


MEMORANDUM

TO: Bill Johnston, Chairperson
Economic and Community Development Committee

FROM: William Heniff, AICP, Director of Community Development 

DATE: September 12, 2016

RE: **Economic Incentive Policy – 2016 Revisions**

In late 2015, the Village Board adopted an Economic Incentive Policy which serves as the official policy document for development incentives. The document was the result of a review process last fall by the Economic and Community Development Committee (ECDC).

Since the adoption of the policy, the Village has successfully utilized the document in the negotiation of agreements for the Sam's Club, Mariano's, Bluestone/Thornton's fuel center and the Yorktown Commons utility incentive agreements. Through this effort, staff is offering a few amendments to the adopted policy as set forth in the attached document. These amendments are intended to:

1. Provide additional clarity regarding throughout the document;
2. Offer corrections to selected referenced documents and regulations; and
3. Reflect modifications to the final approval process for agreements that vary from the general policy guidelines, based upon additional legal review.

Staff notes that these changes are primarily intended to reflect the past year's utilization of the policy as opposed to a fundamental alteration to the policy over the past year. However, staff is bringing these changes forward for a favorable recommendation before they are considered by the Village Board.

ACTION REQUESTED

Staff is placing this matter on the September 12, 2016 ECDC agenda and transmits the Economic Incentive Policy amendments to ECDC for consideration and a recommendation to the Village Board for approval.

LOMBARD ECONOMIC INCENTIVE POLICY

September, 2016

The Village of Lombard, through its adoption of its Economic Development Plan in 2011, has identified a number of strategies that should be undertaken to assist the private sector in the development of key properties and/or attracting desired businesses to the community. The Plan recognizes the Village Board's desire to "continue to expand economic development strategies to attract, maintain or expand business opportunities within the community, to include creating innovative solutions to fill commercial vacancies and innovative solutions to vacant lot development." The Plan identifies four economic development goals:

- Retain, expand and attract commercial and industrial businesses
- Promote general economic development and business growth
- Increase municipal revenue sources and identify incentives for specific development opportunities
- Encourage redevelopment along key commercial corridors

The Village has developed an Economic Incentive Policy, which implements the "explore all options" approach.

Overall Professional Standards and Practices

In consideration of any incentive policy, the Village recognizes that such activity should include sound principles to help ensure that any future considerations are ~~be~~ based upon accepted national professional standards. The Government Finance Officers Association (GFOA) recommends "jurisdictions using or considering the use of economic development incentives create a policy on the appropriate parameters for use of such incentives and that the finance officer play an active role in the creation of the policy." The consideration of any incentive agreement ~~creation of this policy~~ should jointly include input from the Village Manager's Office, the Community Development Department as well as the Finance Department. Any incentive should address the following general principles, as expressed through the GFOA, and serve as part of the basis for the Village policy:

1. ***Goals and Objectives.*** *Goals and measurable objectives create a context and accountability for the use of economic development incentives. Common goals used in economic development include: target economic sectors, business retention and/or recruitment, geographic focus, job creation, blight mitigation, improving economically distressed neighborhoods, and environmental improvements.*
2. ***Financial Incentive Tools and Limitations.*** *An economic development policy should define the types of incentives and the extent to which the jurisdiction will use them. For*

example, governments may choose to grant an entitlement to any firm that meets minimum qualifications, or may choose to provide incentives based on an assessment of individual firms. Governments may also establish maximum funding for a particular program.

