Economic Development Incentives: Lessons Learned

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Economic Development

- Simple definition: activities that promote investment, create jobs, and enhance communities.
- Generally includes collaboration between government and private entities
- From a local government point of view, economic development consists of deploying various tools to advance those goals

Economic Development

- Ohio Constitution definition: Activities that:
  - "create or preserve jobs and employment opportunities,"
  - "improve the economic welfare of the people of the state,"
  - "control air, water, and thermal pollution," or
  - "dispose of solid waste"

  Article VIII, Section 13

Economic Development

- Types of Tools:
  - Abatements/exemptions (e.g., CRA, EZ)
  - Diversions of tax revenue (e.g., TIFs, DRDs)
  - Increases in effective tax burden (e.g., NCAs, JEDDs)

Economic Development

- Strategies for Role of Board of Education:
  - *Reactive* – maintain flexibility to respond to incentive options on a case-by-case basis as development arises
  - *Proactive* – work in partnership with other local governments to promote responsible development
  - *Objective* – establish policies regarding use of economic development tools and Board consent with respect to the same

Overview of Common Tools

- Tax Increment Financing (TIF)
- Community Reinvestment Areas (CRAs)
- Enterprise Zones (EZs)
- New Community Authorities
- Joint Economic Development Districts (JEDDs)

Tax Increment Financing (TIF)

- Tax: based on real property taxation
- Increment: applies only to the *increase* in real estate taxes resulting from a development
- Financing: allows a developer and local government to pay for needed public infrastructure improvements

TIF Basics

Service payments in lieu of taxes

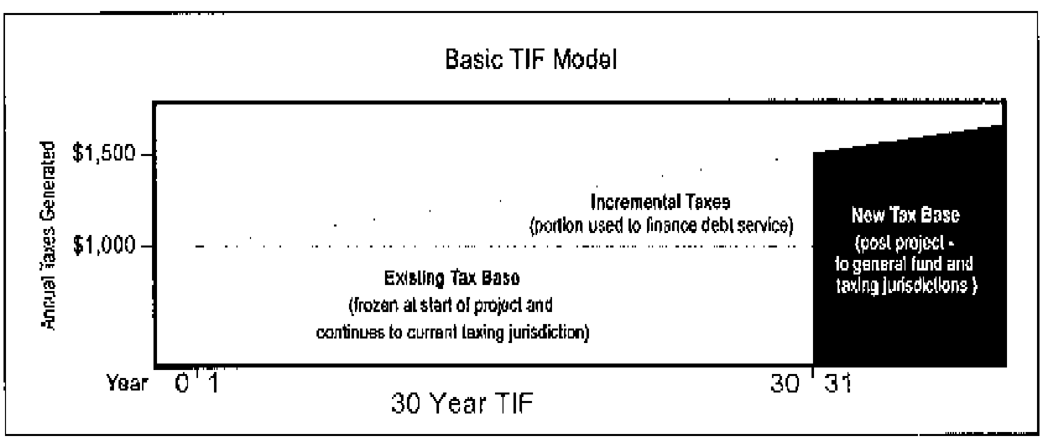
- Owners of property subject to TIF required to pay "service payments in lieu of taxes"
- Paid in the same amount and collected in the same manner as real property taxes
- TIF is therefore a way to focus otherwise dispersed tax money on specific, local improvements

TIF Basics

Uses of service payments in lieu of taxes

- Service payments are collected into a segregated fund which must be established
- May be used to pay for "public infrastructure improvements" as defined in O.R.C. 5709.40(A)(7).
- Generally include: roads, sewers, environmental remediation, land acquisition, demolition, storm water remediation, gas, electric and communications service facilities

TIF Basics



* "Tax Increment Finance Best Practices Reference Guide" (CDFA and ICSC), page 2.

