Underutilized Economic Development Incentives for Industrial and Commercial Development

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Presented By:

James R. Schimmer
Director – Franklin County Economic Development & Planning

Scott J. Ziance
Partner – Vorys, Sater, Seymour and Pease LLP

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I. Session Objective: To provide you with a basic understanding of certain underutilized economic development incentives that can be used for industrial and commercial development.

II. Overview of the Key Tools

A. Underutilized Economic Development Tools

1. Joint economic development districts and zones
2. Community improvement corporations
3. Annexation agreements
4. New community districts (aka community development authorities)
5. Port authorities
6. Special improvement districts
7. Job Ready Sites grants

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II. Overview of the Key Tools (cont'd)

B. The Old Standbys (not addressed in detail today)

1. Enterprise Zone Agreements and Community Reinvestment Area Agreements
2. Tax Increment Financing (but see attached Top Ten TIF Misconceptions column)
3. Job-Creation Focused State Incentive Programs (e.g., Job Creation Tax Credit, loans, grants)
4. Urban Redevelopment Focused Tools (e.g., Clean Ohio Revitalization Fund/Clean Ohio Assistance Fund, New Markets Tax Credits, Federal and Ohio Historic Tax Credits)
5. Special assessments

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III. Underutilized Economic Development Tools

A. Joint Economic Development Districts and Zones

1. Brief Description

   a. Cooperative contractual arrangements between various Ohio political subdivisions.

   b. In general, the parties are usually municipal corporations and townships.

   c. JEDD/JEDZ income tax.

III. Underutilized Economic Development Tools (cont'd)

2. Why JEDDs and JEDZs are Valuable

   a. Income tax.

   b. Amount of income tax.

   c. Income tax proceeds can be used creatively.

III. Underutilized Economic Development Tools (cont'd)

3. Important Distinctions Among Types of JEDDs and JEDZs

   a. JEDD/JEDZ Formation and Contiguity Issues

   b. JEDD/JEDZ Area

   c. Election Requirements for JEDD and JEDZ Creation

   d. Imposition of an Income Tax

   e. Limits on Economic Development Incentives

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III. Underutilized Economic Development Tools (cont'd)

4. Case Study: Creation of Level Playing Field for Unincorporated Area

   a. Problem: A developer would like to develop a site in an unincorporated area (township) into a corporate park containing office space and other improvements. The developer would like to provide future tenants with property tax incentives. The local officials would like to work with the developer to support the project, while also protecting school district revenues and providing for revenue sharing for local political subdivisions.

III. Underutilized Economic Development Tools (cont'd)

b. Solution: The developer and the local officials can cooperate to create an incentive structure that will benefit the developer, future tenants and local political subdivisions, including the school district. This can be accomplished through the use of the following incentives:

III. Underutilized Economic Development Tools (cont'd)

i. 15 year, 100% CRA exemptions that are freely assignable, so long as the assignees agree to be bound by the terms of the CRA Agreement.

ii. 15 year, 100% EZ exemptions that are freely assignable, so long as the assignees agree to be bound by the terms of the EZ Agreement.

III. Underutilized Economic Development Tools (cont'd)

iii. JEDZ established by the township and a local municipal corporation that levies a municipal income tax, with the JEDZ income tax revenues split among the local school district, the township and the municipal corporation. In addition, a portion of the JEDZ income tax would be used to pay for services to be rendered and improvements to be made within the JEDZ.

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III. Underutilized Economic Development Tools (cont'd)

c. This incentives structure ensures that tenants will receive tax exemptions, while at the same time providing for compensation to the school district and revenue sharing among various political subdivisions. This type of arrangement would not generally be available to townships without the existence of JEDDs or JEDZs.

III. Underutilized Economic Development Tools (cont'd)

B. Community Improvement Corporations

1. Brief Description

a. A CIC is a non-profit corporation.

b. Special authority for CICs designated as agent for political subdivision:

   i. CICs can convey property without advertising for bids.

   ii. Public record law exception.

   iii. CICs are required to file an annual GAAP financial report.

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III. Underutilized Economic Development Tools (cont'd)

2. Why CICs are Valuable

   a. Ability to borrow money and buy, sell or lease property.

   b. CIC as agent.

3. Key Characteristics

   a. A CIC may be designated as the agent of a county, township or municipal corporation.

   b. Governing Board Requirements.

III. Underutilized Economic Development Tools (cont'd)

C. Annexation Agreements

1. Brief Description
2. Why Annexation Agreements are Valuable
   a. Economic development.
   b. Issues that can be addressed.
      i. Zoning.
      ii. Provision of services within the area.
      iii. Economic development incentives.

