

Indian River County, Florida
Department of Utility Services
Board Memorandum

Date: September 8, 2020
To: Jason E. Brown, County Administrator
From: Vincent Burke, PE, Director of Utility Services
Prepared By: Cindy Corrente, Utility Finance Manager
Subject: 4730 40th Avenue, Gifford Gardens Property Utility Account

Background:

On September 25, 2017, Mr. Leonard Green purchased the former Gifford Gardens Apartment Complex property located at 4730 40th Avenue, for \$5,900.00. At the time, there was a utility lien on the property for \$263,538.95. The property currently has 55 multi-family water and sewer Equivalent Residential Units (ERUs) affiliated with it. Although the apartment buildings are demolished, the service to the property is still active, and service availability charges continue to accrue.

On February 18, 2020, the Board of County Commissioners (BCC) approved the Affordable Housing Advisory Committee’s recommendation to purchase the property for \$10,000. The County has since closed on the property.

On August 24, 2020, County staff informed the Code Enforcement Board (CEB) of the County’s intent to facilitate redevelopment of the property with affordable housing and recommended releasing the lien for the code violations that were on the property. The CEB agreed to release the lien.

In accordance with County Code Section 201.08B, service availability charges continue to accrue on every connected ERU as required to reserve capacity in the system. Per section 201.08J (4), for any unpaid balances due, delinquency charges accrue. As of September 2020, \$483,468.74 in service availability charges (aka base charges) and delinquency charges have accrued against the property. There is a utility lien in place for this amount.

The charges and fees are broken down in the table below:

Service Availability Charges	Delinquency Charges	Total
\$157,915.81	\$325,552.93	\$483,468.74

Indian River County Department of Utility Services (IRCDUS) staff has already been working on developing policy for BCC consideration regarding 296 past due utility accounts. This task was per BCC directive from a March 17, 2020, meeting. During that meeting, Mr. Brodley Williams requested the BCC to consider removing some of the fees affiliated with a lien on a property that he and his father purchased in a tax deed sale. The BCC, requesting more information due to the complexity of the

subject, directed staff to develop policy and options for dealing with situations like that of Mr. Williams and to bring something back for consideration.

When staff began work on this directive, they analyzed the 296 past-due utility accounts that have significant balances on them. One of the accounts is the Gifford Gardens property. Therefore, staff had already been devising various options for BCC consideration. Some of that work is reflected in the options presented herein.

Analysis:

The County and other stakeholders are looking for ways to re-purpose the Gifford Gardens property as a potential site for low-income housing for up to 22 single-family homes. However, one major issue is the existing utility lien and excess ERUs associated with the property.

First, the ERUs on the property are sufficient for 55 multi-family homes. This is more than the capacity required for 22 single-family homes. A decision regarding excess ERUs is one option for BCC consideration. Second is the utility lien. Until this matter is resolved, the property is hampered by the sizeable balance due on the account, which outweighs the value of the property.

Staff has developed various options for the BCC's consideration in order to resolve the utility issues as listed below:

1. Reimburse IRCDUS \$483,468.74 from the County's General Fund. Obviously, this has a significant impact on the County fund balance and could cause unwanted precedence with respect to IRCDUS operations, its operational needs and potentially covering its costs through County taxpayers. This option, while beneficial to IRCDUS, is not recommended due to the high financial costs associated with using General Fund reserves.
2. Reimburse IRCDUS for accrued service availability fees in the amount of \$157,915.81 from the General Fund. This is to offset the accrued past-due service availability fees. If this option is exercised, IRCDUS will have to write off the \$325,552.93 in delinquency charges as a utility "bad debt" expense. This option will require a budget amendment for IRCDUS and the General Fund to be paid from reserves.
3. Relinquish all of the ERUs affiliated with the parcel. This will eliminate any new fees from accruing against the property. However, it will require a property owner or developer to purchase water and sewer impact fees, currently \$4,096 for a single-family home, before pulling any building permits. This equates to \$90,112 for 22 single-family homes. Part of the solution being researched is to find a way to satisfy IRCDUS' operational costs while minimizing the payments due and preserving the previously invested impact fees associated with the property, which would entice future re-purposing of the property to serve the needs of low-income residents.
4. Relinquish 29 multi-family (MF) ERUs and convert the remaining 26 MF ERUs to 22 single-family (SF) ERUs (0.85 conversion factor per County code 201.08), and:
 - a. Pre-pay 24 months of the service availability fees for the 22 SF ERUs at a monthly cost of \$567.82 ($567.82 \times 24 = \$13,627.68$). This will minimize the accrual of service availability charges;

Or

- b. Let the service availability charges accrue. These charges will have to be brought current before obtaining a building permit. However, if the property were developed within twenty-four months, this would be a maximum of only \$619.44 per SF ERU.
- 5. If the property is not developed within 24 months, relinquish the 22 SF ERUs remaining on the property and cease any more accrual of service availability fees.
- 6. Allow a one-time creative solution that would be in the interest of all stakeholders in the affordable housing project for the former Gifford Gardens property. This solution would be a one-time BCC directive for the County-owned property to be used for affordable housing. This option is not intended to set a precedence for future properties. Under this option, the past due service availability fees would be re-calculated as if the property had the 22 SF ERUs affiliated with it from the time the first past-due service availability fees were accrued. This recalculated amount is \$89,343.27. This recalculation would reduce the burden on the General Fund by \$68,572.54. The table below depicts the cost of the two options presented that preserve ERUs.

Option	ERUs Preserved	Cost to General Fund	Utility Bad Debt Write-off
Option 1	55MF	\$157,915.81	\$325,552.93
Option 2	22SF	\$ 89,343.27	\$394,125.47

MF = Multi-Family SF = Single Family

- 7. Direct staff to release the utility lien against the property after the recommended actions are performed.

Since the preservation of 22 SF ERU's equates to \$89,343.27 and would then carry ongoing monthly service availability charges of \$567.82 (which would need to be paid by a non-utility funding source), it may make the most financial sense to relinquish all the ERU's. The former property owner has, in essence, vacated any reserved capacity by not keeping the account current. Any future development would then be required to pay the impact fees in effect at the time of development. Currently they are at \$1300/water ERU and \$2796/sewer ERU. 22 SF water and sewer ERU's x \$4,096 = \$90,112 (\$768.73 more than the 22 ERU preservation amount).

Funding:

Funding for this may come from different sources depending on the direction from the BCC. The write-off of any utility fees would be charged to Bad Debt Expense. Currently, there is only \$20,000 budgeted for utility bad debt expense in fiscal year 19/20. A budget amendment will be required for anything written off in excess of the \$20,000. Bad debt expense is a utility operating expense. Utility operating expenses are covered by water and sewer sales. Any past-due service availability fees funded by the General Fund would require a budget amendment from General Fund reserves.

Recommendation:

Staff recommends that the Board of County Commissioners (BCC) consider the various options presented. Staff recommends that the impact fee allocation be eliminated, the general fund not be used

to preserve this impact fee investment, and the system be permanently disconnected, which would immediately stop any recurring service availability charges.

Direct IRCDUS to write off the remaining delinquency charges against utility bad debt and release the utility lien.