TIF 2.0: Upgrading State and Local Tax Increment Financing Policy in North Carolina

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Chapter 1: Introduction and Background

Introduction

Tax increment financing (TIF) is a local economic development tool that has grown in popularity over the past several decades. Originally intended to spur development in blighted neighborhoods, TIF has become a versatile financing instrument approved in every state but Arizona. Despite this popularity, the tool has been criticized as a public subsidy for developers and an undemocratic method of bypassing voter approval to take financial risks. Supporters, meanwhile, have argued that TIF promotes private investment, creates jobs, and increases property values and tax revenues.

Researchers have attempted to corroborate these claims through three general approaches. One group of investigators, including Anderson (1990), Man and Rosentraub (1998), Dardia (1998), Dye and Merrimen (2000), and Byrne (2006, 2010), has conducted a number of quantitative studies aimed at measuring the impacts of TIF on property values and identifying determinants of property value and employment growth. Another group, including Weber, et al (2003) has investigated both quantitative and qualitative impacts of TIF districts on overlapping jurisdictions, such as school districts. And a third group of mainly consultants, community activists, and public administration scholars, has contributed to the literature a collection of case studies that describe TIF developments around the country, identifying successes and failures simultaneously.

The knowledge gained from this research, along with a growing backlash against government incentives, has led to gradual reforms in TIF policy. A principal reform has been the strengthening of state enabling statutes; however, even with this protection, municipalities continue to pursue financially risky and ultimately unsuccessful TIF developments. One place that demonstrates this problem is North Carolina. With voters having approved TIF enabling legislation as recently as 2004, the state was one of the last in the country to make TIF a legal financing mechanism. Accordingly, North Carolina’s TIF legislation is one of the nation’s strictest, intended to prevent the burdensome and inequitable outcomes that have plagued TIF in other states.

Despite these regulations, North Carolina’s first experience with TIF was an overwhelmingly negative one. Carolina Crossroads, a TIF-financed regional entertainment complex located in Roanoke Rapids, was fraught with unrealistic expectations, mismanagement, and even alleged fraud. Consequently, the project neither produced a profit nor increased property values, forcing the city to cut government programs and contemplate tax increases to repay TIF bonds.

This highly publicized failure has limited TIF expansion in the state. Not only did the Roanoke Rapids experience signal to other policymakers that poorly
conceived TIFs could saddle local governments with enduring financial burden; it also led to a negative perception of TIF among voters. Already put off by the costly steps required for approval and implementation, many local governments simply chose to eschew TIF in favor of more familiar financing mechanisms.

Despite these consequences, however, the Roanoke Rapids’ failure also produced a few positive impacts. It inspired, for example, modest reforms to the state’s TIF approval process and provided a foil on which to build future policy. To date, however, only one North Carolina municipality has elected to give TIF another shot. In 2008 the Town of Woodfin, in partnership with Buncombe County, took out bonds to redevelop a TIF district centered on the town’s “downtown corridor.” Unlike Roanoke Rapids, however, Woodfin’s experience with TIF has been a positive one. Not only has the project succeeded in attracting new investment, it has also set a precedent on how to create a fiscally responsible and economically beneficial TIF district.

Methodology

The following comparative case study of Roanoke Rapids and Woodfin seeks to answer two principal research questions. The first question, what factors contributed to the cases’ divergent outcomes, attempts to understand why Roanoke Rapids and Woodfin experienced such different TIF results despite creating their districts under the same formal state regulations. Stemming from this query is a secondary question that hopes to establish broader implications: How can state and local TIF policies be improved to lower risks to local governments and increase benefits to communities, while not compromising TIF’s attractiveness as a development tool?

To answer these questions, the paper utilizes scholarly research, local news articles, policy documents, and semi-structured interviews with stakeholders in the two cases. Among the interviewed parties are former and current members of North Carolina’s Local Government Commission (LGC), a key TIF regulatory institution in the state. Other interviewees include the city and county managers of Woodfin and Buncombe County and a representative from a local think-tank that advocates TIF reform. Though interview results from Roanoke Rapids are limited, the case’s high profile has contributed to a wealth of secondary sources, which have been consulted for this study. News articles have chronicled, for example, the development, demise, and ongoing aftermath of the Roanoke Rapids TIF, while providing insight into the opinions of local and state policymakers. Furthermore, a lawsuit filed by a resident of Roanoke Rapids offers an account of both alleged misconduct and factual events surrounding the case.

In addition to interviews and secondary sources, this study relies heavily on public documents from Woodfin, Roanoke Rapids, and the state. These documents include North Carolina’s TIF enabling amendment and legislation; local development agreements; consultant analyses; local government resolutions;
financial agreements; drafted TIF policies; meeting minutes; and bond receipts. Finally, this study consults scholarly research and case studies from around the country in order to highlight the history and criticisms of TIF and provide a broader theoretical and political backdrop on which to analyze the North Carolina cases.

Together, the aforementioned sources support this paper’s principle argument: that sound local policies and state and local knowledge sharing are essential elements of TIF plans that minimize risk and benefit communities. This conclusion is vital to synthesizing existing research, which has identified the merits and perils of TIF both generally and for specific cases, but offered limited insight into how localities can remedy criticisms and learn from earlier mistakes. The lessons of Roanoke Rapids and Woodfin can therefore assist local and state-level policymakers from around the country as they strive to upgrade TIF into a financially viable tool for an economically uncertain 21st Century.

This paper follows by first providing a brief primer on TIF and identifying common criticisms of the financing tool. In Chapter 2, North Carolina’s system of TIF regulation is introduced. The Roanoke Rapids case is then presented in Chapter 3, with close attention paid to the policy and planning decisions that contributed to the project’s ultimate failure. Chapter 4 analyzes the Woodfin TIF and highlights differences in policies between the two cases. Chapter 5 then draws lessons from the cases in order to make recommendations for local governments and state institutions. Finally, Chapter 6 concludes by mentioning the implications these lessons may have for developments in TIF policy across the country.

