

No Standing News

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

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TIF Part III: Questions the Council Can't Answer About Tax Increment Financing

The Butz Denials. When the council passed the TIF ordinance on January 6th, John Butz and Mayor Morgan denied that the TIF area would include Wal-Mart. They denied that it would do any of the things the state TIF law and their new TIF ordinance lets them do including unlimited condemnation of private property. In fact, to hear them talk TIF won't do anything at all to anyone. After the council meeting John Butz did his post-council spin interview with KTTR and again denied that Wal-Mart would be involved to reap sales and property tax revenues for the benefit of the TIF district. He again denied that their TIF plans would have any affect on the schools (he didn't say it wouldn't have any affect on the county revenues or others – just the schools). Council member Charlotte Wiggins has joined Butz as a roving ambassador for TIF. KTTR reported their meeting with the Phelps County Commission but the paper only reported that Charlotte Wiggins was there to “remind the commissioners of their campaign promise” to give part of the jail tax money to the animal shelter in 2003. Wiggins and Butz again tried to make the case to the county that because of the “but for” clause the schools could not suffer any revenue loss. It's safe enough to make those claims because they know that few people know the new TIF vocabulary. This is what “**but for**” and “**blight**” really mean in the TIF dictionary.

The “But For” Assumption. TIF is based on the unproven sweeping assumption that “but for” the proposed TIF project the property would never be developed, thus the TIF government interference in the marketplace will force a silk purse to be created out of a sow's ear. Everybody will be better off, they say, because the sow's ear will eventually (after TIF) start generating new taxes where low taxes were being produced from the property or area before TIF. The first area in question (the only one they admit to now but not the only one Petersen is working on) is the intersection at highways 63 and 72. This area, they will claim, will not be developed “but for” the interference of TIF. In the last few years, this commercial area running down both highways is where the most active growth in Rolla has taken place. The development has all been done by private parties who financed their businesses from their own money or from money borrowed from banks. That's the way it's supposed to be done. In a capitalist system, the justification for profit is capital risk. Every capitalist is entitled to pocket the profits from his/her business because he risks his own capital (or borrowed capital he has to pay it back). In this case, city government will again use public funds and muscle to help

competition – Walgreen's – come in and compete with local businesses.

The New Socialism for TIF Capitalists. Through TIF, some businesses will get special assistance from local government that other businesses haven't had and won't get. The range of TIF freebies is virtually unlimited, from having the city condemn and clear land for a prospect to getting a building financed with TIF money to lease/purchase at below market rates – just like the Brewer Science deal. Butz is claiming that “but for” their TIF intervention Callen's corner will never be developed. Never be developed? Do you think that is really true or have the owners, Callen and Warren Dean, just been unwilling to sell their properties to Walgreen's or anyone else until someone will pay the price they want? Holding out for the price you want is a perfectly legitimate thing for a property owner to do in America even if city politicians, hungry for new tax money to spend, don't like waiting for them to get it. With TIF as their “good tool” the city can force the sale by condemning the land and then they can sell it themselves – even for a higher price if they can get it. When the government condemns property to force the owner to sell to them it is usually sold for the appraisal price, which may not necessarily be the price that open market competition might produce. A property might appraise for \$250,000 but because of market forces or business competition factors not known or considered by an appraiser, the same property might change hands for a great deal more or much less.

In Missouri's TIF law the “but for” criteria is so easily met and the three eligible project categories so broad that virtually any area of a community can be designated as one of the three TIF-able types: 1. blighted, 2. conservation or, 3. economic development area (an industrial park). Missouri courts have not yet reversed a “but for” declaration by a city no matter how flimsy they were and some are extremely flimsy.

No one, probably including Warren Dean, will dispute the fact that he is Rolla's poster child for urban renewal. Warren has never been willing to spend a dime on code compliance but he has spent thousands fighting enforcement. He has out-bluffed, out-litigated and out-manuevered the council for decades and his properties show it but that's the council's fault because they always caved in. However tacky the results of their lack of zoning enforcement may be it does not justify opening the Pandora's Box that is TIF.

One of the subtle but real effects of the New Socialism for TIF Capitalists is anti-development. When the TIF gravy train gets rolling private projects that might have occurred naturally won't happen because no one wants to be the schmuck who pays for 100% of his business expansion if he can get the city to cut him in on some TIF freebies like they gave some other guy. Why pay the asking price for a property if you can get the city to condemn it for you for less. In Blue Springs a 'poor' car dealer whose annual sales were in the millions got the city to use TIF money to move his dealership across the street for him by threatening to move down the road to another municipality. Terry Brewer made the same threat to move out and was rewarded with \$14 million in city revenue bond debt. If the city will TIF for a Walgreen's, whom will they be able to refuse when both local and out of town businesses form a "but for" line to get their TIF handouts?

