Tax Increment Financing Study and Formulating Committee

Approved Minutes of Meeting

February 8, 2019

On February 8, 2019, the Tax Increment Financing Study and Formulating Committee (the "Committee") held a meeting in the Peabody Conference Room on the first floor of Lindsley Hall, 730 2nd Avenue, in Nashville, Tennessee. The meeting began at 1:00 P.M. The following individuals, being all of the members of the committee, were present in person:

Dr. Paulette Coleman, Charles Robert Bone, Brian Kelsey, Talia Lomax-O'dNeal, Bert Mathews, Bob Mendes and Richard Warren. Mr. Mendes chaired the meeting and called it to order. Mr. Warren served as Secretary.

The meeting was open to the public and there were several other people in attendance. The meeting was recorded on video and made available following the meeting on Channel 3 and the Metro YouTube channel.

Agenda

An agenda for the meeting was posted on the Committee's SharePoint site in advance of the meeting.

Approval of Minutes

The minutes of the previous meetings held on December 7, 2018, and January 23, 2019, were not ready so their approval was deferred.

Discussion of "What are current and potential impacts of TIF on affordable housing?"

Mr. Mendes then introduced the panel for today's discussion on affordable housing. The panel consisted of Michael Kenner of MiKen Development, LLC, Eddie Latimer of Affordable Housing Resources, Inc., and Hunter Nelson of Elmington Capital Group. Mr. Mendes served as moderator of the panel. He pointed out that affordable housing includes many programs and types of financing that are known by their initials in the development community and he encouraged the panel to try and avoid the "alphabet soup" references to these matters that are not familiar to the general public.

Mr. Mendes began by asking the panel to explain what each of their organizations does.

Mr. Kenner noted that his company is for profit and works in one neighborhood at a time. He described it as a mission oriented company with a goal of including 10% affordable housing, what he calls the "missing middle." In types of housing he compared developments of three bedroom, 2,000 square foot houses versus a diversity of products from 350 sf to 1600 square feet. These smaller houses are affordable at the initial point of sale but they don't stay that way without a structure to cause that to happen.

Phoenix on 51st Avenue, is a 20 acre master planned community with 200 units, he has also built 82 units in Treaty Oaks in the Nations, and additional units in Salem Town.

Mr. Latimer stated that his company is a 30 year old Community Development Financial Institution ("CDFI") that makes loans to first time home buyers and promotes economic development by providing financial products and services to people and communities that are underserved by traditional financial institutions. They have constructed single family 3 bedroom, 2 bath homes. They developed a project near the Farmer's Market. They also developed the 5th and Main project in East Nashville. The 5th and Main project has a complicated capital structure. TIF was $7 million of $56 million (this was during the Purcell administration and was managed by David Manning. Bank loans accounted for 60% of the financing. New market tax credits funded the commercial portion of the development. TIF helped with the parking garage and basic infrastructure for the project. TIF is critical for affordable housing with less funding available from other sources that is targeting affordable housing.

Mr. Nelson is in charge of the affordable housing program at Elmington Capital. They develop affordable housing for people with 60% of the median income for the community. They take advantage of Low Income Housing Tax Credits ("LIHTC"), a federal program administered by the states (the Tennessee Housing Development Agency or THDA in Tennessee). THDA selects individual projects from applications to receive LIHTCs which they sell to those wanting tax credits. Elmington also has a management company.

Mr. Mendes noted that one project had 11 layers of financing through various state and federal programs that are mind numbingly complex. He asked Mr. Nelson how many layers of financing they employ.

Mr. Nelson responded that it is never less than three. Eleven is very high.

Mr. Latimer replied that one had 8 and another had 9 levels of financing plus MDHA provided the land.

Mr. Kenner noted that it is often5 to 7, including Down Payment Assistance ("DPA") loans to the buyers, money from the Barnes fund provided by the Metropolitan Government to assist with affordable housing development, bank loans, and state legislation to reduce taxes on low income housing.

Mr. Mendes said that he understood that during the Purcell administration TIF was used solely for housing. TIF money can be used for land acquisition and certain infrastructure costs but not for the actual construction of affordable housing (sticks, bricks. bathrooms, etc.)

Mr. Latimer responded that the federal Community Development Block Grant program ("CDBG") can be used for infrastructure and that TIF can also be used for that purpose.

Mr. Mendes then asked should TIF be used for affordable housing.

Mr. Kenner noted that the TIFs administered by MDHA cannot be used for sticks and bricks but that those administered by the Industrial Development Board ("IDB") can be used for that and it is parcel by parcel, not by district that becomes outmoded. Chattanooga uses it for that. TIF should be a tool in the toolbox. Mr. Warren noted that the IDB TIFs can be used for "Projects," the definition of which includes affordable housing.

Mr. Mathews asked the developers some questions about whether they run out of eligible expenses for TIF – land, infrastructure, parking structures.

Mr. Mendes asked for clarification on what can IDB TIF be used for. Ms. O'dNeal noted that the only Davidson County IDB was in Bellevue and was done on a parcel by parcel basis.