3. **Evaluation Process.** *A clearly defined evaluation process should be outlined in an economic development policy for the purposes of consistency and transparency. Evaluation activities and factors typically include:*
 1. *How a proposal measures up to established economic development criteria*
 2. *A cost/benefit analysis (with defensible figures and including a worst case scenario analysis)*
 3. *An evaluation of tax base impact, both in terms of increases in taxable value and, where a TIF is proposed, the impact on all overlapping taxing jurisdictions. Such analyses should take into consideration property taxes, sales taxes and any other revenues generated via taxes as well as job creation.*
 4. *Analysis of the impact of a project on existing businesses*
 5. *A determination of whether the project would have proceeded if the incentive is not provided (the “but-for” provision). A jurisdiction may also wish to include in its policy a list of required documentation for the economic development application and the officials who are a part of the review.*
4. **Performance Standards.** *An economic development policy should require that specific performance standards be established for each project receiving incentives. Not only will these performance standards help a jurisdiction gauge the effectiveness of its overall economic development program, but may also be used to recover promised financial benefits, through clawbacks or linkage agreements, of recipients failing to fulfill their commitments. Such incentives should be performance based and should not be guaranteed.*
5. **Monitoring and Compliance.** *A process should be established for regular monitoring of the economic development incentives granted and the performance of each project receiving incentives. The policy should also provide for organizational placement and staffing of this activity. The monitoring process should examine performance standards relative to each economic development agreement and determine whether the goals for each project are achieved within the defined timeframe. Ongoing monitoring of these projects should become part of an overall economic development program.*

Overall Lombard Goals and Policies

It is critical for all parties to understand the general parameters pertaining to incentive programs: ~~in order — This can help ensure prospective developers and businesses to~~ understand the role of the Village and what could be favorably considered by Village Board policy. It also reduces the amount of speculation or uncertainty that may occur absent such a formalized policy. Such general policies that would be applied to any incentive are:

1. It is the policy of the Village to consider the judicious use of incentives for projects which demonstrate a substantial public benefit in support of developments that create new jobs, eliminate blight, strengthen the employment and economic base of the Village, increase property values and tax revenues, create economic stability, and attract businesses that the Village deems to be desired. Such efforts are intended as tools to implement the Village's Comprehensive Plan and Economic Development Strategy Plan and the Village Board adopted strategic planning efforts.
2. Developers and businesses are strongly encouraged to discuss their projects with staff prior to seeking approval of any incentives.
3. Village staff shall meet with taxing jurisdictions that will be affected by any incentive that would have a direct financial impact upon received or retained tax revenues.
4. All discretionary incentives will be subject to a "but for" test. There should be a finding by the Village that the project and the incentive is necessary, otherwise it would:
 - a. not occur,
 - b. only occur in a less beneficial manner,
 - c. not be financially feasible or stable, or
 - d. not result in an overriding public benefit or a reduction in costs that would otherwise be paid by the Village.
5. Incentives will be granted only at the level necessary to make the project financially feasible, with a focus upon new business establishments rather than ongoing business operations.
6. To encourage corporate businesses, innovative research and development, and desired industrial activities, the Village can consider additional incentives for large-scale projects that significantly create quality jobs that pay wages and benefits equal to or higher than the regional averages.
7. Businesses that strengthen the overall economic climate of the community by introducing a new establishment that will significantly reduce an existing market leakage in retail sales tax dollars can be favorable considered for incentives.
8. Taxes or revenues historically received by the Village will not be reduced below the base year of any incentive, as established by the individual redevelopment plans, after an incentive is approved.
9. The Village will not waive permit or development fees, but such fees may be considered as part of the overall pro-forma of the overall construction/development cost that can be used as a basis for an economic development incentive, or if the Village determines that including the permit costs in the incentive creates a net economic benefit to the Village.

10. All projects receiving incentives must be consistent with adopted Village plans and must comply with all federal regulations, State Statutes and adopted Village codes.
11. Proposals will be individually evaluated under the Village's goals, policies and on their overall contribution to the local economy.
12. To the greatest extent possible, incentives should have a performance based element to measure the success of an incentive. The Village shall require periodic reporting evidencing compliance with the requirements of the program and measuring the economic benefit to the community.
13. Incentive programs, which do not provide for a capital or fiscal outlay can be considered to have a higher level of interest to consider and adopt. These programs include, but are not limited to: Business Improvement Districts, Special Service Areas and Special Assessment Areas.
14. Given current limitations, such programs would not rely upon the issuance of bonds or other financial constraining tools by the Village. However, this general policy shall be reviewed should the status and ability for the Village to participate in such agreements in the future materially change.
15. Sales tax revenues that are derived from an existing business establishment, and which are currently allocated into ~~The Village's General Fund,~~ will generally not be pledged for economic development projects, as such funds are dedicated to meeting essential and basic public service needs.
16. Each agreement will be considered individually, based solely upon the merits of the project as defined at that time of the agreement consideration. No previous proposal or agreement should be considered as a precedent for which other projects will be considered upon.

