

**Texas Municipal League  
96th Annual Conference and Exhibition**

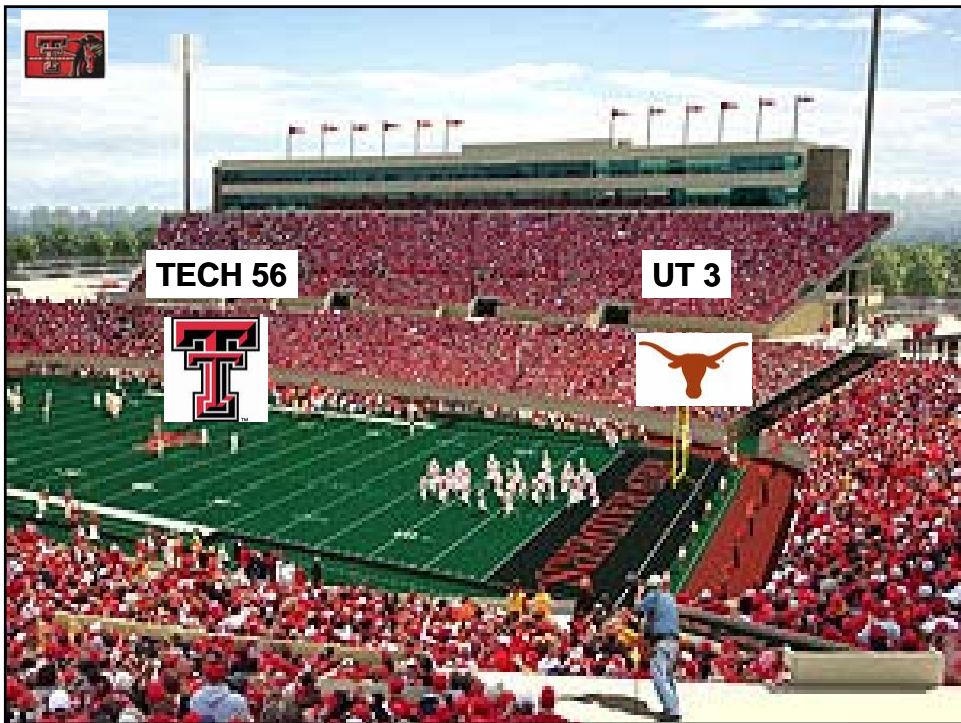
**Texas City Attorney Association**

**Cutting Edge Economic Development Tools**

**Peter G. Smith  
Nichols, Jackson, Dillard, Hager & Smith**

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# **Stress Reduction Kit**

**For Development**

**Bang  
Head  
Here**

**Directions:**

1. Place kit on FIRM surface.
2. Follow directions in circle of kit.
3. Repeat step 2 as necessary, or until unconscious.
4. If unconscious, cease stress reduction activity.



**What Texas needs is more TIRZS and PIDS**



City Attorney enjoys one of the many receptions at the TML Conference



Use of TIRZ funds pay cost of municipal (police) services within TIRZ



### Chapter 380 Loc Gov Code

- City contracts with the recipient of the grant to condition the incentive upon the creation of employment, construction of improvements, certain development, or other public consideration.
- Broad authority to provide cash incentives, waiver of fees, use of government personnel, facilities and supplies.
- It is an authorization and not a mechanism.

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## Chapter 380 Loc Gov Code

- **Article III Section 52-a - constitutional authorization - public purpose includes economic development.**
- **Unlimited - public consideration.**
- **Imagination is the limit.**
- **Neither Chapter 380 nor Article III, Section 52-a specify the kinds of incentives.**

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## Chapter 380 Loc Gov Code

- **Public purpose must be served.**
- **Should be funded by current revenue or authorized debt.**
- **As long as no property tax pledge or finance through bonds it is not an unconstitutional debt – no need for annual appropriation or funding out clause.**
- **Must comply with applicable Charter.**