Joe Cain is in charge of administering the TIF program for MDHA and noted that they monitors the expenditures for eligibility. Land acquisition and demolition are included. They knock some proposals out. Follow up with invoices before funds are released. Mr. Latimer noted that the lender also provides oversight.

Mr. Mathews clarified that TIF can be used for some portions of affordable housing projects.

Mr. Mendes asked Mr. Nelson to comment on how we do TIF in Nashville.

Mr. Nelson replied that on the rental side, TIF is not as useful as Payment in Lieu of Tax ("PILOT") agreements, which locks in the property tax assessment today.

Mr. Mathews noted that you can build a $20 million property that may only be worth $10 million because of agreements to charge reduced rent to keep the housing affordable and the tax assessor may add in the LIHTC. Taxes could be one-third of the rental income in the early years of a project. This issue is unique to Tennessee. LIHTC lasts for ten years..

Mr. Cain noted that affordable housing PILOTs in Davidson County must have LIHTCs. A determination is made as to what the property can afford to pay with restricted rents (less than fair market rents). MDHA, approved by the Council, transfers title to MDHA, developer makes payments in lieu of what the taxes would have been.

Mr. Mendes noted that under this program Metro is not giving up current revenue. Mr. Cain confirmed that the PILOT payments must be higher than previous taxes.

Mr. Mendes asked what can Metro do to make TIF more useful for affordable housing.

Mr. Nelson responded that PILOTs in Nashville only last 10 years. Other Tennessee cities are 15 or 20 years. They require Council approval so you must convince the district's council member. We have done three in Nashville, in Old Hickory and East Nashville. Other council members are not supportive. Memphis grants a specified dollar figure each year ($50 MM, say) for the Health and Education Board to administer. This takes the political aspect out. Three times per year they accept open applications.

Mr. Kelsey asked if this is a pitch for "by right" credits? Mr. Nelson responded, "Absolutely."

Mr. Mendes noted that a complaint about TIF is that the process is opaque. PILOT is plenty transparent; although he notes that you identify the political aspect.

Mr. Nelson noted, “I can’t go to Council until the end when I am $1 to $1.5 million into the project.”

Mr. Kelsey asked how is it different in other Tennessee cities. Mr. Nelson replied that other cities give you approval on the front end subject to your getting everything else done. You can ask for an extension.

Mr. Nelson repeated that PILOT is the most useful but Metro makes it tough. Land in the redevelopment districts is too expensive for affordable housing.

Ms. O’dNeal asked about when you go to your councilmember? Mr. Nelson replied that you seek input on the front end, asking what do you think. You also watch the election cycle.

Mr. Mendes asked what else could the city do with TIF, PILOT, property taxes, and other things.

Mr. Latimer noted that six non-profits do affordable housing. Twenty do other types of housing. Infrastructure is what kills it. Land costs are up significantly. TIF could be useful for this. CDBG is going to continue to get reduced. Mr. Nelson observed that federal money for affordable housing is going away.

Mr. Nelson noted that PILOT works better for LIHTC rental projects. TIF works better for mixed income projects.

Mr. Mendes asked for other ideas for the city to make affordable housing easier.

Mr. Kenner mentioned the state legislation sponsored by John Ray Clemmons.

Mr. Nelson noted that there could be a property tax exclusion if a project is100% owned by nonprofits.

Mr. Latimer suggested that anyone living on Supplemental Social Security Income (“SSI”) needs frozen taxes,

Dr. Coleman noted that there are the same income limits for rural counties as Metro. John Ray Clemmons is working on a formula.

Both Mr. Mendes and Mr. Mathews advised the panel that this committee love to get additional input from the panel as we write the report.

Mr. Mendes then thanked the panel and they were excused from the meeting.

Mr. Mendes then discussed the report of the Mayor’s task force on affordability pp. 22-29 on affordable housing and transit. Look at the recommendations from task force led by former mayor Bill Purcell and Brenda Wynn. Both Mr. Mendes and Dr. Coleman served on the task force.

<u>Discussion of “Transparency: What does it mean and how would we evaluate TIF in Nashville?”</u>

This discussion was led by committee members Brian Kelsey and Charles Robert Bone.

Mr. Bone noted that this involves both information and process. Look at MDHA, an 80 year old organization created by state law, 13,500 families served, mostly in housing owned by MDHA. A lot of attention is focused on TIF. Of MDHA's 301 employees; only 5 have much to do with redevelopment districts which includes TIF and other things such as design review. MDHA mostly does housing. It answers to HUD, the federal government, Metro, employees, and developers in the housing space. It receives no operating funds from the city or the federal government.

We are trying to improve transparency. We post more detailed agendas on line before meetings. We previously had no ongoing disclosures beyond initial approval; now we are updating annually. We are revising Board policies on conflicts, recusals, etc. TIF activity is down but they are going to be more transparent about that. There is now an annual report that the Council requires and that is a good requirement. They may add public meetings around some TIF applications. They may add a citizens advisory committee. MDHA was set up to be independent. MDHA knows how to do housing for the most vulnerable in our community. It is also a key priority for the current and any future mayor and council. Those relationships need to be reset.