Specific goals and policies are also included for each incentive program as they are identified.

Types of Village Incentives

The Village provides the opportunity for economic incentives to foster additional interest in the community and has set specific policies pertaining to incentives that can be used to entice such additional investment when warranted. The various financing and economic development programs are divided into the following categories:

Performance Based Local Incentives

This category includes programs such as Sales Tax Reimbursement Incentives that only result in an incentive benefit that results from the grantee successfully undertaking their business activity and performing at measured levels. The advantage of such programs is it also creates a performance incentive for the grantee. However, such programs and the need for consideration

of such programs must be reviewed very carefully and should not be generally available absent review of the request and compliance with the goals set forth herein.

Key policy statements for such incentives are:

1. ~~The funds that are eligible for an incentive shall be limited to the funds collected by the Village as part of the Local Government Distribution General Sales Tax Funds transmitted by the State of Illinois to the Village. The Village's Non-Home Sales Tax designated for capital improvements shall not be eligible as part of an incentive.~~
2. The Village should only consider ~~such~~ an incentive if it will generate additional sales tax above and beyond existing revenue levels. Such incentives must also account for any cannibalism of existing business activity within the community. Offering a sales tax incentive in order to keep an existing business in operation or retain a business, absent an offsetting investment meeting the economic goals of the Village, should not be considered.
3. The Village gets paid first. Any such agreement shall be set up in such a manner that allows the Village to receive the first dollars generated by a project to pay for or up-front capital improvements that are attributable to the project. ~~This can include dollars that are currently received by the Village for existing or past sales tax generations, the costs of performing municipal services anticipated by the project as well as any incidental administrative costs.~~
4. Unless specifically identified in the incentive agreement, any rebates should be established in such a manner that the Village receives at least one-half of the anticipated additional tax generation attributable to the project during the life of the agreement. Generally, the only exception to this provision would be if an incentive is offered to rebate a previously constructed capital improvement that was installed prior to and directly associated with the business opening.
- ~~4.5.~~ The applicable period in which an a sales tax incentive is offered shall generally not exceed a ten (10)-year period, unless approved by the Village Board based upon a finding that "but-for" the extended time period(s), the incentive will not satisfy the intent of the agreement. Such occurrences shall also meet the exception provisions of this Policy.
- ~~5.6.~~ A project will be more favorably reviewed if the project:
 - a. represents significant private-sector financial investment;
 - b. promotes a higher and better use of the property as determined by the Village through its adopted plans;
 - c. provides a positive fiscal and economic impact to the Village;
 - d. adds new and unique retail business tenants to the Lombard market;
 - e. mitigates any potential negative impacts to the surrounding area;
 - f. closes an existing leakage in retail sales tax dollars within the Village; and

- g. addresses or minimizes the impacts of consumer expenditure cannibalization from existing businesses and projects in the Village.

Property Tax Based Incentives

This category includes programs that would result in a measured increase in equalized assessed valuations (EAV) or otherwise utilize property taxes to finance private investment. Such programs are frequently referred to as tax abatement programs. The Village recognizes that its proportionate share of the overall tax structure is relative small (currently 8%) and as such, if any consideration of a property tax incentive program is offered, it must be done in concert with any taxing bodies that would be affected by the program. For example, a possible development may have little or no impact upon the school taxing districts, but they may receive additional benefits through additional property valuations. In this scenario, consideration of an abatement program may be warranted.

Key policy statements for such abatement incentives are:

1. Any incentive shall be based upon any net increase in added EAV associated with the project. Projects that do not result in a significant increase in EAV, as determined by the Village in its discretion, shall not be considered.
2. Projects that result in an increase in anticipated services by any affected taxing district shall be carefully considered as part of any incentive. The agreement shall identify such additional service impacts and their respective associated costs within the agreement itself. This can include dollars that are currently received by the affect taxing district(s), the costs associated and attributable to the project as well as any administrative costs.
3. To the greatest extent possible, any incentive should be tied to the respective year(s) in which the tax incentive is effective. The Village should not provide such an incentive in the form of an up-front payment based upon future dollars anticipated by the project.
4. The Village shall consider any legislative modifications to the local government assessment levy adopted by the State of Illinois prior to approving any such incentives.

