



A Strategy for Success

Weymouth Town Council
February 13, 2014



Responses to SSTTDC 2-10 Presentation



- During the SSTTDC presentation on February 10, 2014, representatives from Tri-Town made many statements that are not factually accurate.
- We will address the most egregious misstatements tonight.
- It is troubling that Tri-Town either does not know the facts or chooses not to provide the facts.
- In addition, it appears that Tri-Town changed portions of its presentation before e-mailing a copy to the Council.

Responses to SSTTDC 2-10 Presentation



- February 10, 2014 at 1 hour and 41 minutes:

Issue

- Commercial Tax Rate:

- Commercial tax rate is high but not the highest, in fact Randolph as a tax rate of \$
- LNR and SSTTDC agreed that the rate was a disincentive in 2011 and that a remedy was needed
- SSTTDC agreed to recommend to each commercial property owner a financial incentive in the form of real estate tax breaks
 - Known as TIF (Tax Increment Financing) specifically authorized in current enabling legislation approved in 2008
- LNR and SSTTDC together informed:
 - Secretary of Housing and Urban Development in 2011 of this approach
- Reaffirmed in writing in December, 2013
- We are aware of no commercial prospect who has been informed of this benefit for building in Southfield

- Same slide as delivered to Weymouth Town Council:

Issue

- **Commercial Tax Rate:**

- Commercial tax rate is not the highest as asserted by Mr. Barry, in fact e.g., Quincy = \$31.23, Randolph = \$32.11, Framingham = \$40.92, Dedham = \$34.72
- LNR and SSTTDC agreed to this in 2011
- SSTTDC agreed to give each commercial owner a financial incentive in the form of real estate tax breaks
 - Known as TIF (Tax Increment Financing) specifically authorized in current enabling legislation approved in 2008
- LNR and SSTTDC together informed:
 - Secretary of Housing and Urban Development in 2011 of this approach
- Reaffirmed in writing in December, 2013
- Nothing has changed

Responses to SSTTDC 2-10 Presentation



SSTTDC Claims that are not True:

1. The 2010 Infrastructure Assessment Bond is a “general obligation bond”.
2. Starwood has “not responded to four (4) commercial opportunities”.
3. SSTTDC does not have the highest commercial tax rate in the area, because “Randolph is higher.”
4. Starwood has “voluntarily stopped the project as of January 2013” in order to save approximately \$600,000 per year in tax savings under the new legislation.
5. Starwood received a “discounted” price on the 680 acres of EDC land (FOST 3-6) that was conveyed by Navy to SSTTDC on 12/15/11 and is obligated to pay “12 million” for that land “plus some profit sharing”.
6. Starwood’s proposed legislation will violate Proposition 2 ^{1/2} .
7. Phase II Parkway can be completed for a cost of \$6 to \$8 million.
8. Starwood’s proposed legislation would operate to make Starwood the Master Developer forever unless additional legislation removing Starwood were to be filed.
9. The \$175 million bond limit in the proposed legislation violates “best practices”.
10. LNR’s FY ‘13 Parkway Deficiency Assessment Payment is “Overdue”
11. Starwood has “not come to the table” to meet with Tri-Town.

Responses to SSTTDC 2-10 Presentation



SSTTDC Claim: The 2010 Infrastructure Assessment Bond is a “general obligation of SSTTDC”.

Response: Incorrect.

- The Limited Offering Memorandum dated August 9, 2010 (at page 13), executed by Kevin R. Donovan as Chief Executive Officer of SSTTDC, reads as follows:

“The Bonds shall be **special obligations** of the Issuer, equally and ratably secured by and payable from a pledge of and lien on, to the extent provided by the Indenture, the Pledged Revenues received by the Trustee for the account of the Issuer pursuant to the Indenture . . . “Pledged Revenues” are revenues received by the Issuer from Assessments and Pledged Property Taxes, including, without limitation, amounts received from any foreclosure proceeding for the enforcement of collection of such Assessments and Pledged Property Taxes.

