George Koczwara

From: George Koczwara
Sent: Tuesday, April 9, 2024 10:54 AM
To: John Bryk; Robert Nolting
Cc: Steve Marciani; Ed Lelo; Jim Culotta; Michael.Roth@icemiller.com; John Lavelle; Scott Beranek; Dalianis, Ares G.
Subject: Proposed Intergovernmental Agreement

Dear Mr. Bryk and Dr. Nolting:

As discussed during our March 19th meeting, below please find a response to the demand and threat of litigation that was forwarded to the Village.

Main Street Triangle Project
As I am sure you can appreciate, the magnitude of redeveloping a parcel similar to the proposed Downtown Orland Park is no small task. As a matter of fact, since 2004 when the original TIF District was established, only a few parcels were redeveloped. In the last few years, we have made incredible progress on fulfilling the Downtown Orland Park vision that was established in 2004. At the May 2, 2022, Village Board meeting, the Village Board approved the Conceptual Master Development Plan for Downtown Orland Park. Downtown Orland Park is approximately 27 acres. The Conceptual Master Development Plan outlines the proposed development for the remaining 9.15 acres of Downtown Orland Park.

The approved conceptual plan was the foundation for the specifications for a Request for Proposals that was issued seeking a master developer. Two proposals were received, and at the August 15, 2022, Village Board meeting, the Village Board approved initiating negotiations on the Redevelopment Agreement (RDA) for the Downtown Orland Park project with Edwards Realty Company.

For this redevelopment to happen, the Village plans to:
1) amend the existing Main Street Triangle (MST) TIF District boundary to include only a subset of the parcels currently in the MST TIF District, and;
2) designate a new TIF District on some of the parcels currently in the MST TIF District, to be known as the Downtown Orland Park (DOP) TIF District.

At the November 6, 2023, Board of Trustees meeting, the Village Board authorized the execution of a Term Sheet with Edwards Realty for the Downtown Orland Park Redevelopment. Since the November 6, 2023, Term Sheet approval, Village Staff have been meeting regularly with Edwards Realty to finalize the redevelopment agreement and to initiate the entitlement processes.

Previous Intergovernmental Agreement Attempt with School Districts 135 and 230
Since 2021, Village staff had been working with staff from D135 and D230 on an Intergovernmental Agreement for the Downtown Orland Park (DOP) TIF District. The Village previously drafted an IGA and provided it to D230 and D135 when it appeared that objections from the school districts had been overcome. Previous Village correspondence highlighted the Village's continued good faith efforts in resolving any looming objections. However, after multiple attempts by the Village, no response was received. At the December 19, 2022, Board of Trustees meeting, the Board directed staff to make one additional attempt to come to an agreement and set a deadline of December 31, 2022. This was a last attempt to work collaboratively in the best interest of the school districts and all the residents of Orland Park. The date came and went without any response; therefore, the Village altered its plans in order to keep the project moving forward.

As part of the proposed intergovernmental agreement, instead of extending the MST TIF, a new Downtown Orland Park (DOP) TIF would be created and the existing MST TIF boundaries would be decreased through an amendment. Under the initial iteration of this plan, the 9750 On The Park Apartments were not going to be part of either the DOP TIF nor the MST TIF. This would have resulted in all taxing bodies, especially the school districts, capturing the MST TIF increment five years earlier than if the current TIF district remained in place for its full life. Since the 9750 On The Park Apartments are currently the only property tax generator in the entire MST TIF, the original plan of excluding 9750 from either the MST TIF or the DOP TIF would have resulted in $4.3 million in new non-tax cap revenue to School Districts 135 and 230 over five years. However, by rejecting the intergovernmental agreement, this revenue is now no longer available to the school districts since the TIF District has a fixed term and only three years remain.

2007 Intergovernmental Agreement

Subsequently, the school districts presented a 2007 Intergovernmental Agreement that was signed by the Village, D135 and D230. Village staff were unaware of the IGA and promptly provided it to the Village's legal counsel for this matter, Michael Roth of ICE Miller. Mr. Roth's opinion makes clear that was previously approved contradicts State law, and as a result, the Village cannot fulfill the terms of the 2007 Intergovernmental Agreement. The opinion is punctuated by the fact that the Main Street Triangle has a deficit of $27.5 million as a result of loans made to the Main Street Triangle from the Village's General Fund. This opinion was made available to all of the taxing bodies as part of the Main Street Triangle TIF Joint Review Board meeting on November 7, 2023.

An element of the 2007 IGA was a per student reimbursement. The Village has and continues to agree to follow all State laws regarding per student reimbursements in TIF Districts. However, since the school districts have not made requests in accordance with State law, and because student enrollment has decreased since 2007, the Village is limited in what it can reimburse according to the Illinois TIF Act. Here are the enrollment figures since 2007.

