



Truckee Donner Public Utility District

Community Facilities District No. 04-01 (Gray's Crossing)

6:00 PM, Thursday, January 19, 2017

TDPUD Board Room

A G E N D A

Special Meeting

Directors

Joseph R. Aguera

Jeff Bender

Bob Ellis

Tony Laliotis

Paul Warmerdam

General Manager

Michael D. Holley

1. Call to order
2. Roll call
3. Pledge of Allegiance
4. Changes to the agenda
5. Public Input - This is time set aside for the public to address the Board on any matter not on the agenda. Testimony related to any agenda item should be addressed at the time that item is considered.

(The public may comment on any subject that is not on the agenda. Each speaker will be limited to three minutes, but speaker time may be reduced at the discretion of the Board President if there are a large number of speakers on any given subject.)

DIRECTOR UPDATE

6. This item provides time for Directors to comment on any item within the purview of the District.
(Each Director will be limited to three minutes.)

ACTION ITEMS (Action item discussions will utilize the following format: (a) staff report, (b) public input, and (c) Board discussion and action)

7. Consideration of Approving the Memorandum of Understanding (MOU) for the Gray's Crossing Community Facilities District
This item concerns entering into an agreement with Triumph Development LLC and LDK GC81 LLC regarding the Gray's Crossing CFD
8. Authorize Staff to Schedule Meetings of the Community Facilities District (CFD) 04-01 Gray's Crossing
This item concerns scheduling regular meetings for the CFD Board

ADJOURNMENT

Note regarding agenda topics likely to come before the Board during the next two months:

- Hold a Public Hearing Related to Adoption of the Annual Electric and Water Standby Charges and Adop Resolutions Related to the Item

- Review the 2016 TDPUD Consumer Confidence Reports (Water Quality Reports)
- Review of Water Quality Regulations Associated with Lead, Copper and Radon
- Discussion of 2016 Purchase Power Load, Resources, Peaks, and Comparison to 2015 Budget Forecast

The agenda is available for review at the TDPUD administrative office, the District internet website, and the Truckee branch of the Nevada County Library

Posted and mailed on Wednesday, January 18, 2017



Shanna D. Kuhlemier, CMC, Deputy District Clerk

A copy of the agenda packet is available for public review, during normal business hours, at the district administrative office located at 11570 Donner Pass Road. Public participation is encouraged. The meeting location is accessible to people with disabilities. Every reasonable effort will be made to accommodate participation of the disabled in all of the District's public meetings. If particular accommodations for the disabled are needed (i.e. disability-related aids, or other services), please contact the Deputy District Clerk at (530) 582-3980 or ShannaKuhlemier@tdpud.org, at least 24 hours in advance of the meeting.



ACTION

To: Board of Directors
From: Jeremy Popov
Date: January 19, 2017
Subject: Consideration of Approving the Memorandum of Understanding (MOU) for the Gray's Crossing Community Facilities District

1. WHY THIS MATTER IS BEFORE THE BOARD

This item concerns consideration of approval of a Memorandum of Understanding by and among Truckee Donner Public Utility District (PUD), Truckee Donner Public Utility District Community Facilities District No. 04-1 (Gray's Crossing CFD), Triumph Development LLC (Triumph) and LDK GC 81, LLC (LDK).

2. HISTORY

The Gray's Crossing community was originally entitled by the Town of Truckee for a mountain resort community consisting of 408 single family lots, a 92 unit income restricted apartment complex, 89 single family freestanding cottages, 115 attached townhomes, 21 residential lofts, approximately 40,700 square feet of commercial space and various community space.

TDPUD formed the Gray's Crossing CFD in 2004 to help finance backbone public infrastructure related to the development of the land within the Gray's Crossing CFD's boundaries. The CFD includes approximately 757 gross acres on the north side of Interstate 80 along both the east and west sides of Highway 89 in the Town of Truckee.

The CFD issued an initial series of bonds in a principal amount of \$15,375,000 in 2004 and a second series of bonds in a principal amount of \$15,155,000 in 2005. The bonds financed water, electric, sewer, natural gas utilities; roads, storm drains, and more. Bonds are repaid over time by property owners through a Mello-Roos (Special Tax) assessment.

With the largest share of utilities financed TDPUD agreed to administer the CFD. It is important to note that TDPUD is a separate legal and financial entity from the CFD and the CFD is not a liability of TDPUD ratepayers. The TDPUD Board is the legislative body of the CFD.

As of September 2016, the bonds have an aggregate principal amount of approximately \$31,675,000 outstanding.

The CFD bonds are secured by, and are payable from, the revenues derived from the Special Taxes. The Special Taxes are levied pursuant to a rate and method of apportionment.

