This brief is being provided to inform the board, staff and public of the details of an agenda item that requires action from the board. The President of the Board will provide board members, staff, and the public the opportunity to ask questions about this topic when this agenda item is announced.

**Date: March 7, 2021**

**Originator:** Rich McLaughlin

**Purpose**: To present a plan for the recovery of back CSD Fees on Lot 342 owned by the Nakoma Community Association (NCAA)

**Supporting Documents Included: Yes**

1. Draft CSD Demand Letter
2. Stop Payment Plan Schedule

**Desired Action by the Board:**  Review and approve a plan to recover back fees in the amount of $9,935 owed by the NCA on Lot 342

1. **Background**:

The Gold Mountain HOA (now the NCA) foreclosed on Lot 342 in 2012. The HOA discovered that Lot 342 was encumbered by a sizeable mortgage which made a profitable resale all but impossible. In an apparent attempt to drive the lot to a tax sale by the county, the HOA made the decision to stop all payments on the lot including CSD Fees and property taxes (which include the District Fire tax).

The CSD began billing on Lot 342 on 1 July 2012. The CSD began assessing a 10% late fee on quarterly assessments commencing first quart 2013. Commencing 4th quarter 2014, the CSD began assessing interest charges at a rate of 2.18% per quarter on the unpaid balance. As of 1 April 2021, the accrued back fees, late charges, and interest will total $9,935.

The CSD had billed the HOA/NCA each quarter since 1 July 2012, providing a complete invoice show current and all accrued charges requesting payment in full. On numerous occasions the CSD Board and GM have approached the HOA/NCA boards requesting that they bring the account current.

In July 2020, the CSD President and GM requested advice from Counsel on appropriate actions to settle the account. Counsel advised that we could not, as a Government agency, waive the fees and suggested we could offer the NCA a payment plan to pay down the debt, or the CSD could consider a legal proceeding. Counsel also suggested that the NCA may be open to a Stop Pay plan in lieu of a pay down plan. In such a plan the CSD would stop paying on our four CSD owned NCA lots until the account was settled. Counsel has reviewed and approved the attached letter and recommends sending by certified mail and begin implementation immediately.

Since 2012 the CSD has been paying $1,065 per quarter in HOA/NCA fees. Since purchasing lot 248 in September of 2020, that quarterly payment has increased to $1,420.

The proposed plan as provided in Attachment 1 (currently in legal review), gives the NCA two options, to pay in full or accept a stop payment plan in accordance with the schedule provided in Attachment 2, resulting in a pay off in first quarter 2023. The CSD will cease charging late fees in agreement that the NCA will not charge late fees on missed CSD payments. CSD will continue to assess interest on the decreasing NCA balance until the account is paid in full.

1. **Reason for Recommended Board Action:**

* As a local government agency, we are not allowed to waive the quarterly fees
* The CSD has paid in excess of $30,000 to the HOA/NCA over the period of this bad debt

1. **Anticipated Impacts to the District (negative and/or positive):**

The CSD will reduce quarterly expenses by $1,420 ($5,680 annually) over the next two years.

1. **Anticipated Impacts to the Customer – Standby, Residential, Commercial:**

CSD customers will benefit from a healthier CSD

1. **Recommendation (s):**

Board approval to send the CSD Demand Letter to the NCA Board of Directors and Management Company, and unless paid in full, cease making CSD payments on all HOA lots effective 1 April 2021.