GOOD DEAL/BAD DEAL

ILCMA – GOING BEYOND NORMAL, WINTER 2016

Navigating Economic Development Decision-Making

GOOD DEAL/BAD DEAL

- Kathleen Field Orr
  - Kathleen Field Orr and Associates
- Dan Gardner
  - Principal, Houseal Lavigne Associates
- Drew Awsumb, AICP
  - Senior Planner, Houseal Lavigne Associates

LEARNING OBJECTIVES

The Takeaways

LEARNING OBJECTIVES

GOOD DEAL

- Provide resources to assist you in determining if a developer's incentive request if warranted.
- Hear about strategies for enlisting the support of elected officials, residents, and the business community for public participation in good projects.

BAD DEAL

- Learn about approaches to convincing elected officials and the public that a deal is not in the best interest of the community.
- Learn how to explain the "loss" of a development deal to another community.


OMAHA!

THE BAD DEAL

Kathleen
Field Orr

WHAT MAKES A BAD DEAL BAD?

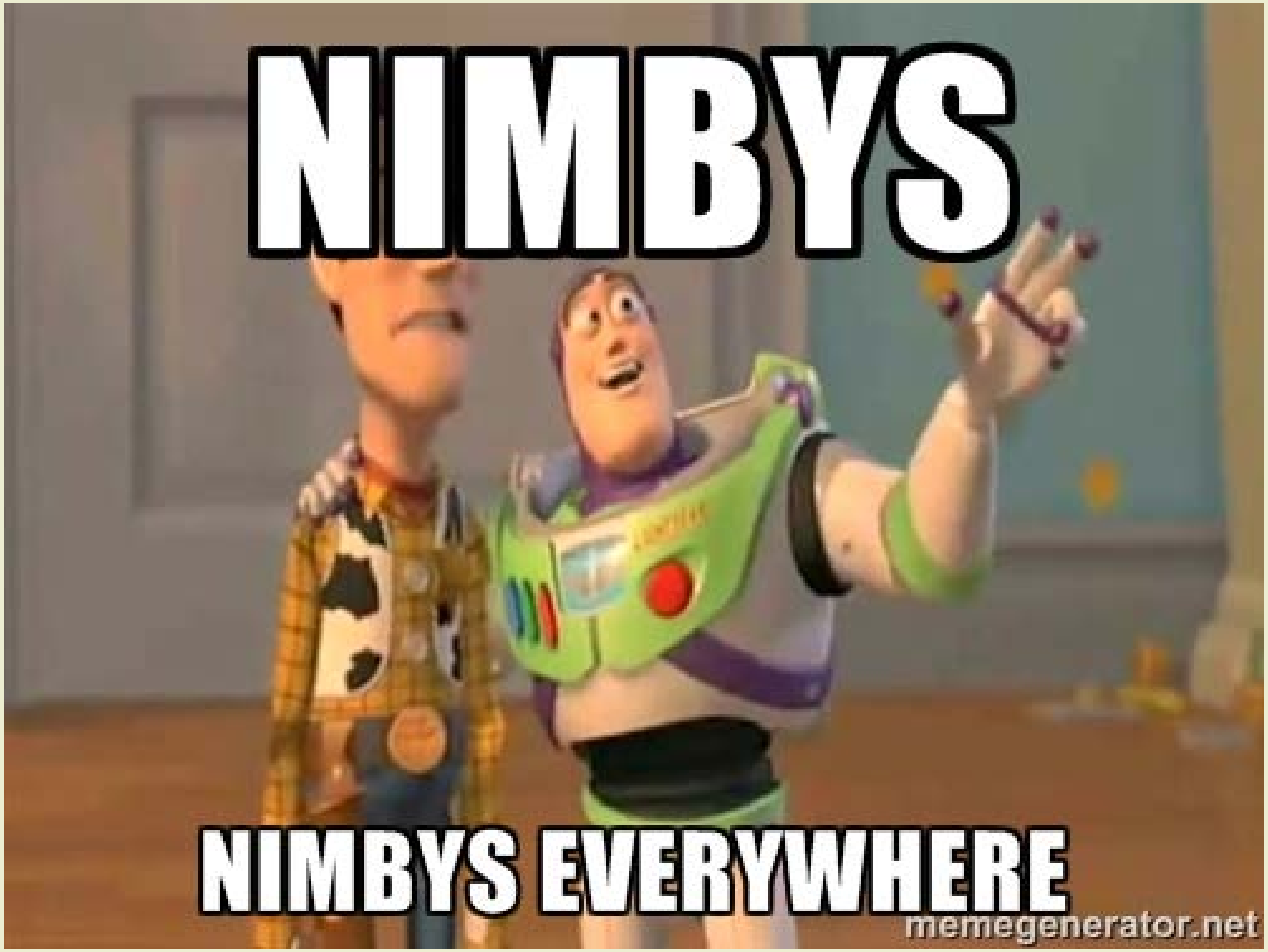
- Know the minimal requirements for a development or redevelopment agreement.
  - An experienced developer
  - A Concept Plan with date required for submittal of a Final Plan
  - Needed equity for the Development or Redevelopment
  - Commitment for Financing
  - Start Date and Completion Date

THE GOOD DEAL

Dan Gardner

Drew Awsumb

WHAT MAKES A GOOD DEAL GOOD?