TIF Basics

Governments have power to establish TIFs:

- Municipal corporations (O.R.C. 5709.40 & .41)
- Townships (O.R.C. 5709.73)
- Counties (O.R.C. 5709.78)

TIF Basics

Creation

- Legislative authority passes ordinance or resolution
  - Determines base year as of January 1
  - Identifies TIF boundaries and parcels
  - Notice must be given to school district and other affected political subdivisions
- Form DTE 24
  - Exemption application filed with the Ohio Department of Taxation
  - Contains parameters set forth in the authorizing legislation

TIF Basics

- Project TIF vs. incentive district TIF
  - Project TIF applies to a specific parcel or parcels (*See* O.R.C. 5709.40(B))
  - Incentive district TIF applies to all parcels within a geographic district (*See* O.R.C. 5709.40(C))
    - No more than 300 contiguous acres exhibiting one or more characteristics of economic distress as listed in ORC
    - Public improvements do not need to directly benefit every parcel
    - NEW! **Must allow real property owners to opt out unless property is within an overlay**
- Municipal Urban Redevelopment TIF (.41 TIF)
  - Unique TIF used in urban redevelopment setting

TIF Basics

- Percentage of increased value to which TIF may apply
  - Up to 75% without the consent of the impacted city, local, or exempted village school district
  - Up to 100% with consent of the impacted city, local, or exempted village school district

TIF Basics

Term of TIF

- Up to 10 years without the consents of the impacted city, local, or exempted village school district
- Up to 30 years with consent of the impacted city, local, or exempted village school district

TIF Basics

Rights of school districts, townships, and counties

- Along with consent is ability to negotiate compensation
- Maximum compensation for city, local, and exempted village school districts and joint vocational school districts is amount that would have been paid but for TIF ("non-school TIF")
- **Not an offset to levy collections**

TIF Basics

- Municipal Income Tax Sharing - Municipality must share income tax with School District if:
  - Municipal Income tax in place
  - New payroll in excess of $1,000,000
  - No make whole provision for School District in place
- Six Months to Negotiate Agreement
  - 50/50
  - Municipality entitled to infrastructure set-off (up to 35% of annual income tax increase)

Community Reinvestment Area (CRA)

Characteristics of CRAs

- Real property tax exemption
- Municipalities and counties have the authority to create new CRAs
- Area within a municipal corporation or the unincorporated area of a county
- Area in which housing facilities or structures of historic significance are located
- **Reality** – used to grant commercial/industrial exemptions where at least two housing structures exist

Community Reinvestment Area (CRA)

Types

- Pre July 1, 1994 CRA
  - No agreements
  - No revenue sharing
  - No school district notice or approval
- Post July 1, 1994 CRA
  - Agreements
  - Revenue sharing
  - School district notification and approval
    - School district consent required if exemption is greater than 50% unless school district is otherwise compensated (e.g., through compensation payments)

CRA Basics

Creation (O.R.C. 3735.66)

- Municipal corporation or county passes legislation after housing survey
  - Area is in need of renovation
  - At least 20% of properties in need of rehabilitation
- Incentive parameters established
  - May be only on residential property, only on commercial / industrial property, or on both
  - Maximum exemption is 100% of new value
- Must publish notice of legislation
- Must petition ODSA for confirmation of CRA

CRA Basics

Exemption term (O.R.C. 3735.67(D))

- Remodeling costing $2,500+ of residential or commercial and industrial property: up to 15 years (unless historically significant then subject to additional 10-year extension)
- **NEW!** New construction: up to 15 years. This changed on April 6, 2017. The bill implementing the change also allows for pre-1994 CRA legislation to be amended to allow for the exemption periods described above if the legislation granted the maximum exemptions. That amendment does not count as one of two substantial amendments.

CRA Basics

Granting exemption (O.R.C. 3735.67):

Residential:

- Application to "housing officer"
- Verification of construction or remodeling and its cost and other eligibility criteria
- Housing officer grants exemption
- Forwards approval to county auditor

CRA Basics

Granting exemption (cont'd):

- Commercial / industrial
  - Pre-1994 – same process as residential
  - Post-1994 – negotiate agreement under O.R.C. 3735.671
  - If agreement required, may require school district approval (O.R.C. 3735.671(A))
  - Agreement must be in form set forth in O.R.C. 3735.671
  - Agreement must be certified to ODSA

Enterprise Zone (EZ)

- Enterprise: encourage businesses to make specified types of investments

- Zone: specified geographic area

EZ Basics

Governments which may create:

- Municipal corporations (O.R.C. 5709.62)
- Counties (O.R.C. 5709.63)