THE BONDS **DO NOT** CONSTITUTE A GENERAL OBLIGATION OR A PLEDGE OF THE FAITH AND CREDIT OF THE ISSUER . . . BUT SHALL BE PAYABLE AS TO PRINCIPAL, INTEREST AND PREMIUM, IF ANY, **SOLELY FROM** THE PLEDGED REVENUES AND FUNDS PLEDGED FOR THEIR PAYMENT UNDER THE INDENTURE.” (emphasis original).

Responses to SSTTDC 2-10 Presentation



- Section 2.01(a) of the Trust Indenture, executed by Kevin Donovan on August 12, 2010 on behalf of SSTTDC, reads as follows:

“The Bonds shall be special obligations of the Issuer and the obligation of the Issuer to pay the principal or Redemption Price of and interest thereon shall **not be a general obligation or a pledge of the faith and credit of the Issuer**, but shall be payable **solely from the Pledged Revenues** pledged under this Indenture.”
- In the event a particular property owner fails to pay taxes (so no tax pledge is available to pay the bond holders), the Issuer would foreclose on the property. The same holds true for the special assessments due from the owner(s) of the undeveloped property. If those special assessments are not paid, the Issuer forecloses on the property. Section 7.09(c) of the Trust Indenture.

Responses to SSTTDC 2-10 Presentation



- SSTTDC's obligations with respect to the debt service are as follows:
 - Before Certificate of Occupancy issues: 25% of the real estate taxes ("Tax Pledge")
 - After a Certificate of Occupancy issues: 35% of the real estate taxes ("Tax Pledge")
 - If the above does not cover the full debt service, the owner(s) of undeveloped land pay the balance through a "special assessment"
 - For FY '14, the debt service is approximately \$966K, of which approximately \$500K was raised through the Tax Pledge. The developer paid the balance of approximately \$466K as a special assessment on undeveloped land
 - **Applies ONLY to 931 housing units and 650,000 square feet of commercial**
 - **Weymouth will never transfer to the bondholders more than 25%/35% of the tax revenues Weymouth receives on these 931 housing units and 650,000 square feet of commercial.**
 - **Weymouth does not assume any liability beyond the obligation to transfer a portion of the new tax revenue for the bond**
 - **If a taxpayer fails to pay taxes (and Weymouth does not receive the Tax Pledge), Weymouth could foreclose on the property**

Responses to SSTTDC 2-10 Presentation



SSTTDC Claim: Starwood has “not called back four (4) excellent prospects for commercial purchase”.

Response: We have received zero (0) commercial opportunities from SSTTDC.

- The ONE development proposal we received from SSTTDC is a proposal to complete demolition and abatement of sixteen (16) buildings and abatement of two (2) buildings. Contractor estimates the value of demolition and abatement at \$10,800,000.
- The request asks Starwood to pay \$9,400,000, transfer title to thirty (30) acres of land including two (2) buildings (some of the land and the buildings are owned by the Navy) and provide the required infrastructure to the land (water, sewer, roadway, electricity, cable, telephone, etc.).
- The proposal states that one of the buildings will be used for a recreation facility and the other building may provide a commercial use. We have several firms interested in the recreational amenities who have proven experience in recreational facilities.
- The land is located in the prime commercial real estate area. We estimate the reduced tax revenue of this proposal by converting prime commercial land into a recreational facility is \$4M annually.
- We do not barter or issue no bid contracts. Once we have a completed parkway, recreation and a town center, this land will have a value seven times the value proposed.

Responses to SSTTDC 2-10 Presentation



SSTTDC Claim: We do not have the highest commercial tax rate in the area, because “Randolph is higher.”

Response: SSTTDC’s commercial tax rate is, in fact, the highest in the south shore area.

