

RESOLUTION 09-102

**A RESOLUTION OF THE GOVERNING BODY
OF THE CITY OF SPRING HILL, TENNESSEE
TO REVOKE A PORTION OF THE SUBDIVISION BOND OF
ROYALTON WOODS SUBDIVISION**

WHEREAS, Royalton Woods by and through Michael Smith has provided surety (S-641104) that certain public improvements would be installed and maintained prior to dedication to the City of Spring Hill; and

WHEREAS, Michael Smith on November 9, 2009 informed the Board of Mayor and Aldermen that neither he personally, or any legal entity that he maintains an ownership interest would continue to make any further electricity payments in regard to the sanitary sewer pump station which was installed by the developer to service Royalton Woods Subdivision; and

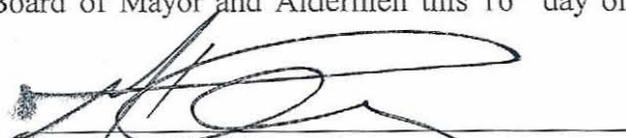
WHEREAS, the entirety of the public improvements have not been completed and therefore cannot be dedicated to the City for proper maintenance and supervision; and

WHEREAS, the safety, health and welfare of the citizens of Spring Hill would be in jeopardy if the electricity is allowed to be turned off at the pump station.

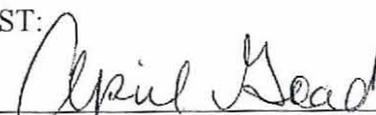
NOW THEREFORE BE IT RESOLVED, by the Board of Mayor and Aldermen of the City of Spring Hill, Tennessee that the bond held for Royalton Woods Subdivision on behalf of Michael Smith is hereby in default and that the sum of \$2,500.00 shall be requested to pay electricity payments for a period of 12 months, unless payments are made timely by Michael Smith then any remaining balance will be returned to the bonding company.

BE IT FURTHER RESOLVED, that the City Attorney is hereby instructed to file with a court of law, any action necessary to adjudicate future payments of this electricity bill.

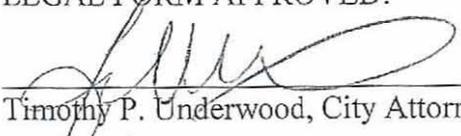
Passed and adopted by the Spring Hill Board of Mayor and Aldermen this 16th day of November, 2009.


Michael Dinwiddie, Mayor

ATTEST:


April Goad, City Recorder

LEGAL FORM APPROVED:


Timothy P. Underwood, City Attorney

Zimbra

agoad@springhilltn.org

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Royaltan Woods

From : Tim Underwood <Tunderwood@pulaskilaw.com>

Wed, Nov 11, 2009 11:26 AM

Subject : Royaltan Woods

To : awurth@springhilltn.org, jonathan duda <jonathan.duda@charter.net>, Rick Graham <aldermangraham@gmail.com>, Allen Hall <ahall@springhilltn.org>, mdinwiddie@springhilltn.org, bhulljr@bellsouth.net, keithphudson@gmail.com, Eliot Mitchell <Eliot.Mitchell@gxs.com>, lcleland@springhilltn.org

Cc : vlay@springhilltn.org, Beau Herring <bherring@springhilltn.org>, April Goad <agoad@springhilltn.org>, jpierce@springhilltn.org

Dear Board,

I wanted to give you an update on the Royaltan Woods issued that we discussed Monday night. Since that time I have spoken with John Beam, who represents some of the homeowners, Randy Hardison who I understand represents Community Bank who is financing the development. Jamie has spoken with the Electric Company and Beau and Paula have contacted the bond holder.

Based on my conversation with Mr. Beam there is a possibility that some of the homeowners may come together and pay this bill. My concern is that he believes that Michael Smith is bluffing because he has a model home out there and he would not let the electricity get cut off because it would directly affect his ability to sell homes. I am also not convinced that Mr. Beam may advise his clients to do nothing to demonstrate monetary damages to the court. Therefore, I do not anticipate the homeowners paying this bill.

Randy Hardison indicated to me that Community Bank may have to protect its financial commitment by paying this amount. I think this is the most logical solution but the problem is the bank is closed today and it may be later in the week before the bank makes a decision.

The good news is that the electric company will not do anything adverse until the 20th of November, and have been instructed to contact the City before the electricity gets shut off. So that gives us a little time.

Paula at the Codes Department did indicate to me that the bonding company would allow us to access a portion of the bond without calling the entire amount. Which may very well be what we ultimately have to do.

Therefore, this is my suggestion for the BOMA to consider: First, I will prepare a resolution revoking the Bond for this month's electricity bill. I am not sure that we will get paid before the 20th so it would be my advice that the City pay this amount, only if no other entity steps up and does it, then reimburse itself with the bond money. Obviously, if someone else pays this amount then it will not be necessary – there is always a chance that if someone gets wind of the City paying the bill they will not give any further consideration of paying it off. I think that is a chance that the City is just going to have to take.

Second, I would suggest filing a separate cause of action or intervene in the current lawsuit and ask the Court to determine who should be responsible for this bill. My hope is that taking these steps will cut down on the liability now that we have notice of the problem, while trying not to create some precedent where the City has to pay these fees before dedication or accepting partial dedications.

I will prepare a Resolution to call the bond – I have asked Beau to give me an average of the last 12 months bill so we can have an idea of what the cost will be.

Let me know if you have any thoughts, concerns or questions.

Timothy P. Underwood



HENRY, HENRY & UNDERWOOD, P.C.

119 South First Street

October 30, 2009

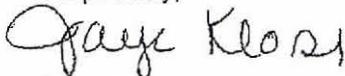
To Whom It May Concern:

I work with Michael Smith as the Community Manager for the Community named Royalton Woods in Spring Hill, Tennessee. Michael has consistently tried to do all that he can for the homeowners that live in this community and has been meeting opposition from them at every turn. Since I have started working with him, he has met with them on site and spent more than two hours trying to explain the importance of the Association and their involvement with it, including the importance of timely payment. Since some of the lots were sold just days prior to the filing of the documents the homeowners are using this as a loophole to refuse to pay even though all closing documents confirm the existence of the Association and their knowledge of it.

At this time, there are outstanding bills for Landscaping, Pump Lift Station, Electricity and Insurance along with the bills for the Management Company, Ghertner & Company. There is a negative balance in their bank account. Michael has himself done physical work on empty lots and entrance landscaping in order to keep costs down. He has personally paid for many months' bills to keep services going for these homeowners.

I wish that I could be there with him at your meeting but had prior commitments. If however, you have any questions or concerns regarding any issues at Royalton Woods, you may contact me at jaye.kloss@ghertner.com or 615-277-0343.

Respectfully,



Jaye Kloss
Community Manager
Royalton Woods