



COUNTY OF KENOSHA

Department of Finance and Administration
Dave M. Geertsen, Director

1010 – 56th Street, Second Floor
Kenosha, Wisconsin 53140
(262) 653-2460
Fax: (262) 653-2491

October 21, 2014

Legislative Council Study Committee on Review of Tax Incremental Financing
Senator Rick Gudex, Chairperson
Representative Amy Loudenbeck, Vice Chairperson

Dear Senator Gudex and Representative Loudenbeck:

As the Legislative Council Study Committee concludes its deliberations, Kenosha County appreciates the opportunity to provide the attached comments for your consideration.

Our comments are centered on the concept of improving accountability of the TIF process, while at the same time preserving the ability of TIF to serve as an important economic development tool.

Thank you for your review of law and policy relative to TIF. Kenosha County looks forward to working with you as changes to TIF law are contemplated.

Sincerely,

David M. Geertsen, CPA
Director, Kenosha County Department of Finance and Administration

cc: Representative Samantha Kerkman
Scott Grosz, Legislative Council
Jim Kreuser, Kenosha County Executive

Strengthen Joint Review Board oversight

JRB to approve increase above 12%, municipality may not break a tie

The Legislative Council has taken a poll, and is recommending increasing the 12% cap on TID value to 15%. If legislation is considered approving this, it could require that the JRB approve any increase above the 12% amount, and not permit the municipality to break a tie.

Strengthen requirement that the municipality respond to questions and inquiries from JRB

Section 66.1105(4m) (a) states that “The City that seeks to create the tax incremental district or to amend its project plan shall provide administrative support for the board.” This language could be interpreted to mean that the City shall provide clerical support such as scheduling meetings, taking meeting minutes, providing a room to meet, etc. The section could be improved if it were to state that if one member of the JRB requests legal counsel, fiscal or economic analysis, geographical/mapping information, capital financing information, or any other information reasonably germane to the action before the JRB, that the municipality *shall* provide the information prior to seeking a motion of the JRB.

Consider requiring JRB approval for debt restructures that are not for savings

Under this provision, if a local government chooses to refund debt within a TID, it may be done for savings with no JRB approval (e.g. net present value of refunding reflects an economic savings). However, if it is done for another purpose, such as to extend the length of the debt payments to reduce annual payments, requiring that a district remain open longer than initially planned, JRB approval must be obtained.

Consider make-up of JRB

When the makeup of the JRB was initially created, TIF districts had much more of a fiscal impact upon school districts and technical colleges. Because of past or soon to be implemented law changes, this impact is now much less. Other than the municipality proposing the TID, Counties are now most impacted financially. Consider changing the current JRB makeup. For example, the law could require that a business member (e.g. in Kenosha a representative from the Kenosha Area Business Alliance) if one is available or an at-large member.

Term of District to be approved by JRB

Require that the term of the TID be approved by the JRB at the time of TID creation. The term shall be based upon the length of time needed to fund the TID according to the project plan as approved by the JRB. Any extension of this term must be approved by the JRB.

Require that municipality provide legal counsel and a legal opinion to the JRB

Attachment 2 is the legal opinion provided by the City of Kenosha with regard to an amendment to City TID 5. It is unclear whether the JRB is receiving legal counsel regarding the actions they are required to take to approve this change. A legal opinion directly to the JRB confirming that the actions under consideration are lawful would be beneficial. If a JRB member had a question as to law with regard to the proposed action, the municipality shall be required to provide the legal counsel.

Improve TIF reporting and Accountability requirements

Strengthen audit requirements

Current law (66.1105 (6m)(a)) requires only periodic audits such as 12 months after 30% of project expenditures are made and 12 months after termination of the district. The law could be changed to require that audits are required annually. The audit could be required to include a schedule that compares TID projections to actual activity:

	EXPENSE		REVENUE	
	Cumulative	Cumulative	Cumulative	Cumulative
	Project Plan	Actual	Project	Actual
	Expense	Expense	Plan	Revenue
year 1	\$ xxx	\$ yyy	\$xxx	\$yyy
year 2	\$ xxx	\$ yyy	\$xxx	\$yyy
year 3	\$ xxx	\$ yyy	\$xxx	\$yyy
year 4	\$ xxx	\$ yyy	\$xxx	\$yyy
year 5				
etc.	\$ xxx	\$ yyy	\$xxx	\$yyy

In addition to this schedule, the audit could include a section in management communications, footnotes, and supplemental information as shown in attachment 1 for the Village of Winneconne TID 6.

This more extensive annual reporting and attestation requirement would be imposed upon governments that meet certain thresholds based upon total dollar value certified by DOR, etc. Smaller governments could be exempted.