TWO POTENTIAL EXPERIENCES

What you Want

- Objective Review
- Timely Review
- Reasoned Decision-making
- Big Picture Evaluations
- Fair Certainty
- Broad Consensus
- Good Press
- Meet Community Goals

What you Sometimes Get

- Intense tension
- NIMBY Response
- Tremendous time drain
- Misinformation
- Nitpicking the Details
- Insincere Negotiations
- Bad Press
- Lawsuits
- Scar Tissue

WHY DOES A POTENTIALLY GOOD DEAL GO BAD?

THE SIGNS & SYMPTOMS

- The community is primarily reactive to development
- The community is experiencing:
  - Rapid (and perhaps unwanted) growth changing the character
  - Decline – and it longs for what used to be there and resists change
  - Stable maturity (folks like it) and someone proposes change (gasp!)
- The community's policymakers have never really thought about what type of growth is preferred as a group
- Existing and current plans & zoning are misunderstood
- Residents are not engaged in economic development
  - Adjacent neighborhoods are particularly sensitive
- The community (particularly taxing jurisdictions) is not on the same page about development incentives
- The municipality waits probably too long to notice folks

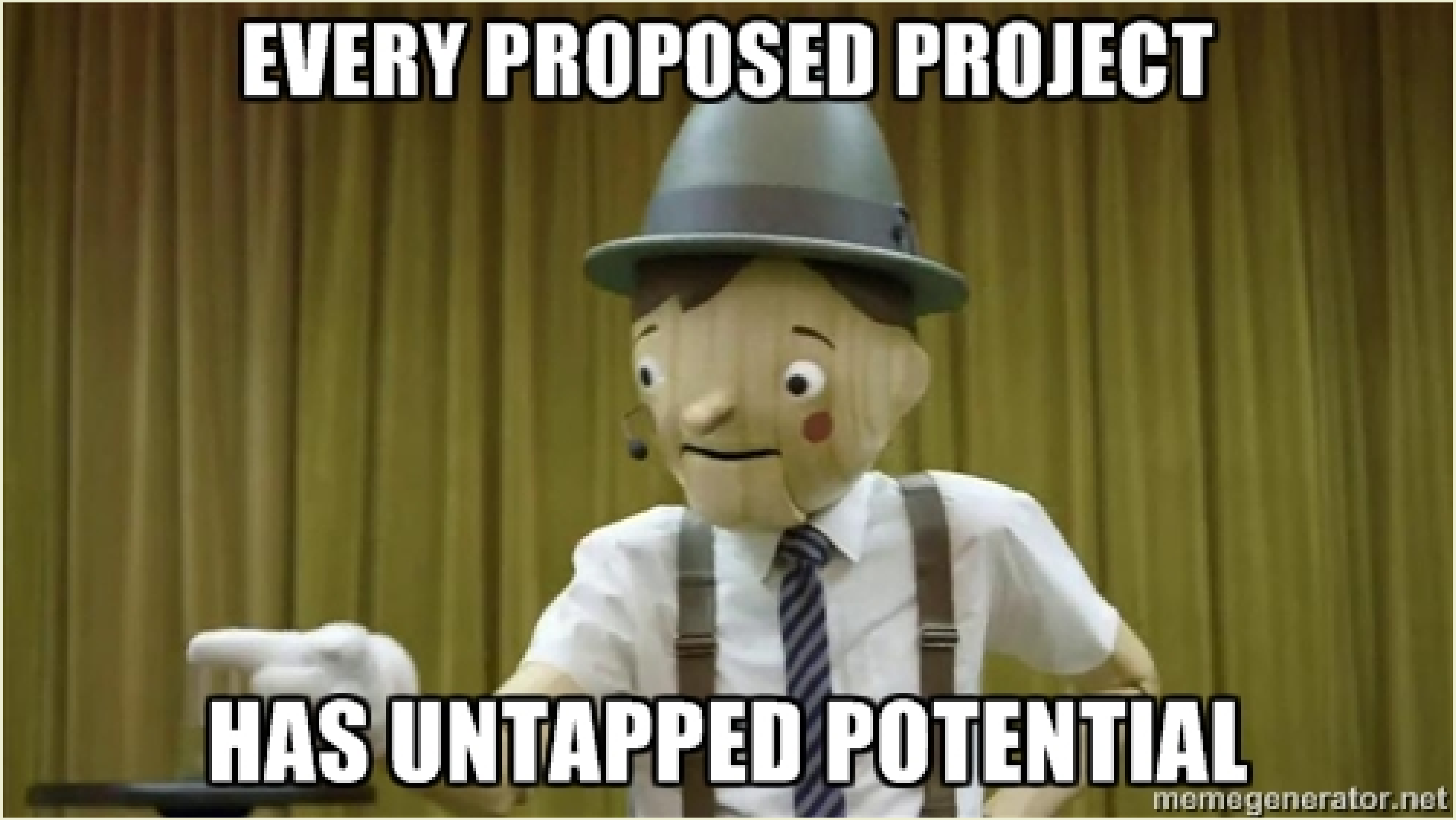
CHANGE

PEOPLE HATE IT

UNLESS YOU
ARE THE ONE
MAKING MONEY

SO HOW DOES IT TYPICALLY GO DOWN?

