



WASHOE COUNTY

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STAFF REPORT

BOARD MEETING DATE: August 31, 2020

DATE: August 20, 2020

TO: Board of County Commissioners

FROM: Dwayne Smith, P.E., Division Director, Engineering and Capital Projects
Community Services Department, 328-2043, desmith@washoecounty.us

THROUGH: Dave Solaro, P.E., Arch., Assistant County Manager
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SUBJECT: Recommendation and possible action to approve and authorize the Chair to sign a Compromise and Settlement Agreement between Washoe County and Betty and Oscar Dykes the terms of which provide for a payment by Washoe County in the amount of \$325,000 in exchange for conveyance by the Dykes to Washoe County of clear title to the properties at Washoe County APN 534-561-06 and APN 534-561-07 upon which the North Spanish Springs Flood Control Facility is constructed; a complete and full settlement of any and all ownership or other claims by the Dykes concerning the County's use and construction of the North Spanish Springs Flood Control Facility; other terms consistent therewith as described in the Compromise and Settlement Agreement; authorize staff to take all actions necessary to finalize and fulfill the terms of the Agreement; and authorize the Chair to sign and execute all documents necessary to effectuate the final conveyance of title to the two properties by the Dykes to Washoe County and any other terms of the Agreement. [\$325,000.00 – Utilities Fund]. (Commission District 5.)

SUMMARY

This is a possible settlement for the acquisition of two land parcels, APN 534-561-06 and APN 534-561-07, located in unincorporated North Spanish Springs. The subject parcels, located on the southeast corner of Calle de la Plata and Pyramid Highway, contain portions of the North Spanish Springs Flood Detention Facility (NSSFDF) infrastructure, a project completed in 2007 constructed to mitigate regional storm and flood impacts in the area.

The terms of the Compromise and Settlement Agreement (Agreement), attached as Exhibit A to this staff report, between Washoe County and Betty and Oscar Dykes (property owners), identify the payment for the subject properties, the transfer process of ownership of the subject parcels to Washoe County and the settlement and release all issues regarding the subject properties. Each party is responsible for their own legal costs and Washoe County will be responsible for any closing costs, if applicable, for the conveyance of the properties.

AGENDA ITEM # _____

Washoe County Strategic Objective supported by this item: Safe, secure and healthy communities.

PREVIOUS ACTION

There has been no previous action regarding the settlement for the subject properties. All previous project design, construction and associated actions were initiated in the early 2000's for the benefit of the North Spanish Springs Flood Detention Facility project.

BACKGROUND

As is recited in the Compromise and Settlement Agreement, the settlement of this matter arises from a situation in which fee title ownership of two land parcels was initiated in 2006, between Washoe County and a third party, who agreed in a donation agreement to donate the property to Washoe County in exchange for work performed by the County, but for unknown reasons the transfer of the subject properties to Washoe County was never completed. Concurrently Washoe County initiated construction of the North Spanish Spring Flood Detention Facility (NSSFDF) including the construction of a sedimentation pond and low-height dam on the subject parcels which was completed in 2007. Betty and Oscar Dykes, the original property owners who sold to the third party, regained full ownership of the properties in 2010 when they foreclosed on the property, which occurred prior to the property being conveyed to Washoe County as agreed to in the donation agreement. The foreclosure action put the status of the ownership of the property in doubt, and the Dykes and County had unsuccessful discussions in 2011-12 concerning the ownership interests of the parties. In 2019 the Dykes re-asserted their rights. The Parties have engaged in negotiations through their legal representative and have arrived at an acceptable solution to resolve the property ownership issue.

An appraisal of the subject properties was performed which specifically identified a valuation for two points in time, 2010 and 2020. Both evaluations were based on a vacant property and the 2010 retrospective value was identified as \$275,000 and the 2020 current value was identified as \$560,000.00.

The terms of the Compromise and Settlement Agreement identify the payment of \$325,000 for the subject properties, transfer of ownership of the subject parcels to Washoe County and the settlement and release of all issues regarding the subject properties. Each party is responsible for their own legal costs and Washoe County will be responsible for any closing costs, if applicable, for the conveyance of the properties.

FISCAL IMPACT

Sufficient funds and budget authority in FY2021 exists for the payment of subject properties, transfer of ownership of the subject parcels to Washoe County, and the settlement and release of all issues regarding the subject properties in the Utilities Fund (566), Storm Water Operation (664700), Settlement Payments (710402).

RECOMMENDATION

It is recommended that the Board of County Commissioners approve and authorize the Chair to sign a Compromise and Settlement Agreement between Washoe County and Betty and Oscar Dykes the terms of which provide for a payment by Washoe County in

the amount of \$325,000 in exchange for conveyance by the Dykes to Washoe County of clear title to the properties at Washoe County APN 534-561-06 and APN 534-561-07 upon which the North Spanish Springs Flood Control Facility is constructed; a complete and full settlement of any and all ownership or other claims by the Dykes concerning the County's use and construction of the North Spanish Springs Flood Control Facility; other terms consistent therewith as described in the Compromise and Settlement Agreement; authorize staff to take all actions necessary to finalize and fulfill the terms of the Agreement; and authorize the Chair to sign and execute all documents necessary to effectuate the final conveyance of title to the two properties by the Dykes to Washoe County and any other terms of the Agreement. [\$325,000.00 – Utilities Fund].

POSSIBLE MOTION

Should the Board agree with staff's recommendation, a possible motion would be: "Move to approve and authorize the Chair to sign a Compromise and Settlement Agreement between Washoe County and Betty and Oscar Dykes the terms of which provide for a payment by Washoe County in the amount of \$325,000 in exchange for conveyance by the Dykes to Washoe County of clear title to the properties at Washoe County APN 534-561-06 and APN 534-561-07 upon which the North Spanish Springs Flood Control Facility is constructed; a complete and full settlement of any and all ownership or other claims by the Dykes concerning the County's use and construction of the North Spanish Springs Flood Control Facility; other terms consistent therewith as described in the Compromise and Settlement Agreement; authorize staff to take all actions necessary to finalize and fulfill the terms of the Agreement; and authorize the Chair to sign and execute all documents necessary to effectuate the final conveyance of title to the two properties by the Dykes to Washoe County and any other terms of the Agreement. [\$325,000.00 – Utilities Fund]."