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BGR MEDIA RELEASE

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BGR Report Highlights Serious Problems With Lake Forest Plaza TIF Proposal

Today the Bureau of Governmental Research releases a report entitled *In the Private Interest: A Review of the Lake Forest Plaza TIF Proposal*. The report analyzes a tax increment financing (TIF) proposal by the owners of the former mall site to use public funds to clear up debts on the site and redevelop it.

The current proposal, which the City Council plans to consider Sept. 17, would dedicate 2% of the city's 2.5% General Fund sales tax collected from shoppers at the Lake Forest Plaza Shopping Center site to various purposes. Under current plans, TIF proceeds would be used to pay off the property owner's mortgage, settle another private debt, pay debt-related costs, and finance improvements at the site.

BGR's report acknowledges that some type of well-conceived, properly targeted public assistance is likely needed to spur retail development at the Lake Forest Plaza site. However, BGR flags several major problems with the current TIF proposal:

- The proposal would leave delinquent debts to the city unpaid.
- The proposal would use public funds to pay off existing, private debts.
- The proposal would forego public benefits to pay for private problems.
- The private owners of the site would be under no obligation to complete the projects as presented to the public.
- The so-called TIF would not be true "tax increment financing."
- There are potential conflicts of interest in the governance of the TIF district.

These problems are discussed in greater detail below.

The proposal would leave delinquent debts to the city unpaid. The proposal would commit the city to provide tens of millions of dollars to assist a private entity that is in default on pre-Katrina debt to the city. It would not, however, make the city whole on the debt it is owed on property at the site.

The city holds a $3 million judgment against Lake Forest Plaza LLC, the owner of most of the Lake Forest Plaza site, on a prior debt. Under a May 2009 agreement signed by the Mayor, the city would receive only $1.6 million of what it is owed by Lake Forest Plaza LLC, and receive that only upon agreeing to provide the redevelopment with a long-term dedication of sales tax revenue via the TIF. The rest of the debt would be converted into a forgivable note.

In addition, Grand of the East LLC, a separate entity, owes the city more than $4 million on a loan it made for a now-defunct movie theater on the site. After investing millions of dollars in TIF funds, the city would still face the prospect of collecting on its loan to Grand of the East LLC and paying off the corresponding loan to HUD.

The proposal would use public funds to pay off existing, private debts. Approximately $12 million of TIF proceeds would be used to settle private debts. These include debt allegedly owed by Grand of the East LLC to Lake Forest Plaza LLC and $11 million owed by Lake Forest Plaza LLC to Lowe's Home Centers, Inc., and secured by a mortgage on the Plaza site.

Lake Forest Plaza LLC claims that its property cannot be redeveloped without paying off the mortgage. This may very well be a problem for the LLC, but it is not a problem intrinsic to the site. The property owner's inability to take a fundamental step to prepare its property for development is a personal predicament. In no way does it lead to the conclusion that the public should pay off Lake Forest Plaza LLC's debt and leave the property in its hands.

The proposal would forego public benefits to pay for private problems. Paying existing debts and the up-front costs for new TIF debt would soak up much of the public investment, severely reducing the amount of public funds left for actual improvements at the site.

The initial phase is centered on the construction of a Wal-Mart store. Of $42 million in TIF bonds for this phase, $13 million would come off the top to pay for bond-related costs, consisting of a debt service reserve, capitalized interest, credit enhancement and bond issuance costs. The bond-related costs and the payoff of the Lowe's debt would consume $24 million, or 41% of total public and private funding for the Wal-Mart phase. Thus, only $34 million of $58 million would be left for construction and other improvements in that phase.

The private owners of the site would be under no obligation to complete the projects as presented to the public. Certainly, some public support for the proposed redevelopment is based upon the attractive design and multitude of retail offerings envisioned for a later, "town center" phase. Yet, the draft cooperative endeavor agreement authorizing the city's dedication of revenue to the TIF contains no commitments with respect to the town center. In fact, it makes no mention of it. Thus, while the owners have presented broad conceptual plans that include the town center phase, they are under no obligation to produce it.

If the town center phase does not attract financing, Lake Forest Plaza LLC would remain debt-free and continue to receive rental revenue from the initial Wal-Mart phase. It would also have the ability to sell its land, which will have increased in value thanks to the TIF investment, or pursue some other form of development on the site in future years. The taxpayer-supported repayment of the TIF debt would continue.

The so-called TIF would not be true "tax increment financing." Unlike a typical tax increment financing arrangement, in which only the new revenue or tax increment is captured, this proposal would capture existing taxes from a Lowe's store on site (approximately $1.4 million per year) – in effect, reducing current revenue to the city's General Fund. In this sense, it cannot be accurately called tax "increment" financing.

There are potential conflicts of interest in the governance of the TIF district. Under state law the Lake Forest Plaza District's governing board includes, among others, the state senator who represents the area including the district and the owner of the Lake Forest Plaza Shopping Center. Thus, the current board includes state Sen. Ann Duplessis and Ashton Ryan, Jr.. The district's by-laws designate the state senator as the chairperson of the board, while the board members voted in June 2009 to name Mr. Ryan as the board's secretary-treasurer.

Both members face potential conflicts of interest in their service on the board. Sen. Duplessis is also an executive at Liberty Bank, whose president and CEO, according to the most recent filing with the Secretary of State, is also a principal member of Grand of the East LLC.

The State Board of Ethics issued an opinion in March 2008 that the owner of the Lake Forest Plaza Shopping Center could serve on the board, as long as he recused himself from participating in matters before the board in which he or his shopping center have a substantial economic interest. However, since the express purpose of the Lake Forest Plaza District is to encourage cooperative economic development between the city, the state, the district and Lake Forest Plaza LLC, it is hard to imagine what matters would not require recusal.

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Despite the owners' claims about how the project would benefit the people of New Orleans East, this proposal is simply not designed with the public in mind. Rather, it is designed to benefit the current owners of the Lake Forest Plaza site.

If the city concludes that it is in the public's best interest to invest in the redevelopment of the Lake Forest Plaza site, it should do so in a sensible, business-like manner. In no case should the city provide additional funds to entities that have forced it to go to court to get a judgment on defaulted debt. In no case should the city provide a debtor with funds in exchange for repayment of a debt to the city. Nor should it pay off the property owner's mortgage, while allowing the property owner to retain its ownership interest.

If the city wants to develop the Lake Forest Plaza site, it can consider other approaches. For example, it might:

- Enforce its judgment against Lake Forest Plaza LLC in order to satisfy the debt to the city and possibly obtain control of that parcel.

- Condition any public repayment of the Lowe's loan on a transfer of ownership of the Lake Forest Plaza site to the city.

- Issue a competitive request for proposals to qualified developers for the redevelopment of the site.

Under this scenario, the city would receive a real estate asset in exchange for its investment, unlike in the current proposal, in which the public financing pays off the Lowe's debt but Lake Forest Plaza LLC retains ownership of the site.

BGR Chairman Hans B. Jonassen stated that a strong case could be made that the public should assist redevelopment at the former Lake Forest Plaza Shopping Center site, but the current proposal is not focused enough on redevelopment. "It would pay off the owners' mortgage, shifting the debt burden into the public's lap, yet still leave certain debts to the city only partially paid," Jonassen said.

In the Private Interest is available on BGR's web site, www.bgr.org.

BGR is a private, nonprofit, independent research organization. Since its founding in 1932, it has been dedicated to informed public policy-making and the effective use of public resources in the Greater New Orleans area. For more information, call 525-4152 or visit BGR's web site, www.bgr.org.

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