Prior to FY 10-11, delinquencies in the payment of the Special Taxes were relatively minor and did not impact the timely payment of debt service on the bonds. However, commencing in FY 10-11, the amount of the delinquencies rose to approximately 18% of the total annual levy; and since then they have continued to rise to the point that, for FY 14-15, they represented approximately 20% of the total annual levy.

At those levels, the revenues available from the Special Taxes were insufficient to pay debt service on the bonds on September 1 2014, 2015 and 2016; and, as a result, those deficiencies had to be addressed by draws on the reserve fund. At this time the reserve fund remains below the minimum required level.

The overwhelming majority of the delinquencies in the payment of the Special Taxes is attributable to three large undeveloped multi family parcels: APN 19-770-02 (the "Cottages Parcel"); APN 43-010-05 ("Parcel D"); and APN 43-010-07 ("Parcel F"). A map is provided as Attachment 1.

The ad valorem taxes and other taxes and assessments applicable to these three parcels of interest that are collected on the property tax bills administered by the County of Nevada are also significantly delinquent.

Each delinquent installment of Special Taxes is levied a 10% penalty and then the penalty accrues interest at the rate of 1.5% a month, or 18% annually. The total past due Special Taxes, penalties, and interest, which have compounded over nearly a decade, have created a significant financial barrier to development.

For these reasons the properties remain delinquent and undeveloped, and the situation continues to worsen. Resolution is unlikely absent significant restructuring of the debt service on the properties. Without such restructure it does not appear likely that the owners will cure the existing tax delinquencies or that any of the three parcels of interest will be successfully sold at foreclosure in the near future, especially since the amounts of the respective delinquencies and delinquency and redemption penalties are constantly increasing.

Each of the three parcels has been the subject of judicial foreclosure proceedings (which is required by bond covenant) in which a judgment in favor of the CFD has been obtained; but none of them have been successfully sold at foreclosure sale due to the significant delinquencies that would need to be paid current.

As a result of the inability to remedy the situation through the standard foreclosure process, and as a result of the continued failure of the owners of the parcels to pay the applicable Special Taxes, it is most probable that continued draws on the reserve fund will be necessary. At some point such draws are expected to deplete the

Reserve Fund and could cause a payment default on the bonds.

Staff has been working diligently over the last year to explore solutions to stabilize the CFD and avoid default.

During the October 5, 2016 Board Meeting staff explained the ongoing challenge of the CFD administration. During that same meeting the Board approved several near term actions in support of the continued exploration of a long term solution. The Board, acting as the legislative body of the CFD, exercised certain authorities granted to the legislative body of the CFD by the Mello-Roos Communities Facilities Act of 1982, as amended, being Chapter 2.5, Part 1, Division 2, Title 5, of the Government Code of the State, and also authorized staff to implement steps and provisions thereto. Specifically, the Board approved Resolution 2016-25 permitting the waiver of redemption penalties under certain findings and determinations as authorized under Section 53340(f) of the California Government Code, an essential first step towards stabilization of the CFD.

During the same presentation, staff informed the Board that any further potential action towards stabilization would be brought forward for future Board consideration.

3. NEW INFORMATION

Staff explored and vetted dozens of potential solutions to stabilize the CFD. Staff has drafted a potential path forward. The complex problem has resulted in a complex solution. The potential solution was drafted into the form of a Memorandum of Understanding (MOU) in order to outline the overall plan envisioned to stabilize the CFD as well as to outline roles and responsibilities of parties signatory to the MOU.

The MOU summarizes the entire basic framework of the plan forward and, if approved by the Board, is the formal agreement between the TDPUD, the CFD, and two developers to commence a series of actions to effect a comprehensive stabilization of the CFD.

The MOU facilitates an agreement that is based on several key tenets developed to ensure fairness, equality, and transparency in the process, and importantly, to ensure that any path forward is in the best interest of the bondholders as is required by statute.

The MOU is an effort to enact a plan to avoid a failed bond issue in our community. Although not a financial liability of TDPUD, a failed bond issue could be a blemish for any future land secured financing and development activity in Truckee.

According to recent housing studies there is a severe shortage of housing. To remedy the crisis, the report identifies that housing must be built for locals, and it is reasonable to expect that developers will likely require financing, in various forms, to build such housing. Thus, directly or indirectly, a defaulted land secured bond issue in this community could make future financing more challenging to obtain and/or be more expensive, and a default could result in a true and/or perceived higher risk of default

expensive, and a default could result in a true and/or perceived higher risk of default for development in this area. Further, a default may have negative consequence, tangible or intangible, to the existing property owners and others who have invested in the Gray's Crossing community. Last, a default is likely to have a negative consequence for bondholders.