Strengthen Reporting Requirements

Section 66.1105(6m) (c) requires that a report shall be sent to each overlying district by May 1 annually. There are no penalties if the municipality fails to file this report. A penalty could be imposed upon the municipality for failure to report, such as withholding increment value certification by DOR in cases of non-compliance. If additional audit and reporting requirements are established, consideration should be given to pushing back reporting deadlines to coincide with audit due dates.

Other

Improve Purpose Law

Section 66.1105(2) (f) 2 lists items that may not be included as project costs within a TID. This section could be reviewed and amended to ensure that projects undertaken within a TID relate to the purpose of TID law e.g. economic development, blight elimination, etc.

Develop Criteria for inter-district increment sharing

The law permits project plan amendments for the purpose of sharing positive increments from donor districts to fund revenue shortfalls in non-performing districts. The JRB must approve such amendments. When 66.1105 was amended to permit increment sharing, JRB approval criteria were not established. The 3-part test required for approval of a new district does not apply for this type of project plan amendment. A change could be considered to 66.1105 to develop JRB approval criteria for this type of project plan amendment.

A H a k m e n t ①

VILLAGE OF WINNECONNE, WISCONSIN
TAX INCREMENTAL FINANCING DISTRICT NO. [REDACTED] ANNUAL REPORT
Year Ended December 31, 2013

Management Communications

Date Created: January 1, 2000

Latest Possible Termination Date: December 31, 2024

Expenditures
Project costs
Interest on debt
Total Expenditures

Revenues
Tax increments
Other
Total Revenues

Net Unreimbursed Costs at December 31, 2013

Waterfront Condominiums

Current Year	Cumulative
\$ 37,531	\$ 1,202,617
46,197	468,568
83,728	1,671,185
118,595	965,124
-	40,496
118,595	1,005,620
	\$ 665,565

Income Statement

Footnote

Balance sheet

002 625,500.00
455,100.00
1,078,600.00

003 665,565.00
415,035.00

015 Debt
Unreimbursed costs
Per G/L 413,121
Fund Balance

2014 Levy 95,920

A H a k m e n t ① Page ①

VILLAGE OF WINNECONNE, WISCONSIN

Notes to Basic Financial Statements

December 31, 2013

Notes to Financials

NOTE D - OTHER INFORMATION (Continued)

2. Risk Management

The Village is exposed to various risks of loss related to torts; theft of, damage to and destruction of assets; errors and omissions; and natural disasters for which the government carries commercial insurance. The Village completes an annual review of its insurance coverage to ensure adequate coverage.

3. Tax Incremental Districts

The Village has established five separate capital projects funds for Tax Incremental Districts (TID) created by the Village in accordance with Section 66.1105 of the Wisconsin Statutes. At the time the Districts were created, the property tax base within each District was "frozen" and increment taxes resulting from increases to the property tax base are used to finance District improvements, including interest on long-term debt issued by the Village to finance such improvements. Except for certain exceptions under Section 66.1105, the Statutes allow 15 or 22 years after its creation date for a tax incremental district to incur project costs eligible for financing from tax increments. TID No. 3 was created on January 1, 1996, TID No. 5 was created on January 1, 2000, TID No. 6 was created on January 1, 2000, TID No. 7 was created on January 1, 2002, and TID No. 8 was created on June 9, 2011; and therefore were still eligible to incur project costs during 2013.

Since creation of the above Districts, the Village has provided various financing sources to each TID. These costs can be recovered by the Village from any future excess tax increment revenues. Detail of the amounts recoverable by the Village as of December 31, 2013 from future excess tax increment revenues follows:

	Total	TID No. 3	TID No. 5	TID No. 6	TID No. 7	TID No. 8
Net Unreimbursed Project Costs	\$ 2,438,533	\$ 1,254,576	\$ (133,103)	\$ 665,565	\$ 82,856	\$ 568,639

4. Property Tax Levy Limit

Wisconsin state statutes provide for a limit on the property tax levies for all Wisconsin cities, villages, towns and counties. For the 2013 and 2014 budget years, the increase in the maximum allowable tax levy is limited to the percentage change in the Village's January 1 equalized value as a result of net new construction. The actual limit for the Village for the 2013 budget was 0.08%. The actual limit for the Village for the 2014 budget was 1.00%. Debt service for debt authorized after July 1, 2005 is exempt from the levy limit. In addition, Wisconsin statutes allow the limit to be adjusted for the increase in debt service authorized prior to July 1, 2005 and in certain other situations.

