

Working with Private Developers – Public-Private Partnerships

Remembering that the purpose of Urban Renewal Plans in which TIF provisions appear is to eliminate and prevent the spread of blighting influences—a distinction that separates it somewhat among the categories of economic development by virtue of having a standard against which to measure effort, particularly the expenditure of staff and financial resources—it is clear that the logic of public partnerships goes something like this:

Given that developers and investors and property owners are all inclined by market forces to invest somewhere in our communities—and given that the sound public policy underlying the adoption of urban renewal plans is to get them to invest in the blighted areas covered by the Plan, if the public sector is a worthy partner willing to provide assistance and financial resources, then the private sector will be willing to invest.

We have learned that the tax increment provision, because of its uniqueness as a local development tool, and its complexity which make it difficult for citizens and even elected officials to fully understand.

Likewise, the complexity of arriving at what the public sector is willing and able to bring to a deal leaves a lot of people wondering, “why are my public dollars being given to that guy?”

Nature of doing business in public

The process of getting to “the deal” when TIF is used involves transparency and public processes that many developers are unused to following. As a subunit of local government, those boards who are charged with approving these public partnerships in our state must follow the Montana

Open Meeting Law. What is otherwise private development becomes very public, very quickly. Building and land use Plans, financing schemes, business plans, etc. are subject to the harsh light of day long before anything is certain. It takes a confident, trusting, and in some cases courageous developer to work in an environment where public involvement, comment and criticism are always so close at hand. It's a wonder anything gets done at all.

Public/Private Partnerships

I would like to describe a successful but generic public private partnership and hopefully illuminate how it is possible to craft them.

Let's begin with the basis of every good partnership whether it is in business or our personal lives and that is TRUST. The public sector partner has to demonstrate certain qualities to create that trust.

- Competence,
- experience,
- vision,
- a willingness to engage in problem-solving,
- an ability to accurately predict processes and outcomes.

Remember, private sector partners are hoping for a return on investment as compensation for the risks they take. It follows then that they are going to value certainty provided by public sector practitioners.

Likewise, the private sector developer who seeks access to the public purse has to create trust as well. Our state's landscape is littered with schemers and dreamers who had an idea that, if only

help in the form of financial grants and property tax forgiveness were made, would be very successful. Private sector partners who are worthy will provide financial statements, references, résumé's, etc. when it is timely on demand. If the public sector practitioner doesn't perform even the very basic due diligence of asking for this information, the private sector partner is going to question competence and ability.

With TRUST comes CONFIDENCE. Deals, especially big complicated deals, take a lot of effort because there are lots of opportunities for failure. A good partner is worth staying with through the hard times. And while the public sector practitioner can never forget for whom he or she works or where his or her fundamental allegiances lie, working to create and fulfill public/private sector partnerships is very different than other administrative jobs in the public sector.

Such partnerships are best understood when both parties internalize that their respective success is directly tied to the other party's success.

Now I want to address what value the public sector practitioner can bring to the partnership. I want to talk about money issues later because these other things are truly antecedent to any checks being written.

Understanding of processes and players. For many developers, their project is the only one they will do in a public/private partnership in your community—that is particularly true in

Montana where so many of the projects undertaken are on the Main streets of our cities and towns by local businesses and not huge development entities.

- a. How does one get from Point A to Point B in redevelopment and TIF funded projects?
- b. How long does it take?
- c. What information has to be provided and what is made public?
- d. How many public meetings will there be?
- e. Who gets to say yes or no to the project?
- f. What is the track record on similar projects?
- g. Whose politics will obstruct/help the project?

Often the public sector practitioner knows about other municipal offices such as planning, building inspection, health department, etc. Explanations of local ordinances, introductions to other municipal staff and officials, help with applications are all a tremendous help. Being able to help developers unfamiliar with those other offices and officials makes a very significant contribution to the successful public/private partnership.