A TIF Primer: History and Criticisms

Though relatively new and sparingly used in North Carolina, tax increment financing has been available to local governments in some states for nearly 60 years. First developed in California in 1952, TIF began to gain widespread popularity in the late 1970s (Man & Rosentraub, 1998). This sudden surge in adoption was in response to a number of factors: a steep decline in federal funding for economic development, new state-imposed debt restrictions and “tax revolts” like California’s Proposition 13, which capped property tax growth, and low interest rates (Goddeeris & Weber, 2007). Not requiring upfront tax dollars, voter approval, or federal aid, TIF was a financing innovation.

TIF functions by allowing counties or municipalities to identify a geographically delineated district and assess its property value, establishing a “base rate” of taxation. The locality then takes out bonds to finance public improvements or repay developers for their initial expenditures. For a set period of time, the appreciation in the district’s property value will be “captured” and maintained locally to pay off the bonds and fund continual improvements (Blocher & Morgan, 2008). Though captured revenue can be used in a pay-as-you-go format, in which the local government and developers gradually improve the site as revenue...
becomes available, more often local governments take out bonds to cover the costs of site improvements before development occurs.

Early in TIF’s history, increment revenues were used almost exclusively to improve infrastructure in blighted areas where developers would otherwise be unlikely to invest. However, lenient state regulation has allowed TIF to operate as an increasingly speculative tool (Marks, 2005). Indeed, in recent decades TIF bonds have become particularly attractive for financing infrastructure on rural and suburban green field sites where growth may or may not be imminent (Maryl, 2006). TIF districts have been used, for example, to lure a Cabela’s big box retail store to suburban Forth Worth (“TIF 10: Lone Star”, 2009); develop the “world’s longest strip shopping center” on a floodplain outside of St. Louis (Vespereny, 2008); and finance an expansive new urbanist development in the desert outside Albuquerque (LeRoy, 2008). Not surprisingly, these types of developments have drawn growing criticism from scholars, policymakers, and the public.

One major critique is that TIFs do not create net economic gain but simply attract or re-orient growth away from other parts of a city (Dye & Merriman, 2000). This becomes particularly problematic if the growth is being channeled away from lower income neighborhoods to wealthy, growing parts of cities. Another critique targets the question of “but for”—whether or not a development would occur in the absence of TIF (Sands, Reese & Trudeau, 2009). Projects located in rapidly growing areas, where growth is likely to occur without incentives, are especially vulnerable to this criticism. Other concerns involve overlapping jurisdictions. TIF may strain, for example, school districts, as property taxes that may have otherwise gone toward schools are now “captured” in TIF districts. TIF may strain these public services even further if it draws new residents to a district (Weber, 2003).

One way of addressing these criticisms has been for states to strengthen their TIF enabling legislations. For example, many states set in their legislations a limit on the percentage of a jurisdiction that can be covered by TIF districts. Some states also only approve TIF for certain kinds of land uses, including blight redevelopment, conservation zones, and industrial districts (Sands, Reese & Trudeau, 2009). Other state-level reforms include requiring local governments to demonstrate “but for”; creating state-level commissions to approve TIF plans; and mandating prevailing wage rates for TIF-funded developments.

Local governments have also pursued reforms. Some municipalities allow optional participation by overlapping jurisdictions, allowing school districts, for example, to choose what percentage of tax increment revenues they would like to contribute to a TIF district. Other local policies have allowed school districts and other overlapping jurisdictions to share in the revenues captured by TIF (Godeeers & Weber, 2007). Finally, a number of jurisdictions have pursued reforms connecting TIF to quality job creation. These policies include requiring that TIF-funded businesses pay a living wage; mandating that a certain number of jobs be created in
order to receive TIF funds; and instituting TIF-funded workforce development programs like Chicago’s TIFWorks.

On the whole, these reforms have curbed TIF abuse and strengthened the connection between the financing tool and economic development. Yet, they have taken on altered relevance in today’s economic climate. Given the current paucity of real estate development, the “but for” requirement has become largely obsolete, as it is much easier to imply that development would not occur without incentive. On the other hand, the need for protecting overlapping jurisdictions is even more acute than in the past as local school districts, for example, experience deep budget cuts. Finally, job creation is more critical than ever in today’s economic development environment.

The economic downturn has also exposed one of TIF’s principle flaws, one that has been relatively untouched by the academic literature: often, TIF districts simply fail to produce the revenues necessary to repay bonds. While this fact was easy to overlook during the real estate boom, it is pertinent now as local governments and developers are more dependent on innovative financing tools yet (along with lenders) are more risk averse than ever. Furthermore, a failed TIF district may place a heavy and enduring financial burden on a city, which is all the more onerous in today’s economy.

For TIF to continue to be a financially viable and successful economic development tool, the process of reform must continue, though not unilaterally. State-level institutions, though capable of advising local governments and prohibiting certain kinds of development, cannot alone prevent TIF failings. Local actors must also play a role in reform. As Jensen (2008) found in the North Carolina context, local governments can curb TIF misuse by following a set of locality-specific guidelines that consider policy objectives, risk tolerance, and public support. Though this advice offers a jumping off point for creating sound local policy, it skirts the state’s potential role and is somewhat generalized, having been based on literature and interviews with policymakers from across the state. The following case studies offer a reworked and expanded set of local and state recommendations grounded in the concrete experiences of two North Carolina municipalities.
Chapter 2: Legislating TIF for North Carolina

The Campaign for TIF

Tax increment financing gained widespread popularity in the 1980s following steep declines in federal funding for economic development. While many states approved TIF during this time period, North Carolina local governments were unable to utilize this “quintessential post-federal entrepreneurial policy” (Weber, 2003). The state required the passage of a constitutional amendment in order to enable TIF, and state legislators indeed placed TIF on the ballot on two separate occasions. However, in both 1983 and 1992 voters rejected the financing mechanism (Blocher & Morgan, 2008).

One explanation for these failures has been the wording of “tax increment financing.” Some observers claim voters saw the word “tax” and perceived a tax increase (Elkins, 2004). Wary of tax anathema, therefore, in 2004, state lawmakers proposed a new name for the tool: “self-financing bonds,” which later became “project development financing.” Though identical to previous amendments in all but name, this latest push for TIF occurred against a new policy backdrop.