	D135	D230
2007	5,601	8,742
2023	5,181	7,595

At the November 7, 2023 Joint Review Board meeting, the Village also presented a draft ordinance amending the Land Development Code in regards to development impact fees. This Ordinance was first presented to the various taxing bodies on November 16, 2021. At that same meeting, the Village also sought collaboration by highlighting the efforts underway to design and procure easements for a proposed 143rd Street Widening/Park School Secondary Access Driveway as well as a willingness on the part of the Village to improve the High Point/Orland Junior High fields at a cost of $3.1 million. In exchange for the $3.1 million in improvements, the Village only sought a long-term field use arrangement. The Village did not seek any reimbursement for its efforts to design and secure easements for the 143rd Street Driveway.

With regard to the new Impact Fee Ordinance, it was drafted to be in line with statutory requirements and industry standards. These impact fees would be applicable to new residential developments. Residential developments can cause increased demands upon public facilities and services that are specifically and uniquely attributable to those new residential developments. Affected facilities and services include public schools, libraries, parks, playgrounds and recreation facilities, open space, police, fire and emergency facilities and services, and public works facilities and services. The provisions of the draft ordinance require that any school district, fire protection or library district shall have entered into a valid and enforceable intergovernmental agreement with the Village.

Another accommodation that the Village had proposed during this period was the willingness of the Village to sell the Cultural Art Center to the D135 for $1. After completing a facility analysis, D135 determined to pass on acquiring the building.

Threat of Litigation

Despite all of the Village's attempts at collaboration, on February 20, 2024 the Village received a threat of litigation from D135 including a draft complaint. The Village's previous collaboration attempts have included:

- $4.3 million in new non-tax cap revenue by amending the Main Street Triangle TIF.
- $3.1 million in improvements to the High Point/Orland Junior High fields.
- Cultural Arts Center donation.
- Design and easements for a proposed 143rd Street Widening/Park School Secondary Access Driveway.
- New Impact Fee Ordinance.

After receipt of the threat of litigation, the Village requested a meeting with D135 and D230 in order to meet and discuss this matter to avoid the unnecessary cost of litigation, which would only serve to harm our shared constituents and of which the Village would undoubtedly prevail. The respective representatives of the Village, D135 and D230 met on March 19th to discuss this matter. At the meeting, the Village indicated that it would provide a response to D135's litigation threat following the April 1st Village Board meeting.

April 1, 2024, Village Board Proposal

As part of its ongoing transparency efforts, the Village Board discussed this matter in open session at its April 1, 2024 Village Board meeting despite this matter being eligible to be discussed in Executive Session as it related to a threat of litigation. After a review of this matter, the Village Board directed staff to again seek resolution through collaborative efforts for the benefit of our mutual taxpayers. Accordingly, the Village is making the following proposal:

- The Village will collect impact fees that are allowed by law.
- The Village will renovate the fields behind High Point and Orland Jr. High per the proposed plan. If D135 wants to upgrade these fields to turf, they village will do so at the district's cost.
- The Village will continue to engineer the access to the west of Park school, acquire and transfer the necessary right-of-way at no cost to the school.
- The Village will enter into an IGA that reimburse the districts for students as required by the Illinois TIF act for the new Downtown TIF and other potential TIFS at 159th Street & LaGrange, the old Andrew property, 143rd & John Humphrey and Orland Square.

In exchange for this:

- The districts must comply with the necessary legal requirements for impact fee collection.
- The Village and D135 will enter into a 25-year field usage agreement that mirrors the current five-year agreement.
- The districts will agree to not contest the changed TIF boundaries for the Downtown Triangle.
- The districts agree to an IGA supporting the new Downtown Triangle TIF.
- The districts agree to an IGA supporting other potential TIFs.
- The districts agree to drop all claims regarding the 2007 IGA that requires the law be violated.

If for some reason, District 135 does not want to upgrade the fields behind High Point and Orland Jr. High, the correlating portion can be taken out of the agreement.

Considering that a lawsuit against the Village, which would only serve to harm our shared constituents and of which the Village would undoubtedly prevail, the Village Board seeks to do what is best for the entire community. This proposal represents at least $3.6 Million in benefits to District 135 and is a positive step forward for all the residents and businesses in Orland Park.

If either District 135 or District 230 are interested in pursuing this proposal, please let me know by April 30, 2024. The Village Board has set this deadline to allow the respective school districts the opportunity to discuss this matter at the school board level.

Should you have any questions in the meantime, please do not hesitate to contact me.

Very Respectfully,

George Koczwara | Village Manager
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ORLAND PARK