Incentives Associated with Public Capital Improvements

These include programs which address expenditures for improvements that would otherwise be an obligation of the Village or another taxing body to complete. Notable examples of these types of agreements include utility extension agreements, Business Improvement Districts (BID) or some Tax Increment Financing (TIF) improvements.

Key policy statements for such incentives are:

1. Each agreement will be considered individually based upon the nature of the capital improvement being undertaken as part of the project.

2. Any incentivized capital improvement advances the overall goals of the Village by providing for an enhanced infrastructure system or addressing existing infrastructure deficiencies.
3. Incentives shall generally be applied toward those activities and development obligations that are above and beyond those required as set forth within Village Code.
4. The incentive agreement shall specifically identify the methodology associated with establishing the incentive cost as well as the funding source that will be provided by or credited toward the project.

Incentives to Advance Village Goals and Policies

These incentives include programs and activities that are intended to be a catalyst for indirect investment or would otherwise enhance the prominence of the Village in the County or region. These incentives are more varied than the other types of incentives, but offer an opportunity to offer an incentive if it meets a stated policy of the Village. Such types of projects are:

1. **Major Primary Employment Projects** – Projects worthy of consideration of incentives are project that include a substantial primary employment, if the proposed project:
 - a. Represents significant new private-sector financial investment;
 - b. Results in net new employment to the Village (as opposed to business relocation);
 - c. Provides quality employment opportunities for Lombard area residents consisting of a minimum of 50 new full-time on-premises jobs at a pay rate exceeding the current Lombard Median Household Income;
 - d. Demonstrates a positive direct and/or indirect fiscal and economic impact to the Village; and
 - e. Demonstrates a long-term commitment to the Village.
2. **Prominent Redevelopment / Revitalization Projects** – These are projects that advance the Village goals for addressing blighted sights or projects that address stated redevelopment objectives. These include projects within the established TIF Districts as well as other “eyesore” properties that have code deficiencies or other obsolescence. A redevelopment and/or revitalization project may be considered for an incentive agreement if the proposed project:
 - a. Meets the Village vision, goals and objectives of the Comprehensive Plan and other approved documents;
 - b. Represents new and significant financial investment;
 - c. Provides a positive fiscal and economic impact to the Village;
 - d. Promotes a better use of the property or improves the financial performance and/or viability of the existing property;
 - e. Represents superior design aesthetics that substantially and significantly exceed current design standards and are worthy of a public incentive; and/or
 - f. Mitigates any negative impacts to the surrounding area.

3. **Business Retention Efforts** – While funds to keep an existing business as-is is not a desired goal of the incentive policy, the Village does recognize that enhancing the prominence and success of existing business is a desired goal. A past noted successful example was the expansion of the Lombard Toyota site, in order to allow the business to meet corporate needs while strengthening the business prominence. To this end, incentives may be deemed appropriate when tied to capital improvements that are required to maintain the business. Such incentives should be tied to and with the level of private capital investment associated with the establishment. The funding source shall provide additional parameters as to the level of applicability of such efforts.
4. **In-kind Economic Incentives** – These incentives identify activities that the Village would undertake to advance a construction project, but may not result in a direct financial contribution to the project. These include, but are not limited to:
 - a. Additional staff assistance through the project formulation through the permitting process;
 - b. Incorporation of preliminary review activity through workshop activities before the Plan Commission and/or Village Board; and/or
 - c. Incorporation of “fast-tracking” of permit activity, if necessary to facilitate the development.
 - d. Utilization of zoning tools, such as planned development and other development entitlements to facilitate development activity

Consideration of any of these incentives, which include a financial expenditure by the Village, shall be set forth within a development/incentive agreement or other like document. Said agreement shall specifically identify the nature of the request, the rationale and justification for the request and the source of funding that is intended to be utilized as part of the project.

