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Developer reevaluating Glen Carbon project in wake of governor's veto

By ALAN J. ORTBALS

The feasibility of the proposed University Town Center development is being reevaluated in the aftermath of Illinois Gov. Pat Quinn's amendatory veto, according to Bruce Holland, managing member of University Town Center Development.

Quinn made his amendatory veto at the end of August.

The governor amended the legislation so that the state would keep half of the revenue from the development with the other half being returned to the project. Under the bill that had been passed by the legislature, SB 1909, all state sales taxes would have been available to pay for project development costs. The amended bill now goes back to the legislature - where it could be accepted by a simple majority or overridden by a three-fifths vote in both houses.

"We committed to the governor - before he did the amendatory veto - that if he wanted to do what is called a 'trailer bill,' a bill that would follow and clarify issues even further, we offered to run a trailer bill behind this for clarification and to make him feel comfortable," said Rep. Tom Holbrook, a Democrat from Belleville and sponsor of the bill in the House. A trailer bill is one which accompanies another bill and provides more detail. "We're still willing to do that. We're here to work with people and we're trying to make this work for the Metro East and make it a win-win for everybody," he added.

The legislature's veto session will be held this month, Oct. 14-16 and Oct. 28-30. Holbrook pledged to try to work out a deal that would work for all parties.

"I will work with the developer and all the parties, including the governor's office, just as I have in the past to try to come to some accommodation to try to make this huge investment in the Metro East work," Holbook said. "There are 10,000 construction jobs and another 3,000 to 3,500 permanent jobs at stake. It's just a huge

■ *See REEVALUATED, page 24*

photo courtesy of The Associated Press

A life-sized animatronics Stegosaurus is seen on display at the ``T-Rex: A Prehistoric Family Adventure," an interactive restaurant at The Legends at Village West, in Kansas City, Kan. The project was developed with the assistance of Sales Tax and Revenue bonds.

Lawsuit throws $31 billion Illinois Jobs Now program in jeopardy

photo courtesy of The Associated Press

A lawsuit has been filed challenging the constitutionality of the law that raised taxes on liquor in the state of Illinois. The new, higher taxes went into effect on September 1.

By ALAN J. ORTBALS

Illinois Jobs Now, the $31 billion capital development program enacted earlier this year, is tripping over stumbling blocks before it even gets started.

Large portions of the funding package have been thrown into question as a lawsuit has been filed challenging the constitutionality of the bill - and as local governments balk at legalized video gambling.

The $31 billion program was made up of about $15 billion from the state of Illinois, $13.2 billion in federal funds and $2.7 billion from local sources. The state's portion would be funded with about $1 billion per year in revenue that was to be generated by a variety of fee increases, increased taxes on soda, candy and alcohol and the legalization of video gambling in bars and restaurants.

At the end of August, a lawsuit was filed by Rockwell "Rocky" Wirtz, owner of Wirtz Beverage Group and owner of the Chicago Blackhawks of the National Hockey League. Wirtz Beverage Group, headquartered in Chicago, is one of the leading distributors of alcoholic beverages in the country with more than 3,000 employees and $1.5 billion per year in sales.

Wirtz filed suit seeking to block the increased taxes on alcoholic beverages that took place on Sept. 1. The suit makes several allegations challenging the 2009 capital bill.

First, the suit claims that the legalization of video gambling in thousands of locations across the state is unconstitutional and violates federal gaming laws because the games would be privately held.

Second, Wirtz claims that wine and spirits are disproportionally affected. Under the new law,

■ *See LAWSUIT, page 25*

Chamber pushing to repeal new law that doubles income tax on Illinois partnerships

By KERRY L. SMITH

Sandwiched into a 1,000-page budget appropriations bill unanimously approved by Illinois legislators at regular session's end is a provision that essentially hikes the income tax on partnerships by 50 percent by broadening the definition of their taxable income.

Todd Maisch, vice president of government affairs at the Illinois Chamber of Commerce, says the chamber will push hard during the October veto session in Springfield to wipe this provision out of PA 96-0045, the Budget Implementation Act.

Originally known as SB 1912 and beginning as a renewable energy bill, the legislation ultimately became a catch-all budget bill containing a number of emergency appropriations such as $1 billion in contingency funding to keep state government running. Lawmakers approved the bill 114-0 and Gov. Pat Quinn signed it into law in July, effective immediately.

Maisch says a provision to make 100 percent of a partnership member's LLP or LLC income subject to the state's personal property replacement tax was "inadvertently included" in the legislation; the chamber will work feverishly during the Nov. 14-16 to get that provision taken out. But if that doesn't happen, all LLP and LLC owners/partners are subject to the tax on their 2009 returns.

