

Board of County Commissioners

Agenda Request

Date of Meeting: March 17, 2009

Date Submitted: March 6, 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
Somerset Strickland, Assistant Planner

Subject: Board Consideration to Collect Upon Three (3) Irrevocable Letters of Credit and Proceed with the Completion of Paving, Sidewalk and Other Infrastructure Improvements within the Hidden Meadows Subdivision

Statement of Issue:

This Agenda Request provides the Board with a request for consideration to collect upon three (3) individual Irrevocable Letters of Credit for Hidden Meadows Subdivision. Each Letter of Credit (LOC) was issued by Capital City Bank on behalf of three separate corporations, Hidden Meadows, LLC, Turner LL, LLC and Advanced Builders, LLC to insure completion of specific improvements within the Hidden Meadows Subdivision.

Background:

The Application for Final Plat FP06-07, for the Hidden Meadows Subdivision was approved by the Board of County Commissioners on October 16, 2006. Pursuant to Section 7-23, *Wakulla County Code*:

- (1) The planning commission shall not approve a final plat unless and until in addition to all other requirements for approval contained in this Code, the applicant has submitted along with the proposed final plat one of the following certificates.
- (2) Certificate of completion. A certificate under penalty of perjury from an engineer licensed in the State of Florida identifying all improvements on the site and certifying that all improvements have been installed in accordance with this chapter as shown on the preliminary plat in compliance with any additional conditions of approval of the preliminary plat imposed by the planning commission.
- (3) Certificate of bond. A certificate from the clerk of court that a bond available to the county has been posted in an amount determined by the county to be sufficient to complete the required improvements (Attachment 1).

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At the time of the Public Hearing, some of the required subdivision improvements remained incomplete. Therefore, Hidden Meadows, LLC (the "Developer"), opted to enact the certificate of bond option outlined in Section 7-23(3) of the *Wakulla County Code*, and provided an Irrevocable Letter of Credit (LOC), establishing Wakulla County as the beneficiary in the total amount of \$506,433.20. At the time of approval, this was the total estimated cost to complete the required infrastructure improvements and amenities within Hidden Meadows Subdivision (Attachment 2).

Staff research indicates that the Developer requested the bond amount be reduced and divided among two (2) additional builders, in an effort to lower the total amount of the Developer's bond. On April 2, 2007, the Board directed staff to work out the details to reduce the bond provided by the Developer. Turner LL, LLC ("Turner") provided a LOC in the total amount of \$187,190.40, on February 12, 2007 (Attachment 3). Advanced Builders, LLC ("Advanced") provided a LOC in the amount of \$76,989.60, on March 19, 2007 (Attachment 4). The Turner and Advanced LOCs were to insure only the completion of certain sidewalk improvements along each of the lots owned by each respective builder.

The Developer provided an amended LOC in the amount of \$184,225.00 on March 19, 2007 to insure completion of the "Asphalt/paving improvements in Hidden Meadows Subdivision", as described in the "Work Project Covered" section of the LOC (Attachment 5). The original estimation for the cost of completing the improvements, at the time of final plat approval provided \$25,000 for park amenities and an additional \$25,000 for landscaping, which was included in the original LOC provided by Hidden Meadows, LLC (Attachment 1). After the reduction of the original LOC and the addition of the two new LOCs, staff concludes that the park amenity and landscaping may have been inadvertently omitted from the "Work Project Covered" section of the LOC. It should also be noted that the original cost estimate did not specifically allocate any funds for berms, fences and no trespassing signs, as committed to by the Developer at the Public Hearing. Therefore, it is staff's opinion that the Developer LOC secures and the Developer should be required to install the playground equipment, landscaping, berms, fences and signage.

Concerns related to the lack of stormwater management ponds within Hidden Meadows Subdivision have been raised. More detailed information regarding the substitution of stormwater management ponds with swales and berms for the Hidden Meadows Subdivision is outlined in the previous Agenda Request considered by the Board. It should be noted that none of the LOCs related the Hidden Meadows Subdivision cover stormwater improvements within the Hidden Meadows Subdivision. The County Attorney advised that the LOC could not be used to address the Board concerns with the stormwater management facilities.

Each LOC contains an automatic-renewal clause. This renewal clause provided that the LOC will automatically renew each year, unless the lending institution notifies the beneficiary (Wakulla County) at least sixty (60) days in advance that the institution has elected not to renew the LOC. Table 1 outlines the current status of each outstanding LOC.