For these compelling reasons, staff recommends the Board consider approval of the MOU to ensure continued efforts towards a more positive outcome.

Staff developed several key tenets prior to drafting the MOU which guided the formation of the document. Staff and bond counsel worked together adhering to those key tenet highlights, which are summarized here: (a) understanding that the CFD delinquency will only be remedied with payment of Special Tax by the multi-family parcels, which (b) practically requires development of the three large multi-family parcels, (c) the solution should ideally diversify ownership and engage new developers who are committed to progress, (d) the solution must not have a negative financial consequence for parcel owners who have paid timely; ideally it should provide some savings, and (f) any solution should comply with all statutory provisions and should not be unfair or 'bail out' initial developers.

TDPUD has facilitated dozens of meetings with the Town of Truckee, prospective developers, non-profits, legal counsel, financial counsel / underwriters, and concerned citizens to find a solution that could stabilize the CFD by eliminating up-front financial barriers and thus promote diversified housing development (that best aligns to current community needs).

A basic overview of MOU content is provided within this report. The MOU is attached for review as Attachment 2.

The MOU contemplates a plan that achieves the key tenets outlined above by "resetting the clock" and significantly restructuring the up-front financial barrier. The plan maintains an equitable lien of the bonds by parcel and also provides significant savings for the existing CFD property owners.

The plan outlined by the MOU essentially explains that (a) under current bond market conditions, if the three parcels were effectively removed from the CFD then the existing bonds could be refunded through the issuance of refunding bonds with reduced annual debt service, thereby enabling a reduction in the amount of the Special Taxes required to be levied on some or all of the property remaining in the CFD and benefiting the owners of such property; and (b) the three multi-family parcels could be removed from the CFD if (i) their delinquent Special Taxes were paid, (ii) the associated delinquency and redemption penalties were waived or paid, and (iii) their future Special Taxes were prepaid; and (c) one method by which it might be possible to provide for the payment of the delinquent Special Taxes and the prepayment of the future Special Taxes in question would be to include the parcels in a new community facilities district which would issue bonds, the net proceeds from the sale of which would be used to make the prepayment to the existing CFD. This provides the three parcels a longer maturity to finance their share of the indebtedness incurred.

Thus, the plan provides for a re-amortization of the debt on these undeveloped

parcels and promotes development by minimizing land acquisition costs.

This plan recognizes that the three large multi-family undeveloped parcels of concern are unlikely to be developed unless their share of debt can be re-amortized over a new term, and further, to ensure that their lien of the bonds best aligns with the development potential.

TDPUD is also aware of the significant affordable housing shortage in our community, and has been working with the Town of Truckee and other local non-profits to facilitate a collaborative process that considers TDPUD's path forward for CFD stabilization and the possible resultant housing opportunities (development) of these parcels. The three parcels were entitled to provide diversified housing. It is possible that these parcels could provide a near term solution to ease the housing burden by providing several hundred diversified housing units for sale and/or rent. It is important to note that the parcels are already entitled for such housing and utilities are already at the street to support such development... development is nearly infill at this time and is arguably a responsible use of existing land entitlements and installed infrastructure. Although some entitlement changes are anticipated to be required to reflect current needs (as a decade has passed from original Specific Plan approval), it is envisioned that the parcels can provide a very real near term opportunity for diversified housing if TDPUD's stabilization efforts are successful. The result is a complicated plan that could provide a much needed relief not only to bondholders and Special Tax payers, but to the community at large.

As further outlined in the MOU, the plan does meet the aforementioned key tenets by: (a) providing for transfer of land to new developer(s), (b) does not shift debt to other Special Tax payers, (c) eliminates the financial barrier of entry by waiving (in full or part) accrued Special Tax penalties and interest (which are not anticipated to be collected and are impeding development), and (d) will only waive penalties and interest that have accrued on delinquent installments for which current or prospective owner(s) were not responsible.

Although the MOU envisions a practical solution to stabilize the CFD, it should be noted that a positive outcome is uncertain due to the complexity of (a) the many parties involved, (b) uncertainty regarding ability to update land use/ entitlements, (c) uncertainty of the financial viability to develop the land, and (d) market uncertainty regarding the ability to enact the plan through the eventual sale of bonds at a public offering.

If successful, the District will not only avoid default of the existing bonds and stabilize the CFD, it will also be able to simultaneously issue refunding bonds at an improved rate with the potential to provide significant savings to the existing CFD. Refunding bonds have not been issued to date due to the significant and concentrated delinquencies on the undeveloped land which results in a low value to lien. These conditions practically prohibit such refunding opportunity unless a larger effort, as envisioned in the MOU, is successful.