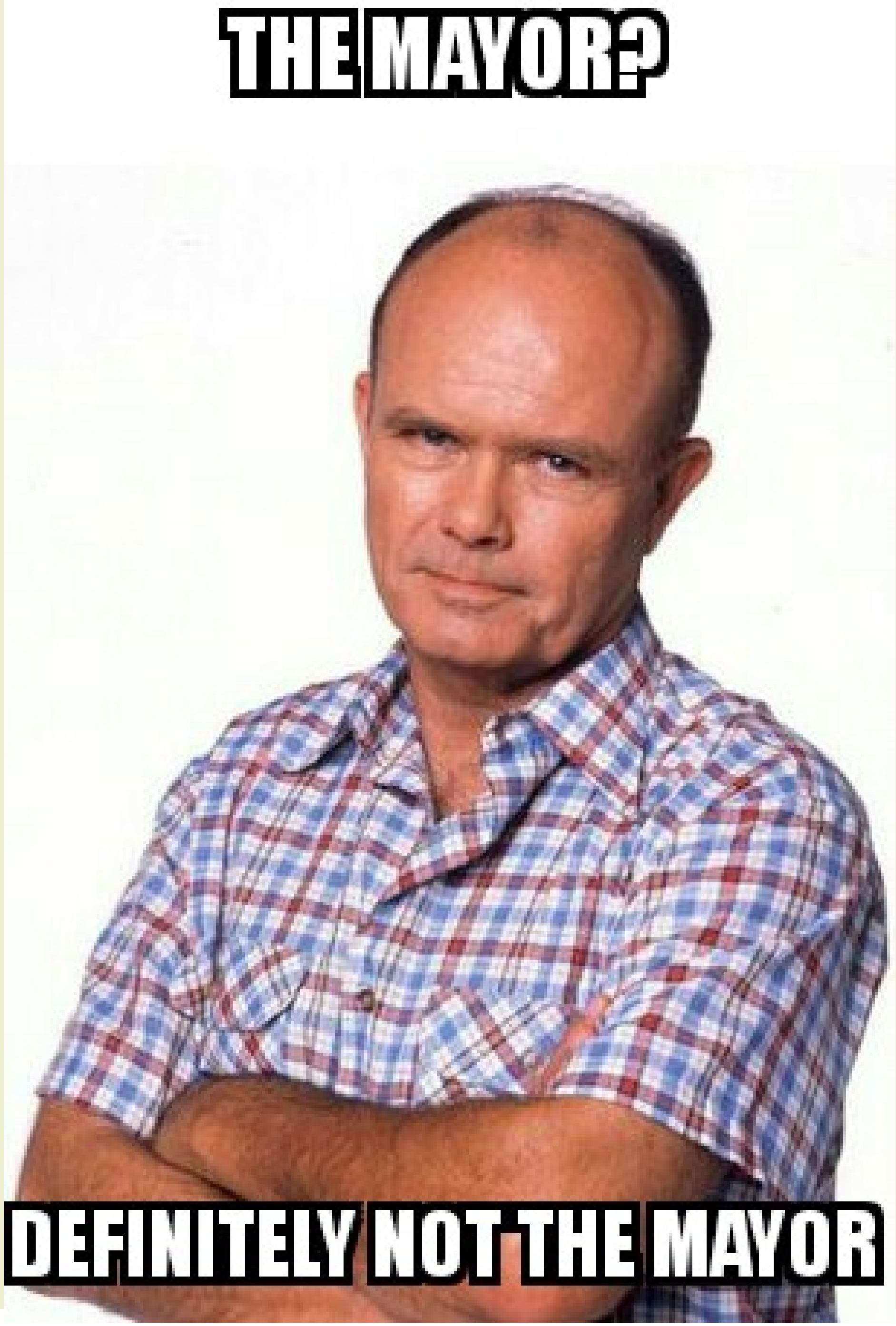
A DEVELOPER PROPOSES A PROJECT



AND IT'S THE BEST THING TO EVER HAPPEN TO THIS TOWN

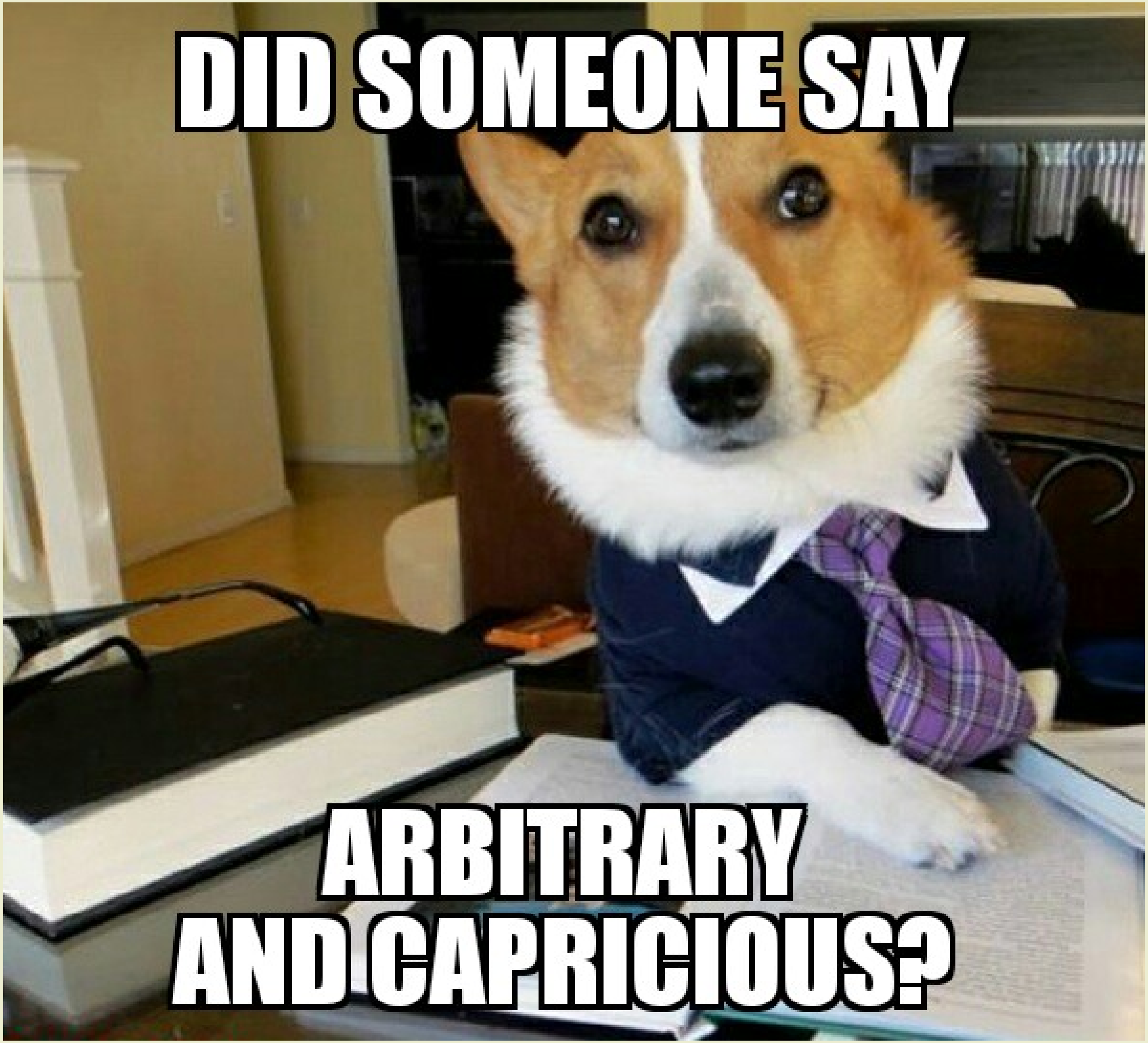
- The developer is in a tremendous hurry
- But they also need variances, a PUD, and TIF money
- And technically what they are proposing doesn't meet current zoning and really is not anticipated in any of your plans
- But again, it's 'pretty darn sweet and you're gonna love it'
- And it's confidential so you can't really tell anyone


NOT EVEN
THE MAYOR?


THE MAYOR?
DEFINITELY NOT THE MAYOR

AND IT'S THE BEST THING TO EVER HAPPEN TO THIS TOWN

- The developer is in a tremendous hurry
- But they also need variances, a PUD, and TIF money
- And technically what they are proposing doesn't meet current zoning and really is not anticipated in any of your plans
- But again, it's 'pretty darn sweet and you're gonna love it'
- And it's confidential so you can't really tell anyone
- Impacted residents and potentially other taxing bodies will be concerned and upset, and someone may toss out misinformation which fuels panic conditions
- Elected officials will want to step in and broker the peace
- The media may jump into the mix and shape opinions
- Nitpicking may start over proxy details about the project
- Paralyzed by the tension and information overload – endless tabling and delaying the vote may begin
    - Attrition strategies and poison pills


DID SOMEONE SAY
ARBITRARY AND CAPRICIOUS?

SO LET'S AVOID THIS PROCESS AND PUT TOGETHER DEALS

WHAT DEFINES A "GOOD DEAL"?