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Table 1

Developer/Builder	LOC Amount	Expiration Date	Improvements	Cost Estimate
Hidden Meadows, LLC	\$184, 225	March 19, 2010*	Paving, HOA Sidewalks, Landscaping, Berms, Signage, Fencing, Playground equip.	\$162,923 \$35,000 \$25,000 *** *** *** \$48,287
Turner LL, LLC	\$187,190.40	February 12, 2010*	Sidewalks	\$175,700
Advanced Builders, LLC	\$76, 989.60	March 19, 2009**	Sidewalks	\$20,500

* Recently renewed

**Capital City Bank notified Wakulla County they have elected not to renew this LOC

***cost unknown. It should also be noted that the original cost estimate did not specifically allocate any funds for berms, fences and no trespassing signs, as committed to by the Developer at the Public Hearing.

It should also be noted, that the original cost estimates to complete Hidden Meadows Subdivision were calculated in 2006. Since that time, the cost of materials has significantly increased. Staff anticipates that the current cost for completing the required improvements has the potential to exceed the amounts secured by the existing LOCs.

Of the three LOCs related to the Hidden Meadows subdivision, the expiration date for the Advanced LOC is imminent; March 19, 2009. Staff is concerned that the sidewalk improvements secured by the Advanced LOC remain incomplete. Staff recently became aware that Advanced Builders, LLC may be in the process of deeding its ownership interest in certain lots within the Subject Property to Capital City Bank. Capital City Bank has confirmed this negotiation. Staff has been working to determine how this may affect the County's ability to call upon the Advanced LOC.

In an effort to preserve the best interest of the County, staff is presenting this agenda item and requests Board Consideration to collect upon one or more of the attached Irrevocable Letters of Credit from Turner LL, LLC, Advanced Builders, LLC and Hidden Meadows, LLC. Should the Board determine that such action is necessary at this time; staff will quickly take action to collect said LOCs and move forward in working with staff of Public Works/ESG to commence the completion of the outlined improvements.

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Analysis:

As of the date of this Agenda Request, fourteen (14) homes have been permitted for construction within the Hidden Meadows Subdivision and twelve (12) of these homes are complete. Staff inspections of the existing improvements, in conjunction with the approved construction plan, preliminary plat and PUD document, concluded that a number of improvements remain unfinished. Many of the sidewalks are not present and deficiencies exist regarding the paving and asphalt. The following improvements remain incomplete:

1. Limerock thickness and density reports
2. Asphalt thickness and density reports for the first lift of asphalt
3. Final lift of asphalt, along with the thickness and density reports
4. Sidewalks
5. Playground Equipment
6. Landscaping along the eastern boundary of lots 18-40, block "A"
7. Street Signage
8. Fencing and berms around the karst features on northern boundary of lot 9, block "B" and in the open space of the northwest corner of block "B", as shown on the approved Preliminary Plat.
9. "No Trespassing" signs near the karst features

A letter provided by Wakulla County Public Works/ESG depicts the details of absent improvements (Attachment 7). It should be noted that the Developer and Engineer for Hidden Meadows recently met with both staff regarding the remaining incomplete improvements. The Developer indicated a willingness to work with the County to ensure completion of its obligations to the County and the Hidden Meadows Subdivision.

As of the date of this Agenda Request, neither Advanced nor Turner has contacted County staff regarding their respective LOCs or a plan for completing the infrastructure improvements.

Options:

1. Direct the County Attorney to draw upon Advanced Builders, LLC LOC prior to its expiration date of March 19, 2009 and direct staff to prepare a plan to complete the required infrastructure improvements for the Hidden Meadows Subdivision.
2. Direct the County Attorney to draw upon the Turner LL, LLC LOC and direct staff to prepare a plan to complete the required infrastructure improvements for the Hidden Meadows Subdivision.
3. Direct the County Attorney to draw upon the Hidden Meadows, LLC LOC and direct staff to provide the Board with a plan to complete the required infrastructure improvements for Hidden Meadows Subdivision.

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4. Direct the County Attorney to draw upon all available Letters of Credit related to the Hidden Meadows Subdivision and direct staff to provide the Board with a plan to complete the required infrastructure improvements for the Hidden Meadows Subdivision.
5. Board Direction.

Recommendation:

Option #1

Attachment(s):

1. Section 7-23, Wakulla County Code
2. Cost Estimate List
3. Letter of Credit provided by Turner LL, LLC
4. Letter of Credit provided by Advanced Builders, LLC
5. Amended Letter of Credit provided by Hidden Meadows, LLC
6. Letter from Capital City Bank electing not to renew Letter of Credit
7. Letter from Public Works/ESG