



**WESTBROOK CITY COUNCIL
FINANCE COMMITTEE MEETING AGENDA
MONDAY JULY 6, 2020 AT 6:00 PM
WESTBROOK PERFORMING ARTS CENTER, 471 STROUDWATER ST.**



City Council's Finance Committee will meet at the Westbrook Performing Arts Center at 6:00pm on Monday July 6, 2020, immediately prior to a regularly scheduled Council meeting, to discuss the following items:

1. Property Tax Policies

Presented by: Jerre Bryant, City Administrator

To: Finance Committee

From: Jerre R. Bryant

Re: Tax Acquired Properties

There are two items before the Finance Committee for review and discussion, both related to the disposition of Tax Acquired Property.

To put this in context, if property taxes on a piece of real estate remain unpaid after the final payment due date in May, the property owner receives a **30-day delinquency notice**. This notice states that if the taxes are not paid within 30 days then a lien will be placed on the property. If the taxes remain unpaid after 30 days, a **Municipal Lien** is filed with the Registry of Deeds. Once the lien is filed, it takes 18 months to mature, at which time an automatic foreclosure takes place. At any time during this process, the property owner is able to redeem the property by paying the past due taxes, interest and costs to the City.

The first proposal establishes a general policy on the process to be followed once a property becomes tax acquired through the automatic foreclosure of property tax liens. Following foreclosure, a committee consisting of the Mayor (or designee), Tax Collector, Finance Director, Director of Planning & Code Enforcement, Director of General Assistance (for residential properties) and Economic Development Director (for commercial properties) will review information on each property and submit a recommendation to the City Council. Property options will be reviewed by category, including Land, Commercial Property, Multi-Unit Residential Property and Single-Family Residential Property. The criteria and options for properties in each category are specified in the policy proposal. There is currently no policy or procedure in place to address properties that become tax acquired. The City's failure to address this tax delinquency issue is unfair to the majority of property tax payers who meet their tax obligations in a timely fashion and has resulted in a cumulative tax delinquency principle balance of \$683,086.

The second proposal recommends a one-time, interest forgiveness opportunity to owner-occupied residential properties, provided the outstanding taxes and City costs are paid in full within 90 days. This 'interest amnesty' option would commence upon implementation of the Policy on Tax-Acquired Property.

City of Westbrook One-Time Interest Amnesty Offer For Owner-Occupied, Residential Properties

The City of Westbrook is implementing a new policy on tax acquired property. Tax-acquired property is any property, whether vacant land, commercial, a multi-family unit or a single-family home, which the City has acquired through the automatic foreclosure of a property tax lien.

Before this new policy takes effect, the City will extend a one-time offer to owner-occupied residents to forgive all interest on past due real estate taxes if all principal amounts and fees are paid in full within 90 days. For the purpose of this program, properties in excess of three (3) residential units are not considered eligible residential properties. This offer begins on Monday, July 6th, 2020 and will end on Monday, October 5th, 2020. If a property owner decides to take advantage of this offer, they must contact the City Tax Collector at 207-591-8102.

In the event a property owner does not wish to take advantage of this one-time offer and fails to satisfy their debt with the City before the 90-day forgiveness period, all outstanding taxes, fees and interest will remain due and payable. The City may choose to sell or otherwise dispose of any tax-acquired property in accordance with the provisions of State law.

City of Westbrook Policy on Tax-Acquired Property

This policy is to define what the City will do with tax-acquired property, whether that is vacant land, commercial, multi-unit structures or single-family homes, after the City has acquired ownership of these properties through automatic foreclosure of property tax liens. This entire process, from placing a lien on a property, through automatic foreclosure takes approximately two years and is set forth in Title 36 of the Maine Revised Statutes. The goal of this policy is to establish clear and concise guidelines for the disposition of the property.

A Committee will be established to review all tax-acquired property no sooner than 60 days after automatic foreclosure and to make a recommendation to the City Council. A final decision on each property will be made by the Council. The Committee will be made up of the Tax Collector, Finance Director, Mayor (or Mayor's Designee), Director of General Assistance and Director of Planning and Code Enforcement. The Committee may include the Director of Economic and Community Development if a commercial property is at issue.