The "Blight" excuse. Butz says that Wal-Mart won't be part of the TIF area because it's a "new" property and TIF districts have to be "blighted". That's sophistry; he knows quite well the TIF definition of "blight." *"An area which, by reason of the predominance of defective or inadequate street layout, unsanitary or unsafe conditions, deterioration of site improvements, improper subdivision or obsolete platting, or the existence of conditions which endanger life or property by fire and other causes, or any combination of such factors, retards the provision of housing accommodations or constitutes an economic or social liability or a menace to the public health, safety, morals, or welfare in its present condition and use."* That definition has 62 words and only 18 of them aren't weasel words. The weasel words mean whatever the city says they mean. That definition of blight not only fits Oak Knoll it also fits the Mayor's subdivision which doesn't meet the city's subdivision code because it has only one entrance over a creek that floods, thus a TIF condition of "blight" which "endangers life" and menaces "public health and welfare." Can you find anything in that definition that doesn't wholly or partially fit every neighborhood in town?

Who decides what's blighted and what's not blighted? The city council simply makes *"a finding that there exist conditions which cause the area to be classified as a blighted area, a conservation area, an economic development area, an enterprise zone pursuant to sections 135.200 to 135.256, RSMo, (the Hi Point Industrial Park) or a combination thereof, which area includes only those parcels of real property directly and substantially benefited by the proposed redevelopment project."* When they declare it to be "blighted" it is legally "blighted." In other words, the definition of "blight" is just a matter of using the city council rubber stamp. Does the whole TIF district, the "redevelopment area" have to fit that definition? No, just some part of it, the rest can be un-blighted properties that are *"directly and substantially benefited by the project."* What does that mean? It also means anything the council says it means – no proof of "direct and substantial benefit" is required. In the meantime, what happens if you're caught in

the fallout; you want to sell your home or property but it's sitting in the phony "blighted" area?

Missouri's TIF law has become a shell game used by developers to leverage public taxes for commercial development and by local governments who have allowed lax planning, zoning and poor code enforcement to contribute to the deterioration of housing stocks and commercial property. The effect of poor municipal management, planning and codes enforcement causes erosion of property values, tax revenues decline and TIF is seized upon as the "no tax increase" solution. In *A Dubious Development*, Todd A. Rogers writes: *"A...stronger objection to TIF is that it benefits an already privileged class - private developers - at the public's expense. The most basic concern is that TIF statutes are being used as a tool of the private developer in areas absent of [real] blight."*

In a St. Louis County lawsuit, Des Peres residents appealed TIF financing for West County Center. The judge said that absent a finding of "bad faith or fraud" by the city he had no power to overturn the city decision to declare the [TIF] area "blighted," but he noted the irony of a blight declaration in one of the wealthiest areas of St. Louis County. In Cape Girardeau the school district is challenging the city's designation of "blight" to build a TIF golf course and subdivision. The "blighted" land is a cow pasture.

There are no rules for "but for" or "blight"; they are whatever local politicians say they say they are. They can mean one thing this year and something else five years from now. Butz and Wiggins are out calming everyone down by claiming that the "but for" and "blight" designations will protect the school system. The truth is that their TIF "it-is-whatever-we-say-it-is" power protects no one but the city and their chosen developers.

What's next? The council is paying \$50,000 to have a Development Plan done AFTER they have passed TIF and decided what "blighted" area to develop? Normally, the development consultants are hired first. They would have some token community meetings, present a big thick Plan that no one reads except for the part that explains how the city can pass a TIF ordinance and use TIF to get the development money they're too chicken to ask the voters to give them. THEN the city would pass the TIF ordinance and say the development "experts" told them they had no other choice. Why has Rolla done it backwards? The Development Strategies guys said the whole process would take six months. What's going on that can't wait six months?

Since they have already passed the TIF ordinance and then hired **Development Strategies** (the TIF facilitators) the next steps are to have the token public hearings and then adopt the TIF Plan and TIF zones. The consultants - not the people you elected to office - will manage the whole process. Once the council found this "We're not accountable" way to get cash why would they stand out on the firing line? In their proposal Development Strategies said they would "work tightly with the steering committee" (translation: RREC), they will consult with "strategic people and groups" (trans. The Chamber, Terry Brewer and UMR) they will have some public meetings (trans. only because the law forces them to,

not because your opinion matters) and the council will then approve the Plan (trans. "This report has too many big words; let's just vote.")

The following are some questions that the council, having carefully studied TIF in depth and detail before they entered into such a drastic tax measure, must surely be able

to answer. (small joke) They don't, of course, but maybe the smart St. Louis consultants can answer them. If you go to one of their TIF public meetings ask some of these questions just for fun and see what they say. There is only one question to ask of school board members and school board candidates, "Why didn't you care enough to speak up - or even show up?"