Responses to SSTTDC 2-10 Presentation



Community	FY '14 Commercial Rate
SSTTDC	$\$30.73 + \$6.50 = \$37.23$
Randolph	\$32.11
Quincy	\$31.23
Canton	\$26.53
Braintree	\$26.06
Milton	\$22.97
Weymouth	\$21.70
Devens	\$21.27
Rockland	\$18.34
Hanover	\$17.20
Abington	\$17.19
Norwell	\$16.37
Whitman	\$15.81
Hanson	\$15.47
Plymouth	\$15.13
Pembroke	\$14.69
Hull	\$13.87
Marshfield	\$13.29
Scituate	\$13.05
Hingham	\$12.56
Cohasset	\$12.54

- When you add the \$6.50 per thousand Parkway Deficiency Assessment to the SSTTDC rate, the effective commercial rate is **\$37.23**, the highest on the South Shore and \$15.46 per thousand higher than Devens.
- SSTTDC is transferring the burden of its budget problems to the commercial land.
- Section 8.1(b) of the DDA obligates SSTTDC to tax at rates that are “within commercially acceptable market tolerances when measured against other commercial and residential properties in the **“South Shore area.”**”
- SSTTDC is in violation of this provision of the DDA.

Responses to SSTTDC 2-10 Presentation



- Commercial Developer Analysis:

150,000 sq. ft. commercial building at \$250 per sq. ft.
= Assessed Value of \$37,500,000

- Comparative Tax Burden:

Community	FY '14 Taxes
SSTTDC	\$1,396,125
Weymouth	\$813,750
Devens	\$797,625

- SSTTDC taxes 72% higher than Weymouth
- SSTTDC taxes 75% higher than Devens
- Even without the parkway deficiency assessment, the annual tax burden at SouthField would be \$1,152,375, over 40% higher than Weymouth.

Responses to SSTTDC 2-10 Presentation



SSTTDC Claim: Starwood believes the Weymouth assessment process is different than SSTTDC's process and DOR guidelines.

Response: Incorrect.

What we have stated is that, while following the same DOR guidelines as SSTTDC, the Town of Weymouth will arrive at fair market value property assessments. SSTTDC has not provided fair, or even rational, assessments.

Responses to SSTTDC 2-10 Presentation



- SSTTDC says that the assessed value on open space of \$45,000 per acre is based on the \$25 million Navy payment for 557 acres that was conveyed to SSTTDC in December 2011. Unfortunately, that math is wrong because the \$25 million was consideration for 680 acres, not 557 acres.
- The building below (just the building) has been assessed by SSTTDC at \$2.981 million, resulting in taxes of \$90,000 per year. The assessed value equates to **\$94 per foot**, which is a valuation higher than Class A warehouse buildings located on the south shore.
- The Weymouth Fire Department has declared this building a hazard, and it is slated for demolition at a cost of approximately \$515,000.



Responses to SSTTDC 2-10 Presentation



- The following is an example of a commercial building in Weymouth which demonstrates how flawed SSTTDC's assessments are. We have many more examples that we would be happy to share with you.

- 180 King Ave, Weymouth MA (Class A Warehouse)

Building SF: 66,695 SF
Building AV: \$2,523,400
Building AV/ SF: **\$22 / SF**

- Compare to SouthField: **\$94 /SF**



Responses to SSTTDC 2-10 Presentation



SSTTDC Claim: Starwood has “voluntarily stopped construction progress” as of January 2013 in order to save approximately \$600,000 per year in tax savings under the new legislation.

Response: It is not the case that development has “stopped”, and it costs Starwood significantly more than \$600,000 per year as long as it continues to own land

- Starwood closed land sales on 2/19/13, 6/27/13, 8/28/13, 10/8/13 and 11/20/13 for a total of 99 residential units and 6,642 square feet of commercial development.
- 102 units and the 6,642 square feet are currently under construction.
- Starwood is not a vertical builder at SouthField. The permits SSTTDC references are for vertical construction. No permit applications have been submitted to SSTTDC since January 2013 (Corcoran’s Phase II project), because there are no developers under contract to purchase land. We cannot force builders to purchase land at SouthField.
- Starwood spent \$1.8 million in 2013 in infrastructure costs (Trotter Road Extension, Skye Lane and Lower Snow Bird Avenue)
- Starwood is incentivized to sell land, not hold on to it! We must pay taxes, infrastructure assessments and parkway deficiency assessments on land we own. In FY ’13 alone, the infrastructure assessment and parkway assessment totaled close to \$1 million, and the tax bill was an additional \$1.9 million.