The Tax Collector, with assistance from the Assessor and Code Enforcement Officer, will provide the Committee with background information concerning the property, which will include the status of the building and/or land, names of prior owner(s), assessed value, current photos, history of the property, condition, neighborhood issues, and a list of any current occupants.. The Committee will then forward its recommendation to the City Council for review and approval. If the Council authorizes a sale of any property, a 60-day letter will be mailed out to the prior owner(s) as a last attempt for the prior owner(s) to redeem the property. The former owner will be permitted to repurchase the property for a price that is not less than all taxes, interest, associated costs and any other charges assessed thereon by the city. In the event the owner fails to redeem their interest within the 60-day time period, the City will proceed with disposal of the property.

There will be different procedures for the various types of tax-acquired property:

Any sale of the property should cover all outstanding taxes, interest, penalties and fees. Any net surplus proceeds of the sale will be designated to the Capital Reserve Fund.

Tax-Acquired Vacant Land:

The Committee will determine how best to use the land. Depending on size and location, the recommendation may be to offer/sell it to the abutters, bid/proposal for sale, market it to specific groups, or remove it from the tax roll and preserve it as open space.

Tax-Acquired Commercial Property:

With the aid of the background information and input from the Director of Economic and Community Development, the Committee will determine what is in the best interest of the City on how to dispose of the property. The recommendation may include, but is not limited to, selling the property through a bid, auction or request for proposals.

Tax-Acquired Multi-Unit Property:

The Committee will determine what is in the best interest of the City on how to dispose of the property. The recommendation may include, but is not limited to, selling the property through a bid, auction or request for proposals.

Tax-Acquired Single-Family Residential Property: Each property will be evaluated on a case-by-case basis. The Tax Collector will provide any relevant information to the Committee and a decision will be made whether to evict a resident and sell the property, sell the property with the resident remaining in place (with the purchaser to decide whether the resident will remain after the sale), or retain the property and allow the resident to remain in the home as a party in possession if the City determines this is in their best interest. Property with a party in possession may continue to be taxed and liened in accordance with State law.

If the City allows a resident to remain in a home because of the homeowner's lack of ability to pay, upon transfer of the property to a new owner or upon possession by any other person other than the former owner, all amounts due to the City must be paid in full. If the former owner ceases to be in actual physical possession of the residential tax acquired property, it may be offered for sale or otherwise disposed of as determined by the City, pursuant to established laws and local ordinances. In each case, the plan of action will be presented to the Council for final decision.

**Town of Scarborough
Real Estate Disposition Policy
Adopted November 17, 2010**

I. Introduction

This Policy describes the process for the Town of Scarborough (the “Town”) to utilize when making decisions for the disposition of real estate by the Town other than those acquired by tax foreclosure in which case the Policy for Disposition of Tax Acquired Property shall govern. For purposes of this policy, the term “real estate” refers to fee simple ownership of the real estate by the Town.

II. Sale of Town Owned Real Estate

1. The Town will sell other real estate by sealed bid and only after the Town Council shall have authorized the bid process. Before the Town Council may take final action regarding the sale of real estate; the requirements of this paragraph shall be satisfied.
 - a) The Town Council shall refer the potential sale to the Scarborough Parks and Conservation Land Board (hereinafter “SPCLB”) for its formal review and recommendation, and to the Town Manager, who shall survey all municipal departments, the School Department, the Scarborough Sanitary District (hereinafter “SSD”), and the Scarborough Historical Society recommendations for significance and potential public uses. The Town Manager shall prepare a document containing the recommendations from the departments and a summary on how the property was attained.
 - b) The SPCLB shall have up to 60 calendar days to make a recommendation to the Town Council. The Town Council may not commence with the sale until the 60-day period has lapsed. All recommendations from staff, the SSD and the SPCLB are advisory and are not binding on the Town Council.
 - c) The Town Council shall schedule and hold a public hearing on the potential disposition of the real estate with the same notice requirements as are then in place for zoning variances. The Town Council may also have a site visit prior to the public hearing.
 - d) Notices shall be sent to all immediate abutters of the real estate to inform them that the process for potential disposition has begun. Notice of the sealed bid process shall be given to all abutters by regular mail.
 - e) The Town may wish to impose restrictions on the sale of the real estate in the form of encumbrances such as deed restrictions and/or covenants. In such case, any and all encumbrances shall be clearly identified in the bid documents.
 - f) Unless otherwise directed by the Town Council, the bid process shall be competitive and shall strictly conform to the requirements of the Formal Bid process as prescribed by the Purchasing Policy (Chapter 304). In certain cases the Town may choose to entertain a request-for-proposal process in attempt to ascertain details regarding the intended use.