Questions the Council Can't Answer About Tax Increment Financing

1. If the initial Redevelopment Plan uses only the "surplus" *sales taxes* and the TIF Commission finds, due to cost overruns or other factors, that surplus does not produce enough revenue, can they amend the Plan later to include the use of "surplus" *property taxes* or vice versa?
2. If the TIF Plan is adopted in 2003 will the last 20¢ installment of the school district's 80¢ levy increase be captured by TIF and go to the Special Allocation Fund for the TIF project?
3. Will the city's own sales tax and property tax increments in the TIF district, i.e. library tax, park tax, capital improvements tax etc. also be diverted to the TIF fund and spent on TIF projects? If so, how will the city maintain the present level of services in each of those activities?
4. Can members of the TIF commission pay themselves and others salaries and reimburse themselves and others for travel and expenses as "costs" of administration of the TIF project? (There is nothing in the TIF statute that prohibits this activity as long as they (like "blight") "declare" it a "reasonable and necessary" cost of TIF administration. **(99.805 (14) & 99.820 (14))**)
5. If, after TIF, a business is built on a low tax producing vacant property and then starts generating sales taxes for the first time, will 100% of the new post-TIF taxes go to the TIF fund? **(99.805 (4))**
6. Can the Commission invest the proceeds from TIF revenue bonds in stocks, bonds, real estate and other investments until they are needed to pay project costs?
7. Will the Rolla TIF be eligible for funds from the Missouri Supplemental Tax Increment Financing Fund? **(99.845.3)**
8. The council and all city boards and committees are subject to the Sunshine Law but the RREC (the city development committee) had unpublicized meetings for over a year and discussed the TIF plan privately for at least three or four months before the public was told about TIF at the December 16th council meeting. Ken Clayton, the County Prosecutor has already refused to prosecute over 30 documented Sunshine violations by the city. If the TIF commission and council continue to violate the law what protection does the public have?
9. With no representatives on the TIF Commission from other taxing districts after the TIF plan and district is approved, what assurance does the public have that the conflict of interest requirement will be enforced?
10. Will conflict of interest land ownership and business interests in the project area or areas of all city officials and TIF Commissioners be fully disclosed to the public before the commission is appointed and during the life of the TIF projects?
11. Does the council intend to delegate to the TIF Commission or to a development company their power to condemn land?
12. If my house is in a technically "blighted" area for the next 23 years what will that do to the value of my property if I want to sell it?
13. Is the city council willing to amend the TIF ordinance to require public election of the six city members of the TIF commission?
14. If TIF is such a "good tool" is the city council willing to submit Tax Increment Financing to public referendum?

Under the sheets. The city and the school system are becoming best buddies. The school board needs someone to show some visible support to lend credibility to the board's April bond issue and the city needs a quiet and compliant school board to dampen resistance to their TIF operation. It appears that a satisfactory deal has been made which explains why the Rolla school board has meekly gone along with the TIF proposal when school boards across the state have fought TIF tooth and nail. Without a peep from the school board their TIF plans should have smooth sailing. In exchange, Councilman Don Barklage was induced to give a testimonial at the district's public meeting on the 24th. Councilman Barklage told the audience he voted against the 80¢ levy but he has now seen the light and thinks "the school

board is finally on the right track"...he just didn't ask where the train was going. At the next city council meeting Mayor Morgan will have the Rolla School Superintendent, for the first time in the history of council meetings, report to the council on the school's annual State Report Card. Not too obvious is it? If you tune in late it will be hard to figure out which meeting you're watching.

Wiggins is meeting secretly with the old "It's Worth It" committee, Annie Bass, Keith Strassner and Dana Rapier to make the plans for the school bond issue campaign in April. They haven't found anyone willing to front for this election yet but will have to find someone soon. Things have gotten so bad that School Board member Jim Burns had to ask twice during the last board meeting if certain election

decisions are going to be made by the board or were they being decided "off-line." Bass confirmed that she was "taking care of it"; obviously they are being made "off-line."

Now that the TIF ordinance has been safely passed the city has finally arranged to have a meeting with the TIF county and school board – something they should have done before TIF was a fait accompli. It will be a dinner meeting paid for by the taxpayers but they're not particularly enthusiastic about having the public come to this public meeting to watch the love fest. It's a good thing when governmental entities cooperate for the public benefit. It's a good thing for them to occasionally break bread with each other, but it's not a good thing for them to form alliances out

of nothing more than a mutual need to suppress criticism of their various financial shenanigans. One of the things you can be sure they won't discussing at dinner is how the city is going to start enforcing compliance with city Life Safety Codes and making annual public inspections of all school buildings.

If it has occurred to you that the interlocking connections between the RREC and the city and school board are getting too politically and financially incestuous for comfort – you're right. Voters ought to be very uncomfortable when the people they put in different offices gang up to prevent critical examination of how they're spending our money and conducting our business.

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