

STAFF REPORT

AGENDA ITEM #: 19-57
COUNCIL MTG OF: May 21, 2019
FROM: David Caron, Town Administrator
OFFERED BY: Susan Hickey
PREPARED BY: Diane Mulholland
SUBJECT: Tax Collector's deed waivers for 2016 tax liens

PURPOSE: Request approval of deed waivers for the 2016 tax liens.

TOWN ADMINISTRATOR COMMENTS:

The Council is encouraged to adopt Resolution #2019-30.

BACKGROUND: On April 13, 2017 the unpaid balances of the 2016 tax bills were liened at the Rockingham County Registry of Deeds. According to RSA 80:76 (attached), "the collector, after 2 years from the execution of the real estate tax lien, shall execute to the lienholder a deed of the land subject to the real estate tax lien and not redeemed." RSA 80:76 also provides the Town Council specific (Paragraph II) and subjective (Paragraph II-a) reasons to waive tax deeding.

For a multitude of reasons, the Town presently has 53 parcels that are eligible for tax deeding.

DISCUSSION: Please see Attachments A & B.

- Attachment A lists the properties subject to the issuance of a Tax Collector's deed. This list consists of properties which have outstanding lien balances for 2016 liens. The information presented includes the 2018 assessed value, total 2016 unpaid balances as of May 22, 2019, as well as the total balance for all tax years and individual notes for each property.
- Attachment B is the list of properties not recommended for deeding, referred as "deed waiver". The properties are recommended for waivers due to potential liability risk or undesirable obligations. The information presented includes a column of notes that briefly describes the reason for recommending a deed waiver.

FISCAL IMPACT: Attachment A The execution of the Tax Collector's Deed on the parcels will reduce tax revenues. The intent of tax deeding, however, is to sell the property in anticipation of collecting an equal or greater amount of revenue and returning the properties to the tax rolls.

Attachment B would mean a delay in payments or deeding of these properties but should be recoverable at a later date.

RECOMMENDED MOTION: After the tax payment deadline, the Council at its May 21 meeting, will be presented with Resolution #2019-030 directing that the Town will not accept a tax deed on certain properties, all as authorized by Statute. PLEASE NOTE THAT UP TO DATE LISTS WILL

BE GENERATED FOR THE COUNCIL MEETING, AS TAXPAYERS CONTINUE TO MEET THEIR OBLIGATIONS ON THESE PROPERTIES THROUGH MAY 21.

Attachments (3)

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TITLE V TAXATION

CHAPTER 80 COLLECTION OF TAXES

Real Estate Tax Liens

Section 80:76

80:76 Tax Deed. –

I. The collector, after 2 years from the execution of the real estate tax lien, shall execute to the lienholder a deed of the land subject to the real estate tax lien and not redeemed. The deed shall be substantially as follows:

Know all men by these presents, That I, _____, collector of taxes for the Town of _____, in the County of _____ and State of New Hampshire, for the year 19____, by the authority in me vested by the laws of the state, and in consideration of _____ to me paid by _____, do hereby sell and convey to _____, the said _____, (here describe the land sold), to have and to hold the said premises with the appurtenances to _____, forever. And I do hereby covenant with said _____, that in making this conveyance I have in all things complied with the law, and that I have a good right, so far as the right may depend upon the regularity of my own proceedings, to sell and convey the same in manner aforesaid. In witness whereof I have hereunto set my hand and seal the _____ day of _____, _____.

Signed, sealed and delivered in the presence of _____.

II. Notwithstanding the provisions of paragraph I, the collector shall not execute a deed of the real estate to a municipality when the governing body of the municipality has notified the collector that it shall not accept the deed because acceptance would subject the municipality to potential liability as an owner of property under the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. section 9601 et seq., the Resource Conservation and Recovery Act, 42 U.S.C. section 6901 et seq., RSA 147-A and 147-B, and any other federal or state environmental statute which imposes strict liability on owners for environmental impairment of the real estate involved.

II-a. In addition to the circumstances described in paragraph II, the governing body of the municipality may refuse to accept a tax deed on behalf of the municipality, and may so notify the collector, whenever in its judgment acceptance and ownership of the real estate would subject the municipality to undesirable obligations or liability risks, including obligations under real estate covenants or obligations to tenants, or for any other reason would be contrary to the public interest. Such a decision shall not be made solely for the private benefit of a taxpayer.

III. When a governing body has, under paragraph II or II-a, served notice upon the collector it shall not accept the deed, the tax lien shall remain in effect indefinitely, retaining its priority over other liens. The taxpayer's right of redemption as provided by RSA 80:69 shall likewise be extended indefinitely, with interest continuing to accrue as provided in that section. The tax lien may be enforced by the municipality by suit as provided under RSA 80:50, and through any

remedy provided by law for the enforcement of other types of liens and attachments. If at any time, in the judgment of the municipal governing body, the reasons for refusing the tax deed no longer apply, and the tax lien has not been satisfied, the governing body may instruct the collector to issue the tax deed, and the collector shall do so after giving the notices required by RSA 80:77 and 80:77-a.

Source. 1987, 322:1. 1994, 199:3. 1997, 266:3, eff. Jan. 1, 1998.