Exceptions to the Policy

As a policy document, it does not have the same legal standing of a legislative action. As such, it is good practice to identify the process for consideration of projects that are deemed to be worthy of an incentive consideration but are not meeting all of the parameters of the overall policy. Examples may include a “trigger” project that is anticipated to cause other development to occur, the size and/or scope of the project, the level of incremental taxes to the Village to be generated by the project or other unique circumstances). In such cases, the policies being modified should be identified and the reasons for the exceptions. Such exceptions should be noted in the evaluation process and in the resolution approving the incentive. ~~Such approval shall require a super majority of the Corporate Authorities for adoption. As a non-home municipality, the Village cannot mandate that super majority of the Corporate Authorities approve such a request. However, such approval shall require a disclosure statement noting the project is not within the boundaries of the economic incentive policy. This statement shall be disclosed to the ECDC and Corporate Authorities and the request shall be placed on Items for Separate Action when reviewed by the Corporate Authorities for final consideration.~~

Questions for Consideration of Incentives

In working with a party seeking an incentive, the Village ~~needs to be aware of the general policies in considering such request and shall~~ act in the best interest of the Village, ~~and its~~ residents, businesses, and taxpayers. In consideration, such questions should be raised about any such incentives and how they relate to the Village's overall economic goals. For transparency and to provide a general understanding of the nature of the agreement, the questions raised below shall be ~~identified and answered by the requestor and considered by~~ the Village prior to final consideration of any incentive agreement. These questions are based upon the Village's Economic Strategies Report Goals and include, but are not limited to:

1. Retain, expand and attract commercial and industrial businesses

- Are the goods or services that the new business provides a new business sector or product that is not available in Lombard now?
- Are the goods or services that the new business provides a business sector or product that is not readily available in Lombard now? Does this provide for additional opportunities for our residents or visitors?
- Is this an existing Lombard business looking to expand and grow?
- Will the existing business create additional jobs or economic growth for the Village?

2. Promote general economic development and business growth

- Does this project create or retain jobs? Additional questions will need to be answered such as: how many jobs; is this an increase or decrease to the current number of jobs on site; do the job pay a prevailing wage, minimum wage, or more; and what kind of job types are being created.
- Does the development make enhancements to better the surrounding properties? These enhancements should be above what is required through existing Code requirements.
- Will there be public improvements which would benefit the Village as a whole such as a park, traffic lights, road improvements, and/or extension of water and sewer lines?
- Will innovative development technologies be incorporated into the project, or will the project bring an existing non-conforming property into closer compliance with Village Code.

3. Increase municipal revenue sources and identity incentives for specific development opportunities

- Is the equalized assessed value (EAV) of the property projected to increase and positively impact the taxing districts?
- If sales taxes will be generated will the amount exceed what is being generated at the site currently?
- Will there be other financial benefits gained?
- Will the project generate increased stays at Lombard hotels?
- Will there be additional costs to the Village after the development is complete related to Police, Fire, Public Works, etc.?

- What is the overall amount of capital improvements that will be made in Lombard?

4. Encourage redevelopment along key commercial corridors

- Does the project address a property that has been underutilized, excessively vacant or functionally obsolete?
- Are the conditions associated with the property a function of market conditions?
- Will the improvements benefit the neighboring properties?
- Is the property called out for redevelopment and therefore consistent with the Economic Development Strategic Plan, Downtown Revitalization Guidebook, and other Village documents?
- Is the development consistent with the current Comprehensive Plan?

The aforementioned questions are intended to provide a level of engagement with-between the incentive beneficiaries, elected officials and other interested individuals in consideration of whether such an incentive is worthy of favorable consideration. To determine whether the project meetsrequires the incentive needrequested, the Village may solieit the input and consultation from third-party sources, withengage the services of a third-party consultant to evaluate the project and the incentive requested in relation thereto. Tthe costs associated with such solieitation-beingthird-party consultant shall be borne by the requestet incentive requestor, as set forth withinrequired by Chapter 16 of the Village Code.