Rather than simply targeting downtown revitalization and blight reduction, as was once typical, the new campaign to pass the TIF-enabling “Amendment One” promoted grander policy objectives. Throughout 2004, a powerful coalition called North Carolinians for Jobs and Progress conducted an “aggressive statewide campaign to educate voters on the merits of self-financing bonds” (“Agenda and Minutes”, 2004). Including former governors Jim Holshouser, Jim Hunt, and Jim Martin as well as representatives of the NC Association of County Commissioners, the NC League of Municipalities; and the NC Economic Developers Association, the coalition argued that TIF would make the state more competitive in the global economy, create new jobs, and attract industry to depressed areas (“Approval of North Carolina Self-Financing Bonds Bodes Well for Economic Development,” 2004). Furthermore, supporters argued that TIF would help to offset precipitous job losses in the state’s declining traditional industries of tobacco, furniture, and textiles (Juby, 2005).

Despite fierce criticism from the Raleigh-based John Locke Foundation, a libertarian think tank, and a handful of local policymakers, the campaign to approve TIF succeeded in November 2004, if just barely. North Carolinians voted in favor of Article 5, Section 14, i.e. “Amendment One,” by a margin of 51 to 49 percent (Chesser, 2006). The framing of TIF as a job creation tool that would allow North Carolina to compete with the other 48 TIF-allowing states was ultimately credited with securing voter approval (Blocher & Morgan, 2008).
**The Project Development Financing Act of 2003**

Though the passage of Amendment One made TIF available to local governments in November 2004, the North Carolina General Assembly had already passed enabling legislation in the summer of 2003 (Purvis, 2008). That legislation, known as the Project Development Financing Act, continues to govern TIF use in the state and includes detailed guidelines on TIF use and approval.

As argued by Amendment One supporters, the North Carolina legislation includes “some of the strongest accountability safeguards in the country” (“Council Minutes,” 2004). Due to the state’s late arrival to TIF, legislators were able to craft a law that incorporated lessons from around the country. For example, in addition to municipalities, North Carolina makes TIF available to counties, an expansion that was an evolution in some states (Lucas & Jeffcoat, 2004). Furthermore, North Carolina limited TIF to funding only certain kinds of developments from the outset. In other states, these kinds of restrictions required lawmakers to make substantial revisions to enabling statutes.

In North Carolina, to be eligible for TIF, land must fall into one of two categories, each with its own set of property limitations. If targeting a redevelopment area, a TIF can include “property that is blighted because of dilapidated, deteriorated, aged, or obsolete buildings; inadequate ventilation, light, air, sanitation, or open spaces; high population density or overcrowding; or unsanitary or unsafe conditions” (N.C. G.S. 160A-515.1, 2003).

Though this first category represents TIF’s original purpose, a second type of development expands its usage. Also eligible are areas that are “blighted, deteriorated, undeveloped, or inappropriately developed from the standpoint of sound community development and growth; appropriate for rehabilitation or conservation activities; or appropriate for the economic development of the community” (N.C.G.S. 153A-7.3, 2003). This second category permits a degree of interpretation and therefore shifts the burden of defining financeable development to local governments.

To shield the state from oft-criticized TIF-financed sprawl, North Carolina requires that if located outside a central city, no more than 20% of a TIF district’s square footage can be used for retail sale, hotels, banking, financial services, or other non-office commercial uses. Notably, however, an exception is made tourism-related developments in the state’s least developed (Tier One) counties. Furthermore, TIF districts can constitute no more than 5% of a city or county’s land area (N.C.G.S. 158-7.3, 2003). Some states such as Illinois lack this kind of restriction; consequently TIF districts encompass over 30% of the city of Chicago (Verwymeren, 2008).

As in other states, another key element of North Carolina’s legislation is an explanation of the types of improvements that can be financed by TIF. These include
utilities; water projects; streets and sidewalks; transportation and parking; low and moderate income housing; health care facilities; civic, cultural, and entertainment projects; industrial developments; historic preservation; and transit-oriented development (Lucas & Jeffcoat, 2004). The legislation also sets wage requirements for TIF-financed manufacturing developments; allows cities and counties to jointly establish TIF districts; and prevents cities from levying new taxes as a means of repaying bonds. Finally, to counter the criticism that TIF may place strain on overlapping jurisdictions such as school districts, North Carolina requires that local governments obtain consent from all overlapping taxing entities (Lucas & Jeffcoat, 2004).

**Project Approval and the LGC**

While the aforementioned requirements are generally similar to the reforms being pursued by other states, North Carolina includes an additional unique method of TIF oversight. The state’s Local Government Commission (LGC) must approve local plans before TIF bonds can be issued. This requirement not only exposes local governments to a set of approval criteria, but it also enables the state to counsel and educate local policymakers.

A product of the Great Depression, in which North Carolina was home to the second highest number of municipal bond defaults in the country, the LGC is charged with approving not just TIF but all issuances of local government debt in the state (Coe, 2007). Furthermore, the LGC oversees financial operations of cities, counties, school systems, hospitals, airports, and water and sewer district. Accordingly, the institution involves a range of actors with diverse roles. The Commission itself, for example, consists of nine members: the State Treasurer, State Auditor, Secretary of State, Secretary of Revenue, and five appointees. Assisting the Commission is a staff consisting of 34 professional and administrative employees (T. Romocki, personal communication, 24 March 2011).

While Commission members are charged with making final approval decisions on debt issuances, it is the staff that interacts most directly with local governments. In the case of TIF, LGC staff work with local policymakers to determine the feasibility of projects and identify the most expedient form of financing (“State and Local Government Finance Decision,” 2007). Staff members also help local governments develop plans that are compliant with state legislation and process TIF applications, summarize third-party analysis, and make approval recommendations to Commission members (T. Romocki, personal communication, 24 March 2011).