EZ Basics

Zone characteristics

- Minimum population:
  - County pop. > 300,000 = 4,000 min. pop. of EZ
  - County pop. < 300,000 = 1,000 min. pop. of EZ
- Single contiguous boundary

EZ Basics

- Legislation creates EZs
- Copy of legislation and related documents must be certified to ODSA for confirmation

EZ Basics

Types of Zones (both cities/counties)

- Non-Distressed Based (Limited Authority Zone under ORC 5709.632)
  - No distress requirements
  - But, intrastate relocations only allowed with waiver from ODSA
- Distress-Based (Full Authority Zone)
  - Six distress criteria outlined in ORC
  - MSA Principal Cities and Appalachian Counties require to meet 1 criteria
  - Other locations required to meet 2
  - If meet criteria, do not need waiver from ODSA to grant exemptions for intrastate relocations

EZ Basics: Pre-1994 EZs

Pre 1994 (Senate Bill 19)

- Enterprise zones existing before July 1, 1994 have limited tax exemption authority
- Cannot grant exemptions to businesses involved in intrastate relocation
- Under ORC 5709.62(E) or 5709.63(D), must be:
  - Establishing its first Ohio facility or
  - Ohio business establishing a new facility that doesn't reduce employment or assets at the other sites or
  - Relocation of business from another state or
  - Expanding a current Ohio facility or
  - Obtain a waiver from the ODSA Director under ORC 5709.633(B).

EZ Basics

Enterprise requirements

- Must be an "enterprise" as defined in O.R.C. 5709.61(B), which broadly includes most business entities
- Must agree to "establish, expand, renovate or occupy a <u>facility</u> in the zone and hire new employees, or preserve employment opportunities for existing employees"

EZ Basics

Project eligibility (O.R.C. 5709.61(C)):

- Must be a "facility"
  - Facilities are: "Place of business in a zone, including land, buildings, machinery, equipment and other materials <u>except inventory</u> used in business.
  - Facility does not include any portion…used primarily for making retail sales, unless:
    - The place of business is located in an impacted city as defined in 1728.01 or
    - [NEW!!] the city, local, or exempted village school district within the territory of which the place of business is located waives the exclusion of retail facilities under O.R.C. 5709.634

EZ Basics

Property eligible for exemption:

- Tangible personal property: Percentage of "assessed value of tangible personal property <u>first used in business</u> at the project site as a result of the agreement"
- Real property: Percentage of "the increase in the assessed valuation of real property constituting the project site"

EZ Basics

Exemption parameters

- Municipality: (1) up to 75% and up to 10 years or (2) average of 60% over term
- Unincorporated area: (1) up to 60% and up to 10 years or (2) average of 60% over term
- **With school district approval, exemption can be up to 100% for up to 15 years**
- Can "front load" exemption, exceeding allowable percentages in early years as long as average remains under 60%

EZ Basics

Granting exemptions:

- Local officials negotiate agreement with business
- Legislation required for final approval of agreement
- File with ODSA and ODT within 15 days

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New Community Authorities
("NCAs")

New Community Authorities

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General Characteristics

A separate governmental body organized to encourage the orderly development of an economically sound new community

Developer driven

- All acreage must be owned or controlled, through leases of at least 75 years' duration, options, or contracts to purchase
- Developer is represented on board
- Large developments only—minimum 1,000 acres if not wholly within municipality or half is within JEDD

New Community Authorities

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Formation

- Procedure for creation
  - Developer files petition with "organizational board" (board of county commissioners / legislative authority of municipal corporation)
    - Petition must include, among other things, plan that sets forth development program for district
  - Organizational board must hold hearing and must approve creation if district is conducive to the public health, safety, convenience, and welfare

New Community Authorities

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Powers

- Board
  - Appointed by developer, county, and local government until certain population levels met
- Revenue
  - Community development charge
    - Runs with land through declaration
    - An assessment providing a special benefit, not a tax
    - Flexible--can be based on millage, residents' income, gross receipts, or business revenues (including lease rentals)
- Issue taxable or tax-exempt bonds or other obligations