III. Award of Bid

The Town Council maintains the sole discretion regarding the award of bids and the sale of real estate. Awards shall be to the highest and best bidder, considering such factors, where appropriate, as the value of the consideration offered, the use to which the property will be put after the sale, and the effect of such use on the Town. The Town Council shall reserve the right to accept or reject any or all bids. Upon award, the Town will issue a municipal release deed for the premises. In all agreements pertaining to the sale of the property, including, but not limited to, the purchase and sale agreement and the municipal release deed. It shall be made clear that should the property be resold, the Town of Scarborough will have the right to first refusal. The Town Council shall direct the appropriate repository for the proceeds of the sale.

**TOWN OF SCARBOROUGH
POLICY FOR
DISPOSITION OF TAX ACQUIRED PROPERTY
ADOPTED OCTOBER 16, 2002
AMENDED MARCH 18, 2015**

Article 1. General.

- 1.1 The purpose of this Policy is to establish procedures and guidelines for the efficient and fair management, administration and disposition of real property acquired under the tax lien procedures set forth in Title 36 M.R.S.A. Sections 942 and 943. Nothing in this policy is intended or shall be interpreted to give additional substantive or procedural rights to owners or former owners of properties forfeited for non-payment of taxes.

Article 2. Actions Concerning Tax-Acquired Property Pending Final Disposition.

- 2.1 Following the foreclosure of any tax lien mortgage, the Town Treasurer shall by first class mail notify the last known owner of record that his or her right to redeem the tax lien mortgage securing the collection of property taxes has expired, that the tax lien mortgage has foreclosed and vested ownership of the property in the Town. The notification shall also advise that the property will be disposed of in accordance with this Policy, a copy of which shall be included with the notification.
- 2.2 Each year the Treasurer shall prepare a list of properties acquired due to non-payment of property taxes and foreclosure of tax liens and provide such list to the Town Manager.
- 2.3 The Town Manager, and as necessary in consultation with the Town Attorneys, shall review each property identified on the list to determine:
- A. The potential liabilities (environmental, structural safety, health or other hazards associated with the property) that the Town might assume by taking possession or by operating the property and assess whether the Town's interests in light of such potential liabilities would be best served by immediately disposing of the property or retaining it;
 - B. The level of insurance required to protect the Town's interest in the property and to protect the Town from liability in the event that the property is retained; and
 - C. Whether the property is currently occupied and the likelihood of needing legal assistance (and estimated costs of the same) to require the occupants to quit the premises.
- 2.4 In the event that a tax-acquired property remains or becomes vacant for sixty (60) consecutive days following the date of foreclosure of a tax liens under which the Town becomes the owner of a property, the Town Manager shall obtain liability coverage for the property.

Article 3. Review and Disposition of Tax-Acquired Properties.

3.1 The Town Manager shall forward a copy of the list of tax-acquired properties to the Members of the Town Council, Chairman of the Planning Board, Public Works Director, Police Chief, Fire Chief, Community Services Director, Conservation Commission, Emergency Services Director, Municipal Engineer as appropriate, other Town department heads; the Scarborough Historical Society, the Affordable Housing Alliance and the Parks and Conservation Land Board. These parties shall review the list of tax-acquired properties and identify properties that the party believes should be considered as a candidates to be retained by the Town for public use and within twenty-one [21] days of receiving the list provide the Town Manager with the party's recommendations and a brief statement of the reasons therefore.

