



ATM REPORT PROPOSED MLK BLVD EXTENSION TIF

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Accountability for Taxpayer Money-Chattanooga (ATM) is a non-partisan public interest advocacy group focused on tax incentives and government transparency. For more information, please visit www.atmchatt.com.

Tax Increment Financing (TIF) can be a good economic development tool when used selectively and judiciously to support the public good. Here are ATM's observations on the proposed MLK TIF.

EXECUTIVE SUMMARY

Action by the Industrial Development Board, City Council and County Commission at this time is premature. This particular type of project requires state pre-approval because

- It proposes to use TIF increment for privately owned land, improvements or equipment.
- It proposes to use TIF increment for general economic development, and
- It may exceed the standard term of 20 years.

These "pre-approval" projects are listed in the *Roadmap to Tax Increment Financing* put out by the Tennessee Comptroller of the Treasury.

In addition, ATM questions whether this is a qualified project to receive a TIF in light of the state statute on TIF and the City's adopted policies and procedures. This proposal is not what TIFs are designed to do.

It violates policies adopted by the City Council in 2015. The project is not in a blighted or underutilized area. It does not attract significant new jobs that would otherwise be missed without the TIF investment. It is primarily residential in nature.

TIFs (and PILOTs) have long-term implications for city and county finances and the ability to provide public services. TIF can be an appropriate economic development tool. It can also be abused.

TIME FRAME

This TIF project is on a fast track for approval. The January 8, 2018 IDB hearing at 11:00 a.m. is the first and only designated time for members of the public to speak. The IDB is being asked to recommend an Economic Impact Plan (EIP) for approval by the City Council and County Commission. The Board is also asked to approve the Development and Financing Agreement pending acceptance and approval of the EIP by the City, County, and State.

Under the current "schedule," the City Council will discuss on January 9 at the 3:00 p.m. ECD committee meeting and possibly approve by resolution on January 16. The County Commission may also consider this TIF in January.

ATM recommends that no action be taken on this TIF application until after state pre-approval and until after the IDB and elected officials have had thorough discussions and deliberations about the issues raised in this report and at the public hearing.

TIF POLICIES

City adopted TIF policies (Resolution 28335) state that the "TIF Program is primarily for economic development projects that provide improvements in **blighted or underutilized areas**." This TIF would be

on the riverfront downtown, which is very valuable real estate, the opposite of what most would think of as blighted. It is not underutilized, as the Cameron Harbor development continues to the south.

City TIF policies allude to projects that involve "the generation of new jobs with **wages in excess of the average annual wage** in Chattanooga." The jobs components in this TIF district are an office building, a restaurant and apartments. None of these uses are typically associated with higher paying jobs.

City TIF Policies state that "In the absence of unusual or extenuating circumstances acceptable to the Board, **Projects that are substantially residential will not qualify** for tax increment financing under the Board's TIF Program." This proposed TIF boundary will be home to a restaurant (old Jones Blair paint site), an office building (under construction) and an apartment complex. In information provided by the applicant, it appears that the apartment complex constitutes 71 percent of the estimated value. Is this project "substantially residential"?

The City Mayor's staff made several presentations about the TIF approval process and the proposed MLK TIF at meetings this fall. They did not go over the adopted city policies and policy-makers did not discuss City TIF policies. Few members of the City Council, IDB or TIF Review Committee held their current positions when the City's first (and only) TIF was approved in 2012 and the policies and procedures were adopted in 2015.

FUNDING SOURCE

The City approached the Cameron Harbor developer about its desire to extend MLK straight through their property. Developer offered to sell what would become the right-of-way. The City indicated it did not have the funds to purchase. The two parties landed on the TIF approach. The public interest advocacy group ATM suggests that the City and County instead take the money from the recent \$6 million Alstom settlement for a failed PILOT project or from hotel/motel tax revenues since the project relates to tourism downtown. If TIF should remain the funding mechanism, ATM believes it should be pared back to reduce lost future revenue and to eliminate the "slippery slope" policy issue of using public funds to invest in a private development (office building and apartments).

