

Board of County Commissioners

Agenda Request

Date of Meeting: February 3, 2009

Date Submitted: January 30, 2009

To: Honorable Chairman and Members of the Board

From: Benjamin H. Pingree, County Administrator
Lindsay Stevens, Assistant County Administrator
Cleve Fleming, Public Works Director
Melissa Corbett, Planner II

Subject: Request for Board Ratification of County Administrator's Drawing Upon Irrevocable Letter of Credit - #265, Tallahassee State Bank, Southern Realty & Development Co., LLC for the Flowers Subdivision Phase I

Statement of Issue:

This agenda item requests the Board to ratify an action of the County Administrator, which instructed the County Attorney to draw upon the Irrevocable Letter of Credit from Tallahassee State Bank for the Flowers Subdivision Phase 1.

Background:

At the February 6, 2006 public hearing of the Wakulla County Board of County Commissioners, the Board voted to approve the Final Plat application for Southern Realty and Development Co., LLC's (the "Developer") Flowers Subdivision Phase 1. Section 7-23 of the Land Development Code requires that in order for a plat to be approved, that either a Certificate of Completion or a Certificate of Bond be provided by the developer. A Certificate of Completion verifies that all the necessary infrastructure improvements were completed by the time of plat approval. A Certificate of Bond acknowledges that all of the necessary infrastructure improvements have not been completed at the time of approval yet verifies that a financial institution will supply the County with the money needed to complete these improvements should the developer fail to do so within a reasonable time period. Typically, developers have presented the County with a Certificate of Bond and related Irrevocable Letter of Credit (LOC) to meet the obligations of Section 7-23, Wakulla County Land Development Code. An attached matrix illustrates the number of expired and existing LOCs that the County holds as security for the installation of infrastructure of many of the subdivisions within Wakulla County (Attachment #1). Staff regularly coordinates with the Clerk of Court's office to monitor these LOCs and ensure that they are still in effect. When LOCs are set to expire and will not be renewed by the issuing financial institution, staff acts quickly to notify the County Administrator and County Attorney to ensure that the County's interests are protected.

In conjunction with the Flowers Subdivision Phase 1 plat, a Certificate of Bond and its

supporting Irrevocable Letter of Credit were provided to satisfy this requirement. On January 30, 2006, Tallahassee State Bank issued the LOC in the amount of \$648,124.00 to cover the required improvements that were incomplete at the plat approval phase (Attachment #2). Shortly after the final plat approval for Flowers Subdivision Phase 1, fifty single-family homes were constructed in this subdivision, even though sanitary sewer installations were not complete. This was accomplished through an agreement with the Department of Environmental Protection, which allowed up to fifty home sites to be constructed and connected to a temporary pump out facility until all facets of the sanitary sewer system were installed. This DEP agreement will expire on March 31, 2009, and as of the date of this Request, the sewer infrastructure is incomplete and not operational.

Within the past year, staff has engaged in conversations with the Developer, seeking a resolution to these issues. Improvements which are still outstanding are outlined in staff's attached memo dated January 29, 2009 (Attachment #3).

Analysis:

A significant period of time has passed since the Flowers Subdivision Phase 1 final plat was approved three years ago, and the outstanding infrastructure improvements are an issue of serious concern. The Flowers Subdivision Phase 1 LOC was set to expire on January 30, 2009, and negotiations with the Developer have not yielded a suitable course of action to remedy the infrastructure deficiencies. In addition, the upcoming expiration of the DEP sewer agreement poses serious health concerns for an area that lies within the environmentally sensitive Wakulla Springs Protection Area. Therefore, on January 29, 2009, staff recommended that the County Administrator draw upon the LOC to obtain the funds necessary to complete the subdivision's vital infrastructure. The County Administrator acted upon staff's recommendation on January 30, 2009 (Attachment #4). This Agenda item requests Board ratification of the County Administrator's action. It is possible that in the near future, the Board may be faced with similar actions as other subdivisions with outstanding LOC and unfinished infrastructure improvements approach the end date of their LOC requiring County action.

Options:

1. Ratify the County Administrator's drawing upon LOC #265, Tallahassee State Bank, Southern Realty & Development Co., LLC for the Flowers Subdivision Phase I.
2. Do not ratify the County Administrator's drawing upon LOC #265, Tallahassee State Bank, Southern Realty & Development Co., LLC for the Flowers Subdivision Phase I.
3. Board Direction.

Recommendation:

Option #1. As outlined in this request and the attached memo, staff recommends ratification of this action to ensure that the necessary infrastructure improvements will be completed

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within this approved subdivision. This measure will ensure the environmental health of the area and the fiscal viability of the County will be protected.

Attachment(s):

1. Letter of Credit Matrix
2. Flowers Subdivision Phase 1 Bond and Irrevocable Letter of Credit
3. Staff Memo dated January 29, 2009
4. County Administrator's Letter to Ron Mowrey

[LS/mc]