The Town Manager shall collect and summarize these recommendations and the review of each such property under Section 2.3 of this Policy and make one of the following recommendations to the Town Council on the disposition of each tax acquired parcel:

- A. For non-residential or commercial properties, or residential property that are not the former owner's or the members of the former owner's immediate family's primary residence, to either:
 - 1. Retain the property as Town property for a particular purpose identified by one of the above-identified department heads or other Town officials. For such to be retained properties, the Town Manager, in consultation with the Town Attorney shall review and pursue, as appropriate, judicial confirmation of the Town's right, title or interests in the subject property under 36 M.R.S.A. section 946; or
 - 2. Sell or exchange the property with or without conditions; or,
 - 3. Offer to the former owner a one-time opportunity to redeem and reacquire the tax foreclosed property under the procedures and terms set for in Article 4 below.
- B. If the property is a single-family residence occupied by the owner or the former owner or the former owner's immediate family members, to enter into arrangements to secure just and prompt payment of outstanding and current taxes, related interests and costs.
 - 1. If this option of disposition is pursued, the Town Manager shall present the former owner (or former owner's immediate family) with, and the former owner shall agree to acknowledge, a written plan and an installment sales contract for payment of past due and currently due taxes, interests, and costs under the tax lien process and all outstanding sewer charges, assessments and other lawful charges as are due and owing to the Town.
 - 2. The installment sales contract shall require the former owner of the property to maintain property insurance and provide proof of the same to the Town and to reimburse the Town for its costs and expenses in negotiating and executing such agreements and installment sales contract. The Town's costs shall include all costs incurred or to be incurred by the Town in addition to those incurred in the tax lien process and shall include, but not be limited to, insurance costs, registry filing and mailing costs, advertisement costs, and attorney's fees.

3. The former owner must timely sign the written plan and installment sales contract and affirmatively acknowledge in writing that title to the property belongs to the Town and shall remain with the Town until such time as the terms of the installment sales contract are all successfully and timely completed, and further acknowledge that the former owner will strictly comply with the terms of the plan and installment sales contract.
4. Failure of a former owner to timely enter into an installment sales contract with the Town (within thirty (30) days) or strictly comply with an executed plan and terms of the installment sales contract will result in a default and forfeiture of the plan and installment sales contract. Upon such failure, the former owner will be provided with the one-time opportunity to reacquire the property under the terms and procedures set forth in Article 4.

3.2 The Town Manager shall forward his or her reviews, recommendations and determinations regarding each property to the Town Council. The Town Council may override a particular recommendation of the Town Manager to retain a property but shall otherwise direct that the property be processed in conformance with the terms of this Policy.

3.3 Any sale of tax-acquired property shall be through a public sale. The Town Manager shall otherwise oversee the exact terms and conditions of such sale and use his or her best judgment to seek the best and most expedient method of sale and return on the sale for the Town.

Article 4. One-Time Opportunity and Process to Reacquire Tax acquired industrial, commercial vacant land, non-primary residence property or residential tax acquired property subject to default and forfeiture of an instalment sales contact under Article 3.1.

4.1 Immediately following the Town Council's identification of properties qualifying to be offered a one-time opportunity for redemption and reacquisition, or following an event of default and forfeiture under Section 3.1(B)(4), the Town Manager shall send by certified and first class mail addressed to the former owner of properties so identified a letter notifying of the redemption and reacquisition process under this Article.

4.2 To elect the opportunity to be allowed the one-time opportunity to redeem and reacquire the tax acquired property, the former owner must inform the Town Manager, in writing, of their agreement within thirty (30) days of the Town Manager's notification letter, to the following terms:

- A. Confirmation that the Town holds valid title to the property under the foreclosure process:
- B. Agreement to make payment to the Town within ninety (90) days according to the following terms:
 1. Payment in full of the amount of all taxes and interest subject to liens and for all years through and including taxes assessed for the current tax year as would have been assessed to the subject property following the tax lien foreclosure if such taxes were not assessed;
 2. Payment in full of the Town's cost of administering and filing the liens, including the filing of notices and registry costs, deed and discharge filings, insurance coverage and costs of securing or maintain the property and,

3. Payment in full of an administrative fee in the amount of \$750.00 to cover and offset the Towns' legal costs and cost of preparing and filing the tax release deed and lien.
- C. Payment shall be by certified funds or wire transfer.
 - D. Upon full, timely and satisfactory completion of all requirements and payment under this Article, the subject property shall be conveyed to the former owner by Municipal Tax Release Deed.

Adopted by the Scarborough Town Council

October 16, 2002

Amended March 18, 2015