ESTABLISHING EVALUATION CRITERIA

THE MISSING LINK

COMPONENTS OF A GOOD DEAL

- Development agreement
- Understand the developer's pro forma
  - Land acquisition costs
  - Infrastructure cost factor
  - Construction costs
  - Product mix (units, COM/IND sq. ft., DU/ac, comparative density)
  - Market demand and market determined value/rate
  - Phasing and anticipated build-out timing (with risk factor)
  - Projected vacancy rate/tenant tenure/turnover expectations
  - Debt service and amortization structure
  - Private equity
  - Ownership structure and investor exposure
- Understand the true value of the public contributions
- Long-term commitment to the community
- Financial and ownership/management stability
- Track record and history of successful projects
- Sincere partnership and effective communication/negotiation

Thank You Olson & Olson, Houston, Texas

COMPONENTS OF A GOOD DEAL

- Development agreement
  - Who does the drafting?
  - Parties to the agreement
  - Term of Agreement (< 10 years) with default/material breach
  - Development specifications
    - Articulated public benefits
    - Permitted uses
    - Density and urban design standards (height, size, building materials)
    - Infrastructure design requirements
  - Recovery costs protocol
  - Milestone requirements
  - Non-performance issues (i.e. performance bonds, performance permitting)
  - Special enforcement policy
  - Communications protocol and annual review procedure
  - Certificate of substantial completion/satisfaction process
  - Incentive payment procedure (particularly formula-based reimbursement)

Thank You Institute for Local Self Government, League of California Cities

WHEN ARE INCENTIVES JUSTIFIABLE?

- Development creates new economic activity (vs. relocation)
- It creates net new “quality” jobs for the local economy
- When do they “move the needle” the most?
  - Most other site selection criteria are “all other things equal”
  - Prospective business is highly mobile with many options
  - Benefits are front-loaded to developer/business
  - Combined with a comprehensive package that addresses need

Thank You to UNC’s Center for Competitive Economies (C3E)

WHEN DO THEY HAVE LIMITED IMPACT?

- Limited impact on major corporate employer site selection
  - Workforce development and labor pool skillsets
  - Infrastructure requirements
  - Existing commuter patterns

Thank You to UNC's Center for Competitive Economies (C3E)

WHEN ARE INCENTIVES JUSTIFIABLE?

- Greatest positive impact on the community when:
  - The tenant business(es) employ existing local residents
  - There is minimal new demand on local services
  - The new business(es) generate new demand on existing local suppliers
  - The new business(es) is in growth mode and/or competes in a growth sector of the economy more broadly
  - The economic activity associated with the tenant business(es) is an export industry sector, which generates local wealth

Thank You to UNC's Center for Competitive Economies (C3E)