New Community Authorities

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- No general power to offer traditional governmental services
- "Community Facilities"
  - Public buildings, centers and plazas, auditoriums, day care centers, recreation halls, educational facilities, recreational facilities
  - Parks and other open space land, lakes and streams, cultural facilities
  - Streets, pathway and bikeway systems, pedestrian underpasses and overpasses, lighting facilities, design amenities
  - Buildings needed in connection with water supply or sewage disposal installations or steam, gas, or electric lines or installation, telecommunications facilities

JEDDs

Joint Economic Development District

- Contractual agreement among jurisdictions to create a new governmental entity charged with improving an identified district, typically in connection with an economic development initiative
- By statute, a special-purpose district formed to "facilitat[e] economic development to create or preserve jobs and employment opportunities and to improve the economic welfare of the people in the state and in the area of the contracting parties"

Background: Historical Backdrop

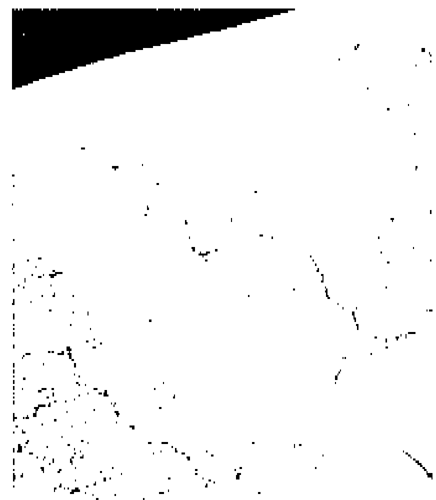
- Historically, development has been challenging in unincorporated areas
  - Lack of municipal services and infrastructure
  - Townships resisting potential loss of identity, clout and revenue accompanying annexation
  - Limited public funds available to support development

Background: Establishment of JEDD Tool

- Statutory compromise: JEDDs
- Enable district-wide income tax and the provision of municipal services to unincorporated areas
- Replace antagonism of annexation with collaborative spirit of cooperative agreement between municipality and township
- Typical scenario involves a township with prime development land and a municipality that is willing to offer services

Roadmap: Overview of Process

- Agreement between contracting parties
- Public hearing and petition process
- Election required, but can be avoided
- Governed by Board of Directors
- Flexible powers set defined by contracting parties



Roadmap: Territory

Territory

- Can be formed by at least one municipality and one township, or more
- Contracting parties generally must be contiguous or one apart
- Territory cannot include residential property or property zoned for residential use (unless mixed-use)
- Territory cannot include property owned or leased by a municipal corporation or township unless the municipal corporation or township is either a party to the agreement or has consented to inclusion of the land within the JEDD

Roadmap:
Approval Process (1 of 2)

Formation

1. Municipality and township (and other parties, if applicable) prepare a contract for the JEDD that includes an economic development plan and a map for the JEDD
2. Allow for public inspection of proposed JEDD documents
3. Public hearing regarding proposed JEDD
4. Obtain petition signatures of majority of owners of property within JEDD and majority of owners of businesses located within JEDD

Roadmap:
Approval Process (2 of 2)

Formation (continued)

5. Legislation adopted by each contracting party
6. Notice to businesses and property owners that did not sign petition (10 days after approval)
7. Notify DSA
8. Effective 30 days after Township approval

NEW! Pending rule would require additional reporting to Tax Commissioner, including regarding existing JEDDs.

Roadmap: Election Requirement

Election?

- Generally, the electors of any township that will be a contracting party to the JEDD must approve the creation of the JEDD.
- However, any included townships typically avoid an election by satisfying each of three conditions:
  - Unanimous approval of the township board of trustees
  - Petition signed by a majority of property owners within the JEDD
  - Land to be included in JEDD is zoned appropriately for proposed use
- JEDD subject to referendum (10% requirement, 30 days)
- Opt-out procedure may apply for first six months

Roadmap: Contract Provisions (1 of 2)

Governance

- Board of Directors comprised of:
  - One person representing all municipalities that are contracting parties
  - One person representing all townships that are contracting parties
  - One person representing the owners of businesses located within the district
  - One person representing people working in the district
  - One person selected by the other members, who is the chairperson
- Election/selection determined by terms of contract