The MOU contemplates the steps necessary to effect a positive outcome. These steps include identification of the potential legal structure, the anticipated land conveyance, and the expectations and timeline for each party to complete certain actions. Although the TDPUD is largely facilitating the stabilization effort, the contributions from the developers are critical to the overall plan.

CONTRIBUTIONS FROM THE DEVELOPERS ARE CRITICAL TO THE OVERALL PLAN.

The two developers who are signatory to the MOU are Triumph Development LLC (Triumph), a Maryland and Colorado based developer, and LDK GC81, LLC, (LDK) a Sacramento, CA based developer. Both developers are experienced in multi-family development.

TDPUD partnered with the Town of Truckee to identify possible developers and hosted several meetings with different developers to introduce the plan and, as it evolved, narrow the field. This process introduced Triumph Development to the CFD and further engaged LDK (an existing property owner who acquired two of the three distressed parcels). Both developers have been supporting the effort to create a financially viable plan to develop diversified housing.

The MOU anticipates that Triumph will develop two of the three parcels, and LDK will develop one. Both developers are working on development concepts and initial pre-submittals are in work and/or already submitted to the Town of Truckee. As mentioned, TDPUD and the Town of Truckee are working together to understand next steps that may be required to update conceptual site plans, land use entitlements, etc. TDPUD's core effort in working with the Town of Truckee and developers is to ensure that any proposed development responsibly aligns to the anticipated lien of the bonds. This effort ensures an alignment of housing development concepts with the ability of a prospective resident to afford the total cost of housing including the Special Taxes.

The MOU contemplates many actions that the Board may consider to effect the overall plan. The MOU provides for termination at any time by any party and is written to fairly protect the interests of all parties considering that ultimate success is contingent on so many variables.

Finally, it should be noted that the MOU requires the developers to make a series of deposits to be held by the TDPUD as necessary to (a) initially fund the immediate CFD formation costs and (b) to later fully satisfy outstanding County of Nevada property taxes, penalties, and Special Tax penalties as is appropriate per the MOU.

Both Triumph and LDK have approved the MOU.

4. FISCAL IMPACT

There is no direct fiscal impact to the TDPUD as the TDPUD is legally and fiscally independent of the CFD.

There is no negative fiscal impact to continue our efforts as the developers are required to fund an initial deposit to cover immediate CFD formation costs.

There is a positive fiscal impact and opportunity to significantly save existing property owners within the CFD. Savings are anticipated to exceed \$2,000,000 over the term of the bonds (based on current bond market conditions).


5. RECOMMENDATION

Approve the Memorandum of Understanding by and among Truckee Donner Public

Utility District (PUD), Truckee Donner Public Utility District Community Facilities District No. 04-1 (Gray's Crossing CFD), Triumph Development LLC (Triumph) and LDK GC 81, LLC (LDK).



Jeremy Popov
Administrative Services Manager



Michael D. Holley
General Manager

Agenda Item # 8



ACTION

To: Board of Directors
From: Shanna D. Kuhlemier, CMC
Date: January 19, 2017
Subject: Authorize Staff to Schedule Meetings of the Community Facilities District (CFD) 04-01 Gray's Crossing

1. WHY THIS MATTER IS BEFORE THE BOARD

The Board schedules meetings for the Community Facilities District (CFD) 04-01 Grays Crossing.

2. HISTORY

The Gray's Crossing CDF was formed by the TDPUD in 2003 to complete infrastructure facilities in the Gray's Crossing Specific Area. At the time of the formation the TDPUD Board was appointed as the Board of the CFD and is responsible for the administration of the CFD.

At the point of creation of the CFD, there were no provisions in the formation paperwork for regularly scheduled meetings.

3. NEW INFORMATION

Since the formation there has not been a need for a meeting of the CFD. With the recent developments with the Gray's Crossing CFD and the approval of the Memorandum of Understanding there will be needs arising to hold regularly scheduled meetings.

To ensure continuity and transparency with regularly scheduled TDPUD meetings, this action will schedule the CFD meetings at the same date and time as the legislative body of the TDPUD.

4. FISCAL IMPACT

There is no fiscal impact associated with this item.

5. RECOMMENDATION

Authorize staff to schedule all meetings for the CFD for the same time and dates as the legislative body of the Truckee Donner Public Utility District, provided that no such meeting shall be held if there is not any business to come before the CFD.

A handwritten signature in blue ink, appearing to read "Shanna D. Kuhlemier".

Shanna D. Kuhlemier, CMC
Deputy District Clerk

A handwritten signature in blue ink, appearing to read "M. D. Holley".

Michael D. Holley
General Manager