

SPECIAL



REPORT

*At stake: The kind of  
community the people want*

***Analysis of the  
Highway 54 TIF  
Ordinance***

## ***At stake: The kind of community the people want***

The Public Life Foundation of Owensboro strives to elevate the citizen to the status of “the most important office in a democracy.” This elevated office is being honored by a national trend in all levels of government to participatory democracy. That means that citizens, adequately informed, participate in decisions and policies that affect their lives, well-being and future.

Tuesday night the Owensboro City Commission will give a second reading to an ordinance sometimes referred to as the Highway 54 TIF.

We followed this proposal. We attended meetings, reviewed materials, consulted with experts and listened to the views of concerned citizens. In this summary and analysis, we share what we learned and what we heard.

### **An ambitious, mixed-use (public-private) project**

Gulfstream Enterprises, a local real estate development firm, proposes a mixed-use project off Highway 54 near the U.S. 60 by-pass. The project would consist of \$210 million in private investment (retail, restaurants, residences, offices and a hotel) and \$180 million in public projects (arena, convention center, hotel lobby and meeting rooms, infrastructure and site preparation).

### **A new way of financing**

Gulfstream proposes that the \$180 million in public projects be financed through the sale of bonds issued by the City of Owensboro. Principal and interest payments would be made to the bond buyers primarily through new taxes generated within a tax increment financing (TIF) district surrounding the project site. The unique aspect of this TIF mechanism: Taxes that ordinarily would be collected by state government (e.g., sales and payroll taxes) would stay in our community and used to finance these public projects.

### **An easy way to get a new arena and convention center**

Gulfstream estimates that their project will generate enough new taxes annually to retire the debt on these public facilities. So city leaders have concluded that they can build a new arena to replace the Sportscenter and a new convention center to improve on facilities at the fragile Executive Inn – without having to pay for them.

Some have challenged this “free lunch” notion. A local developer said, “This is another example of where we’re trying to get someone else in the community to invest in us without us investing in ourselves.”

### **Has there been a thorough analysis?**

But there is reason to be concerned. Because of deadlines imposed by the state, city officials have had to rush through their analysis and, to a large extent, rely on Gulfstream's legal counsel. The TIF mechanism is new to our community. It is complicated. Things can go wrong. There are additional costs, significant risks, and potential consequences in the plan set forth in the agreements between Gulfstream and the city.

### **Has there been appropriate public participation?**

This is a major community decision that will affect the image, growth patterns and prospects for our downtown for many years. It is difficult to find supporters of the Highway 54 site for the arena and convention center. Many do not understand why there was no public discussion.

City officials have acknowledged that, because of the deadlines imposed by the state and a concern over escalating land prices, they have been forced to make decisions in closed sessions.

Many citizens disagree and feel that policy options facing the city could have been discussed openly without divulging site locations. Citizens clearly were agitated when the city commission held a public hearing *after* they had already reached an agreement with Gulfstream. And the city may be within the law when the public is not allowed to speak at "work sessions," but many citizens wonder why officials would not *want* to know their views anyway when they make the trip downtown and sit through long meetings at City Hall.

### **Where does this leave downtown?**

Following their agreement to work exclusively with Gulfstream on a TIF district, the city commission assured downtown advocates that they had not abandoned the area. Downtown advocates, including the volunteer members of the Downtown Development Corporation (DDC) who met over many months to develop a master plan for downtown, were disappointed that city officials did not seize the special opportunities in downtown.

The DDC reviewed numerous consultant studies that consistently recommended that Owensboro take advantage of its riverfront and create a destination center. The DDC proposed a multi-purpose indoor events center, commercial development, a minor league baseball stadium and more to complement the \$50 million Riverfront Master Plan made possible through the political influence of Sen. Mitch McConnell, who no doubt would prefer that the city place its highest priority on downtown and riverfront development than Highway 54.

DDC leaders feel that the city changed course before the DDC was given an opportunity to attract one or more developers to downtown. DDC leaders feel the opportunities for downtown are significantly diluted without the arena and convention center (or a single events center) anchors. The meager attempt to solicit proposals from developers – one

local classified advertisement in the Owensboro newspaper and one week to respond with a \$200 million proposal – was laughably unrealistic.

### **One facility or two?**

The Gulfstream proposal calls for a separate 6,000-seat (\$77 million) arena and a 130,000 square foot (\$50 million) convention center, although the trend is to take advantage of new flexible systems that allow for multi-purpose facilities to accommodate both sporting events and exhibitions and to reduce operating costs. The new downtown Louisville convention center, for example, while not an arena, for several years was the host of the NCAA Division 2 Elite Eight basketball championship.

### **Questions and concerns**

Our research leads us to question some of the key assumptions, projections and outcomes. For example:

- The City of Louisville is planning a new \$400 million arena for its downtown. Despite new tax revenue from a three-mile bustling downtown Louisville TIF district, an infusion of \$75 million in cash up front from the state and a \$7 million-plus annual commitment for a minimum of 20 years from the City of Louisville (a commitment of at least \$140 million over 20 years), the project still only has a Standard and Poor's rating of BBB-, the lowest non-junk bond rating available.

The Owensboro-Daviess County-regional market is *not* a growth area. Even Gulfstream acknowledges that this project will require the sale of high yield “junk” bonds.

