

Request For Board Action

REFERRED TO BOARD: November 16, 2015

AGENDA ITEM NO: 5,6 & 7

ORIGINATING DEPARTMENT: Administration

SUBJECT:

- 1. Consideration of a Resolution authorizing Execution of a Renewed and Restated Development Agreement Relating to the Clublands Subdivision**
- 2. Consideration of an Ordinance Providing for Issuance of Not to Exceed \$26,000,000 Village of Antioch, Lake County, Illinois Special Service Area Number One and Two Special Tax Refunding Bonds, Series 2015 (Deercrest/Clublands Project) and Providing for the Levy of a Direct Annual Tax on Taxable Property Therein for the Payment of the Principal of and Interest on Such Bonds.**
- 3. Consideration of a Resolution Authorizing the Acquisition of Certain Tax Certificates by the Village and Transfer thereof to Developer Pertaining to the Clublands and Deercrest Developments**

SUMMARY AND BACKGROUND OF SUBJECT MATTER:

The Village currently has established SSA 1 for Deercrest and SSA 2 for Clublands which were established to pay for certain public improvements in those subdivisions pursuant to the Anest Settlement Agreement. The previous developer, Neumann Homes went bankrupt in 2007 leaving behind a legacy of subdivision issues related to the public improvements, and many other issues arising from default on its obligations to perform under various developer agreements. The subdivisions have been dormant since they infrastructure was completed.

Due to the subdivisions being partially built out with NeuHaven (Deercrest) about 80 % built and Clublands about 30% built, the corresponding SSA's are experiencing difficulties because of the lack of tax collections and high delinquencies. Based on more favorable rates in the current market, a restructuring of the SSA debt in both SSAs into a single 2015 bond issue at reduced rates can achieve a savings to the bond issues and to the taxpayers. In conjunction with the SSA refinancing, the reconciliation of the past due taxes can assist the developments to proceed with a subsequent developer, Troy Mertz. Mr. Mertz approached the Village about a year and a half ago to propose new development in the subdivisions.

Mr. Mertz controls the property and has proposed to re-plat a section of Deercrest from townhomes to single family lots. He also has plans to develop Clublands by selling lots to homebuilders. 56 lots are currently ready for building permit in the Clublands subdivision with approximately 120 more that will be permitable once the Miller Road Storm Sewer is completed. The balance of the lots in the Clublands will require some sort of infrastructure improvement.

The actions required of the Board to effect this SSA refinancing, and for development to continue are threefold: 1) A new development agreement 2) A bond ordinance authorizing the restructuring of SSA debt, and 3) An authorization to acquire tax certificates and transfer them to the developer. These actions will set in motion the required sequence of events to allow a bond sale, the development to continue in Clublands, and the reconciliation of the delinquent taxes.

FINANCIAL IMPACT:

\$2 million minimum over the term of the issue.

DOCUMENTS ATTACHED:

1. Resolution for Development Agreement
2. Development Agreement
3. Bond Ordinance
4. Exhibits to Bond Ordinance
5. Resolution for tax certificates

RECOMMENDED MOTIONS:

1. Move to approve a **Resolution authorizing Execution of a Renewed and Restated Development Agreement Relating to the Clublands Subdivision**
2. Move to Approve an Ordinance Providing for Issuance of Not to Exceed \$26,000,000 Village of Antioch, Lake County, Illinois Special Service Area Number One and Two Special Tax Refunding Bonds, Series 2015 (Deercrest/Clublands Project) and Providing for the Levy of a Direct Annual Tax on Taxable Property Therein for the Payment of the Principal of and Interest on Such Bonds
3. Move to Approve a Resolution Authorizing the Acquisition of Certain Tax Certificates by the Village and Transfer thereof to Developer Pertaining to the Clublands and Deercrest Developments

Resolution No. 15-xx

A RESOLUTION AUTHORIZING THE ACQUISITION OF CERTAIN TAX CERTIFICATES BY THE VILLAGE AND TRANSFER THEREOF TO DEVELOPER PERTAINING TO THE CLUBLANDS AND DEERCREST DEVELOPMENTS

WHEREAS, in 2002, the Village of Antioch (the "**Village**") established the Village's Special Service Area Number One ("**SSA No. 1**") with respect to the development commonly known as Deercrest/NeuHaven ("**Deercrest**"); and

WHEREAS, also in 2002, the Village of Antioch established the Village's Special Service Area Number Two ("**SSA No. 2**" and, together with SSA No. 1, the "**SSAs**") with respect to the development commonly known as the Clublands (the "**Clublands**" and, collectively with Deercrest, the "**Developments**"); and

WHEREAS, the original developer of Deercrest and the Clublands went into bankruptcy and ownership of parcels in the Developments owned by the original developer have been owned by multiple parties in the intervening years; and

WHEREAS, the ad valorem real estate taxes and the special taxes over the past several years have not been paid and currently remain unpaid with regard to parcels within the Developments and have been subjected to the tax sale process by Lake County; and

WHEREAS, pursuant to the tax sale process, Lake County, as trustee for the taxing districts, presently holds tax certificates on substantially all of the parcels for which there are unpaid taxes within the Developments (the "**Tax Certificates**");

WHEREAS, Antioch Land Trust LLC ("**ALT**"), with respect to Deercrest and BMB Associates I LLC ("**BMB**" and, together with ALT, the "**Developer**") with respect to Clublands, is the successor in ownership to a majority of the parcels previously owned by the original developer which were not sold to third-party homebuyers; and

WHEREAS, the Village has proposed refunding the currently outstanding bonds secured by the SSAs (the "**Prior Bonds**") by the issuance of a new combined refunding bond series (the "**Refunding Bonds**"); and

WHEREAS, pursuant to discussions with Lake County, Lake County has agreed that, with the consent of the Village, it will deliver the Tax Certificates to the Village, in exchange for payment by the Developer of an amount equal to the outstanding ad valorem taxes owed on each such parcel plus certain fees incurred by Lake County in the tax sale process, but excluding payment for the amount of any outstanding special service area taxes; and

WHEREAS, upon the County's delivery of the Tax Certificates to the Village, the Village agrees to hold the Tax Certificates in escrow pending issuance of the Refunding Bonds and shall, contemporaneously with the issuance of the Refunding Bonds, transfer the Tax Certificates to the Developer or its designee;

Village of Antioch, Illinois

NOW THEREFORE, BE IT RESOLVED BY THE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF ANTIOCH, ILLINOIS, as follows:

Section 1. **Recitals.** The recitals set forth above are hereby incorporated into and made a part of this Resolution as though set forth in this Section 1.

Section 2. **Approval; Authorization.** The Village President and/or Village Administrator of the Village of Antioch is hereby authorized and directed to (a) work with the Developer and Lake County to acquire the Tax Certificates and (b) contemporaneously with the closing of the Refunding Bonds, transfer such Tax Certificates to the Developer or its designee.

Section 3. **Effective Date.** This Resolution shall be in full force and effect after its approval in the manner provided by law.

PASSED BY THE BOARD OF TRUSTEES OF THE VILLAGE OF ANTIOCH, ILLINOIS,
ON THIS ____ DAY OF _____, 2015.

ATTEST:

LAWRENCE M. HANSON, MAYOR

LORI K. FOLBRICK, VILLAGE CLERK