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### Artificial TIRZ

- **Artificial TIRZ - provide equivalent of tax increment financing without the headaches.**
- **Avoid administrative process, statutory restrictions and bureaucracy of a TIF - No board of directors.**
- **Schools do not participate so usual players are city and county.**
- **County can participate through Chapter 381.**

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### Artificial TIRZ

- **Create a zone by contract and agree to use incremental increase in property tax and/or sales tax from the defined area for contractually defined projects.**
- **Any Chapter 380 type project can be funded – not restricted to public improvements as is the case with a TIRZ.**
- **Not much loss of TIRZ powers.**

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## Artificial TIRZ

- Lose right to sell property in TIRZ in private sale but city may transfer property to independent foundation for subsequent transfer to end user.
- No loss of eminent domain powers since such power is restricted and may not be used for economic development purposes.

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## Cutting edge Chapter 380 deals

**Require the proper allocation of  
risk among the parties**

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### **Bleeding** edge economic development tools

- Guarantee of developer loans
- Master leases
- Rent subsidies
- Free land with abatement, with master lease, with cash incentives.
- Incentives based on prohibition of **burnt orange** exterior and interior materials.



## **Richardson Home Improvement Program**

- **Quality housing stock is necessary to attract and retain business and therefore promotes economic development.**
- **Richardson offers incentives pursuant to Chapter 380 agreement for redevelopment of existing residential structure.**
- **Homeowners in single-family zoned areas, except those who are delinquent in taxes or other fees.**

## **Richardson Home Improvement Program**

- **Requires improvement project involving the reconstruction or remodeling of a single family home with cost of at least \$20,000 and completed within 24 months of project approval.**
- **One-time rebate equal to 10 times the amount of the increase in city taxes based on the property's pre-construction and post-construction appraisal district values paid to the homeowner on April 1 of the first full calendar year after completion of the approved project.**

## DeSoto Town Center Project

- **City Council decided to revitalize the Town Center as a catalyst to encourage redevelopment.**



- **City Council hired RTKL to assist with the preparation of a redevelopment study for the area.**
- **City/consultants held countless public meetings taking input from citizens, the local business and development community.**
- **From the public input a plan was formulated.**

## DeSoto Town Center Project

- **Concept: mixed use development (retail, office and multi-family) developed within a portion of the Town Center parking lot with shared structured parking.**
- **City selected High Street Residential as the developer.**
- **City contributed the land (initially a purchase of portion of the parking lot) but environmental issue arose so parties entered into ground lease.**

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## DeSoto Town Center Project

- City already had \$2 Million in approved bonds for Town Center improvements and amenities known as the Vision Project.
- Council wanted to do more based on the plan and the developer needed some incentives beyond the land.
- City issued \$5.5 Million in certificates of obligation to fund the public infrastructure necessary for the project including a shared structured parking garage.

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## DeSoto Town Center Project

- Developer is constructing mixed use development on the parking lot, the shared structured parking, public infrastructure and vision project amenities.
- Funding from bonds and C.O.'s forced the City to purchase the parking structure and public improvements upon completion.
- Bond funds may not be used for economic development without voter approval but can purchase completed project without competitive bids.

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## DeSoto Town Center Project

- **Project is note worthy** because public involvement in the plan resulted in a demand for the project and great expectations.
- Council had political courage to take a chance that the project would stimulate redevelopment and grow in the Town Center area.
- City Manager plans to move to the apartment units and live, eat and play at Town Center

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## **TIRZ revenues for economic development**

- **Traditionally TIRZ revenue could only be used for public improvements, certain education facilities, and related costs – transportation and certain housing.**
- **Now with City Council approval TIRZ Board has full Chapter 380 power with respect to the use of the municipal increment of the TIRZ revenue for economic development projects within the TIRZ.**

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## **Artificial TIRZ Village at Allen and the Allen Event Center**