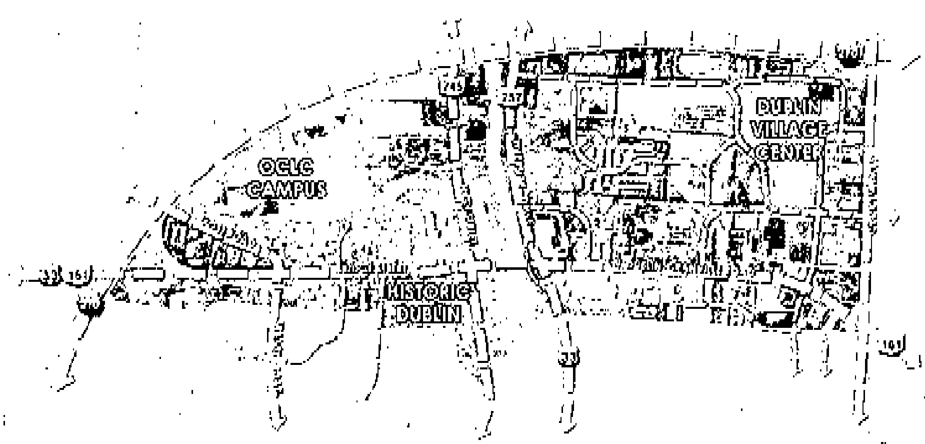
Roadmap: Contract Provisions (2 of 2)

Powers

- Coordination of services provided by municipality and township and any planned infrastructure improvements
- Can levy income tax at rate no higher than municipality's rate (no vote required)
- Can determine zoning and land-use regulations for district
- Can limit annexation within JEDD
- Can limit granting of property tax abatements and other tax incentives within JEDD

Case Study: Bridge Street Development / Dublin CSD

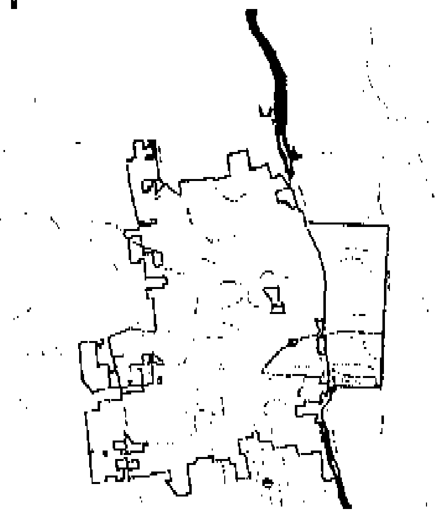
Bridge Street Development: Overview



Case Study: Bridge Street Development / Dublin CSD

Bridge Street Development: Overview

- Approximately 1,200 acres
- 6% of Dublin's land area
- Bounded by 1-270, Sawmill Road, SR 161/Bridge Street
- Includes historic district



Rationale for Bridge Street District Development

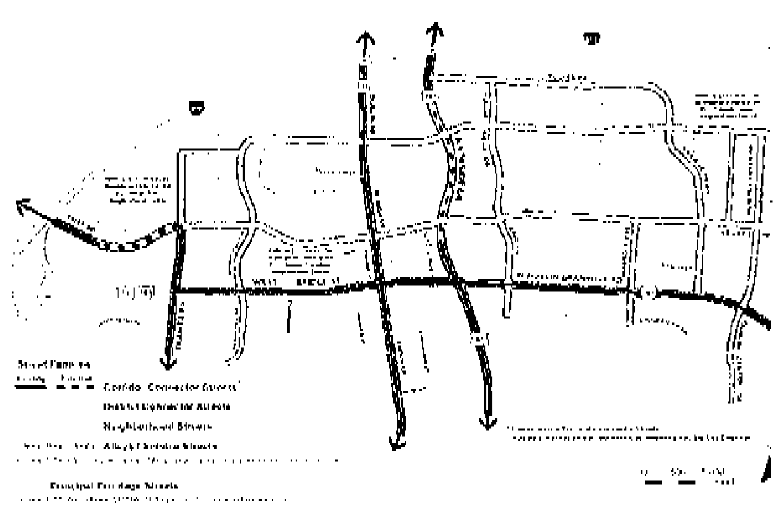
- Enhances City's near and long term economic development competitiveness
- Talent attraction and retention
- Growing demand for creative office environments
  - Market trends - less new suburban office construction
- Financial benefits
  - More sustainable development pattern - more efficient use of land
  - Targets long-standing underperforming areas within the School District
  - Increased value throughout City
- Changing demographics