- Gulfstream assumes an interest rate of 5.8 percent in its TIF application to the state. But because the bonds will not be rated, the interest rate will be nearly double, more like 10 percent.
- Gulfstream assumes \$383.5 million in additional state and local tax revenue over a 30-year period, or an average of \$12.78 million per year to pay the debt on \$180 million of public projects. But at 10 percent interest, the debt service on \$180 million over 30 years is nearly \$20 million annually.
- In order to sell junk bonds, Gulfstream and its bond underwriter will need to show a two-to-one coverage ratio – that is, the project will need to demonstrate it can generate nearly \$40 million in net revenues per year (after operating expenses) in order to attract the bond buyers.
- If the diverted taxes from the TIF district do not cover the debt service on the public projects, the bond buyers assume the legal and financial risk and will foreclose on the public facilities. The city could walk away from its own arena

and convention center facilities, but not without a tragic blow to its reputation that would affect its bond rating and borrowing power for many years. It is more likely that the city would scramble to save these civic facilities by imposing new taxes in order to pay the debt and avoid bankruptcy.

- As owner of the arena, convention center, hotel lobby and meeting rooms, the city would also be obligated for maintenance and the operating subsidy of these facilities – perhaps an additional million dollars annually.
- Who will use the arena? From the perspective of touring star concerts and family show promoters, Owensboro is part of the Evansville market. A 6,000-seat indoor facility here will not attract events that can occur in a much larger (10,000+ seat) facility 40 miles away. Owensboro High School is adding a facility for basketball on its campus, so Kentucky Wesleyan College (for basketball) is the only prospective anchor tenant for the arena. In winning seasons, the college draws about 3,500 per game, will not need a 6,000-seat arena, and will not likely be in the position to pay market rent.
- Taxpayers need to understand that they will be paying for all the site preparation and infrastructure for the Gulfstream project, a \$40 million savings to the developer. Those dollars come directly out of the \$180 million in bonds issued by the city.
- Under the Gulfstream proposal, the \$77 million arena and \$50 million convention center will be transferred to the city after it is planned, designed and built by Gulfstream, a private development company. Since the public is paying for it, should citizens not have authority over the facility location, size, configuration, construction standards, appearance and features?
- Under the Memorandum of Understanding that has already been executed by the city and Gulfstream, without Gulfstream's written authorization, the city is prohibited from pursuing another TIF district development until August 1, 2008. (The new state laws permit more than one TIF district per community.) This needlessly delays the implementation of the master plan recently proposed by the DDC, including any proposal to state government until the 2010 legislative session.
- The Gulfstream proposal will absorb much of the market. Without an anchor of an arena, convention center (or a single multi-purpose "events center"), it will be much more difficult to attract a downtown hotel. With fewer prospective tenants, it will be immensely more difficult to generate private investment downtown to complement the highly touted and beautifully planned \$50 million Riverfront Master Plan. The plan, funded primarily by the federal government, was intended to jump-start downtown redevelopment.

- Some officials and business leaders have questioned whether the Gulfstream project will result in vacancies in other shopping centers and Towne Square Mall.

## **Recommendations**

Tuesday night's vote could formalize the city's agreement with Gulfstream Enterprises. We urge the city commission to:

- Listen to the people, and pause in the march to judgment on a decision that will have an immense and lasting impact on the community. Postpone adoption of the ordinance until these questions and concerns can be answered.
- If a professional, independent feasibility study has not been conducted, it should be before the project moves forward. If such a study has been completed, it should be released and examined publicly before the project moves forward. The study should include firm indications of interest in the project from reputable prospective anchor tenants.
- Invite one of the nation's leading junk bond institutional investment banking experts to estimate whether the \$180 million in bonds to be issued by the city will sell and at what interest rate – the 5.8 percent used by Gulfstream or something much higher.
- Take steps to ensure that there is public control over the scope, planning and design of the arena and convention center projects included in the Gulfstream proposal.
- Establish policies that reflect a genuine value in openness, transparency and meaningful citizen participation, including the practice of devoting ample time to engage the public and deliberate over options in public *before* decisions are made.
- Retain experienced legal counsel to advise the commission throughout Gulfstream's project development to ensure that the public interest is protected and served.
- Shorten the exclusive option awarded to Gulfstream so that it ends a mere six months earlier on January 1, 2008 – after the Signature TIF deadline has passed. This would enable the Downtown Development Corporation and other advocates to go to work now and not be forced to wait until the state legislature's 2010-2011 budget session.
- Demonstrate a commitment to downtown redevelopment and maximize the \$50 million taxpayer investment in the Riverfront Master Plan by joining with county government to simultaneously take action to establish a downtown redevelopment authority to acquire land and facilitate desirable downtown investment.

**We encourage citizens to share their views by contacting the Owensboro City Commission (687-4444) or attending the commission meeting Tuesday night at 5:00 p.m. Share your views. Let your voice be heard. Participate. Assume your vital role in our democracy.**

Sponsored by

The Public Life Foundation of Owensboro

\* \* \*

**Who are the developers?**

Gulfstream Commercial Services, LLC is a full-service commercial brokerage company located in Owensboro. The company web site profiles seven principals, all Owensboro residents, with experience in construction, financial services, law, banking, real estate appraising and property management. The company developed Woodlands Plaza (\$40 million) and Oxford Center (\$35 million) in Bowling Green, and is developing Highland Pointe (\$85 million) in Owensboro. One member of the firm has supervised the construction or remodeling of department stores and commercial centers in several states for more than 30 years.