IT IS MORE
COMPLICATED
THAN THE
AGREEMENT
LANGAUGE


YOU FORGOT
KIDS WILL BE ENDANGERED

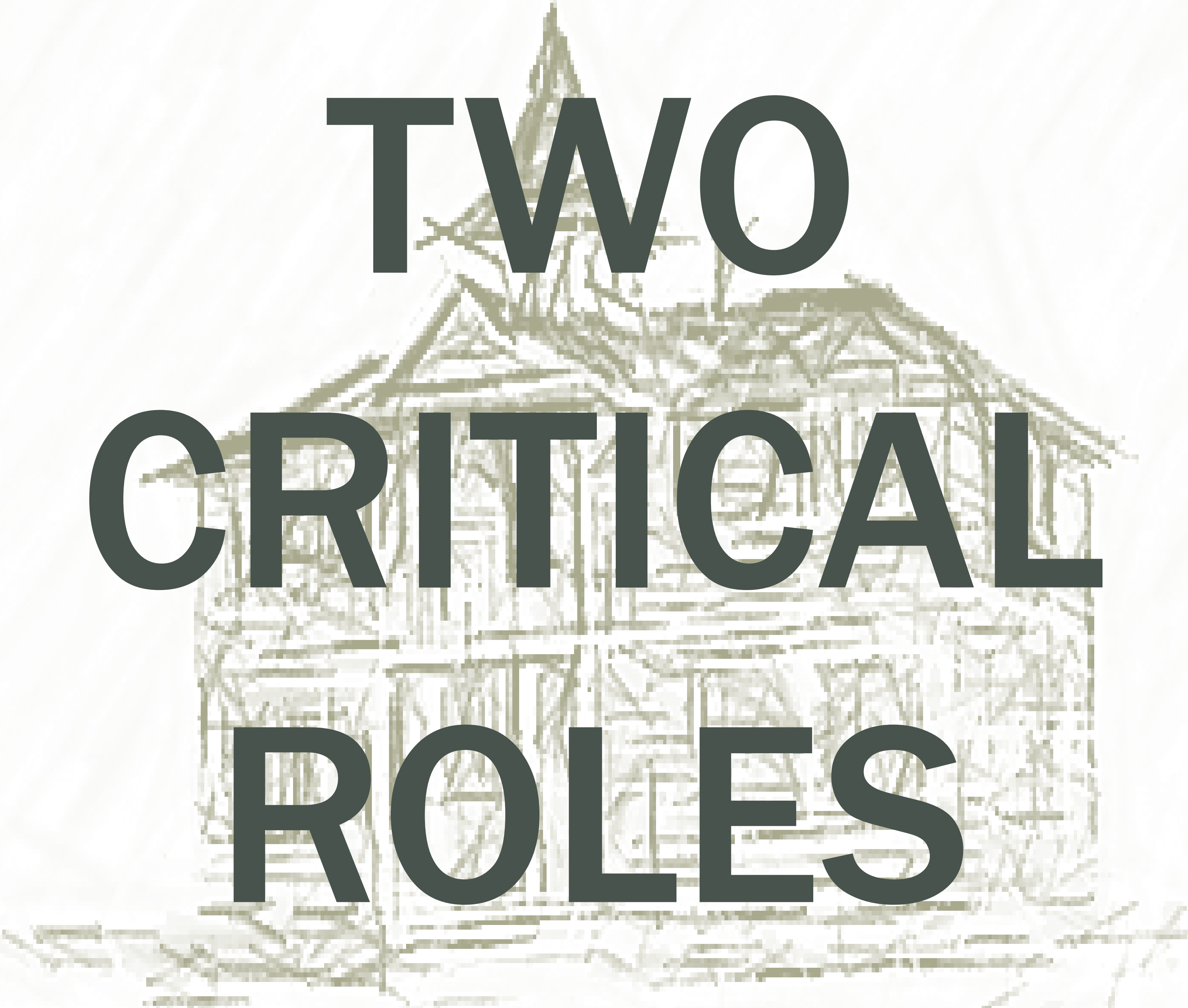
THE POLICY APPROACH

Setting Clear Goals

The Approach

1. Plan.
2. Study the Market.
3. Engage People.
4. Set Clear Policy.

TWO CRITICAL ROLES



MANAGING THE INTERSECTION & TENSION

THE COMMUNITY

- Public Desires
- Politics
- Diverse Stakeholders
- Nostalgia
- Perceptions/Values
- Competitive Streak
- Trader Joe's/Bass Pro
- Sometimes no desire to experience change

THE MUNICIPALITY

- Balanced Budget
- Service Provision
- Revenue Growth
- Local Economy
- Tax Burden
- Competition for Resources
- Elected officials often want to see ribbon-cuttings

BE PROACTIVE. ESTABLISH POLICY.

ANTICIPATE & COMMUNICATE.

DO NOT RUSH TO REACT.

TYING EVALUATION CRITERIA TO GOALS

Zooming Out From Deal Mechanics to Policy-Setting

HOW DO YOU ESTABLISH EVALUATION CRITERIA?

ESTABLISHING ECONOMIC POLICY

- Tie "DEAL" evaluation criteria to a goal-setting process
- What are the community's economic development goals?
  - General economic growth
  - Revenue generation (sales, food & beverage, hotel/motel)
  - Job creation
  - Economic diversification
  - Lessen tax burden on residents (land use mix/assessments)
  - Increase property taxes
  - Add quality-of-life businesses/enhancing community livability
  - Create destinations and "3rd spaces"
  - Invest in tourism
  - Serve unaddressed community needs
  - Recruit a catalyst development as an initial strategy
  - Reposition old real estate
  - Address physical planning obsolescence
  - Increase density/build vertical
  - Remediate brownfields and other industrial redevelopment
  - Residential-to-Commercial Conversion
  - Locally-valued aspirations

ESTABLISHING ECONOMIC POLICY

- Know your priorities and reach consensus
- Understand your market realities and potential
  - Market-test concepts
  - Talk to developers and businesses
  - Examine projected industry trends
  - Match your community model to realistic development potential
  - Consider benchmarking to comparable community models
- Set expectations on recruitment vs. retention/expansion
- Adopt an economic development strategic plan
- Have a thorough and serious discussion about development incentives
  - Establish criteria as framework policy that would trigger their use
  - TIF, land for $1, parcel assembly, public parking, infrastructure, utility work, PUDs, flexible parking, incentive zoning, many others

REVIEW SOME CRITICAL ITEMS

Evaluate

- Do your plans demonstrate your current goals?
- Does your zoning match your plans?
- What about other development regulations?
- Do you need district-based subarea plans with site detail?
- Is your whole development policy framework calibrated?
- Do you have clear, consensus policy on a variety of incentives?

Respond

- Update your codes
- Train your elected and appointed officials
- Get the departments/agencies talking to each other
- Reach out to the business and development community
- Establish incentive frameworks by resolution

ENSURE THIS IS A COMMUNITY **DELIBERATION** FACILITATED BY CITY HALL

ENGAGE COMMUNITY STAKEHOLDERS

- Elected & Appointed Officials
- Residents & Neighborhood Organizations
- Existing Businesses & Business Districts
- Existing Property Owners
- Chamber of Commerce
- Other Taxing Bodies
- Major Employers
- Community Facility & Service Providers
- Regional/Metro/County/Parallel Economic Development Agencies including State of Illinois entities
- Utilities

WHAT IS THE COMMUNITY/ PUBLIC BENEFIT EXCHANGED FOR INCENTIVES?