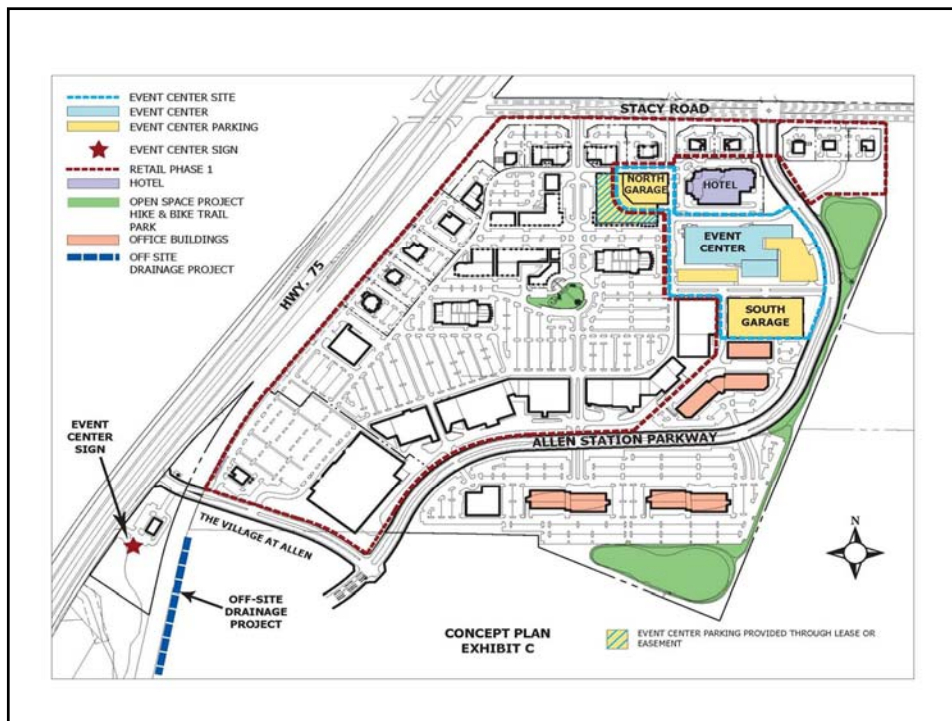
- **Project utilized an artificial TIRZ concept under Chapter 380 to provide the funding.**
- **Project required five players.**
- **City, 4A and 4B corporations, the Developer MG Herring Group and Global Entertainment.**

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## Village at Allen and the Allen Event Center

- Village at Allen and Fairview is separated by Stacy Road along US 75 – 186 acres
- More than 3 Million Sq Ft in commercial space.
- 225 room Courtyard by Marriot Hotel – John Q Hammons.
- 500,000 Sq Ft of office space.
- Event Center