As outlined in the Project Development Financing Act, TIF plans must meet a number of criteria in order to gain ultimate approval from the LGC. Local governments must show, for example, that they have delineated the boundaries of the TIF district. They must also provide a description of the proposed development;
identify costs and funding sources for public improvements; and determine the base valuation of the district along with projected property value increases. The LGC must also receive evidence that the project will benefit residents and business owners in the district; and that development would not take place "but for" TIF financing ("Tax Increment Financing (TIF) in North Carolina: Frequently Asked Questions"). In addition to determining whether a TIF project meets these criteria, the LGC also evaluates the county or municipality’s capacity for repaying bonds. Most important is a finding that the locality has pledged sufficient revenues for debt service; however, the Commission also evaluates the local government’s debt management policies and considers whether debt can be marketed at reasonable cost ("Amendment One: Project Development Financing,” 2005).

After a TIF plan emerges from the gauntlet of LGC regulation, the state or county may issue bonds, at which point the local government may collect revenues and begin paying for district improvements. However, even the most scrutinized plans are not guaranteed to achieve financial viability and economic success. Indeed North Carolina’s first TIF development illustrates that even with strict state regulation, a project can fail to substantially increase property values and thus exert a heavy burden on local government.
Chapter 3: Financing Parton’s Folly: the Case of Roanoke Rapids

High Expectations, Limited Success

The plans for North Carolina’s first TIF project were initiated around the same time that TIF was approved in the state. In 2004, Richard Watson, a former president and CEO of the Northeastern North Carolina Economic Development Commission, first proposed an entertainment theater for eastern North Carolina. Though the exact nature of their partnership is disputed, court documents indicate that Watson had been working with Randy Parton, a country music entertainer and brother to Dolly, and that the two were searching for a city willing to host the theater (Garrett v. Parton, Halifax County Superior Court, 2009).

Roanoke Rapids, a city of around 16,000 people (U.S. Census) near the Virginia border, expressed interest. According to a lawsuit later filed by local citizens, after corresponding with Watson, the city and the Halifax County Tourism Development Authority presented a letter of intent to Parton outlining a plan for the theater. Parton’s newly formed company Moonlight Bandit, LLC allegedly then suggested to the city that they consider using TIF bonds to finance the project (Garrett v. Parton, Halifax County Superior Court, 2009).

Before the city proceeded further, the North Carolina Rural Economic Development Center commissioned Economic Research Associates (ERA), an international consulting firm, to conduct a feasibility study on the theater. The consultants concluded that a 1,500-seat theater would be viable but only if key components of the proposed “Carolina Crossroads Music and Entertainment District” were up and running by the time the theater opened. With the theater as its anchor, Carolina Crossroads was to include retail, hotels, and other entertainment venues. Specifically, ERA indicated that at least 200,000 square feet of retail and two hotels were necessary to buoy the theater (“Final Report: Randy Parton Theater Feasibility Study,” 2005).

The Carolina Center for Competitive Economies (C3) at UNC-Chapel Hill also conducted an economic impact analysis for the city. Their report used IMPLAN software to predict that Carolina Crossroads would produce significant direct economic impacts but potentially limited indirect and induced employment impacts in the region. The explanation for this disparity, and indeed a major caveat, was that temporary construction jobs would be major contributors to venue’s direct impact. Therefore, aside from construction jobs, the project’s economic impacts were predicted to be relatively small (Lugar & Israeli, 2005).

Despite the questions raised by these reports, in June 2005 Roanoke Rapids entered into an Economic Development Agreement (EDA) with Parton and others regarding the project (“Economic Development Agreement,” 2005). The EDA described a complex arrangement in which the city would provide 15 acres of green
field to be developed into the theater by B&C Roanoke, LLC. Once constructed, the theater would then be purchased by the city with revenues from TIF bonds at which point the city would also begin making public infrastructure improvements. Parton’s company Moonlight Bandits LLC would then rent the theater from the city and operate the venue. The EDA also included a highly controversial provision that the city would pay Parton a $1.5 million annual “artist fee” for his services in bringing acts to the theater and himself performing. This fee was to be paid out of the theater’s revenue as a first priority cost (“Economic Development Agreement,” 2005).

Along with the EDA, the city prepared a request for $21.5 in TIF bonds. The application, which was presented to the LGC, described among other details how the city intended to pay back its bonds. Having first pledged lease payments from Parton and Moonlight Bandit, LLC, the city also pledged its property tax increment revenues (the traditional TIF revenue source), and even its own sales tax collections if necessary. Furthermore, the city had obtained a letter of credit from Bank of America. Having satisfied all of the requirements and most importantly demonstrating that the bonds could be repaid (through four separate channels), the LGC granted approval to the city’s application and issued interim financing in the amount of $4 million in bonds in March 2006. In February 2007 the remainder of the $21.5 million in bonds was issued to the city (“Roanoke Rapids TIF: Summary”).

After receiving the bonds, the city purchased the theater, which had been completed in March 2007 at a cost of $13 million, and put the remaining money toward insurance expenses, debt service for the first year, and a debt service reserve fund. After Parton took possession of the theater and performed his first show, however, his relationship with the city quickly deteriorated. The city had come to realize that theater attendance estimates had been unrealistic and that Parton was not the experienced performer and manager that he was originally portrayed to be. Furthermore, city officials argued that Parton had exhausted a $3 million reserve fund made of taxpayer money (Minnick, 2007).

Consequently, the city negotiated new contracts with Parton in September and November of 2007, lowering his artist’s fee and diminishing his role in the operations of the theater. Finally, in December, Parton missed a scheduled show due to reported drunkenness, leading the city to terminate his association with the theater (Minnick, 2007). The city then took full control of the theater’s operations, renaming it “The Roanoke Rapids Theater,” and entered into a Settlement Agreement in which it paid $750,000 to Parton and Moonlight Bandit, whom were then released from all terms of the EDA (“Performance and Management Agreement, 2007”).

Misguided Local Policy

Since Parton’s dismissal at the end of 2007, a number of stakeholders and observers have criticized the planning process surrounding Carolina Crossroads.
One Roanoke Rapids resident filed suit against Parton and the Northeastern North Carolina Regional Economic Development Commission on behalf of city taxpayers (the claim was dismissed). Separately, Northeast Commission CEO Rick Watson was subpoenaed to appear before a federal grand jury (Browder, 2008). And the *Carolina Journal*, a publication of the conservative John Locke Foundation, published a series of expose articles on theater.

