

Art Malatzky  
Remarks to VEPC  
Killington, VT  
May 26, 2022

Thank you for the opportunity to speak today.

When I spoke at the January 27<sup>th</sup> VEPC hearing on the original TIF application, I was dead set against the application for several reasons, not the least of which was the overly expansive explanation of need. That opposition was detailed further in my written comments submitted soon thereafter.

Since then, the town has revised its application based on discussions with the VEPC, reducing the size of the proposed TIF District to be solely the area at the base of the mountain and reduced the number of projects as well. Furthermore, we learned at the town's May 2<sup>nd</sup> hearing on TIF that the VEPC has changed the original TIF District to a so-called "Master TIF" which, if I understood correctly from the May 2<sup>nd</sup> presentation, adds additional VEPC oversight to the longer-term process. To the extent if any that my detailed written comments played a part in these revisions, I thank the VEPC for its consideration.

My concerns about the town's application have been based on two major factors. First, as a matter of principle, I believe that SP Land and its investors should be responsible for the cost and financial risk of bringing water to their privately owned development and the town should be responsible for the incremental cost and risk required to provide incremental water supply for any of its future needs. As a matter of principle and fairness, Killington taxpayer money should not be put at potentially significant risk to fund a private development owned by out-of-state billionaire investors. What is clearer now, however, is that water quality in parts of Killington have serious issues and that Federal dollars are available to begin to remedy this problem. With potentially significant Federal dollars available for municipal water systems through the recently passed infrastructure bill, Killington

presumably has the ability to benefit from these dollars through municipalization of the otherwise private water system that would be built for the village. This would, in turn, enable future water system development down Killington Road. With that future development in mind, it would be egotistical and self-defeating to stand strictly on principle when compromise is required for the greater good.

The other, and actually more significant basis for concern, however, is the risk involved for town taxpayers. This risk is actually at least two separate and distinct types of risk.

The one most people are thinking about and have expressed at public hearings is the obvious risk of developer default after the town issues as much as \$41 million in bonds for what is described as Phase 1 of the village project. This is clearly a risk, but one that a competent attorney can protect the town from via surety bond, financial guarantees from both the developer and SP Land's investors and/or other contractual mechanisms. This would not totally eliminate the risk of default as lengthy litigation would likely ensue, but the risk of default would be mitigated to a reasonable degree.

The second risk, and the one that most concerns me, is the risk built into the phased development process proposed by SP Land and the town. Unfortunately, it is impossible to fully define that risk until we know if, and how much, Federal funding will be available under the infrastructure bill.

The issue is simply this: how many residential and/or commercial units must be built and sold in order to provide the town the tax revenue required to repay both interest and principle on the bonds issued and when will these units be built? For example, if 50% of the cost is provided through Federal funds, the number of units needed to pay off the debt is obviously far fewer than if zero funds are provided. The Town's original application for TIF approval stated that principle would not be covered until Phase 3. Is that still the case because, if so, and if each subsequent phase is not begun until presales support construction, we are left with the potentially significant risk that the second and/or third phase of the village may not be built, or may not be built within the time frame required to cover the town's financial commitments. This is a risk that must be covered by SP

Land and its investors or that risk would unreasonably be transferred to the taxpayers of Killington. The information presented to the town at the May 2<sup>nd</sup> hearing, while far more detailed than earlier presented, was unclear on this point, possibly because Federal funding levels are still unknown.

Given the uncertainty of funding, the issue of multi-phased development, and how the two combined may impact the ability of the town to cover debt, I would make a couple of suggestions.

The first is to simply delay a final decision until more information is available. I got the impression from the Selectboard's discussion on May 2<sup>nd</sup> that a decision on funding should be coming fairly soon. Delay would at least allow all parties to better define the financial risk inherent in village development.

The other is that, whatever the level of funding, if the number of residential and/or commercial units required for debt coverage, both interest and principle, requires more than one phase of development, that any TIF approval specifically require financial guarantees from SP Land and its investors in the amount required to ensure that the taxpayers of Killington are not put at risk and cannot be held hostage by the uncertainties of village development. The Town of Killington funding the system with SP Land and its investors guaranteeing the financial risk would be a compromise we all should be able to live with.

Thank you.