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The McHerring Group

JPRA ARCHITECTS

10.25.06

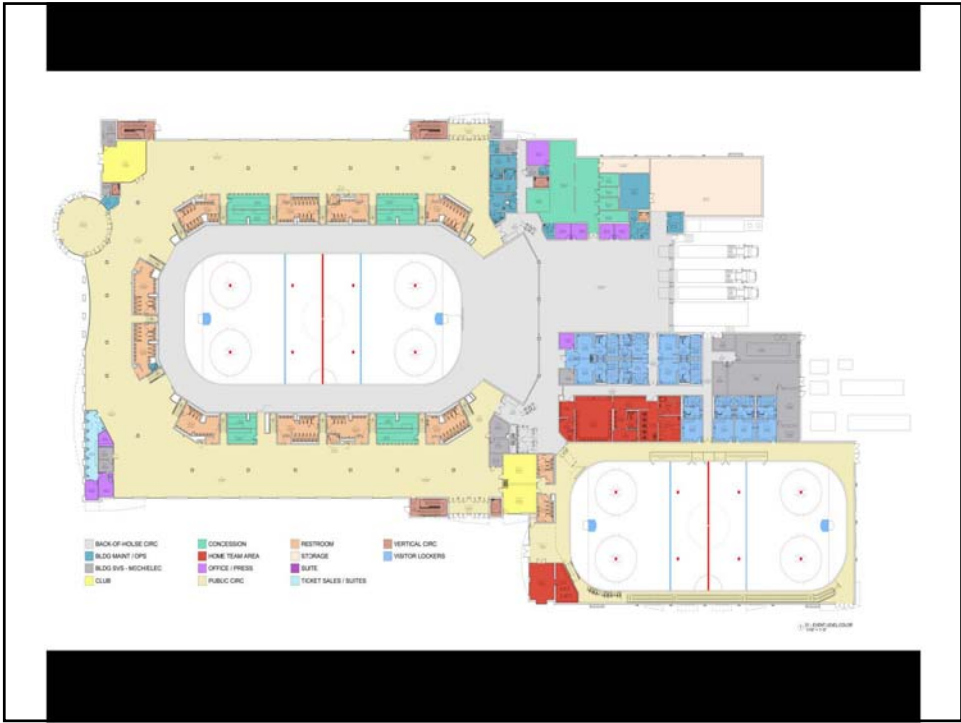
ENTRY BOULEVARD



**Allen Event Center**  
multi – purpose facility with 7,500 fixed seats to host WPHL hockey team home games and other entertainment (including Hana Montana), with 2nd sheet of ice under roof.







## **Village at Allen and the Allen Event Center**

- **First began with request from the developer for incentives for infrastructure to support the development of the Village at Allen.**
- **Initially Allen negotiated a total incentive package amount with MG Herring Group for infrastructure for the Village but had not finalized the agreement.**

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## **Village at Allen and the Allen Event Center**

- **After negotiations began with MG Herring Group Global Entertainment approached the City about the development of a multi-purpose center to host the home games of a minor league hockey team and which would also serve as a destination entertainment venue.**
- **The problem was the estimated cost of the Event Center.**

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## Village at Allen and the Allen Event Center

- Global will manage, operate and book events at the Center, without cost to the City.
- Global required to secure a ten-year lease of the Event Center by Central Hockey League team.
- Global through its affiliates provides construction management services, equipment for the Event Center and is **responsible for costs above the GMAX price for the Event Center.**

## Village at Allen and the Allen Event Center

- Allen did not have sufficient funding available to support the Village at Allen and undertake a \$55+ million multi-purpose event center.
- City realized as all developers and cities should, that it takes a variety of economic development tools and players to support projects of this magnitude.

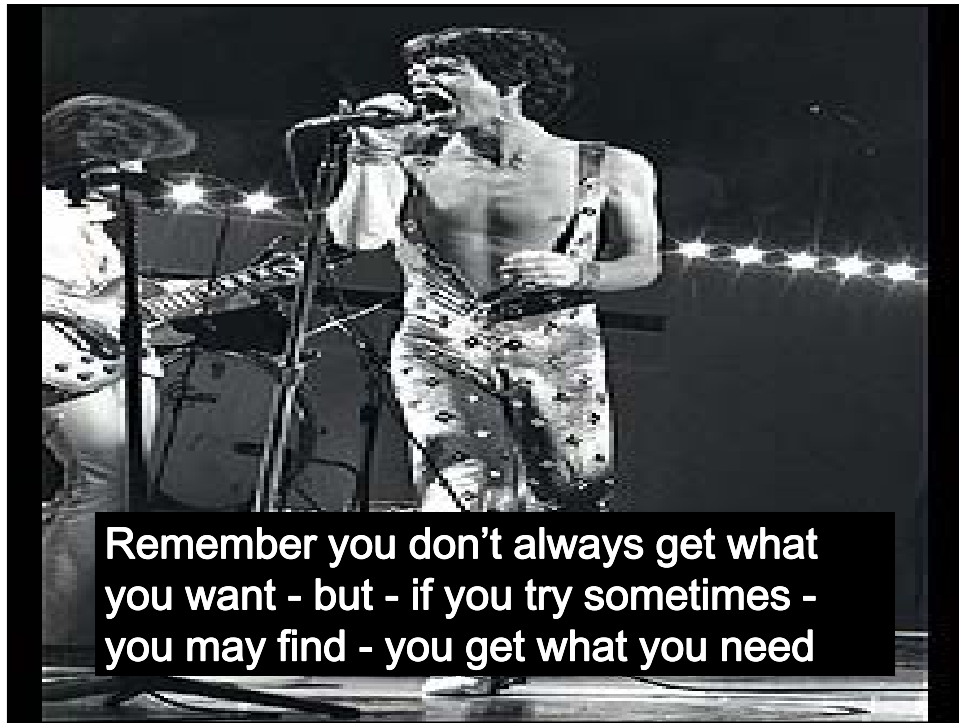
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## **Village at Allen and the Allen Event Center**

