

Memorandum

To: Mayor and City Council

From: Brian P. O'Connell, Community Development Director

Date: June 7, 2008

Re: The Crossing – Foreclosure

On Thursday, June 5 the finance director received a voicemail from an attorney from the firm of Briggs and Morgan alerting us to the fact that the Highland Bank of St. Paul has hired Briggs and Morgan to begin foreclosure proceedings on the Crossings Project in Northfield.

As a means to let the City Council know what is occurring the following points are important to understand:

- On Friday, June 6 the finance director and the community development director contacted Steve Bubul from the firm of Kennedy and Graven to alert him to the potential foreclosure proceedings and to seek his advice.
- We are assured that the financial position of the City with respect to the Crossings project, creates no financial obligation to the City with respect to the foreclosure. Our only obligation is to pay the bond holders of the tax increment revenue bonds the amount of tax revenue that the City collects. The City has no general obligation repayment responsibility with respect to the Crossing project.
- The City's financial participation in the Crossings project through the issuance of tax increment financing revenue notes to aid in the development of this project represents a very small percentage of the overall financing related to the project.
- The City will be named in the foreclosure suit between the Highland Bank and Mendota Homes, (the owner of the Crossings Projects) and will be served notice of the lawsuit on Monday, June 9.
- John Mathern, from Mendota Homes called me late Friday afternoon to inform me of the foreclosure and indicated that participating banks with the Highland Bank are involved in litigation with the Highland Bank as a means to secure their financial interest in the project. As a result, Highland Bank is foreclosing on Mendota Homes.

- The City Council at this time is not required to take any action. This memo is to alert you to the unfortunate foreclosure proceedings that are under way. Staff will stay in close contact with Mendota Homes and our legal council from Kennedy and Graven to determine what, if anything, will be necessary by the City.
- Again, it is critical to understand that even with these foreclosure proceedings the City has no obligation other than to pay the tax increment revenues collected by the City to the holders of the tax increment revenue notes. If no tax increment is collected by the City, Mendota Homes has personally guaranteed the payment to the holders of the tax increment revenue notes. The City has no general obligation payment responsibility.