Revenues from the partnership tax increase would not flow to state coffers. Ken Diel, owner of Diel & Forguson Financial Group in O'Fallon, says that since it's a replacement tax - an add-on income tax, based on the income of the company, that reimburses municipalities for the loss of property tax monies - dollars generated go directly to local governments.

SB1912/PA 96-0045 effectively doubles the rate from 1.5 percent to 3 percent and initiates the taxing of a partner's wages.

"By saying 'We're no longer going to

■ *See PARTNERSHIPS, page 27*

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Cash for Clunkers moves SWIL dealers' inventories but leaves them strapped to restock

By KERRY L. SMITH

The city of O'Fallon's sales tax revenues increased from the federal government's Cash for Clunkers program in July and August, but whether or not overall new car sales rose in 2009 remains to be seen.

Dealership owners in O'Fallon and Fairview Heights say that although they've received most of their Cash for Clunkers reimbursement dollars from the feds, it was slow in coming - making the task of restocking their depleted inventories a challenging one.

Walter Denton, city administrator for O'Fallon, says the Cash for Clunkers program resulted in 45 to 50 additional new cars sold in the city compared to the same time period a year ago. He estimates that the program generated an additional $45,000 in sales tax revenues for the city over the two-month period.

"Our overall sales tax revenues each month (from all source) total between $500,000 and $550,000," said Denton, "so $45,000 is significant. But what we'll have to see is how the whole year turns out."

Although the state of Illinois doesn't reveal the various sources of sales tax revenue in its record keeping, Denton estimates that one-half of the city of O'Fallon's total sales tax dollars come from automotive sales.

Government officials report that the Cash for Clunkers program sparked the sale of nearly 700,000 new vehicles nationwide, boosting a devastated industry and the struggling economy.

Analysts wondered whether the program generated actual new sales or simply lured buyers to act sooner.

Kent Newbold, president of Newbold Toyota and Newbold BMW in O'Fallon, says his Toyota dealership sold a total of 88 new vehicles in July and August under Cash for Clunkers; only two BMW models met the C for C guidelines in terms of list price, but none were sold at the dealership under the program.

"We saw a lot of customers during Cash for Clunkers that we wouldn't normally have seen," Newbold said. "There were two types of customers: people who hold onto cars forever and trade one in every 10 to 15 years, and people whose kid went to college with one of their cars and the parents used Cash for Clunkers to upgrade their fleet."

In July, Newbold sold 150 new Toyotas, 48 under the Cash for Clunkers program. And in August, the dealership sold approximately 135 Toyotas, 40 under Cash for Clunkers. "At the close of the program, we had only 48 cars left for sale - about a 10-day supply," said Newbold. "We sold up and down the Toyota line and were even out of some of the big and small trucks. We emptied our lots quickly, and it's since been a challenge to restock as the reimbursement dollars continue to trickle in. A dealer would normally like to keep a 35 to 40-day supply of cars in stock - 120 to 130 cars - at any given time."

While dealers in Southwestern Illinois agree that the Cash for Clunkers program percolated a sluggish year of auto sales, Newbold says it brought two unwelcome side effects: 1) havoc for just-in-time manufacturers like Toyota who don't carry a lot of stock; and 2) a mound of work for dealers from the time the buyer traded in his or her clunker to when that vehicle found its final resting place at the salvage lot.

"It was a great incentive program, but it has also been a double-edged sword," Newbold said. "Beginning in the fourth quarter of 2008 when the economy soured, the auto manufacturers really slowed down and cut their production. Since the Cash for Clunkers program emerged rather quickly, manufacturers didn't have enough time to ramp up for the demand. As far as paperwork on each sale under this program, the 10 minutes it was supposed to take to enter the information online (for the federal government), the reality was that it often took between four to six hours per automobile because the Web site crashed."

Newbold says the Cash for Clunkers paperwork process was so laborious that many dealership owners came in during off hours to complete the online reimbursement forms. "For each sale, we had about 13 different documents we had to scan in and attach to a government form," he said. "There was no way we would be able to pull a salesperson off the floor that long to complete the paperwork."

Once the paperwork was completed on a clunker, the dealership then had to drain the oil, fill the engine with a sodium silicate solution and run the motor until it ceased. Then the dealership sold the car - all but the transmission - to a salvage lot for $50. The salvage lot - which had to be certified ahead of time as a participant in Cash for Clunkers - had to crush the vehicle and transport it back to the federal government, along with an equally extensive amount of paperwork, according to Newbold.

"We'll have to see how our sales are for the rest of 2009 to see if the program really helped us in the long run," he said. "It's still too early to say."

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Inventory glut, overpriced land led to homebuilders' demise in weak economy, experts say

By KERRY L. SMITH

The landscape of surviving homebuilders in Southwestern Illinois looks markedly different than it did during the boom times four years ago; those still around say keeping a trim inventory, a lean staff and not having overpaid for land are factors that have led to the survival of the leanest.

