

WARREN COUNTY BOARD OF SUPERVISORS

COMMITTEE: REAL PROPERTY TAX SERVICES

DATE: APRIL 24, 2006

Committee Members Present:	Michael Swan, Director, Real Property Tax Services
Supervisors Belden	William Thomas, Chairman
Champagne	Joan Parsons, Commissioner of Administrative & Fiscal Services
Haskell	Joan Sady, Clerk
Bentley	Paul Dusek, County Attorney
F. Thomas	Patricia Nenninger, Second Assistant County Attorney
Geraghty	
Absent: Monroe	Supervisor Kenny
	Supervisor Barody
	See Sign-in Sheet for guests
	Carlene A. Ramsey, Sr. Legislative Office Specialist

Mr. Belden called the meeting to order at 9:30 a.m.

Michael Swan, Director of Real Property Tax Services (RPTS), distributed an Agenda packet to each of the Committee members and a copy is on file with the minutes.

Motion was made by Mr. Geraghty, seconded by Mr. F. Thomas and carried unanimously to approve the minutes of the previous meeting, subject to correction by the Clerk.

Mr. Swan greeted the Committee and explained a couple of important issues had been added to the Agenda due to recent developments. He cautioned the meeting may run longer than the scheduled 45 minutes.

Mr. Swan began his report with Agenda Item 1, Corrections from the Treasurer's Office. He noted the majority of corrections were either court ordered or small claims adjustments. However, he stated the Town of Queensbury parcels, owned by the Warren/Washington Counties Industrial Development Agency, had inadvertently been billed and paid twice.

Motion was made by Mr. Geraghty, seconded by Mr. Champagne, and carried unanimously to approve the corrections to the tax rolls, as prepared by the Treasurer's Office, and to authorize a resolution be prepared for the May 12th Board meeting. A copy of the list of corrections is on file with the minutes.

Turning to Agenda Item 2, Deposit on Henry Ward property, Mr. Swan reminded the Committee the property had been sold at the 2005 land auction. He acknowledged that Mary and Robert Healy (the high bidders on Mr. Ward's property) were in attendance today.

Mr. Swan explained the Healy's would like the County to refund their deposit (paid at Auction time) due to the extenuating circumstances.

Privilege of the floor was turned over to Robert Healy, who explained he and his wife (Mary Healy), had bid on the Henry Ward property with the understanding it would be free and clear of judgements or encumbrances.

Shortly after the auction, Mr. Healy reported the former owner, Henry Ward, began to fax them copies of legal documents and liens Mr. Ward had either filed, or threatened to file against the Healy's. Consequently, Mr. Healy said he consulted with his attorney, and was advised the threatened law suits would cost them a lot of money, just to answer all of the papers. Therefore, he declared that he and his wife did not feel they could afford to follow through and complete the purchase at this time, even though they had already invested approximately \$15,000 into the property to prepare it for new construction.

Mrs. Healy reported that Mr. Ward had recently faxed her 14 pages worth of liens he had filed against the property. In addition, she said, she also had audio recordings of some of the threatening phone messages left from Mr. Ward. She offered to turn over the materials to the Committee.

Mr. Belden queried whether or not the materials should be filed through the Real Property Tax Services Department.

Patricia Nenninger, Second Assistant County Attorney, suggested Mrs. Healy may want to hold on to the materials for the time being.

Mr. Healy pointed out Mr. Ward was claiming Native American status and currently lived on a reservation in the State of Florida, and his mailing address was simply a Post Office Box, no where near the reservation. Mr. Healy said he understood the only law enforcement agency who claimed jurisdiction over Mr. Ward was the F.B.I. (Federal Bureau of Investigation). Since Mr. Ward had not yet used the United States Postal Service, there was no mail fraud involved as of yet.

Mr. Healy further stated that Mr. Ward had offered to drop all of the legal action against the Healys if they walked away from the purchase. Under normal circumstances, Mr. Healy said he would never give in to intimidation. However, given the unusual circumstances, he said he was concerned with the amount of money Mr. Ward's threats could end up costing him. Mrs. Healy said one estimate had placed the lawyers fees as high as \$100,000, just to respond to the baseless law suits.

Ms. Nenninger clarified Mr. Healy's request was for the County to refund their deposit of \$2,750. Mr. Healy concurred.

Mr. Belden pointed out Mr. Swan had brought this request to the Committee at a

meeting, earlier in the year, and the Committee decided not to refund the deposit. (See the RPTS minutes of January 23, 2006 for further discussion.)

Ms. Nenninger explained she was not familiar with all of the details of the transaction. She said she would like to consult with the County Attorney before responding any further.

Mr. Champagne said he felt the buyer of any of the tax delinquent property needed to be fully aware the property may have special conditions attached to them. He said he was concerned whatever decision the Committee made, would also have an impact on decisions in the future. In the past, he said, the Committee had always maintained the "buyer beware" position.

Mr. Swan apprised the Committee that Mr. & Mrs. Healy had done a considerable amount of work on researching the history of the property, prior to the auction. He said he felt the Healys had performed the proper due diligence before placing their bid.

