

# FAQ: Economic Development

by Christine Bushyhead



## What does economic development look like?

Economic development means different things to the participants in the process; however, the desired outcome is creation of business opportunities from which community benefits are realized. Private and public sectors share common issues of leadership, risk and competition. A suite of tools including market studies, workforce reports and incentives, such as tax increment financing, 353 tax abatements, Chapter 100 industrial financing and reimbursement agreements, can support the development process. It is a competitive process within a market footprint defined as local and regional economies evolve.

Economic development is never stagnant. It is a continuum of product, promotion and price. A city with a clear process that gets to solutions for prospects requires vision, leadership and communication by the decision makers and the public in a measured cadence reflective of the project's needs.

## How does a city compete?

It is important for a city to understand the product it is promoting. What is your community product? It can be the strengths, weaknesses, opportunities and threats - yes, the age-old SWOT. What community assets are present to be developed and retained? Does your city have comprehensive public infrastructure (water, sewer, roads) plans, an airport, strong schools, parks, available workforce, or maybe prominent highway access? What weaknesses do you have and how can they be transformed into opportunities?

Consider a promotion strategy by which your community product will be marketed to the targeted industry and partners you desire to attract. Also consider that part of the city's economic development activity should include initiatives to promote the retention and potential expansion of existing businesses.

## What can the city and its governing body do to be ready?

Develop a well-articulated process by which developers and business prospects can connect with the city and immediately gain an understanding of the city's land use framework (zoning, planning, platting), permitting, and incentive opportunities. Simple processes conducted by competent and enthusiastic staff, or consultants work best. Allow room for flexibility and creative approaches - as no one prospect or project is alike, except that all businesses "want to be wanted."

## Can the governing body hold a closed session meeting to discuss a developer's proposal?

In Missouri, the Sunshine Law does not set forth a specific exception for the discussion of economic development projects in a closed session. If the development project involves the use or sale of public property or incentives that will require the city to be a party to an agreement, the city council or board of aldermen may close to receive advice and counsel from an attorney, and provide client direction in the negotiations regarding the project that invariably means discussing aspects of the project germane in context and content to the agreement. However, keep in mind that the attorney-client privileged communications by which the records are closed means those present in the closed session do not include any "non-client" persons, and of course any final action of approving and authorizing execution of an agreement will be done in an open session meeting. *Spradlin v. City of Fulton*, 982 S.W.2d 255 (1998), provides a good read on this topic as to how narrow the closed meeting exceptions can be construed even under the real estate exception of RSMo 610.021(2).



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## How does a city gain an understanding of the project risks and project value?

The city should ask the developer to share the percentage of completion of the plans from which “estimated” project costs are being derived, and who has developed the estimates in order to understand if the estimates are realistic and market. The more complete the plan set, the better developed the opinion of probable cost (OPC). The degree of plan completion also evidences the developer’s level of investigation and development of the project proforma and viability to date. The experience of the developer, and their engineers and architects, are also a valuable consideration.

## Does the Sunshine Law require that meetings and records involving a Tax Increment Financing (TIF) Commission, or Chamber of Commerce or Downtown Business Association be open?

The TIF Commission meetings and records are open because the TIF Commission is an appointed and recommending commission of the public governmental body. The Chamber of Commerce or Downtown Business Association are not similarly established and do not perform a similar role. However, under the “quasi-governmental body” definition (RSMo 610.010.4.f), if any association directly accepts the appropriation of money from a public governmental body, any meeting, record or vote related to the appropriation would be an open record. That said, this circumstance would not preclude the Chamber of Commerce or Downtown Business Association from receiving information regarding an economic development project and maintaining the non-public character of that information.

## Why should economic development be important to public school districts and other ad valorem taxing districts?

The taxable value of real property is not the market value, it is the assessed value that is a percentage of the market value. The highest percentage of the market value for real property taxes is the subclass of “utility, industrial, commercial, railroad and other property” (commercial), not residential, agricultural and horticultural. Commercial property is assessed at 32% of its market value and that is the value to which the real property ad valorem tax rate is applied; that is 13% more than the residential assessments. For school districts, commercial development does not produce students, and does provide workforce opportunities for graduates.

## What is a key economic development focus in today’s marketplace?

Workforce development. Businesses need skilled workers in the construction trades, medical fields and specially trained workforce for their specific business. Workforce development trains individuals to be more productive and prosperous in the workplace benefiting both the employer and the worker. In progressive communities, the conversation around workforce and the development of individual talents is now beginning in middle school and continuing through high school.

## A new business is promising to create 50 new jobs. What mechanism can a city put in place to ensure the jobs are delivered?

If the new business is receiving incentives to develop in the city and create new jobs, then the terms of the incentives should be presented in a performance-based development agreement that contains “clawback provisions,” which are terms that

reduce and/or terminate the incentives in the event the new job thresholds are not achieved and maintained as required. It is critical in the negotiation and drafting of these types of agreements that the performance standard is clearly articulated, as is the process for accountability and the process by which the clawback provisions are implemented. 🍃

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