Mark Fulford, president of Fulford Homes, says his company - whose niche is building semi-custom and custom homes in O'Fallon and Swansea - is thankfully "more than a survivor," but that it took difficult decisions on the front end - during boom times - and difficult choices when the homebuilding economy everywhere ground to a near standstill.

"It's a tough, tough time for any business, and homebuilding is no exception," said Fulford, whose company has been in business since 1975. "Staff-wise, we're down to 40 percent of what we had in 2005. We had lots of good people that unfortunately we had to let go in order to survive as a business. Unfortunately, I've seen too many of my peers who haven't been willing to make those decisions...at least not soon enough," he added.

The 1980s and 1990s - with the recessions they brought - taught Fulford some valuable lessons about how to keep the passion for building a superior home but keep his feet on the ground and run his company conservatively to survive the long haul.

"The bigger you are, the more difficult it is in this industry," Fulford said. "There's no doubt about it. In some of the large homebuilding companies that folded, being big was their goal. But it doesn't bode well when market conditions change."

A company whose price point was from the mid $200,000s to $600,000s during the 2004-2007 building heyday, Fulford Homes today finds a many of its homebuyers above - but not too far above - the $300,000 mark.

"Most of the new homes that are selling today are below $300,000," he said. "That's one real change from what we all saw in our market four years ago. But we're very fortunate; even today, many of the homes we're selling are still above $300,000."

Customers today are gravitating toward the smaller home plans, opting for less square footage so they can include custom features and stay within their overall budget, Fulford says. "In the past, customers would buy all the home they could afford," he said. "Buyers today are solidly more conservative."

So what about the factors leading to those homebuilders who were building at a frenzied pace in 2004 and 2005 across Belleville, O'Fallon and Swansea but whose names are gone today? Fulford says most of the companies who did not survive shared some common business strategies.

"Builders who overextended themselves with huge inventories were really hurt by the economic recession," said Fulford. "They saw it coming but couldn't react to the downturn quickly enough because they had overbuilt in trying to take advantage of the tremendous demand that existed several years ago. As a homebuilder, it's easy to do because it takes time to bring a product to completion - from acquiring permits to breaking ground to finishing construction and selling that home. Builders are eternal optimists and during the height of activity, many of them assumed it would continue longer than it did."

Overpaying for land was another trap well-meaning but now defunct homebuilders fell into, according to Fulford. "It's wise only to pay the amount of dollars for land that makes sense," he said. "But again, land prices were skyrocketing during the height of things. I found it very troubling to see builders way overpaying for land. Once you do that, you've got to overprice the lot - and the home - in order to make it work. As an example, some (residential land) was appraising at $25,000 an acre but selling for $35,000 to $40,000 an acre and builders were paying the asking price to buy it up."

Homebuilders who minimized the amount of debt they were carrying were much more nimble when market conditions changed 18 months ago, according to Fulford.

Patrick Sullivan, executive vice president of the Home Builders Association of St. Louis & Eastern Missouri, says overpaying for land and carrying too much stock was definitely the cause for demise of companies who are no longer building today.

"The time between when the ribbon is cut and the first home is opened might be four to five years," said Sullivan. "So much can happen over that extended period of time. That's where a lot of builders got caught up. They took a good faith risk in trying to position themselves to meet the demand, and then in late 2008 when that demand began to rapidly dry up, they found themselves in difficult or unsustainable conditions."

Smart builders who are able to "hibernate" and not carry a lot of inventory besides land, Sullivan says, are able to ride it out less scathed and be able to jump back in and break ground once the economy rights itself again.

"The almost upside-down world of appraising property right now is making it tough for the surviving homebuilders," Sullivan said. "It has put a lot of quality builders who have been around forever in a very, very difficult situation. And when the market comes back eventually, and it will, the challenge will be to find the workers and suppliers to meet the demand. That will bring with it a different set of challenges than builders are facing now, but a whole lot better set of challenges," he added.

Tracy Butler, executive officer of the Home Builders Association of Greater Southwest Illinois, and Ron Padgett, association president and co-owner of Padgett Building & Remodeling in Belleville, say some homebuilders are concentrating more heavily now on remodeling rather than new construction - as is Padgett's firm.

"You don't have to be a big company to make it through this thing," Padgett said. "As an association, we're meeting with our congressmen to talk about ways to help us all stay in business. We'd like to see that $8,000 new homebuyer tax credit program extended to all homebuyers. If Congress did a Cash for Clunkers program for homes, they would have no idea the wave of workers who would be positively impacted by that."

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St. Louis Regional Airport gets FAA funding

U.S. Rep. Jerry Costello (D-IL) announces that St. Louis Regional Airport, located in East Alton, has received $50,000 from the Federal Aviation Administration through the Illinois State Block Grant Program. The funds will be used to conduct a wildlife hazard assessment.