Responses to SSTTDC 2-10 Presentation



SSTTDC Claim: Starwood received a “discounted” price on the 680 acres of EDC land (FOST 3-6) that was conveyed by Navy to SSTTDC on 12/15/11 and is obligated to pay “12 million” for that land “plus profit sharing”.

Response: Incorrect

- The SSTTDC appraisal performed for the land concluded that its value was **\$7 million**.
- Starwood owes the Navy a total of **\$25 million**.
 - \$12 million comprised of \$2 million deposit, \$10 million note (\$1 million annually)
 - 5.04% of the revenue received from land sales made by Starwood in FOST 3-6, for a total of \$13 million. This is not “profit”, but rather a reduction off the top from gross revenue.
- These payments are due to Navy regardless of whether SSTTDC ever provides permanent water/wastewater or builds Phase 2 Parkway
- Only a handful of bases have conveyed for payments (the majority were no cost) because of the substantial costs required to develop them
- SSTTDC knew it could not provide water/wastewater at the time it agreed to the \$25 million purchase price!

Responses to SSTTDC 2-10 Presentation



SSTTDC Claim: Starwood's proposed legislation would operate to make Starwood the Master Developer forever unless additional legislation removing Starwood were to be filed.

Response: Incorrect. The default provisions of the DDA are unaffected by the proposed legislation.

- The proposed legislation states that the DDA is to be amended to reflect only the changes being made by the legislation. Other items currently addressed in the DDA, such as the default provisions, remain unchanged.
- Section 15 of the legislation reads as follows:

“The board is hereby directed, within 90 days of its initial installation pursuant to Section 9(a), to revise, re-promulgate, re-issue, re-negotiate, and re-execute all regulations promulgated by the corporation and currently in effect and all material agreements (including the DDA) in effect between the corporation and the master developer, **solely** for the purpose of conforming such regulations, agreements and other documents to this act.”
- So, if Starwood breaches an obligation imposed on it under the revised DDA, it can be found to be in default of the DDA.

Responses to SSTTDC 2-10 Presentation



SSTTDC Claim: Phase II Parkway can be completed for a cost of \$6 to \$8 M.

Response: Incorrect.

- In order to develop beyond Phase I, the “East-side connectivity improvements” must be completed. This is the widening and intersection improvements from Weymouth Street to the Route 3 ramps. The cost estimate for this phase of the work is approximately \$10 million.
- In September 2013, SSTTDC applied for a Mass Works Grant for funding for the East-side connectivity improvements, as well as an extension of the Parkway from its existing terminus at Shea Drive to the base of Parkview Street. The amount requested by SSTTDC in this application was **\$14 million**.
- This amount does not include the cost of the last piece of the Parkway from the base of Parkview Street out to Route 18. Use of existing Trotter Road is not feasible for this purpose because (a) there is insufficient storage on Route 18 between the Trotter Road/Route 18 intersection and the Pond Street/Route 58 intersection; and (b) there is insufficient storage on Trotter Road east of the rail crossing.

Responses to SSTTDC 2-10 Presentation



SSTTDC Claim: Starwood's proposed legislation will violate Proposition 2 ¹/₂.

Response: Incorrect.

Section 19(a) of the proposed legislation reads as follows:

“Tri-Town Revenue shall not be deemed to constitute any part of “total taxes assessed” by the towns for the purposes of administering section 21C of chapter 59 of the General Laws.”

Responses to SSTTDC 2-10 Presentation



SSTTDC Claim: The \$175 million bond limit in the proposed legislation violates “best practices”.

Response: Incorrect.

- The legislation states that all future bonding must be special assessment bonding, not general obligation or tax pledge bonding. Therefore, the 5% “rule” does not apply.
- The DDA currently obligates SSTTDC to reimburse LNR \$81 million (net) for infrastructure costs. This limit currently exceeds SSTTDC’s 5% “rule”
- The current Enabling legislation contains a general obligation bond limit of \$110 million, also exceeding SSTTDC’s 5% “rule”
- The current Enabling legislation allows special assessment bonds to be issued without limit!
- The cap is permissive—the market will control what the special assessments can be

Responses to SSTTDC 2-10 Presentation



SSTTDC Claim: LNR “advocated” for the Parkway Clawback and that the problem would “be eliminated if LNR developed the land”

Response: Incorrect.