WHAT ARE WE WILLING TO NEGOTIATE?

WHAT WILL FLY IN THIS TOWN?

WHAT CITIES & COMMUNITIES WANT

- Growth and development
- Improvements to previously undevelopable real estate
- Economic diversification
- Job creation
- Injecting more tax dollars – long term – into the community
- Facilitating annexation
- Higher-quality development than the market can support
- New public spaces and/or amenities
- Revitalizing areas in economic decline
- Competing with neighboring jurisdictions/markets
- Leveraging private investment to address public needs
  - Particularly infrastructure improvements (i.e. stormwater detention)
- Other goals (i.e. downtown)

WHAT THE DEVELOPER WANTS (OR NEEDS)

- Land acquisition (or parcel assembly help)
  - Donated land
  - Eminent domain support
- The waiver and/or reimbursement of development fees
- Regulatory relief
- Density bonuses
- Triggered annexation policy with contracted certainty
- Public investment in infrastructure improvements
- Contracted “fair certainty” – predictable approval process over the life of a very long-term build-out

NOW YOU HAVE A STORY TO TELL ABOUT YOUR LOCAL ECONOMY AND THE CITY

The Approach

1 Plan.

2 Study the Market.

3 Engage People.

4 Set Clear Policy.

THE 4 CAPACITIES

1. Market Demand
2. Site/Real Estate
3. Financial
4. Community

CONSIDER

PROACTIVE

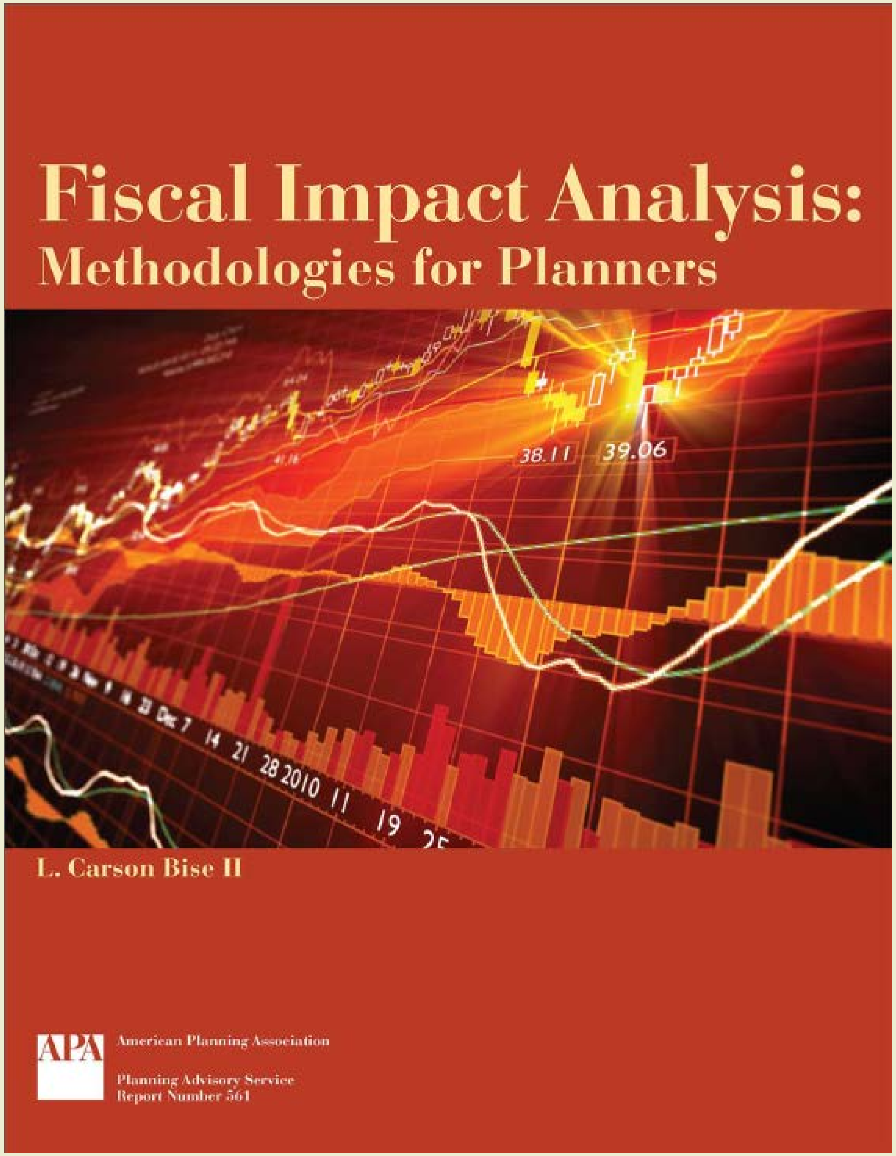
ECONOMIC

DEVELOPMENT

PROGRAMMING

SOME ADDITIONAL TOOLS

Zooming in on Deal Mechanics and Financials



Government Finance Officers Association

GFOA Best Practice

Evaluating and Managing Economic Development Incentives

Background. State, provincial and local jurisdictions utilizing incentives defined by an economic development policy do so to promote and grow the local economy through job creation, wage and compensation growth, or tax base expansion. However, jurisdictions utilizing economic development incentives have very different objectives from the businesses receiving them. Public bodies are responsible for providing services to citizens while businesses, who in many cases have come to rely on incentives and subsidies, are focused on maximizing profits.

To reach the goals identified in the policy and ensure local government accountability, local jurisdictions need to measure the benefits of projects receiving economicdevelopment incentives against the cost of the public expenditure, or willingness to forgo future revenue. While there is no single best method for conducting analysis and it is impossible to predict all impacts a project will have on a community, providing a thorough and rigorous analysis of each project is critical for the purposes ofgovernment accountability and long-term revenue impacts. Responsible use of public funding requires that projects funded provide a suitable return for the jurisdiction, are consistent with overall community goals and priorities, and require that investments are made in a transparent manner with full understanding of all short- and long-term costs and benefits.

This best practice will give the finance officer guidance on what elements and methods to consider in a detailed cost/benefit analysis.

Recommendation. The Government Finance Officers Association (GFOA) recommends that state, provincial and local government officials examine the specific benefits and costs associated with economic development projects, programs, and policies. Such an examination should also include an analysis of the assumptions, cost/benefit elements and methodologies being used to justify the incentive.

