best interest they would establish a formal RFP process. A motion to solicit requests for proposals was made by **M. Williams**, seconded by **Barklage**. The motion failed 7-3 with M. Williams, Barklage and J. Williams voting in favor. After they already have two "unsolicited" proposals *then* they solicit proposals? Does that make any sense?

Morgan is said to have secretly put out the word that if any local real estate agent can find someone who will offer \$1 million for the much-abused park he would "make" the council sell it. If true, which came first the bounty or the "unsolicited" offers? The city just paid \$35,000+ for a study by park and recreation experts who polled the public and both the public and the park experts said very clearly that Rolla should *keep every single park (mentioning Buehler Park specifically) it has and add more.* The public doesn't want their parks sold off like lots in a cheap development but Joe doesn't like the public having opinions, that's why he started work on Lions Club Drive before the people vote on it.

Corky's Curse. To the delight of the RDN photographer, prisoners were marched into the new jail last Thursday. Blankenship didn't tell photographer/reporter Morrison that during the trial period the electronic locks developed electronic bugs, the entire communications system failed, the toilets were flushing hot water and the new jail director quit - and all that happened before the jail was full of bored people who will look for other things to do to sabotage their state-of-the-art electronic system. Corky's Curse, which started when they found he had poured the foundation on a permanent swamp, lives on

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