



COUNTY OF NEVADA
COMMUNITY DEVELOPMENT AGENCY
950 MAIDU AVENUE, SUITE 170, NEVADA CITY, CA 95959-8617
(530) 265-1222 FAX (530) 478-5799 <http://mynevadacounty.com>

Sean Powers, Agency Director

Agricultural Commissioner

Building Department

Environmental Health

Planning Department

Dept. of Public Works

NEVADA COUNTY BOARD OF SUPERVISORS
Board Agenda Memo

MEETING DATE: July 17, 2018

TO: Board of Supervisors

FROM: Daniel Chatigny, Chief Fiscal Administrative Officer

SUBJECT: A resolution to approve an application for the County to purchase tax-defaulted property from the Nevada County Tax Collector through a Chapter 8 Tax Sale.

RECOMMENDATION: Approve the resolution.

FUNDING: This Resolution for application to purchase tax-defaulted property does not have an immediate financial impact. On August 14th, the Treasurer-Tax Collector will bring an item to the Board requesting authorization to take the next step to actually purchase the property and staff will then make a recommendation on funding to be used for the purchase.

BACKGROUND: In 2006, the Board of Supervisors, by Resolution 06-163, approved an Affordable Rental Housing Development Agreement ('Agreement') with Baldwin Ranch Limited Partnership ('Developer'). The Agreement fulfilled a condition of project approval for the DarkHorse subdivision related to affordable housing. The Agreement was designed to allow for the transfer for affordable housing requirements from Phases II and III to a parcel of land known as DarkHorse Phase IV. The Agreement requires the Developer to (a) pay an in-lieu fee on certain lots within Phases II and III of the Darkhorse subdivision to cover the cost of installing infrastructure on the Phase IV property and (b) construct up to 30 affordable rental units on the Phase IV property within 4 years of the effective date of the Agreement. The Agreement allows the County to foreclose on the Phase IV property if the Developer defaults on these obligations.

During the Great Recession, the Darkhorse development failed and the Developer went into bankruptcy. No funds were ever collected to pay for infrastructure on the Phase IV parcel and the Developer stopped paying property taxes on the property. By 2011, the Developer was in full material breach of the Agreement having failed to construct any affordable housing units on the Phase IV property. In recent years, staff has attempted to reach the property owner with no success. At this point, the Developer appears to have abandoned the Phase IV parcel. Due to the County's existing lien on this property and lack of infrastructure on the parcel, this property is highly unlikely to sell either on the open market or through a property tax auction without County intervention.

On October 24, 2017, by Resolution No. 17-0359, the Board of Supervisors approved an agreement to modify the in-lieu fee requirement for the previously designated Phase II and Phase III lots and

release any remaining affordable housing restrictions related to those parcels. At that time, a discussion regarding this remaining Phase IV parcel occurred and staff offered to come back in the future with a process for addressing the Phase IV parcel. (It should be noted the County has received payment in full under the in-lieu fee Agreement and the funds received were deposited into the County's Housing Fund to be applied toward a future project.)

The 2006 Affordable Rental Housing Development Agreement remains a lien against the Phase IV property. The County now has the legal right to foreclose on and take possession of this property at any time. If the County were to take title to the property based on the Developer's default, the County has complete discretion regarding how it utilizes the property to create affordable housing units, including but not limited to an option to sell or exchange the property to facilitate construction of affordable housing units elsewhere or to assist low income buyers with down payment funding.

Affordable housing is a Priority A Board objective. Therefore, staff has been evaluating various options for clearing title to and taking possession of the property so that it may be used in some way to serve the public purposes for which it was originally intended. Staff has considered initiating a formal foreclosure proceeding to mitigate this situation, however foreclosure is a time consuming and costly process which could quickly outstrip the value of the property.

Because this property has been in tax default for more than 5 years, it is subject to being sold at a tax auction this November. Therefore, an alternative method for clearing title and taking possession is through Chapter 8 of the Revenue and Taxation Code. A Chapter 8 tax sale gives the County the opportunity to purchase tax defaulted property for a public purpose, subject to approval by the State Controller's Office.

County staff has determined the purchase of this property will serve public purposes by allowing the County to resolve the outstanding County lien, use this property in some way to provide local affordable housing and return an otherwise abandoned property to a productive use. Therefore, staff has determined that acquisition of this parcel through a Chapter 8 Tax Sale is appropriate and that clearing title through a Chapter 8 Tax Sale would be more efficient and less costly than a traditional foreclosure process.

Staff recommends the County purchase the property through a Chapter 8 Tax Sale. The result of both processes is the same: the County will take title to the parcel with the intent to utilize the property in some manner to facilitate construction of affordable housing in the County while also returning the property to a productive state, while maintaining full discretion to determine how the parcel may be best utilized to support affordable housing units. Taking title to the property also allows the County to cure the tax delinquency and prevent further property taxes and related charges from continuing to accrue against the property while the County evaluates next steps.

The tax auction purchase price for the property has not been fully calculated yet but staff expects the minimum purchase price to equal the amount of delinquent property taxes, penalties and interest which have accrued prior to the sale date. At this time, the unpaid property taxes are approximately \$14,000 without penalties and interest, and \$29,000 with the assessed penalties and interest.

Staff recommends approval of the attached Resolution which authorizes the Chair of the Board to sign the application for a Chapter 8 sale. If the Board elects to proceed with a Chapter 8 Sale and the state approves the proposed purchase, the Treasurer-Tax Collector will return to the Board of Supervisors on August 14, 2018 to request approval of the Agreement to Purchase this tax defaulted property and provide further details on the remainder of the Chapter 8 sale process.

Item Initiated by: Daniel Chatigny
Item Approved by: Sean Powers

Submittal Date: June 28, 2018
Revision Date: July 3, 2018