Att #1

VILLAGE OF WINNECONNE, WISCONSIN

Combining Balance Sheet
 Nonmajor Governmental Funds
 December 31, 2013

(With summarized financial information as of December 31, 2012)

Supplementary Information

	TID No. 3	TID No. 5	TID No. 6	TID No. 7
ASSETS				
Cash and investments	\$ 16,250	\$ 133,103	\$ 413,121	\$ -
Receivables				
Taxes	50,162	116,384	95,920	113,677
Notes	-	-	-	-
Restricted				
Cash and investments	297,494	-	-	-
TOTAL ASSETS	<u>\$ 363,906</u>	<u>\$ 249,487</u>	<u>\$ 509,041</u>	<u>\$ 113,677</u>
LIABILITIES, DEFERRED INFLOWS OF RESOURCES AND FUND BALANCES				
Liabilities				
Accounts payable	\$ -	\$ -	\$ -	\$ 14,216
Due to other funds	-	-	-	119,756
Total Liabilities	-	-	-	<u>133,972</u>
Deferred Inflows of Resources				
Property taxes	50,162	116,384	95,920	113,677
Notes	-	-	-	-
Total Deferred Inflows of Resources	<u>50,162</u>	<u>116,384</u>	<u>95,920</u>	<u>113,677</u>
Fund Balances (Deficit)				
Restricted for debt service	297,494	-	-	-
Committed for				
Subsequent year's expenditures	16,250	133,103	413,121	-
Unassigned				
TID No. 7	-	-	-	(133,972)
Total Fund Balances (Deficit)	<u>313,744</u>	<u>133,103</u>	<u>413,121</u>	<u>(133,972)</u>
TOTAL LIABILITIES, DEFERRED INFLOWS OF RESOURCES AND FUND BALANCES	<u>\$ 363,906</u>	<u>\$ 249,487</u>	<u>\$ 509,041</u>	<u>\$ 113,677</u>

Attachment 1
Page (3)

VILLAGE OF WINNECONNE, WISCONSIN

Combining Statement of Revenues, Expenditures and Changes in Fund Balances

Nonmajor Governmental Funds

For the Year Ended December 31, 2013

(With summarized financial information for the year ended December 31, 2012)

Supplementary Information

	TID No. 3	TID No. 5	TID No. 6	TID No. 7
Revenues				
Taxes	\$ 56,901	\$ 118,915	\$ 118,595	\$ 91,775
Public charges for services	-	-	-	-
Miscellaneous	-	-	-	-
Total Revenues	<u>56,901</u>	<u>118,915</u>	<u>118,595</u>	<u>91,775</u>
Expenditures				
Current				
Conservation and development	398	17,480	37,531	210,213
Debt service				
Principal	79,969	-	55,031	-
Interest and fiscal charges	67,098	-	46,197	-
Total Expenditures	<u>147,465</u>	<u>17,480</u>	<u>138,759</u>	<u>210,213</u>
Excess of Revenues Over (Under) Expenditures	<u>(90,564)</u>	<u>101,435</u>	<u>(20,164)</u>	<u>(118,438)</u>
Other Financing Sources (Uses)				
Transfers out	-	-	-	(80,711)
Net Change in Fund Balances	(90,564)	101,435	(20,164)	(199,149)
Fund Balances (Deficit) - January 1	<u>404,308</u>	<u>31,668</u>	<u>433,285</u>	<u>65,177</u>
Fund Balances (Deficit) - December 31	<u>\$ 313,744</u>	<u>\$ 133,103</u>	<u>\$ 413,121</u>	<u>\$ (133,972)</u>

Attachment 1

Page 4

OFFICE OF THE CITY ATTORNEY
MUNICIPAL BUILDING
625 - 52ND STREET, Room 201
Kenosha, Wisconsin 53140
PHONE (262) 653-4170
FAX (262) 653-4176



EDWARD R. ANTARAMIAN
CITY ATTORNEY
MATTHEW A. KNIGHT
DEPUTY CITY ATTORNEY
WILLIAM K. RICHARDSON
ASSISTANT CITY ATTORNEY
JONATHAN A. MULLIGAN
ASSISTANT CITY ATTORNEY
CHRISTINE M. GENTHNER
ASSISTANT CITY ATTORNEY

August 1, 2014


Honorable Mayor
and Common Council
City of Kenosha
Kenosha, Wisconsin 53140

Re: Project Plan First Amendment for Tax Incremental
District Number 5 [TIF District No. 5]

Dear Mayor and Members of the Common Council:

I have reviewed the above and conclude that it is complete and complies with Section 66.1105(4)(f), Wisconsin Statutes.

Respectfully submitted,


Edward R. Antaramian
City Attorney

Attached
2