III. Underutilized Economic Development Tools (cont'd)

3. Key Characteristics

4. How to Secure Benefit of Annexation Agreements

   a. Property being annexed must be contiguous to a municipal corporation.

   b. The parties would first execute the annexation agreement.

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III. Underutilized Economic Development Tools (cont'd)

c. Filing of petition.

d. The board of county commissioners must then pass a resolution approving the annexation.

e. The annexation becomes effective 30 days after the passage of a supporting resolution or ordinance by the municipal corporation.

III. Underutilized Economic Development Tools (cont'd)

D. New Community Districts

1. Brief Description
2. Why NCDs are Valuable
    a. Community development charge.
    b. Bond issuance.
    c. "Pay as you grow" strategy.
    d. Construction of "community facilities."

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III. Underutilized Economic Development Tools (cont'd)

3. Key Characteristics

   a. Community Development Charges

   b. An NCD is governed by a new community authority ("NCA"), which is a body corporate and public and which is governed by a board of trustees.

   c. An NCA may:

      i. Acquire, improve, maintain, sell, lease or dispose of real and personal property <u>without advertising for bids</u>.

      ii. Landscape and otherwise aesthetically improve areas within the NCD.

III. Underutilized Economic Development Tools (cont'd)

iii. Provide, engage in, or otherwise sponsor recreational, educational, health, social, vocational, cultural, beautification and amusement activities for residents of the NCD.

iv. Fix, alter, impose, collect and receive service and use fees and other charges to cover costs of carrying out the new community development program.

v. Sue and be sued in its corporate name.

III. Underutilized Economic Development Tools (cont'd)

vi. Enter into contracts with the developer and other persons or entities for the construction of community facilities.

vii. Enter into agreements with school districts whereby the NCA may construct facilities and purchase equipment for use by the school district.

viii. Issue revenue bonds and notes.

ix. Enforce any covenants running with the land for which the NCA is a beneficiary.

III. Underutilized Economic Development Tools (cont'd)

4. How to Secure Benefit of NCDs

   a. Filing a petition with the "organizational board of commissioners."

   b. The petition contains the following information:

      i. Detailed information about the proposed development of the NCD, including the name and address of the NCA.

III. Underutilized Economic Development Tools (cont'd)

ii. A map of the NCD's boundaries.

iii. A statement setting forth the zoning regulations proposed for the NCD.

iv. A preliminary economic feasibility analysis.

v. A statement that the development will comply with all applicable environmental laws and regulations.

c. Review and adoption of petition.

III. Underutilized Economic Development Tools (cont'd)

E. Port Authorities

1. Brief Description

   a. A port authority is a body corporate and politic and is governed by a board of directors.

   b. A port authority may generally act to carry out its "authorized purpose."

   c. Port authorities generally have a broad geographic reach.

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III. Underutilized Economic Development Tools (cont'd)

2. Why Port Authorities Are Valuable

   a. Buy, sell and lease property without advertising for bids.

   b. Port authorities have broad bonding power.

   c. Ohio sales and use tax exemptions on construction materials.

   d. Public records laws exceptions.

3. Key Characteristics/Governance

4. How to Secure Benefits from Port Authorities

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III. Underutilized Economic Development Tools (cont'd)

F. Special Improvement Districts (SIDs)

1. In General
   a. Can be created in incorporated areas and unincorporated areas.
   b. Created by petition of property owners.
2. Creation of a SID
   a. Submission of articles if incorporation, accompanied by a petition.
   b. 60 days to approve or disprove the petition.
   c. Property owners have powers and rights.
   d. Initial Plan Option – Ten year assessment
3. Board of Directors

III. Underutilized Economic Development Tools (cont'd)

4. Funding of Improvements within a SID

   a. The Board may develop and adopt written plans for public improvements or public services.

   b. The written plans shall specify the public improvements or public services to be provided, identify the area in which they will be provided and specify the method of assessment to be used.

   c. The plans must be presented via petition signed by the SID.

III. Underutilized Economic Development Tools (cont'd)

d. Each participating political subdivision shall levy a special assessment upon specially benefited property within a SID to pay for the costs of any approved public improvements or public services plan.

   i. The SID assessments are generally levied like other special assessments pursuant to R.C. Chapter 727.

   ii. Assessment method varies.

   iii. Various initial and operating costs may be financed using SID assessments.

5. Dissolving a SID

   a. 20% petition

   b. 50% vote

   c. Obligations must be paid first.