- **Citizens wanted an entertainment destination venue so the City approached the developer with the event center concept.**
- **Developer wanted the Event Center.**
- **Developer and the City had to determine a mechanism to finance the costs of the Event Center.**
- **Allen did not want to finance the entire cost of the Event Center.**

## **Village at Allen and the Allen Event Center**

- **City agreed to have 4A sales tax corp. issue \$15 Million in sales tax revenue bonds for infrastructure for the Village at Allen and 4B sales tax corp. issue \$32 Million in sales tax revenue bonds for a portion of the guaranteed maximum price for the Event Center and agreed to provide a grant of \$3.5 Million provided:**
- **Developer would donate the site and finance the balance of the cost for the Event Center estimated to be \$40 Million.**



### **Village at Allen and the Allen Event Center**

- **Parties entered into a Chapter 380 agreement under which an artificial TIRZ was created known as the Benefited Area from which reimbursement grants are measured by the sales tax and property tax receipts from the Benefited Area for 20 years.**
- **It operates like a TIRZ in which the City contributes property taxes and municipal sales tax from the benefited area.**

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**Developers can be confident when  
loaning money to cities**

### **Village at Allen and the Allen Event Center**

- **Developer secured its financing for the Village and secured a separate loan of up to \$40 million from its lenders to provide the delta financing for the City for the Event Center.**
- **After the City expends the ACDC bond funds for the Event Center and infrastructure – the developer provides the additional funding up to \$40 million.**

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## **Village at Allen and the Allen Event Center**

- **Developer conveyed 15 acres by deed with a reversion if City does not timely construct the Event Center.**
- **Developer constructs the infrastructure for the Village and for the Event Center.**
- **Agreement provided variety of payment features because of the different funding sources – county bond funds and sales tax revenue bonds.**

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## **Village at Allen and the Allen Event Center**

- **County bond funds had to be used for public infrastructure (voters did not approve funds for economic development) and thus could not be treated as an economic development grant.**
- **These funds were used to purchase completed public improvements.**
- **4B sales tax revenue bond funds also had to be used for Event Center and 4A sales tax revenue bonds for infrastructure.**

## **Village at Allen and the Allen Event Center**

- **City provides monthly grants measured by the sales tax and property tax from the Benefited Area for 20 years to repay the Event Center funding provided by the developer not to exceed \$40 Million plus interest.**
- **Grant is reduced by \$2 Million if no Hotel.**

## **Village at Allen and the Allen Event Center**

- **If the Benefited Area does not produce sufficient property tax and sales tax for the grants for the repayment of the funds advanced by the developer for the Event Center within the 20 year period there is no recourse against the City.**
- **Developer is only repaid if the development generates the necessary revenue for the reimbursement grants.**

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## Village at Allen and the Allen Event Center

- The Village at Allen and the Allen Event Center is a true example of a private – public partnership.
- The risks were properly allocated.
- If the Village at Allen is successful the developer will be repaid the Event Center loan.
- If the Allen Event Center is successful patrons will shop and eat at the Village at Allen.

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## The Gates of Prosper

**TIRZ backed by PID**

**Prosper got its start at the turn of the 20th century  
as a railway whistle stop.**



## The Gates of Prosper



- Grown from a farming community into a small city.
- Next crossroads for suburban mixed-use development.
- One of the fastest-growing communities north of Dallas.
- 2007 pop of more than 6,000 with an average household income of \$103,000 with the average home price in excess of \$280,000.
- Today average cost of new home is \$425,000.