PROJECT COST

The **Public infrastructure component** of this TIF is the construction of a new one-block section of MLK "boulevard" from Riverfront Parkway to the Tennessee Riverwalk, including intersection improvements and acquisition of property for the street (currently managed by the Cameron Harbor developer). The estimated cost for this short street project is \$2.9 million. The TIF application asks for a breakdown of the public infrastructure costs (street, sidewalks, traffic signal. etc.). The developer left this section blank, with a note saying "to be completed after construction documents and approvals." Was there an **appraisal** to determine the cost of land acquisition?

A \$2.9 million land acquisition and street construction project has become a \$4.5 million TIF project. In addition to legal, closing and interest expense for three years, TIF project costs grew to include Fulton Street, a minor residential street that serves the private development, and a \$500,000 "investment into project." The Economic Impact Plan states that TIF funds would be used to pay a portion ... "of constructing the medical office buildings and the multi-family housing...."

Funding this street with TIF funds could ultimately more than double the amount of taxpayer dollars involved. The proposed TIF could last 15 or so years. During that period, property taxes from the apartments, office building and restaurant would go to pay off the developer's TIF loan rather than go to the city and county general funds for fire, police, streets, parks, etc. Also, during the period the TIF is in effect, other taxpayers in Chattanooga/Hamilton County would be paying the cost for any police or fire calls for service within the TIF boundary.

MAXIMUM TIME PERIOD OF TIF

The "term" wording has changed. It had read in November documents that the term could last 15 years from the date the TIF District is created, which would likely be in 2018 under the current anticipated schedule. The December/January version reads "15 years from the date of the first TIF payment upon full reappraisal of the completed property."

When would that clock start ticking? What are the **financial implications** of that wording? The claw-back section of the Development Agreement gives Developer until 12/31/2023 to make his investment in the overall project.

CITY ROLE AS INVESTOR

Eight public meetings in recent months have included this TIF on the agenda. (IDB, City Council, or TIF Application Review Committee.) Most of the focus has been on the approval process. No public comment has been solicited to date. There has not yet been any discussion or deliberation by public officials about potential policy issues, including the City and County's joining the development team as an investor in the project relative to the medical buildings and multi-family housing. The legal notice for the IDB public hearing does not include the local government investor role in the project description.

Knoxville Deletion--Chattanooga's 2015 TIF policies are modeled almost word-for-word after Knoxville's. In several instances, someone weakened Chattanooga's policies in ways that provided less protection to the public. This investor role is an example. It is not included in the list of TIF eligible costs in Knoxville. Chattanooga's author(s) added some creative language allowing the 15-year term to be extended.

The "TIF Roadmap" put out by the **State Comptroller's** Office states: "Use of incremental revenue for land, improvements, or equipment that is to be owned by a private person or entity requires **state pre-approval**. Has the City sought this pre-approval?"

BUT/FOR TEST

Developer signed an Affidavit stating that no other reasonable means of financing the public improvements proposed to be financed by TIF are available. He checked the box that says "the project, including the public improvements, if financed through cash on hand or through debt financing from a private lender, would not result in a reasonable rate of return to the applicant." Although Developer certifies a TIF is necessary for the project, several months ago construction began on the medical office building. The TIF has not yet been approved.

DBE DELETION

It is common practice for governments to include wording in contracts and agreements about certified Diversified Business Enterprises (DBE), typically defined as businesses which are at least 51% owned or controlled by minority group members or women controlled. In the case of this TIF, the Development Agreement given to the TIF review committee in November had language requiring Developer to endeavor to award at least 20% of the total dollars of the contracting and related work for the project to DBE. Contracting work includes general contractor, subcontractor or supplier. In the current draft of the Agreement, the entire DBE section has been removed. Developer acknowledged to the TIF Review Committee via telephone on December 14 that he had asked for the DBE provisions to be taken out, stating it was "reasonable and rational" not to include this wording.