To the extent possible it is always best to have written policies or at least deeply respected customs which are easily explained for going down this road. Everyone involved will appreciate a frank and candid assessment of what is involved even if it means telling someone news they don't want to hear. This is true on both sides of the public/private partnership. If the potential

problems are understood, the parties can decide if the partnership is worth the effort to create or sustain. Then they can get to work to figure out how to deal with them

Dollars and Sense.

As much as that help is appreciated, in the end, the money questions are almost always what bring developers to your door. I never ceased to be struck by how quickly developers in the private sector wanted to get to the money questions: how much can I get? how soon do I get it? I have worked as a consultant to some Montana communities hoping to replicate Missoula's experience and they, too, wanted to go right to exploring how much TIF they would have to spend. At that point it is always helpful to review where it is the money available for their project comes from. Developers need to grasp the whole logic of TIF funding so they can understand their role in the bigger picture, the one outside their project. They have to understand who came before and whose redevelopment project created the TIF dollars they will use. They have to understand that they are dealing with more than the urban redevelopment ATM.

They have to also understand that the price of access and use of those funds is a very public process that I referred to earlier.

From the developer's perspective it is probably not possible to provide too much public financial help with a redevelopment project. They will take all the help they can get; every dollar they get is a dollar not financed, their risk is reduced and the day they realize a profit arrives that much sooner. Still, the question remains from the public perspective: How much is too much?

During my years at MRA, the Staff and Board established general guidelines we called the “Rules of Ten.” Under those rules, we first looked at the developer’s project construction budget and *pro forma* to see how much public TIF money was required or requested to make the project work. We figured if a project required more than 10% TIF funds, the project was probably pretty thin, and the developer had to boost equity, private financing, cut costs or do something else to bring our role into alignment.

The other rule we used had to do with “payback” of TIF assistance in the form of new taxes. In other words, we would estimate what the new taxes would be after the project was completed and assessed and taxed. We would then estimate how much in new taxes would be realized in a Ten Year period. If the new taxes collected for ten years equaled or surpassed the TIF investment, MRA felt the requested public participation in the project was qualified.

Now, as I said, these were rules of thumb. As such, they gave us something easy to explain and something that we could push back against in doing our due diligence work. As rules of thumb, however, they were subject to adjustment if circumstances warranted it. Our application process provided a dozen or so evaluation criteria the staff reported to the Board. If a project represented a special or unique opportunity, the Rules of Ten could be weighted at the MRA Board’s discretion.

In determining what public investment to make, it is sometimes helpful to prioritize other sorts of public benefit realized when assessing funding requests. For example, one thing we always tried to keep in mind--recognizing that not every project had 100% guarantee of long-term success—

was, if this redevelopment project fails and the project stands empty for any length of time, will there be any residual public benefit?

For example, if a developer requested TIF for both sidewalk replacement and utility upgrades, and the project only warranted funding one of the requests, I would most likely be inclined, all things otherwise being equal, to favor the sidewalk. The public will enjoy the use of the sidewalk and once it's done, it's done for the next fifty years or more.

The Public side

There is a certain compelling logic about public participation in the public/private partnership. I mean, if the public sector is unwilling to invest in blighted areas, why on earth should the private sector? The whole idea of getting the private sector to invest where disinvestment had been occurring meant that urban renewal districts have to be put on a level playing field among all the choices the private sector developer has. It was also for this reason that MRA invested a great deal of money in items that didn't generate new TIF outside of public/private partnerships such as parks and trails and general improvements to municipal streets, sewers, etc in the urban renewal district. These investments were a statement to the private sector that the City and MRA cared about Downtown and were serious about revitalizing it. Not only were they generally supportive of the larger redevelopment aims, they made our community a better place to live and the fact that MRA Board members grasped that concept and appreciated was something that I never lost appreciation for.

Public/private partnerships, when well-conceived and mindfully run, are a lot of fun and greatly satisfying.

Public and private goals are achieved,

- Tax base increases
- jobs are created short term and long term
- urban resources increase in value
- historic preservation can be valued
- the community is improved.

Public sector practitioners who are involved in these partnerships, however, should never forget whose interests it is they serve, and who it is that relies on their good judgment, their ethical clarity and public service.