



WASHOE COUNTY

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CM/ACM _____

Finance _____

DA _____

Risk Mgt. N/A

HR N/A

Other N/A

STAFF REPORT

BOARD MEETING DATE: April 28, 2015

DATE: April 22, 2015
TO: Board of County Commissioners
FROM: Dave Solaro, Arch., P.E., Director
Community Services Department, 328-2040, dsolaro@washoecounty.us
THROUGH: Kevin Schiller, Assistant County Manager
SUBJECT: Update and possible direction to staff on requests for refund of infrastructure fees held by Washoe County for the Warm Springs Specific Plan Area. (Commission District 5.)

SUMMARY

The Washoe County Commission (Board) at their April 21, 2015 meeting requested that this item be placed on an April Board agenda in response to grievances heard during the public comment period from Mr. George Newell demanding that the County refund infrastructure fees held by Washoe County for the Warm Springs Specific Plan Area.

Staff was given direction by the Board at the March 10, 2015 meeting to answer the following:

- How do we expedite a refund?
- How do we fix the problem?
- Make sure language is clear that no land division smaller than 2.5 acres will be allowed.
- Make sure that Washoe County is not liable for potential entitlements granted with current land splits for water, sewer, and roadway infrastructure.
- Determine whether there are any other developments in the County that are similarly situated – fair treatment for all.
- Provide a mechanism for indemnification from each property owner and each sub-property owner.

Washoe County staff is working to fulfil the request of the Board and continues to research the history of this Specific Plan Area (SPA) creation, what land rights associated with the SPA have been exercised to date, what the proper steps are to pursue a refund, and who is entitled to any refund if that is the final decision. Staff is prepared to provide an update to the Board but no final recommendations for a course of action to remedy this grievance.

AGENDA ITEM # 13

Washoe County Strategic Objective supported by this item: Economic development and diversification.

PREVIOUS BOARD ACTION

September 5, 1992, The Board took action to adopt the Warm Springs Specific Plan which included the *Development Standards Handbook Framework*.

April 18, 1995, The Board took action to amend the Warm Springs Specific Plan to include the *Financing Plan* for the Specific Plan.

March 10, 2015, The Board directed staff to provide additional information regarding the Warm Springs Specific Plan and provide options for the Board to address the grievance.

BACKGROUND

Staff has determined that there are potentially three options that the Board could exercise, but the full due diligence and vetting of those options will take a few more weeks to complete for presentation to the Board on May 12, 2015. The options range from continuing the current practice based on the approved Specific Plan Area (SPA) which includes the Financing Plan that is being questioned by the developers, removing the Financing Plan completely from the plan, or some type of combination of those two options.

Progress to date on the questions asked by the Board is as follows:

How do we expedite a refund?

There are many factors involved in the refund of any of the fees held by Washoe County associated with the SPA that need to be addressed prior to refund. The process if directed by the Board could take as long as ten months to complete. This is not due to an unwillingness to refund the money; it is due to the complicated nature of potentially undoing the Financing Plan associated with the SPA (will require a Master Plan Amendment), creating a process whereby any landowner who may have a claim on the funds is fairly recognized, and dissolution of the 11 development agreements currently in place based on the Financing Plan.

How do we fix the problem?

Currently staff has identified that the problem may be the Financing Plan adopted with the SPA. There was a reason that the plan was brought forward in 1995 and staff continues to research and understand the need for the plan. This is the only development within Washoe County that has these constraints with a Financing Plan.

Make sure language is clear that no land division smaller than 2.5 acres will be allowed

Staff will continue to pursue the merits of the SPA and the current division of land in relation to the Financing Plan and the Warm Springs Area Plan. Any project application that contemplates the division of land will follow the NRS 278, the Washoe County development code, and the Washoe County Master Plan including the Warm Springs Area Plan. Some of the constraints with development within the area include water resources and wastewater disposal.

Make sure that Washoe County is not liable for potential entitlements granted with current land splits for water, sewer, and roadway infrastructure

Staff will identify for the Board any potential liabilities with the options brought forward on May 12th.

Determine whether there are any other developments in the County that are similarly situated – fair treatment for all

Staff has determined that this is the only development within Washoe County that contains a financing plan that Washoe County is acting as a fund custodian.

Provide a mechanism for indemnification from each property owner and each sub-property owner

Based on the action of the Board staff will work diligently to define a process whereby each property owner will indemnify Washoe County.

It is important for the Board to understand that there is no legal reason to refund the monies paid for development associated with the SPA Financing Plan absent an agreement by the County to do so. To date, the development agreements recorded by Washoe County and located in connection with staff research into this issue do not contain a provision for refunding of fees if no construction has occurred either in 5 years or 10 years from signing the agreements. The Board will receive information and options at a future meeting that will allow an informed decision to be made regarding the future of the fees.

There has been a question regarding the status of the funds specifically held by Washoe County and collected with the execution of development agreements. The following table outlines the monies held by Washoe County.