## The Gates of Prosper



- Preston-380 intersection is projected to be one of the next biggest retail and commercial districts at the edge of Dallas' north suburban growth.
- Gates of Prosper will include 2.5 million sq. ft. of retail space, office space, apartments and condominiums, plus a town center for Prosper.
- Development has been projected to cost almost \$500 million.

## **TIRZ backed by PID**

- **Innovative financing to make TIRZ's more attractive to a city that must issue debt to pay infrastructure costs.**
- **Concept: impose a public improvement district on all or portion of TIRZ; assess the entire cost of the TIRZ projects against the land in TIRZ to be collected from the landowners if Tax Increment shortfall to pay PID bond debt service for project costs.**
- **TIRZ revenue is credit against PID assessments**

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## **TIRZ backed by PID**

- **Developer guarantees debt service payment shortfalls if the TIRZ does not generate sufficient tax increment to pay the debt service for bonds or other instruments issued by the City to pay for the project costs.**
- **Little risk to the municipality because the PID assessment has been imposed against the land and the TIRZ revenue is applied as a credit against the annual assessments with any shortfall paid with collected assessments.**

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## The Gates of Prosper



- Dallas Cowboys/Jerry Jones through Blue Star Land Company entered into a development agreement with the Town which calls for the creation of a tax increment financing zone backed by a public improvement district for the 500-acre Gates of Prosper town center complex. – took 3 years--
- Blue Star Land Company teamed up with Lincoln Property to market the project.

## The Gates of Prosper



O'BRIEN & ASSOCIATES, INC.  
ARCHITECTURE • INTERIORS • PLANNING

PROSPER TOWN CENTER  
PROSPER, TEXAS  
BLUESTAR

SP-29  
SCALE: 1"=50' • JOB NO. 04-0410 • SHEET 08/08/07  
REVISED BY: [illegible] DATE: [illegible]

## The Gates of Prosper



- Town created a Tax Increment Reinvestment Zone (**just last Tuesday**) and pledges the tax increment to pay debt service of PID bonds issued to finance public improvements.
- Town designated a portion of the Town's real property taxes, a portion of its 1% sales tax and a portion of 4A sales tax.

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## The Gates of Prosper



- Town will create PID for TIRZ area, adopts an assessment ordinance, levies assessments within the PID to finance the public improvements for the Project.
- Landowners must consent to the assessment or no project.
- PID assessment is priority lien.
- Town issues a series of PID bonds for the TIRZ public infrastructure projects.

## The Gates of Prosper



- Town/PID imposes annual assessment for agreed contract provided public improvements.
- TIRZ revenue is pledged to pay debt service on PID bonds and applied as credit against the annual assessments.
- If TIRZ revenue is insufficient the developer may either pay shortfall or the PID assessments are collected.

## The Gates of Prosper



- Collin County contributes 50% of its tax increment.
- TIRZ expires 2045 (or max payment); however the developer has until 2023 to enter into construction agreements for public improvements; and bonds for such must be issued by 2023.
- TIRZ continues to 2045 to provide revenue to pay debt service for PID bonds issued by 2023.



**SHOW ME THE MONEY**

## **The Gates of Prosper**



- **Developer dedicated land and easements for water tower, the public improvements, Town Hall, parks and other municipal uses.**
- **Chapter 380 Agreement for retail incentives of up to 60% of the Town's Sales Tax (not to exceed \$25 Million) collected from TIRZ area excluding Sales Tax contributed to the TIRZ Revenues.**

## The Gates of Prosper



- Town waives certain impact and development fees as consideration for dedication of the Town Center site.
- Town agreed by separate Chapter 380 agreement to rebate Town rollback taxes imposed for any of the project site.
- True example of private/public partnership and how a TIRZ project can work with minimum risk to a city.

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## AND NOW THE NEXT SPEAKER



**MANGO SAYS "GO RAIDERS" "GUNS UP"**