This scrutiny revealed a series of misguided actions on the part of stakeholders and poor local policy on the part of Roanoke Rapids. A principal error made by the city was pursuing a project that was rife with conflicts of interest. Documents obtained by the *Carolina Journal* and referenced in lawsuits expose numerous conflicts and show that Rick Watson had held an ownership interest in Moonlight Bandit Productions while still CEO at the Northeastern North Carolina Economic Development Commission. In other conflicts uncovered by the *Carolina Journal*, a developer who served on the Northeast Commission had at the same time signed a binding letter of intent to partner with Parton, and the Northeast Commission’s attorney also counted Parton as one of his clients (Carrington, 2008).

While these conflicts of interest did not directly involve the city, they indicate that Roanoke Rapids either failed to perform due diligence investigating its business partners or was cognizant of the conflicts yet failed to remedy them. Either of these explanations is troubling, as conflicts of interest can be destabilizing and expose projects to situations in which personal financial gain may be put above local and regional economic development goals. Furthermore, conflicts may weaken the trust local residents hold in their public institutions (“Recommendation of the Council on Guidelines for Managing Conflict of Interest in the Public Service,” 2003).

Another shortcoming of Roanoke Rapids’ involvement in the development was the city’s lack of an articulated local TIF policy. Though the city followed state legislative requirements regarding TIF, the lack of principled local guidelines enabled the city to become involved in a project that carried a high degree of risk. This risk was composed of a number of factors. For one, the TIF district was created to encompass a rural green field site. These sites can be highly speculative, as they sit neither in the path of imminent development nor within zones of demonstrated demand for goods and services.

Another problem is that TIF bonds were used to finance an entertainment venue. These projects have drawn criticism from economic development scholars, such as Coates and Humphreys (2000), who have demonstrated that entertainment venues produce minimal economic development impacts compared to other types of publically financed developments. In another paper, I have attempted to show that this low economic return is particularly likely to occur when venues are located in non-urban areas (Levengood, 2009). Research also shows that to make entertainment venues more advantageous, local governments must craft policies that employ local workers and situate venues within broader planned commercial districts. Though Roanoke Rapids had planned such a district in Carolina...
Crossroads, its development was never made requisite to the theater’s completion. This occurred despite claims by ERA Consultants that substantial development was necessary in order for the theater to be viable.

A lack of a strong local policy also allowed the creation of an Economic Development Agreement that passed the project’s financial risk almost entirely to the city. Not only did the EDA require the city to pay Parton his exorbitant “artist fee,” it also required the city to purchase and own the theater. Parton and Moonlight Bandit were merely renters who therefore bore no responsibility for the theater’s debt obligations. The EDA meanwhile pledged three revenue sources for the theater’s debt service, all of which involved the city’s money. While these sources were sufficient to gain LGC approval, they exposed the city to considerable financial and political burden. The pledging of the city’s sales tax was particularly ill advised, as it obligated the city to channel an important general funding source into a specific project. A final problem is that the city did not achieve a partnership with Halifax County. A city-county agreement would have distributed risk to another local government and secured an additional funding source for repaying bond debts.

Legacy of a Failed TIF

In the years following Parton’s departure, the Roanoke Rapids Theater has been operated by a handful of other companies yet continued to struggle. The Carolina Crossroads district likewise remains underdeveloped, with only a hotel and RV park having been built on the sprawling site (Google Maps, 2011). This outcome has strained the city’s financial resources and the city has at times cut services and proposed tax increases. In 2008, for example, in order to offset the theater’s cost, city government placed a hiring freeze on most employment positions and delayed purchases and initiatives (Minnick, 2008). And just recently in February 2011, the city considered a 1-cent increase in sales tax in order make payments on TIF debt (King, 2011).

The aftermath of Roanoke Rapids has influenced the use of TIF in North Carolina. Although TIF remains relatively new to the state and has been inhibited recently by a poor economy, the tool’s limited track record suggests that some local governments have paid close attention to what has happened in Roanoke Rapids. In a survey of local governments’ positions on TIF, for example, Purvis (2008) found that local elected officials have been “hesitant to use TIF due to negative publicity” and that at least one local government “wanted to see TIF work” before considering it. Furthermore, Blocher and Morgan (2008) cite the Roanoke Rapids experience as having certainly “not helped the cause of promoting TIF use” in North Carolina.

Beyond stymying TIF use, however, the Roanoke Rapids case was also an impetus for dialogue on institutional reform. It raised questions, for example, about the scope of the LGC approval process and has made local governments and citizens more aware of the risks of flawed TIF policy. The case also provides a foil to another TIF project in the state. Less than a year after Roanoke Rapids constructed the
Randy Parton Theater, a small town in the western North Carolina mountains implemented a TIF plan of its own.
Chapter 4: Using Local Policy to Guide TIF: the Case of Woodfin

Besides Roanoke Rapids, TIF has been utilized to finance development in only one other North Carolina location. In August 2008 Buncombe County issued nearly $13 million in TIF bonds to finance public improvements in Woodfin, a small municipality located just north of Asheville. Home to approximately 5,800 residents, the Town of Woodfin bills itself as a small-town community offering big city amenities (“Welcome to the Town of Woodfin, North Carolina,” 2011). While these amenities have traditionally been provided over the city line in Asheville, in recent years Woodfin has managed to attract upscale businesses and new residents, due in large part to its use of TIF to promote development in a new “downtown corridor.”

A More Accountable Planning Process

The plan for the Woodfin Downtown Corridor Financing District grew out of the Town of Woodfin’s desire to replace a municipal golf course. Built on a former landfill site, the town’s 9-hole “executive short course” had been unprofitable. To remedy the fiscal strain, the Town closed the course in 2003 and put the land up for sale (J. Young, personal communication, 24 March 2011).

After pursuing a number of developers, the town found a suitable buyer in Reynolda Mountain Partners, LLC, a high-end residential builder that owned other properties in Woodfin. The town, meanwhile, had initiated talks with Cherokee Investment Partners, a Raleigh-based equity firm that specializes in the redevelopment of economically and environmentally distressed sites. Together the town, Cherokee, and Reynolds Mountain formed a plan to redevelop the golf course and surrounding land into a new downtown corridor for Woodfin. During initial meetings in 2005, TIF was suggested as a potential financing strategy (J. Young, personal communication, 24 March 2011).