Bridge Street: Project Requirements

- Much higher development costs resulting in substantially higher investment
  - Structured/podium parking facilities
  - "Grid" of roadways

- Supportive infrastructure improvements, including major public investments in transportation, public spaces, parks, and other civic improvements to "amenitize" the District

Bridge Street: Roadway Improvements



Bridge Street: City Requirements

- Substantial public infrastructure needs
  - Estimated to cost over $400 million over a 30 year period
  - Transportation grid network
- Contribution toward private improvements
  - Structured parking
  - Write down of land costs
  - Resources would not be sufficient with income tax and property tax revenue alone; TIF revenue would be needed in order to fund the gaps that will exist

Negotiations: School Perspective

- Recognition that the City can't proceed with this development without the support of the school district
- Concerns over increases in student population by this development
- Dedicated revenue stream for the district
- Resident concern and understanding regarding future school levies
- Compliance with ORC, legal implications

Negotiations: City Perspective

- Recognition that the City's success is dependent on Dublin City School District's success
- City's belief that there would be minimal impact to DCS in terms of student population
- Necessary to have predictability for the benefit of the development community
- Flexibility in incentive types
- Compliance with ORC, legal implications
- Manageability of the agreement

The Cooperative Agreement

Dublin City Schools receives $50 million over 33 years

- $1.5 million annually from 2014 – 2046
- $2 million in 2047
- No additional compensation during term of agreement

City has the ability to create Tax Incentive Districts within the BSD area during the 33 year term

- For each TIF created:
  - Years 1 – 15 City receives 100% of the service payments generated (Straight TIF)
  - Years 16 – 30 DCS receives 10% of the amount they would have received; City receives the remainder

Cooperative Agreement: Key Details

October 2016 - $70 million in valuation must be created within the District

If < $70 million

- $1.5 million annual payments cease
- Any TIFs established convert to 75/25
- In place until value ≥ $70 million

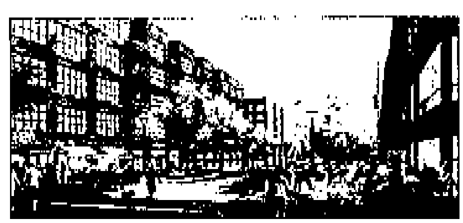
Annually after 2017, City will review the value generated within the District

- Ensure that at the end of the 33 years, the City hasn't paid to the District an amount in excess of their forgone revenue
- Annual adjustments to the payment may be made
- Annual payment capped at $1.5 million
- Payment will continue beyond 33 years until such point that School District receives $50 million

Development Progress

Plan Overview

- Spanning 30 acres along the Scioto River
- At completion, Bridge Park is expected to have the following:
  - Office: 373,000 SF
  - Retail: 120,000 SF
  - Food & Beverage: 115,000 SF
  - Grocery: 76,000 SF
  - Apartments: 720
  - Condominiums: 70 units ($350,000-$450,000)
  - 500 person Conference Center
  - 150 Key Hotel
  - Seven parking garages
- Projected private investment in excess of $230 million



Bridge Street: City Role

- City Issued Debt (Proceeds)
  - TOTAL INVESTMENT $43.1 million

- Funding for City Debt
  - All TIF revenue (service payments) generated in blocks where City funded garages are located will be directed towards payment of debt service associated with the garages and roadways

- Annual Minimum Service Payment Guarantee on Blocks B & C
  - Calendar year 2018 - $1,887,978 Calendar years 2019 - 2046 - $2,432,351
  - Calendar year 2047 - $2,333,630 **TOTAL $72,327,436**

Bridge Street: Developer Role

- Developer Expenses
  - Parking Garages (A, D, F, G, Z, and Events Center) - $54,970,000
  - Roadway Improvements - $5,500.000

- Funding for Developer Expenses
  - TIF revenue (service payments) generated on all commercial properties in Blocks other those which have the two City-funded garages
  - NCA Charge - - Owner-occupied properties; backstop on commercial properties
  - NCA Bed Tax Revenue (Separate from City's bed tax)
  - Annual Bed Tax Grant
  - Private Sources