Ms. O'dNeal noted that she and Joe Cain are meeting regularly and thanked him for his work. There is a great level of cooperation between the Finance Department and MDHA.

Dr. Coleman noted that there is pervasive public perception that there is a fundamental tension between the two aspects of MDHA's mission, development and affordable housing. If the priority is housing, that is not obvious. MDHA needs to build trust that it does not exist to primarily focus on development and housing gets short shrift.

Mr. Bone noted that he does not want to preempt the committee. This committee's work has been helpful in educating all of us. As you rethink TIF, the more acute focus on infrastructure is an equalizer. It is hard to use TIF for smaller projects because the cost of issuance is the same. Also, smaller TIF borrowers lack the ability to guarantee the TIF loans. How can we offset the cost of borrowing and guarantees? He appreciates Dr. Coleman's question and the perception. We need to align the interests of these various constituencies. MDHA should be a resource for profit and nonprofit developers.

Mr. Mendes noted that at the next meeting we will have more of this brainstorming. Most of current TIFs flow through the Mayor's office. This pool of money should be available to everybody.

Mr. Mathews noted that this needs outreach and education. There should be workshops every quarter in a different part of town.

Mr. Kelsey asked the committee to look at the Austin materials posted online. Most of his experience was in Texas with different governmental rules. His passion is the provision of information and how that can improve the debates of policy makers. "This deal won't pay for itself." Lack of good objective information. Look at process put in place in Austin. Widen the lens to economic development in general. In the mid-2000s the question was how do you incentivize economic development? Most are firm based – particular companies looking to expand or relocate, rather than project based.

Lots of information is collected before a proposal gets to the city council. See the sample business information form with answers to lots of questions about the firm or the project. Fiscal impact or cost benefit analysis was then done. Typically economic impact statement including direct and indirect analysis. Does not answer the question of does growth pay for itself. New jobs are created – 50% move to town, some with children who need to go to school. This information was posted online. There are two public meetings. City Council took it up at second meeting. Looking back ten years later – lots of handwringing at the time that this would kill economic development in Austin. You didn't see much of that in the end. Took a while for people to get comfortable sharing this information. The availability of the information improved the policy debate, with a shared set of facts out there.

There is a misperception that there are 20 or 30 deals a year and the Mayor doesn't turn anything down. That is just not true.

Mr. Mendes noted the complaint that this hurts us against peer cities. Austin is growing at a faster rate than Nashville.

Mr. Kelsey referenced the 2014 annual report on economic development incentive agreements with city's net benefits. See the chart on Matt Wiltshire's site.

Look at completed business information form as completed for Athena Health. Look at the fiscal impact analysis. What are the marginal costs to the city on a per household basis?

Mr. Mendes asked if the academic modeling examples were off the shelf or custom. Mr. Kelsey responded that it uses the WebLCOI developed at Georgia Tech. It is not a black box model. You can tweak the variables. Very transparent tool.

Ms. O'dNeal asked to hear from MDHA.

Mr. Cain responded that this is set up more like an IDB project. Redevelopment Districts are not set up like that. Affordable housing is not quantifiable. How do you value the public open space at Rolling Mill Hill. Ms. O'dNeal added the quality of life intangibles, such as reduce crime. Mr. Cain noted that you have to start with the goals of the plan.

Mr. Mendes noted that there are tensions between redevelopment plans which are 30 years old. Goals can't be good for 30 years.

Mr. Mathews asked if the steps that they took in Austin changed the debate on incentives. Mr. Kelsey noted that Austin is the center of navel gazing but said that these steps improved the quality of the debate. Mr. Mathews asked about the methodology for a project based approach. Mr. Kelsey said that Austin overreacted with firm based incentives. Now for example there are food deserts which might suggest that you subsidize a neighborhood grocery store (project based).

Mr. Bone said that it is harder for to do this type of an analysis for TIFs given the intangibles. PILOT deals are more of a matrix.

Dr. Coleman commented that this is very helpful. The question is when is enough, enough. The projects are what the developers bring forward. That is not the way to make policy and have growth that is inclusive and equitable and minimizes the tensions that we are experiencing. Mr. Cain commented that the East Bank redevelopment has created a need for grocery stores. Mr. Bone noted that marries with the theme identified by Mr. Mendes that we should recalibrate more than once every 30 years. Should we refocus every five years, formally or informally? Mr. Mathews said that the developers need to know what the goal is. Mr. Mendes totally agrees with that, the developers say they just need to know what the rules are.. He also pointed out that the Metro Finance Department also needs to know what the city spend is over the next four or five years.

Comments received on the Study Group web page

None.

New business

None.

Next Meeting

The next meeting will be on February 22, 2019, at 1 P.M. also in the Peabody Conference Room in Lindsley Hall. The committee will begin its consideration of recommendations for the report that it will issue when this study is complete. The public meeting is scheduled for Wednesday, March 6 at 6:30 pm in the Council chambers and then the Committee will meet again on March 8 at 1 PM in Lindsley Hall.

There being no further business, the meeting was then adjourned at approximately 2:55 P.M.

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Richard Warren, Secretary