Overall analysis of projects

An analysis of each project or group of projects should, at a minimum, include:

1. A clear understanding between financial and non-financial costs and benefits.

Economic development projects will most likely result in both financial costs and benefits and non-financial costs and benefits. Financial costs and benefits are those

203 North LaSalle Street, Suite 2700 | Chicago, Illinois 60601-1210 | phone 312.977.9700 | fax 312.977.4806 | www.gfoa.org

FISCAL IMPACT

- A fiscal impact process
  1. Define the development project and/or scenarios
  2. Select a methodology
     - Average-Cost Techniques (i.e. per capita multipliers and historical experience)
     - Marginal-Cost Techniques (i.e. local case study, national comparables)
     - Cost of Community Services Approach (COCS)
  3. Project revenues
  4. Determine operating cost factors
  5. Determine the capital impact
  6. Calculate and Report
- Elements of the Fiscal Equation
  - Local Revenue Structure
  - Level of Service (LOS) Standards
  - Existing Infrastructure Capacity
  - Demographic & Market Characteristics of New Growth
  - Demonstrate Assumptions Clearly

ECONOMIC INCENTIVE IMPACT

- A clear understanding of the financial and non-financial CBA
- Evaluate the timing relationship of public-expense against public-benefit
- Scope the analysis – how many other jurisdictions?
  - How complex of a model?
- Clear record of direct costs and benefits
  - ***Direct costs***: i.e. upfront capital, long-term maintenance, impact on existing infrastructure, impact on existing public service provision
  - ***Direct benefits:*** i.e. new revenues in property tax, sales tax, etc. New sewer/water/utility fees.
  - ***Indirect impacts:*** these are very difficult to calculate and require sophisticated econometric models (i.e. net new consumer demand, ripple impact property values)
- Factor probability and risk

ECONOMIC INCENTIVE IMPACT

- Analyze Benefits:
  - Grow & Diversify Tax Base
  - Multi-Jurisdictional Benefits
  - Assessing Intangible Benefits
  - Net Present Value Considerations
- Analyze Costs:
  - Opportunity Costs
  - Operational Costs
  - Multi-Jurisdictional Demand/Impact
  - Market Impact
  - Assessing Intangible Costs
  - Net Present Value
  - Average (Historical) Cost Method/Marginal Cost Method

CONCLUSION

Rapid Review

LEARNING OBJECTIVES

The Takeaways

LEARNING OBJECTIVES

GOOD DEAL

- Provide resources to assist you in determining if a developer's incentive request if warranted.
- Hear about strategies for enlisting the support of elected officials, residents, and the business community for public participation in good projects.

BAD DEAL

- Learn about approaches to convincing elected officials and the public that a deal is not in the best interest of the community.
- Learn how to explain the "loss" of a development deal to another community.

The Approach

1. Plan.
2. Study the Market.
3. Engage People.
4. Set Clear Policy.

GOOD DEAL/BAD DEAL

- Kathleen Field Orr
  - Kathleen Field Orr and Associates
- Dan Gardner
  - Principal, Houseal Lavigne Associates
- Drew Awsumb, AICP
  - Senior Planner, Houseal Lavigne Associates

THANK YOU VERY MUCH

Questions?

Comments?

Stories?