Gap financing is now available for Illinois companies via new market tax credits

By ALAN J. ORTBALS

A total of $55 million in gap financing is now available for companies in approved areas in Illinois. The funding is through Advantage Capital Partners of St. Louis and is the result of the Illinois New Market Tax Credit Program that was enacted by the General Assembly earlier this year.

The fundraising efforts were made in partnership with U.S. Bancorp's Community Development Corp., Southwest Bank and First Bank.

Advantage Capital is a group of venture capital partnerships that has raised more than $1 billion in capital since 1992. Advantage is a qualified Community Development Entity for both federal and state NMTCs. The state and federal NMTCs can be coupled together to provide added benefit.

The federal NMTC program permits taxpayers to receive a credit against federal income taxes for making qualified equity investments in designated CDEs. Substantially all of the qualified equity investment must in turn be used by the CDE to provide investments in low-income communities.

The credit provided to the investor totals 39 percent of the cost of the investment and is claimed over a seven-year credit allowance period. In each of the first three years, the investor receives a credit equal to 5 percent of the total amount paid for the stock or capital interest at the time of purchase. For the final four years, the value of the credit is 6 percent annually. Investors may not redeem their investments in CDEs prior to the conclusion of the seven-year period. The state program works in the same way, providing a credit against state income taxes.

Scott Zajac is the senior managing director of Advantage, which is headquartered in St. Louis and New Orleans and is a CDE for both federal, Missouri and Illinois NMTCs. Zajac says that the state NMTC programs have tried to focus on job creation.

Through NMTCs, Advantage has invested nearly $110 million in 22 Missouri businesses, creating nearly 700 new permanent jobs. Its investments have ranged from the Carbolytic Materials Co. that makes carbon black from used tires to the Lift for Life Academy, a charter middle school in the city of St. Louis.

"We do a broad variety," Zajac said. "The common denominator is that they're companies that have difficulty accessing capital and they're in low-income areas in Illinois. It could be anything from an early-stage technology company to a manufacturing company that needs expansion capital. In some cases we've even done a restaurant, but they're all operating businesses. A lot of the incentive programs and even some of the federal New Markets are used to do sort of large real estate projects," he said. "What's unique here is that we're really looking at funding lower to middle-market businesses that are creating and retaining jobs."

Many of these small businesses would be unable to qualify for development or expansion loans from large lending institutions because they lack credit history or necessary collateral, according to Zajac. With the anticipation of the future tax credit, CDEs are able to make these loans available. Investments can only be made in businesses that are ineligible for traditional financing. Targeted communities must have a median income of less than 80 percent of the state average income or a 20 percent poverty rate.

To qualify as a CDE, an organization must demonstrate a primary mission of serving, or providing investment capital for low-income communities or low-income persons and maintain accountability to residents of low-income communities through representation on a governing board or advisory board to the entity.

"A lot of the banks really want to lend, but they can't lend because their balance sheets are constrained," Zajac said. "Probably 50 percent of the deals that we're doing today are bank referrals. What we're doing is trying to bridge that gap between what the borrower needs and what the traditional financing sources can provide."

U.S. Bancorp CDC is supplying the fund's equity in exchange for the tax credits. Matt Badler, vice president of U.S. Bancorp CDC, has partnered with Advantage Capital on numerous NMTC projects across the country.

"The spirit of the program is to take more risk than you normally would," Badler said. "You might invest in areas where others wouldn't want to go; you might make a higher loan to value loan or make it at a lower rate; maybe take a subordinate position; or maybe even do equity. It's a great economic development tool that can help companies and boost jobs."

In July 2008, Advantage participated in an $11.5 million investment round for Rucker's Candy, located in Bridgeport, Ill. in the southeastern corner of the state. Rucker's provides confectionery and snack products to a variety of retail outlets, including Bass Pro, Ace Hardware, Gander Mountain, Cabella's, MC Sports, Tractor Supply and Rural King. Advantage's investment, made in connection with the federal NMTC program, was used to finance an employee buyout and helped to preserve approximately 180 jobs in the distressed rural community.

"I think the federal New Markets program was one of the first programs that was expanded under the stimulus package because it was recognized as a way to bring immediate benefit," Zajac said. "Unlike a large infrastructure project, with New Markets all of the money has to be invested within 12 months of the funding being raised."

IBJ Business News

Poettker Construction welcomes Muentnich

Scott Muentnich has joined Poettker Construction Co. as a project manager. His first project at Poettker is the 32,000-square-foot Aircraft Rescue and Firefighting Station for the St. Louis Downtown Airport in Sauget.

Muentnich is the current co-chair of the AGC Construction Leadership Council and is a member of the Association of General Contractors' LEED Sustainability Committee. He has a bachelor's of science degree in construction management from Southern Illinois University Edwardsville and is a LEED-accredited professional.