From the beginning, the plans and policies surrounding the Woodfin TIF district contrasted sharply with those of Roanoke Rapids. Whereas Roanoke Rapids had teamed up with partners whose management capabilities were unproven and who were mired in conflicts of interest, Woodfin deliberately chose developers possessing proven track records. For example, one key Woodfin partner, CEO of Reynold’s Mountain Kirk Boone, was an Asheville-area native deeply invested in the community. Boone had already initiated development of a residential neighborhood bordering the TIF district and had developed numerous award-winning projects in the region (“About KCB Construction & Founder, Kirk Boone”). Cherokee Investment Partners likewise possessed a portfolio of award-winning developments (“Awards and Recognition”). Wary of the unfolding fiscal disaster at Roanoke Rapids, Woodfin Town Manager Jason Young cited these track records as having imbued the city with confidence (J. Young, personal communication, 24 March 2011).

The presence of reliable developers and other partners was key to obtaining support from Buncombe County, which signed on to the project only after drafting
its own TIF policy (W. Greene, personal interview, 17 March 2011). Whereas Halifax County government did not participate in the Roanoke Rapids case, Buncombe County played an active role both in negotiating terms for Woodfin’s bonds and obtaining state approval. Before signing on, however, county officials considered a number of criteria in addition to the quality of project partners.

As stated in the county’s “Project Development Financing Policy,” Buncombe only considers TIF “for projects that demonstrate a substantial and public benefit to a blighted area with the County”. Furthermore the county wanted to restrict TIF use to areas of the county that “we were truly not going to see grow, develop, or improve without some assistance” (W. Greene, personal interview, 17 March 2011). Including both a landfill and areas that had experienced “some economic depression,” the Woodfin TIF district satisfied these requirements.

Buncombe County’s blight requirement contrasts with the TIF policies (or lack thereof) of both Roanoke Rapids and the state of North Carolina. Though located in a Tier One county within an economically depressed region, Roanoke Rapids has no blight requirement for TIF and chose to locate its theater on a non-blighted rural green field. Though the state devotes language to blighted areas and redevelopment sites in its TIF enabling legislation, it nevertheless makes eligible a catch-all “economic development” category of developments.

Targeting blight, in addition to being the original purpose of TIF, has also been shown to be its most advantageous use from the standpoint of economic development. Researchers have demonstrated, for instance, that property value growth is positively correlated with blight (Byrne, 2006). In other words, TIF projects located in these areas are more likely to be financially viable and therefore carry lower risk. Furthermore, these kinds of projects may put to work local unemployed and underemployed workers and provide certain goods and services to areas that lack them.

Regardless of the low risk of redevelopment TIF districts, Buncombe County was still careful to make sure that it “did not get into any cash flow issues around [the project]” (W. Greene, personal interview, 17 March 2011). Unlike Roanoke Rapids, Buncombe negotiated (and now requires by policy) an arrangement that essentially absolved the county of any financial risk: the county insisted that Woodfin and the developer Reynolds Mountain sign a “Minimum Assessment Agreement.” The agreement required that all developer-owned property (which included all but 47 acres of the 205-acre TIF district) be assessed at a value sufficient to generate, along with taxes on other private district property, the tax proceeds needed to service the county’s bond debt (“Woodfin TIF-Summary”). In other words, the developer took on the responsibility for paying the interest the county owes lenders annually on the $13 million in bonds. Furthermore, the agreement represented a “covenant running with the land,” meaning all subsequent landowners would also be subject to the minimum assessment as long as the TIF district was in existence (“Minimum Assessment Agreement,” 2008).
On the same day the Minimum Assessment Agreement was signed, Buncombe County also entered into a formal contract with the Town of Woodfin. This “Interlocal Agreement” identified the town as being responsible for the district’s creation (which had occurred in November 2006), as well as the acquisition, construction, and equipping of the district’s public improvements. The county, meanwhile, was responsible for issuing the TIF bonds and managing bond revenues (“Interlocal Agreement,” 2008). With both the Minimum Assessment and Interlocal Agreements signed, Buncombe County finally issued $12,960,000 in TIF bonds in August 2008.

Winning Approval from a Strengthened LGC

Prior to issuing the bonds, however, Buncombe County, along with Woodfin, had endured a lengthy state approval process. Having won the approval of the Woodfin Board of Alderman and Buncombe County Board of Commissioners in November 2006, the plan for the TIF district was forwarded to the LGC in 2007. At that time, the LGC staff began a process of advisement with the town, county, and developers.

Led by Tim Romocki, Director of the Debt Management Section of the N.C. Department of State Treasurer, the LGC staff educated the local partners on how to best structure their debt and limit risk to the jurisdiction and its taxpayers. According to Woodfin Town Manager Jason Young, “[Romocki] asked a lot of questions that on the one hand made the process seem more difficult, but [on the other] were very useful both to the county and town in terms of protecting our assets, especially given the volatility of the national real estate market” (J. Young, personal communication, 24 March 2011). This advisement, by which the LGC helped local governments clarify their policies and negotiate agreements, was cited as invaluable because according to Young, Woodfin lacked “the internal expertise to ask the right questions or identify the potential hazards [of TIF].” Furthermore, the town was dealing with “large companies that have their own counsels and are familiar with these kinds of instruments.” Therefore, the ability of the LGC staff to “swing a big stick” allowed the local governments to negotiate more favorable terms to the development agreements (J. Young, personal communication, 24 March 2011).

As required by North Carolina’s TIF enabling legislation, the ultimate responsibility of the LGC was to determine whether the town and county were capable of repaying TIF bonds. To make this finding, LGC staff structured their advisement differently than they had for Roanoke Rapids. For Woodfin, the LGC required the town to obtain a letter of credit or an equivalent from the developer (T. Romocki, personal communication, 24 March 2011). In lieu of this, the county substituted the Minimum Assessment Agreement, which was likewise a guarantee that the developer would bear the debt burden. Additionally, while LGC staff only “strongly recommended” that the city and county work together in Roanoke Rapids
case, for Woodfin city-county cooperation was required (T. Romocki, personal communication, 24 March 2011).