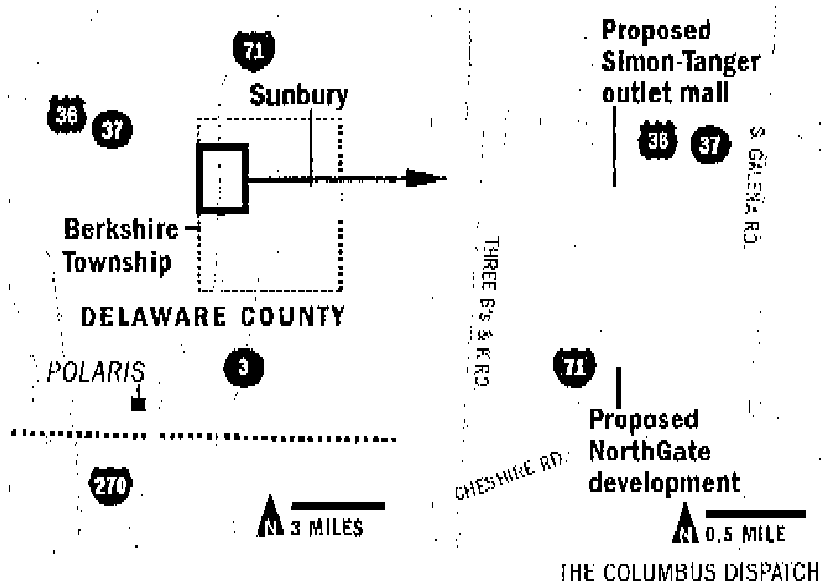
Bridge Street: Dublin CSD Debt

- Dublin CSD issued two note obligations in July 2017 to finance the acquisition, construction, improvement, furnishing, and equipping of a building to be used for alternative high school programs
  - $9,450,000 School Facilities Acquisition and Improvement Notes, Series 2017A – for the acquisition of the building
  - $9,100,000 School Facilities Acquisition and Improvement Notes, Series 2017A – for the improvements, furnishing, and equipping of the building

Bridge Street: Dublin CSD Debt

- Debt was issued under the authority of ORC §133.06(H)
  - School districts have limited unvoted borrowing capacity (1/10 of 1%)
- ORC §133.06(H) debt is allowed pursuant to compensation paid under TIF, CRA, EZ exemptions
  - Consent of state superintendent required
  - Treasurer must certify that the compensation will cover the debt service on the debt (Dublin CSD: $1,500,000 annually)
  - Treasurer must certify that the it expects to have operating revenue sufficient to operate the permanent improvements financed by the debt

Case Study: Big Walnut LSD – Delaware Outlets



Case Study: Delaware Outlets / Big Walnut LSD

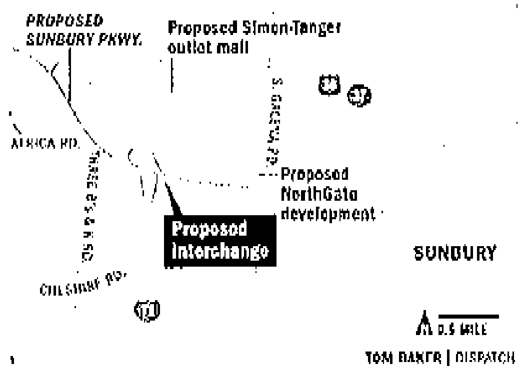
The Event: A $100M outlet mall decides to locate in school district in area with insufficient infrastructure

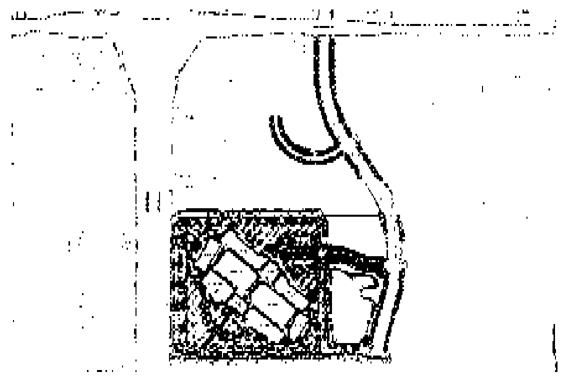
The Problem: The mall developer wants to use tax revenues and other tools to pay for infrastructure

