Metro Mayors Caucus & Metro Area County Commissioners
Urban Renewal Authorities/Tax Increment Financing Dialogue

NOTES: February 19, 2015
Denver Regional Council of Governments

Attending:

- Mayor Sue Horn, Bennett
- Commissioner Erik Hansen, Adams County
- Mayor Cathy Noon, Centennial
- Commissioner Nancy Sharpe, Arapahoe County
- Chip Taylor, CCI
- Gini Pingenot, CCI
- Sam Mamet, CML
- Ann Terry, Special Districts Association
- Joyce Hunt, Thornton
- Paul Alexander, Regis University
- Catherine Marinelli, Civic Results/MMC
- Peter Kenney, Civic Results/MMC
- Greg Stokes, Broomfield City Council
- Jennifer Hoffman, Broomfield Staff
- Mayor Matt Appelbaum, Boulder
- Commissioner Don Rosier, Jefferson County
- Mayor Heidi Williams, Thornton
- Mark Ruzzin, Boulder County

Absent:

- Mayor Steve Hogan, Aurora
- Mayor Mike Waid, Parker
- Commissioner Steve Johnson
- Mayor Marc Williams, Arvada
- Commissioner Roger Partridge, Douglas County
- Commissioner Cindy Domenico, Boulder County

Notes:

- Overview of list of reform approaches under consideration elsewhere
- What is "meaningful" oversight - examples
  - Adding seats to urban renewal board or governing board of district
  - Oversight board in Wisconsin - if TIF district has any portion outside municipality, then the largest of counties, special districts and community colleges - get a seat and a yes or no vote
- Term is 20-40 years across nation for districts
  - Obligations settled ceases to exist
  - Cannot be renewed
- Perception in academia that "but for" test is anecdotal
  - Some trying to develop standards that support but for
- Appropriate distribution of revenues to taxing authorities
  - Some are distributing any excess in given year beyond what is needed to meet obligations on annual basis

        - Concerns about TABOR and applicability in Colorado
    - Could this be discussed up front
- Other ideas from the group
    - Are there other ways that assessed values could be used to promote equitable distribution of revenues between obligations and taxing entities?

Comments from Sam Mamet & Mark Radtke, CML
- CML has statewide perspective
- SB 135 is a reasonable approach to move forward & the train has left the station
- Q: What drove CML to put that proposal forward?
    - Radtke: working group discussed possibility of a formula that could be put in statute, however, projects are worked out individually jurisdiction by jurisdiction
    - Took elements of prior CCI bill and put them in SB 135
- Q: So is there a core principle that affected entities need a seat at the table?
    - Bill recognizes that counties need seat at the table and voice in the process
- Q: Are there core principles or elements that CML feels really need to be on table for any compromise moving forward that must be in place to protect TIF?
    - There are a series of complexities to putting these deals together - need to insure that any reforms don't preclude TIF projects from moving forward

Comments and Questions from the Group:
- All governments need to be accountable to their voters and current solution is one-size fits all for every government except municipalities
- Don't want to slow the deals down
- Potential that other local governments could bring additional investment dollars with more say/influence in the process
- Understand need to maintain flexibility
- Need to define "meaningful participation" of other taxing entities in a partnership
    - An agreement on how much of the increment can be invested by each or all of the entities
    - Developing a process through which the increment investment is determined
    - Understand that cannot establish a formula that will be one-size fits all due to differences in project size, infrastructure needs, etc.
    - Not advocating for veto power
- Concern that "but for" is somewhat meaningless - no crystal ball

Comments from Chip Taylor, CCI
- Key concerns of counties
    - Preference for locally devised solutions
        - Statutory changes should preserve municipalities' ability to derive local solutions
    - Taxing entities need to preserve their accountability to taxpayers
    - Ability for every local entity to budget in the near and long term = local control
    - Jurisdictions want to manage own destiny
        - Counties want to preserve municipalities control/authority over the scope and character of the project, but want some say in the investment of the tax dollars

Comments and Questions from the Group:
- IGAs have worked well in Thornton's experience
- Special circumstances drove the formation of some of those IGAs - e.g., Cabela's
    - Property acquisition from Adams 12 school district brought city to the table
    - Thornton agreed to make school district whole through project
    - When other local governments have a seat at the table it forces the city to recognize how project impacts those jurisdictions
- How do we develop solutions that will work for those who are less collaborative?