Following the advisement by LGC staff, the 9-member Local Government Commission then considered the Woodfin case. Having granted tentative approval for the TIF “financing team” in March 2006, the Commission set a final hearing for August 2008. At that meeting, town and county officials made their last presentation and answered questions from Commission members. Satisfied that the plan was feasible, the LGC then granted final approval and authorized Buncombe County to issue TIF bonds.

**A Work in Progress**

Since the TIF’s approval in 2008, development in the Woodfin Downtown Corridor has proceeded slowly, yet steadily. Originally hampered by the nationwide dip in the real estate market, the corridor as of March 2011 counted six buildings under construction. These buildings will eventually house 65,000 square feet of commercial space and 201 high-end apartments (J. Young, personal communication, 24 March 2011).

In addition to these new developments, the district has already attracted a handful of businesses, including a manufacturer of satellite components that employs 150 workers, and a YMCA that has provided health and wellness services never before available in the community. The town and developers have also begun work on a greenway in the district. Furthermore, development in the corridor has promoted attendant growth outside the district that “was not likely to have occurred organically” (J. Young, personal communication, 24 March 2011). A hotdog restaurant, for example, has been replaced by a high-end eatery, and German and Thai restaurants are new additions to the town.

As the district continues to develop, Woodfin and Buncombe County plan to issue additional TIF bonds. The original plan approved by the LGC in fact calls for three installments of TIF bonds to eventually total $25 million. While so far bond revenues have been spent primarily on new streets and sidewalks, water and sewer extensions, and landscaping within “Reynolds Village,” the town hopes to expand. The final component of the project will include soccer and baseball fields and other public amenities (J. Young, personal communication, 24 March 2011).
Chapter 5: Lessons and Policy Implications

The diverse experiences of Roanoke Rapids and Woodfin/Buncombe County impart a number of lessons regarding TIF policy in North Carolina and by extension other states around the country.

State-Level Regulation of TIF Has a Limit

Despite North Carolina’s relatively strict TIF enabling legislation and LGC oversight, Roanoke Rapids was able to finance a high-risk, economically unviable project. Although the failure of the Randy Parton Theater was largely the result of poor local planning and policy decisions, the state nevertheless allowed Roanoke Rapids to pursue the theater and even approved the financing. The reasons this occurred have to do with state legislation not being sufficiently restrictive as well as the “pseudo-ministerial” interpretation of the LGC’s duty.

North Carolina’s enabling legislation effectively precludes TIF from being used to finance oft-criticized types of development. Along with limits on the percentage of retail and residential allowed in non-blighted districts, the “but for” requirement has prevented the kinds of TIF-financed urban sprawl that have drawn criticism in other states. It is difficult, for example, to demonstrate that a suburban shopping mall or subdivision would likely not occur without public financing. Furthermore, the legislation’s cap on the percentage of land in a locality that can be covered by TIF districts limits strain on overlapping jurisdictions, such as school districts, and blocks TIF-funded mega-projects like New Mexico’s Mesa del Sol.

Despite these safeguards, the state allows projects that promote “economic development” in non-blighted areas. It is under this premise that Roanoke Rapids sought and received approval for its theater. Also, by making special exceptions for “tourism-related developments” in Tier One counties, North Carolina’s legislation essentially promotes the kind of venues that produce especially dubious economic impacts.

After exploiting these loopholes, Roanoke Rapids met a second safeguard—the LGC—that should have rejected its proposal. Nevertheless, because of the “pseudo-ministerial” function of the LGC, TIF-financing for the theater was approved. A so-called “ministerial act” is a government approval involving no exercise of discretion (Cassidy, 2011). As an example, a government may be required to approve a subdivision plat if a landowner meets certain criteria. Though the LGC certainly exercises a great deal of discretion in deciding whether or not to approve a TIF proposal, its approach to the finding financial feasibility has been arguably ministerial. Therefore, because Roanoke Rapids was able to show that it could repay its debt (even if it was through unsavory means such as the city’s sales tax), the LGC was more or less compelled to approve the proposal.
In the aftermath of Roanoke Rapids, TIF critics and other observers have called on the LGC to reform its approval process. The John Locke Foundation, for example, has urged that the LGC consider more factors in its approval decisions, such as the content of feasibility studies and the strength of project partners. Daren Bakst, the John Locke Foundation’s Legal and Regulatory Policy Analyst has gone further, calling for the LGC to “root out any improper private benefits or conflicts of interest linked to the TIF financing” and require the LGC to reject TIF proposals if property tax increment revenues are predicted to be insufficient (Bakst, 2008). Even former LGC members have echoed this need for reform. Former State Auditor Les Merritt, for example, believes the LGC should consider factors beyond simply financial feasibility (L. Merritt, personal communication, 16 March 2011).

Beyond changes to LGC oversight, critics have also called for other reforms. The John Locke Foundation has argued for public votes on individual TIF proposals and increased transparency (“Agenda 2008: TIF Reform,” 2008). However, these kinds of restrictions may consequently deter TIF use even further in North Carolina. Anecdotal evidence suggests that many local governments are already hesitant to pursue TIF because of strict requirements and potentially costly steps for approval. Therefore, any official change in policy would require the state to weigh the costs and benefits of added regulation.

*Sound and Complementary Local Policy is Key to TIF Success*

As a compliment to state regulation, local governments must develop and execute sound TIF policy. Counties and municipalities bear the responsibility for most steps of the TIF planning and approval process. They must, for example, define a TIF district’s boundaries, create a financing plan, and determine the district’s base valuation (Purvis, 2008). Local governments also assume responsibility for repaying bonds; oversee the construction of TIF-funded public improvements; and work closely with developers and other stakeholders.