NAME	DEPOSIT AMOUNT	FUND BALANCE Projected to 6-30-2015	TOTAL EARNINGS ON DEPOSITED AMOUNT
Agreement A	65,863.00	96,643.15	30,780.15
Agreement B	19,448.00	31,831.45	12,383.45
Agreement C	19,448.00	31,848.11	12,400.11
Agreement D	29,172.00	45,725.91	16,553.91
Agreement E	16,155.00	23,272.50	7,117.50
Agreement F	16,155.00	19,850.20	3,695.20
Agreement G	50,584.00	59,113.95	8,529.95
Agreement H	80,448.00	93,224.12	12,776.12
Agreement I	6,428.00	7,448.84	1,020.84
Agreement J	295,608.00	342,554.16	46,946.16
Agreement K	19,881.00	21,496.38	1,615.38
TOTAL	\$619,190.00	\$773,008.78	\$153,818.78

The following is information that has been compiled regarding the history of the land in question and includes background information that staff is using to answer the questions asked by the Board in preparation of the options to address the grievance.

The lands in question date back to the 1970's when a landowner brought forward to the Washoe County Commission a concept of Pyramid City. The creation of a housing/commercial development so far out from the major populous at the time that the Board of County Commissioners rejected the development. The land owner was allowed to divide the land into 40 acre parcels, and the Palomino Valley General Improvement District (PVGID) was formed to provide road maintenance. As those parcels were sold and the entire region started to grow in the late 1980's the new property owners in the Warm Springs area approached Washoe County to assist in creating a process whereby they could divide and develop their large parcels into smaller parcels. The result is the Warm Springs Specific Plan (SPA) which is a part of the Warm Springs Area Plan.

The SPA encompasses approximately 3,983 acres within the Warm Springs planning area. The overall goal of the SPA is to direct planned growth for higher density residential development within specified boundaries. The plan projects a maximum of 1,741 residential units within the boundary, but that number is dependent on water resources. Important appendices to the Warm Springs Specific Plan include:

- Evaluation of Water Resources
- Water Budget
- Financing Plan, and
- Development Standards Handbook Framework

The two appendices that further evaluate water resources are an indication of how critical the management of the available groundwater resources are to the Warm Springs Planning Area. An accomplishment of the SPA is tying growth to the identified water resource for the Warm Springs Hydrographic Basin, which yields 3,000 acre feet annually. The other two appendices create the Development Standards Handbook Framework and the Financing Plan which are pertinent to the Board requested information.

The SPA adopted in 1992 conceptualizes that all property owners within the boundary will pay their fair share of the costs to support the backbone infrastructure necessary for development. This is an important concept due to the increased demand on services as the SPA envisions a major property development will occur with housing densities of one unit per acre and will be required to install a substantial amount of the needed SPA infrastructure, such as a community water system, paved roadways and flood control channels, however development of that scale has not yet occurred. A financing plan was adopted in 1995 as an appendix to the SPA which allowed the property owners to utilize the higher density regulatory zones and create 2.5 and 5 acre sized parcels prior to installation of the infrastructure necessary for full development of the SPA. In order to utilize the higher density regulatory zones, the property owners are required to enter into a "development agreement" with the County as a condition of project approval (WSSP.8.1). This has occurred with 11 property developers to date.

The financing plan requires collection of a series of fees at final map recordation, in lieu of constructing the infrastructure typical to a development, which is specified in the development agreement. These fees represent a proportionate share of future SPA backbone infrastructure costs and are held in special accounts until construction is initiated by a development. The Financing Plan allows the County to be the recipient of and administer the following funds within the SPA:

- Community water system
- Roadway system
- Storm water management facilities
- Law enforcement and fire protection
- Parks and open space, and
- Community center

Each property developer who has a signed developer agreement understood at the time that they were paying into a fund that would be used for backbone infrastructure necessary to properly support their divided land, and that Washoe County and the PVGID would not be responsible for development or funding the needed improvements. The financing plan simply requires the County to collect and hold the fees in special accounts until disbursement to an authorized contractor installing or constructing the SPA infrastructure.

The developer agreements require that when property is sold within the SPA a disclosure statement be signed by the purchasers of the property. The disclosure statement is intended to provide basic information about aspects of the Warm Springs Specific Plan such as:

- Infrastructure Fee Payment
- The Warm Springs Specific Plan
- Roadway Maintenance
- Design Handbook
- Future Assessment Districts

The agreement also makes it clear that the agreements are covenants which shall run with the property.

FISCAL IMPACT

No fiscal impacts are anticipated at this time.

RECOMMENDATION

It is recommended that the Board of County Commissioners acknowledge receipt of the update and discuss possible direction to staff on requests for refund of infrastructure fees held by Washoe County for the Warm Springs Specific Plan Area.

POSSIBLE MOTION

Move to acknowledge receipt of the update and give the following direction _____
_____ to staff on requests for refund of infrastructure fees held by Washoe County for the Warm Springs Specific Plan Area.