- The Commonwealth demanded the clawback as a way to ensure the debt service was paid in full each year.
 - Even though SSTTDC is obligated to fund the Parkway under Section 7.3 of the DDA, Starwood has paid the following amounts in Parkway deficiency assessments:
 - FY 2011: \$209,000
 - FY 2012: \$232,970
 - FY 2013: \$375,686 (to be paid)
- Total paid/to be paid to date by Starwood: **\$817,656**
- In addition, Starwood has outstanding a Letter of Credit in the amount of \$1 million to the Commonwealth’s benefit which the Commonwealth can draw on if deficiency payments are not made to it.
 - Again, LNR is not a vertical builder and cannot “force” builders to buy land and develop.

Responses to SSTTDC 2-10 Presentation



SSTTDC Claim: LNR “has not paid” its FY ‘13 Parkway Deficiency Assessment

Response: That is correct, because it is not yet due.

- SSTTDC issued an invoice on November 18, 2013 in the amount of \$375,686.35 representing LNR’s parkway deficiency assessment payment for FY ‘13.
- The amount was calculated at \$6.50 per thousand based on a valuation of commercial property owned by LNR at \$58 million.
- The SSTTDC letter accompanying the invoice states “I will need to collect the FY 2014 [sic] parkway assessment no later than **June 30, 2014** to avoid the revenue deficit requirements.”
- LNR paid the FY ‘12 assessment in June 2013, and plans to make the FY ‘13 payment in June 2014.
- The FY ‘13 assessment is not due to the Commonwealth until **June 2015**. Section 5(b)(iv) of the Financing MOA states “Any required Deficiency Payment shall be made not later than the June 30 of the *first full fiscal year next following* any certification by DOR of the need for such a Deficiency Payment.” The DOR certification was made on October 13, 2013 (FY 2014), which means that the payment to the Commonwealth is not due until June 30, 2015.

Responses to SSTTDC 2-10 Presentation



SSTTDC Claim: Starwood has “not come to the table to meet with Tri-Town”.

Response: We have not received an invitation to their Board Meeting. We have met or tried to meet with Tri-Town on the dates below.

- December 16, 2013 – Matthew Barry attends SSTTDC Board Meeting
- December 19, 2013 – Meeting Matthew Barry and Robin Daniels, Chairman of Tri-Town Board, CEO, CFO and Tri-Town lobbyist.
- January 2, 2014 – Meeting rescheduled at request of Tri-Town
- January 6, 2014 – Meeting rescheduled at request of Tri-Town
- January 10, 2014 – Meeting Matthew Barry and Chairman of Tri-Town Board
- January 13, 2014 – Robin Daniels attends SSTTDC Board Meeting
- January 16, 2014 – Meeting rescheduled at request of Tri-Town
- February 6, 2014 – Meeting Matthew Barry, Chairman of Tri-Town Board and CFO
- February 10, 2014 – Matthew Barry and Robin Daniels attend SSTTDC Board Meeting

Responses to SSTTDC 2-10 Presentation



SSTTDC Claim: SSTTDC Protects the Towns (“No Cost”), provides benefit to the towns (“Excess Revenue”), and provides for financing and construction of Water, Wastewater and Parkway.

Response: SSTTDC has failed to provide the core responsibilities listed above.

- By engaging in a process of negotiating and competitively bidding for services, Tri-Town has cost the Town of Weymouth through a lowered reimbursement for services, attorney fees, and time-consuming processes for staff.
- Tri-Town has provided \$0 of Excess Revenue to the Towns – No Benefit
- Tri-Town has stalled and combatively slowed development through misguided interpretations and decisions.
- Tri-Town has admitted that they have known since 2009 that they cannot provide wastewater and since 2011 that the “Clawback” was preventing Commercial Development. Tri-Town took no action on these issues and did not inform the Town of Weymouth.

The Project is Broken

