PLAYS WELL WITH OTHERS
Getting Along in the Local Development Game

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Plays Well With Others...

Scenes from Local Development...

“Negotiating”

“The Public Hearing”
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- Practical “tips” to limit friction with:
  - Developers
  - Other Local Governments
  - Citizens Groups
  - Others
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- Rules of the Godfather School of Business:
  - Make Friends
  - Don’t Leave Enemies Alive
  - So, ... Make Friends
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- Starts with UNDERSTANDING...
  - City Risks
    - Financial
    - Political
  - Other Stakeholders’ Objectives
    - Developer
    - Other Taxing Jurisdictions
    - Neighborhood Organizations
    - Special Interest Groups
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- Developer Issues:
  - Making Money
  - Minimizing Time
  - Avoiding Other Risks/Uncertainty
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Taxing District Issues:

- Money/Tax Revenues
  - How Much ("Share")
  - When Received
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- Neighborhood Issues:
  - Dynamic/Complex
  - Function of Distance?
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- Special Interest Group Issues:
  - “Mission” Related
  - Financial Support/ Organizing Capacity
Risk Mitigation - Developer

Initial Funding Agreement

- City Benefits:
  - Coverage of City Expenses
  - Developer has “Skin in the Game”

- Developer Benefits:
  - Project Reimburses Initial Costs
  - Even If Another Selected
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- Risk Mitigation - Developer
  - Development Agreement
    - Limit Type & Amount of Incentive
    - Timing and Performance Guarantees
    - Provide for Administrative Costs/Long-term Control

- You Only Get What You Negotiate!
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- Risk Mitigation - Taxing Districts
  - Learn to Share
    - Immediate “Up-side”
    - Don’t Wait to be Asked
  - Communicate Early
    - Talk to “Big Players”
    - Talk to Each, Individually
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- Risk Mitigation - Neighborhood Groups
  - Land Assembly
    - “Take the Pledge”
    - Limit Authority to True “Holdouts”
      - Include in Development Agreement
      - Publicize Decision
    - “Get Out In Front” - Model Procedures
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- Risk Mitigation - Interest Groups
  - Assess Resources & Popular Support
  - Communicate Early
  - Provide a “Balanced” Opportunity to be Heard
Other “Tips”

- Convert Potential Opposition into Support
- Can’t Eliminate Controversy, but Can Learn to Manage It
- Be Active, NOT Re-Active
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- Debt Financing
- Other “Stakeholders”
  - The Underwriter
  - Bond Counsel
- Things Your Underwriter Never Told You . . .
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Playing the Development Game

Only one problem . . .
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Municipal Bonds

Complex Debt Instruments

- Definition
  - “A security evidencing the issuer’s obligation to repay a specified principal amount on a date certain (maturity date), together with interest . . .”
    - MSRB Glossary

- Law involved
  - State law
  - Federal Law

- Financial world
Municipal Bond Jargon

- Based on combination of law involved and financial world
  - Examples: Accrued Interest, Capitalized Interest, Refunding, Defeasance, Arbitrage, Rebate, Redemption, Yield, Underwriter, etc.

Resource

- Municipal Securities Rulemaking Board
  - Glossary at [www.msrb.org/MSRB1/glossary/default.asp](http://www.msrb.org/MSRB1/glossary/default.asp)
The “Bond Man” (aka the Underwriter)

What the Bond Man may do

- Act as Financial Adviser
- Recommend Bond Counsel
- Prepare POS/OS
- May prepare bond documents
- **Buy bonds to resell at profit**
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Remember the Godfather’s Rules
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- Risks to City as Bond Issuer:
  - Financial (Taxpayers)
  - Disclosure Issues (SEC)

See City of San Diego SEC Settlement

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How Do You Mitigate Risk?
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One option to mitigate municipal bond risks
First Step: Assess Risk by...

- Understanding Motivation of Parties
  - Issuer
  - Underwriter
  - Bond Counsel
  - Bond Owner
  - Financial Adviser
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“1 pledge my never-ending loyalty...”

-- Luca Brasi to the Godfather
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- Minimize Risk - Make your friends take a pledge of loyalty
  - Underwriter
    - Should not act as Financial Adviser
    - Understand compensation
    - Keep at arm’s length
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- Minimize Risk - Make your friends take pledge of loyalty
  - Bond Counsel
    - Selection
    - Understand compensation
    - Scope of representation
    - Issuer’s Counsel?
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- Minimize Risk - Make your friends take pledge of loyalty

  ▶ Independent Financial Adviser

  • Manages Costs of Issuance (Primary Role)
    ▪ Calculate Underwriters’ compensation
    ▪ Competitive v. Negotiated Bond Sale
    ▪ Competitive Bond Sale
      » Decreased underwriters’ spread
      » Lower Interest Costs

  • Handles certain administrative matters
Mitigating Disclosure Risks:

- Official Statement
- Continuing Disclosure
- Special Disclosure Counsel
  - Complicated deals may require
  - Opinion addressed to Issuer
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- Mitigating Tax Risks:
  
  **Don’t rely on non-experts!**

  Use the Opinion Test
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- Make Friends...
- Understand Their Motivations...
- Assess Your Risk...
- Take Action
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Questions & Answers
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