The City of Chattanooga is familiar with DBE requirements. For example, a recent legal notice from a contractor on a city storm water project sought solicitations from potential subcontractors and listed possible subcontracting opportunities.

HOUSING ROLE FOR CITY?

"Workforce/"Affordable" Housing--Both the Development Agreement and the Economic Impact Plan (EIP) allude to public taxpayer dollars being used to construct "workforce" housing via the apartment complex. The Development Agreement defines workforce housing as "affordable housing for households with earned incomes of 80% or less" of the median income for the Chattanooga area (based on HUD data and adjusted annually). In 2017, this amount was \$33,350 per year (\$2779 per month) for a single person. In the affordable housing world, affordable rent is capped at 30 percent of the maximum income (\$834 in 2017). In the Development Agreement, there is no specificity about how many units would be set aside or what the rents for these units would be. Whatever the IDB and Developer LATER agree to in a Workforce Housing Plan would end when the TIF loan is repaid.

Rent--Attached to the EIP is a table showing a monthly rental rate of \$980. It is not clear how many of the units would rent for this amount or what the mix is between one and two-bedroom units. In an earlier (November) version of this table, a footnote stated that the \$980 is based on the October 2017 average rent (\$980) for an apartment in Chattanooga as reported by Rent Jungle (RJ). This is the RJ average rent for a two-bedroom: a one bedroom is \$834. Would any of the workforce/affordable units be two bedroom? Are taxpayers being asked to subsidize market rate housing?

Other Recent Downtown Housing Tax Breaks--In the past five years, the City Council and County Commission have used the PILOT program to abate property taxes on five upscale apartment complexes in the downtown area: Walnut Commons (212 Walnut); Choo Choo Passenger Flats (1400 Market); Kore (1400 Chestnut); Maclellan (721 Broad) and Market Center (700 Market).

Using the old PILOT formula that 20% of the units be set aside, a total of 125 units are to be reserved for persons whose incomes qualify them to rent for about \$850 per month. For at least 10 years, the owners of these downtown apartments pay NO property taxes for city and county services (except schools. Walnut Commons does not even pay school taxes). Then the owners pay partial taxes for an additional 4 years.

Our city and county governments are abating (not collecting) about \$14 million in property taxes so that 125 persons/small households can pay “only” \$850 in rent because of these PILOT agreements. That amounts to a subsidy of \$112,000 per one-bedroom or efficiency apartment.

ATM does not believe that \$980 or \$850 per month rent addresses Chattanooga's very real affordable housing problem. ATM does not understand the “public purpose” in this kind of subsidy, be it a housing PILOT or part of a TIF. (ATM favors units at 60% AMI that are located in neighborhoods that are struggling, rather than units at 80% AMI in the sizzling downtown real estate market.)

IMPARTIAL DECISION-MAKER?

Developer originally intended to build the apartments, office building and restaurant and to pay full property taxes on them. They did not plan a grand boulevard for one block through their land. The City's desire for this street opened the legitimate discussion of a possible public-private partnership. Developer offered to sell the City a portion of their property. The City claimed no money. The parties agreed upon the TIF approach.

The City Mayor's executive staff has pledged "to work expeditiously with Developer to publicly support the City Council and the IDB's imposition of a TIF District." Can the City be an impartial decision-maker and negotiate the best deal for local taxpayers when they have assumed an advocacy role?

Whether the topic is TIFs or PILOTs or purchasing decisions, citizens want to believe that our local officials have structured the best possible agreements for local taxpayers. Some previous agreements have seemed one-sided in favor of development interests and appear to be “**done deals**” by the time they appear on public agendas.

TRANSPARENCY

TIFs can be seductive for local governments. In the case of this proposed TIF, it could appear like the public would gain a new entrance to the Riverwalk and not have to "pay" for it with tax dollars (because TIFs "spend" future tax dollars). TIFs (and PILOTs) have long-term implications for city and county finances and the ability to provide public services.

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