Because local governments are most directly involved and ultimately most responsible for a TIF project’s success or failure, it follows that these institutions should be the most worthwhile targets for reform efforts and assistance. One major recommendation is that counties and municipalities create their own TIF policies. Buncombe County’s TIF policy was key to the success of the Woodfin TIF. Not only did the policy secure the risk-diverting Minimum Assessment Agreement, but it also required that TIF use be confined to blighted areas, a noble policy objective that is frequently skirted in state legislation.

A stated local policy would also decrease uncertainty among developers, investors, taxpayers, and local government officials. This may in turn lead to increased developer interest in TIF and a more streamlined and less costly negotiation process. Another benefit to local policy is flexibility. According to Buncombe County Manager Wanda Greene, since Woodfin a number of TIF projects have been brought to the county’s Board of Commissioners. The county has turned down these
proposals, however, because each was for a small land area or involved a small public investment. The county has been interested only in larger scale projects, for which “project development financing makes the most sense” (W. Greene, personal communication, 17 March 2011). This preference would be more easily communicated by the county’s local policy than in broader statewide legislation.

As Woodfin demonstrates, sound local policies, whether written out or not, should contain certain key provisions. Most important is the need for governments to pass the financial burden on to developers rather than taxpayers. A Minimum Assessment Agreement is a particularly advantageous policy as it can completely absolve a municipality and its taxpayers from financial risk. If such an agreement is not unattainable, another recommendation is that local governments agree to pledge only the TIF district’s tax increment revenues. The pledging of jurisdiction-wide funding sources such as sales taxes can threaten a city’s general fund and thus jeopardize public goods and services.

Another recommendation is for local governments to only consider TIF for blighted areas in need of redevelopment. As discussed earlier, such areas are most likely to benefit from TIF and experience the largest increases in property values. Finally, inter-local cooperation is key to a TIF district’s success. As demonstrated in the Woodfin case, these agreements are beneficial because they strengthen the bargaining power of local government against developers; provide further checks on the decision-making process; facilitate the bond issuing process; and enable more property tax revenues to be collected to repay debts.

Whereas the Woodfin case illustrates an example of how to pursue sound local policy, Roanoke Rapids demonstrates that a lack of such policy can devastate a TIF project and a city’s finances. In the absence of disciplined local policy, municipalities are free to finance high-risk TIF projects, such as entertainment venues, on non-blighted green fields. Furthermore, without due diligence on the part of local governments, conflicts of interests may fester and developers may become emboldened to negotiate inequitable contract terms. Randy Parton’s artist’s fee and theater rental agreement are but two examples of bad TIF terms.

State and Local Collaboration and Outreach Can Improve Outcomes

In the Woodfin case, town and county officials benefitted substantially from collaboration with the LGC. Not only did the LGC serve as a counterbalance to the power of developers, it also offered TIF guidance and expertise to a town that lacked such resources in house. With Roanoke Rapids, however, the LGC’s influence was somewhat diminished. Though LGC staff did advise the city, they made recommendations rather than required the city to follow certain policies. The LGC also practiced deference to the city and allowed local policymakers to make their own political and legislative decisions, even if they were ill advised.
With limits to state regulatory power and hesitance by some local governments to embrace TIF, a case can be made for an enhanced education function of the LGC. While LGC staff respond to proposals and inquiries about TIF, as well as provide a number of other financial services, they have not pursued active educational outreach since TIF legislation was first passed in 2004 (personal communication, Romocki). By educating local governments on TIF requirements and highlighting best (Woodfin) and worst (Roanoke Rapids) practices, the LGC could help to promote TIF adoption while preventing negative outcomes.

The LGC could similarly educate the local citizens on TIF. Educating the public could serve two purposes. It could quell public backlash against TIF, which has been an impediment to TIF adoption in the aftermath of Roanoke Rapids. Once educated, informed voters could then also provide a check on a municipality’s TIF policies and plans. Had the citizens of Roanoke Rapids, for example, known more about TIF and their city’s plans to use it, they may have intervened earlier and pressured city officials to pursue better policy.
Chapter 6: Conclusion

The current economic downturn has inevitably quelled the policy debate on TIF in North Carolina and across the country. With real estate development grinding to a halt and local governments more fiscally strapped than ever, TIF has faded from the radar of policymakers, activists, scholars, and the general public. Yet, the Great Recession has meant that local governments, now more than ever, are in need of innovative financing mechanisms. TIF can still be one of these tools, and Woodfin is but one example of a municipality using TIF to finance economic development during recession. Furthermore, the institutional learning and policy changes that were applied in Woodfin following the Roanoke Rapids failure are evidence that TIF can experience ongoing reform without sacrificing its attractiveness as a financing tool.

In a today's resource-scarce economic development climate, TIF is capable of creating jobs, transforming neighborhoods, and making communities more attractive places for investment. However, these outcomes are not guaranteed. Indeed the North Carolina cases instruct that to achieve successful TIF districts, counties and municipalities must adopt sound and complementary local policies and collaborate with state-level institutions, which in turn must play a larger role in educating local jurisdictions.

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A few miles south of the Virginia state line, the Randy Parton Theater sits just beside Interstate 95. Incongruous to the surrounding pine forests, the white antebellum-styled structure draws ones eyes from the road. Its garish appearance, however, is but the cover to a cautionary tale of misguided local economic development in the 21st century. It is also testament to the resilience of TIF as a development financing mechanism. Less that a year after the Roanoke Rapids made headlines for its TIF-financed folly, across the state, another town gave TIF another try and enjoyed a far more positive experience. Despite near-polar differences between the two projects, Roanoke Rapids and Woodfin nevertheless teach similar lessons and underscore that as tax increment financing continues to evolve, good local policy is the bedrock for TIF 2.0.
References


Garrett v. Parton, Halifax County Superior Court, 2009


Google Maps, Satellite Image of Roanoke Rapids, NC, Map Data from 2011

“Interlocal Agreement,” Dated August 1, 2008


**Interviews**

1. Les Merritt, former State Auditor and LGC member, current Executive Director of ReportPublicCorruption.org (16 March 2011)


3. Wanda Greene, County Manager, Buncombe County (17 March 2011)

4. Jason Young, Town Manager, Woodfin (24 March 2011)

5. Tim Romocki, Director, Debt Management Section Department of Treasury and LGC staff (24 March 2011)