    - Need workable implementation for lofty principles
- Example of West Metro Fire that has not been able to pass mill levy increase but get very little revenue from Bel Mar and still need to provide services to it
    - Type of development - mixed use - has increased service demands on other county services - this is a change of use
- Change of use could be a trigger point for a different process (e.g., mall to residential)
- Centennial has suggested that statute should be changed to
    - Require pre-submittal meeting with all taxing entities
    - Arbitration should include a facts of finding with conclusions and recommendations (not simply win/lose)

Comments Ann Terry from SDA

- Special Districts not opposed to TIF
- Want opportunity to be heard and for some equity in revenue sharing
- Need to insure continued ability to provide services
- Want to insure balance to encourage conversion of blighted properties
- County commissioners don't always understand needs and concerns of special districts - seat at the table is very important

Comments and Questions from the Group:

- Q: How do you give special districts voice when there are 350 in Arapahoe County alone?
    - One seat for all impacted special districts in a URA - decided by the special districts
    - Don't want veto power
    - Don't want 16 seats at table
- One of the proposals by a municipality was to negotiate the percentage of the increment but that the $$ from the URA have to go back into services to the URA
    - Requiring segregation of funds is unrealistic and inappropriate
    - This is a non-starter for many reasons including influence of Gallagher
- Any solution must include a revenue component - seat at the table is insufficient to put issue to bed
- Inability to find compromise could result in unworkable statutory solution for TIF passing
- Negotiation is easier when parties on more equal footing - Thornton had to negotiate with school district - they owned the land
- How do we insure that all parties are accepting equal risk - both in the project & if the project doesn't move forward
- Counties have equal interest in promoting economic development and willing to accept additional risk to promote economic vitality
    - Not clear what the risk might look like
- Counties are concerned about blight in county and regionally - understand that blight spreads
    - Counties believe that risk of blight is shared by counties
- Affected taxing entities need to have say in whether the investment makes sense in the context of their current budgetary situation
    - Could be that other parties step up investment for good projects
- Believe that much of this could be addressed via an IGA
    - Perhaps constraint is that the deal needs to be struck within a given period of time with limitations placed on those who refuse to come to the table
- When people don't agree - need to figure out where the final authority lays?
    - Arbitration - the current model - does it need to be revised (Centennial suggestion)
    - Impact reports - do we need to clarify that lack of response is consent?
        - How do those with concerns get them addressed? Arbitration?
    - Trigger points are critical element

    - Example of Arapahoe County unable to determine impacts without specificity of a project (only a plan)
- What is back-up plan if you cannot agree?
    - Cannot be 100% of increment if counties are not on board with project
- What was the cost sharing proposed in CCI's HB14-1375
    - Required commitment of an increment of growth sales tax investment into project if using property tax
        - Sales tax percentage would set level of property tax investment in project
    - Accommodated any front end investment - allowed it to be backed out of sales tax %
        - Don't want cities to made whole if counties are not
- If a city did a purely residential development - which generates no sales tax - and committed all of the sales tax this would make no sense.
    - County impacts would be much higher in this situation
    - Shouldn't a solution take into account how much impact the development is creating on the county and other districts?
    - Played out the scenario (rare) of 100% residential and understand that while not ideal is no different in impact than current situation where 100% of increment is taken
    - Presumption is that cities want to see some upside in these developments
- CCI in 1375 was seeking a way to level playing field and create incentive for negotiation
    - Default was to incentivize
    - Excellent examples of good IGAs
    - Also have examples where other parties were ignored
    - Want equivalency of investment as the fallback position
    - Insures ability to provide services
- Counties and special districts need opportunity to opt out if a development doesn't make sense

Points of Emerging Consensus

- Common objectives of urban renewal are shared by cities and counties
- Need shared power and risk with allocation according to risk assumed
- Should be opportunities to equalize risk
- Agreement that there is critical time element - need mechanism for feedback
- Want to have shared authority with alternative that is not one-sided for those who don't negotiate in good faith
    - Arbitration?
    - Third party?
- No magic number

Questions

- Pre-development negotiation elements?
- Consequences/alternate process for not negotiating?
    - Timeliness is critical in determining timeline for negotiation
- Do we need better understanding of economic impacts driving formation of districts - consequences of not addressing blight?
    - Better analysis would help push good projects and deter bad projects
    - County concerns are not exclusively impact driven - also driven by accountability
- What is the definition of meaningful representation?
- What is the definition of reasonable cost/investment?

Next Meeting - 1:00 pm on March 12

- Staff will synthesize notes into summary of direction we are going
- Will tease out questions around process, consequences for failed negotiation
- Will look at very specific proposals that address key principles identified today
- If you plan to develop a proposal - get it to us before 3/5 to circulate on 3/12