

# **BEMIDJI ECONOMIC DEVELOPMENT AUTHORITY**

## **A G E N D A**

**January 21, 2014**

**7:00 p.m. (or soon thereafter)**

**City Hall Council Chambers**

1. CALL TO ORDER
  
2. CONSIDER A RESOLUTION APPROVING THE DECERTIFICATION OF TAX INCREMENT FINANCING DISTRICT 6 – BIRCHHAVEN IN THE CITY OF BEMIDJI
  
3. CONSIDER APPROVING THE TERMINATION OF A PURCHASE AGREEMENT WITH SOUTH SHORE LANDING, LLC
  
4. ADJOURN

## **BEDA AGENDA ITEM**



**Meeting Date:** January 21, 2014

**Action Requested:** Decertify Birchhaven (ElderCare of Bemidji, Inc.)  
Tax Increment District

**Prepared By:** Ron Eischens, Finance Director *Ron*

**Reviewed By:** John Chattin, City Manager

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In 1999 the City created the above TIF District. The TIF Financing plan and legal documents state the TIF district terminates effective 08/01/2013.

The City is not allowed to keep excess revenue collected from a TIF district. The City will be repaying approximately \$21,000 in tax increment that we have collected from this district to Beltrami County, which they will refund to the taxing jurisdictions.

The properties included in this TIF district will be included in the regular tax base for 2014.

### **Recommendation:**

Approve resolution decertifying TIF District 6 effective August 1, 2013.



# **BEDA AGENDA ITEM**



**Meeting Date:** January 21, 2014

**Action Requested:** Stipulation for Cancellation of Purchase Agreement, South Shore Landing, LLC

**Prepared By:** Alan R. Felix, City Attorney

**Reviewed By:** John M. Chattin, City Manager

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## **Background:**

BEDA Staff has been coordinating with the Developer (South Shore Landing) of the proposed multi-unit apartment complex in the South Shore Development, in particular, the pursuit of monies to remediate the soil conditions impacting the suitability of the site for the intended use as an apartment complex. That effort in part has achieved a proposal by WSN outlining a proposed Development Response Action Plan (DRAP) and, more importantly, an estimated cost to clean up the soil conditions in question.

Unfortunately, the estimated cost is roughly \$550,000, which sum is deemed by South Shore to be prohibitively high for the Developer to proceed with the sale and development of the property. Consequently, Staff and Developer have discussed mutually agreeing to a cancellation of the purchase agreement previously entered into by the parties.

To that end, a draft Stipulation for Cancellation of the Purchase Agreement has been prepared and is attached for your consideration and approval. Staff will be present and prepared to answer questions you may have regarding the matter.

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## **Recommendation:**

Consider proposed Draft Stipulation for Cancellation of Purchase Agreement with South Shore Landing, LLC

**DRAFT**

**STIPULATION AGREEMENT FOR CANCELLATION OF PURCHASE  
AGREEMENT**

This Stipulation Agreement for Cancellation of Purchase Agreement (“Stipulation Agreement”) is entered into effective as of January \_\_, 2014 by and between the Bemidji Economic Development Authority (“BEDA”), and South Shore Landing, LLC, (“Developer”).

**RECITALS**

**WHEREAS**, the BEDA and Developer previously entered into that certain Purchase Agreement (the “Purchase Agreement”) dated August 5, 2013, for the sale of the real property legally described therein as **Lot 1, Block 5, South Shore Addition**, according to the recorded plat thereof, on file and of record in the office of the County Recorder, Beltrami County, Minnesota, (the “Development Property”); and

**WHEREAS**, the BEDA and Developer modified the Purchase Agreement by that certain Amendment to Purchase Agreement (the “Amendment”) dated November 20, 2013, which Amendment extended the closing date on the sale of the Development Property pending and conditioned on the further investigation and coordinated effort to secure remediation monies to render the Development Property suitable for the Developer’s intended use as a multi-unit residential housing development. (The Purchase Agreement and Amendment are collectively referred to herein as the “Purchase Agreement”); and

**WHEREAS**, the parties’ coordinated remediation investigation efforts have resulted in part in the preparation of a cost estimate for the preparation of a Development

Response Action Plan (DRAP) and, more particularly, an estimate for the cleanup of the Development Property, which DRAP preparation and cleanup are estimated to cost approximately \$550,000 (the "cost estimate"); and

**WHEREAS**, the cost estimate has been determined by Developer to be prohibitive of its ability to proceed with the purchase and development of the Development Property; and

**WHEREAS**, the BEDA is in agreement that the suitability of the Development Property for the Developer's intended use is in doubt particularly with respect to the cost entailed in remediating the property to make it suitable; and

**WHEREAS**, the parties mutually desire to cancel and terminate the Purchase Agreement in compliance with the terms and condition of this Stipulation Agreement.

**NOW, THEREFORE**, the parties hereto agree as follows:

1. Cancellation of Purchase Agreement. Except for the BEDA's retention of the sum of \$3,000.00, which agreed upon sum is a portion of the \$35,000 total earnest money paid by Developer at the time of execution of the Purchase Agreement, the Purchase Agreement, and all of the terms and conditions thereof, is hereby cancelled and terminated as of the date first written above. Upon execution of this Stipulation Agreement by the parties, the BEDA shall remit to Developer the remainder of the earnest money totaling \$32,000.00, plus interest earned thereon up to the date of cancellation.

2. Mutual Release of Claims, including for Specific Performance. The parties mutually release and forever discharge each other, and their successors, agents, employees, representatives, members, directors, and any other person or entity affiliated

with any of the foregoing, from any and all claims, debts, accounts, contracts, agreements, promises, warranties, and causes of action that each ever had, now have, or may hereafter have against each other by reason of any matter or thing arising out of or in connection with the terms and conditions of the Purchase Agreement. It is the specific intent of the parties to release and discharge each other and their successors, agents, principals, employees, representatives, members, directors, and any other person or entity affiliated with any of the foregoing, from any and all claims and causes of action of any kind or nature whatsoever, whether known or unknown, express or implied, and whether specifically mentioned or not, which may exist or might be claimed to exist, at, prior to, or subsequent to the date of this Stipulation Agreement that arise out of or are connected with the Purchase Agreement, and the parties specifically waive any claim or right to assert any claim seeking Specific Performance of the Purchase Agreement.

3. Interpretation. This Stipulation Agreement is formed and executed in the State of Minnesota and will be governed by the laws of the State of Minnesota. The headings in this Stipulation Agreement are intended solely for the convenience of reference and will be given no effect in the construction and/or interpretation of this Stipulation Agreement; however, the recitals herein are an essential part of this Stipulation Agreement.

4. Counterparts. This Stipulation Agreement may be executed in counterparts, each with the full force and effect of an original document.

5. Successors and Assigns. This Stipulation Agreement will be binding upon and inure to the benefit of the respective successors, assigns, and legal representatives of the parties hereto. Nothing in this Stipulation Agreement, express or implied, is intended

to confer upon any person other than the parties hereto or their respective successors or assigns, any rights or benefits under or by reason of this Stipulation Agreement.

**IN WITNESS WHEREOF**, the undersigned represent and warrant that they have full authority to enter into this Stipulation Agreement and bind the party on whose behalf they are signing and that they have executed this Stipulation Agreement effective as of the date written above.

**Bemidji Economic Development Authority    South Shore Landing, LLC**

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By: Rita C. Albrecht, Its President

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By: Ryan Carlson, Its Vice President