The Challenge: Protect school district revenues

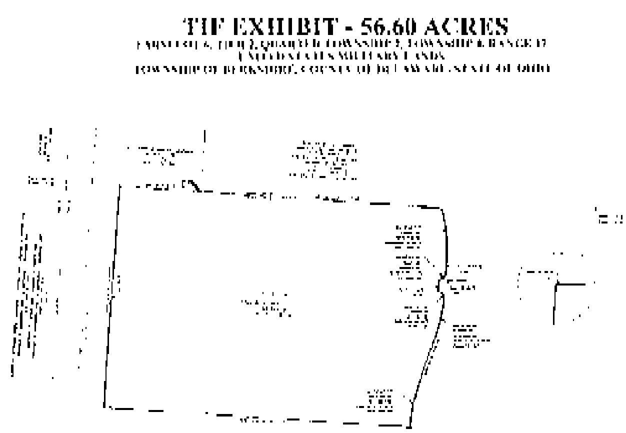
The Team: Treasurer, superintendent, legal counsel

Infrastructure Demand



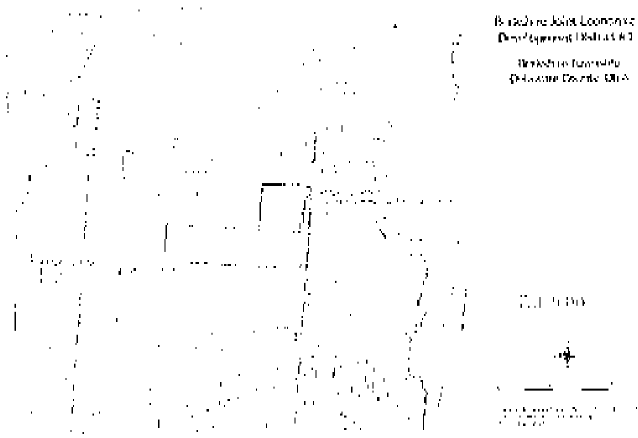


Development Tool: TIF



Players: Berkshire Township, school district
Impact: 10-Year, 75% property tax diversion to infrastructure; Mall value of $100M; School district "contribution" to infrastructure approx. $13M

Development Tool: JEDD



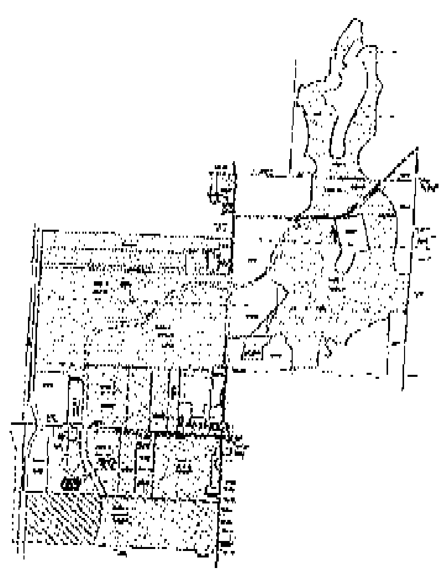
Players: Berkshire Township, Village of Sunbury, City of Delaware, mall
Impact: 1% vs. 1.85% income tax rate; Funds to offset infrastructure expense

Development Tool: NCA

Players: Delaware County,
Berkshire Township, school district, mall,
other property owners

Impact: Multiple revenue streams created by NCA charge

- 0.5% sales tax on mall
- 4 mill property assessment for residential properties in southern areas (benefit to school district)
- Variable millage property assessment on northern areas (no benefit to school district)



Outcomes and Lessons

- TIF, JEDD, and NCA are complicated tools
- School district negotiated directly with "big boys" at Simon and Tanger
- Negotiated outcomes included
  - $1M compensation payment from Simon-Tanger to school district (offsets TIF)
  - 4 mills assessed value charge on some residential areas (NCA tool)
- School district gained perspective and focus with professional help!

Questions?

DUBLIN CITY SCHOOLS

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