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III. Underutilized Economic Development Tools (cont'd)

G. Job Ready Sites ("JRS") Grants

1. Overview

   a. The program was created to fill gaps in Ohio's inventory of sites and to foster unique, catalytic re-investments in developed areas of the State.

   b. There are several site categories within the JRS program.

      i. Heavy, Light or Clean Manufacturing

      ii. Existing Industrial Building

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III. Underutilized Economic Development Tools (cont'd)

iii. "Smart" Office

iv. Technical Centers/Research Laboratories

v. Mega Manufacturing Operation

2. Grant Details

   a. Wide array of costs

   b. Maximum of $5 million per project

3. Local Match Requirement – at least 25%

4. Competitive Application Process

   a. Eligible applicants must submit an application on a form developed by ODOD.

   b. The application must provide a summary of the economic development experience of the applicant and its capacity to undertake the project.

III. Underutilized Economic Development Tools (cont'd)

c. Applications are first scored by District Public Works Integration Committees.

d. Applicants also must provide evidence of the following:

   i. Appropriate end use controls are in place.

   ii. Price agreements between the applicant and property owners are in place.

   iii. The applicant does not have any outstanding issues or liabilities.

   iv. The JRS has sufficient utility service to meet the minimum specifications for the site category.

III. Underutilized Economic Development Tools (cont'd)

v. The applicant has had experience successfully managing federal, state and/or other sourced grants totaling at least $500,000 in the previous five years.

vi. A professional engineer has completed an affidavit affirming the reasonableness of the project assumptions and cost estimates.

vii. A Phase I environmental review has been performed on the property comprising the JRS.

4. JRS Grant Agreements and Certification

5. Case Study – JRS, Annexation Agreement and CIC

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III. Underutilized Economic Development Tools (cont'd)

a. Situation: A municipal corporation wished to secure control of a site in an adjacent township for the purposes of securing a JRS grant and making the site attractive to manufacturers. The situation presented a number of challenges. For example, the JRS grant program requires the applicant to demonstrate that all key local authorities are supportive of the development of the site. The JRS grant program also requires that applicants demonstrate that they have control of the proposed site or price agreements in place for acquisition of the site. Finally, the JRS grant program requires that end use controls, such as zoning controls, be in place.

III. Underutilized Economic Development Tools (cont'd)

b. Solution:

i. The municipal corporation entered into an annexation agreement with the township and the country.

a) The agreement demonstrated to the State that the county and township supported the development of the site, thus satisfying the local support requirement of the grant program.

b) The agreement also provided for the required zoning changes that would facilitate development of the site and demonstrate the existence of end use controls.

III. Underutilized Economic Development Tools (cont'd)

c) The agreement provided for the provision of services to the annexed property before and after annexation, and provided for agreed upon payments for those services.

d) To demonstrate the parties' willingness to take appropriate steps to attract significant industry to the site, the agreement included a commitment by the municipal corporation to provide property tax incentives and other economic developments incentives.

III. Underutilized Economic Development Tools (cont'd)

ii. The municipality formed a community improvement corporation, which secured options on all parcels that comprised the site, after which the community improvement corporation assigned the options to the municipality.

iii. Result: The municipality secured a significant JRS grant and is now undertaking the steps necessary to have its site certified as one of the State's first manufacturing JRS sites. Stay tuned, because the municipality has positioned its site as one of the top sites in the State for significant industrial prospects.

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Top Ten Misconceptions about Tax Increment Financing

I. Over the past three years, the General Assembly has amended tax increment financing (TIF) laws and related statutes multiple times. Recent changes have caused significant confusion among developers, political subdivisions and others concerning the effect of the changes and TIF in general.

II. TIF is an economic development financing mechanism by which political subdivisions exempt all or a portion of an increase in assessed value of property from real property taxes. In lieu of real property taxes, property owners make "service payments" with respect to the increase in assessed value. The service payments, generally used for public infrastructure improvements that benefit or serve the TIF'd property, are paid in the same amount and in the same manner as the real property taxes that otherwise would have been paid.

III. Although many know the basics of TIF, there are numerous misconceptions that stop some developers and political subdivisions from effectively using TIF.

Top Ten Misconceptions about Tax Increment Financing

I. **Residential improvements can no longer be exempted under TIF statutes.**

II. **TIF requires the consent of property owners.**

III. **TIF must be accompanied by an issuance of public debt.**

IV. **TIF service payments can be used only for public infrastructure improvements.**

V. **Public infrastructure improvements constructed with TIF funds must be adjacent to or contained within the TIF area.**

VI. **All taxing units with jurisdiction over an area must consent to the TIF.**

VII. **Taxing units necessarily lose revenues as a result of TIF ordinances and resolutions.**

VIII. **TIFs can only be established by cities and only in blighted areas.**

IX. **TIFs prevent the utilization of other tax incentives.**

X. **School districts cannot benefit from TIF.**

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