Mrs. Parsons left the meeting at 9:44 a.m. to invite Mr. Dusek to join the meeting.

Mr. Belden stated further discussion on the matter would be tabled until Mr. Dusek could be in attendance.

Mr. Swan returned to Agenda Item 3, State of New York Land Assessments, he said he recently learned the actual process involved a series of steps, as follows:

1. The State of New York prepares a list of the state-owned parcels (in each particular town) along with the State's estimated value of each parcel;
2. The State's list is then submitted to the respective town assessors, with the instructions to review the list, and mark what the town assessor feels the assessment should be on each state-owned parcel. The town assessor then signs the list and returns the list (List) to the State;
3. The State then reviews the List to determine if they will file a grievance or accept the town assessor's edited values;
4. The List is forwarded to the State Comptroller's Office to await the County tax bills;
5. The County Treasurers' Offices submits the tax bills to the State Comptroller who, in turn, *remits payment, based upon the values on the List, rather than the tax bill;* and
6. The State submits signed correction forms to the RPTS Office.

Mr. Swan explained he recently spoke with the Assessor for the Town of Stony Creek and learned the Assessor had forgotten to make the corrections on the tax roll in accordance with the values agreed upon with the State. Therefore, he noted, the Stony Creek adjustments were in line with the above stated procedure, as further detailed in the Real Property Tax Law Section 542, included in the Agenda packet.

In summary, Mr. Swan noted, the State's check was issued according to the negotiated List of values, and not according to the tax bills issued.

Mr. Swan clarified that the average taxpayer was required to deliver payment on the taxes billed, then file a grievance. If the taxpayer was successful in the Courts, the County Treasurer would send the correction notice to Real Property Tax Services and pending Board approval, the County would then refund the overpayment to the taxpayer. He observed that the State works the process backwards.

Responding to questions from various Supervisors, Mr. Swan explained tax grievances may be filed between May 1st and the 4th Tuesday in May. He noted, the State owned such an enormous number of parcels, throughout the various counties, the State followed a slightly different procedure. He further commented the State received the "signed List" from the various assessors by approximately April 1st, to give them adequate time to process the information.

Mr. Dusek entered, and Mrs. Parsons re-entered the meeting at 9:45 a.m.

Mr. Swan pointed out the Committee had requested a special meeting with the State and local assessors to review the above stated procedures. Given all of the information presented today, he indicated that he would be glad to arrange such a meeting if the Committee so desired.

Mr. Belden said he felt the State assessors should be meeting with the local assessors, and not necessarily the Committee.

Mr. Champagne pointed out the process appeared to be rather straight forward (or cut & dry) at the start and finish. However, he said he felt the middle part of the process, where all the negotiating took place, made him wonder just how much leverage the town assessor actually had, if he/she disagreed with the State's self-determined value.

Mr. Swan noted the process was similar to any other property owner who disagreed with the assessed value assigned to their land.

Mr. F. Thomas noted the process did NOT appear similar since the State had such deep pockets and could file law suits that would cost a given town hundreds of thousands of dollars to defend the Town's assessment. He stated the average property owner was not apt to file such expensive law suits and the Town had a better chance of defending the stated values.

General discussion ensued. It was the general consensus of the Committee that the current process was cost prohibitive for the municipalities to challenge the values the State assessors chose to assign to the State-owned properties (throughout the various counties within the State).

Discussion returned to Agenda review at Item 4, Brown Field sites, and Mr. Swan directed attention to a List of Hazardous Properties, included with the Agenda packet. He explained the properties listed were delinquent in taxes AND may be contaminated, although no evaluation has actually been performed. He explained if the prior history

of a particular property included such uses that could have led to contamination, then the parcel was so classified.

Mr. Swan clarified the List of Hazardous Properties had been presented at the request of Fred Monroe, as Supervisor for the Town of Chester. He further noted the Eastman property, located in Chestertown, was the parcel the Chester Town Board had been concerned with. He said he understood the Eastman parcel had been a tax delinquent parcel for over 10 years, although there was a successful business operating on the premises. Therefore, he reminded the Committee members, of the discussion held at an earlier Committee meeting, as to whether or not:

- a) the individual towns should be left to deal with these properties;
- b) the County should deal with the properties;
- c) the Town and County should work together; or
- d) the properties should be left alone.

Mr. Dusek said he would like to remind the Committee of a couple more facts. He stated that when he began as County Attorney, in 1996, the Committee decided NOT to foreclose on these properties (suspected to have contamination issues) because of the liability associated with being the owner of such parcels. However, in recent times, Mr. Dusek observed, the State had introduced a program which may provide grant funds to assist with remediation of a contaminated parcel.

Mr. Dusek cautioned that securing the grant funds was only part of the process. He noted the grant approval did NOT include authority to actually perform clean-up or testing. Rather, he noted, the County would need to begin the foreclosure action, and then, make a motion in Court to obtain a Court Order to enter the property and begin the testing and other remedial work upon the property. He said he felt participation in the State's Brown Fields Grant Program would be the only way he could recommend any municipality's involvement with such properties. He noted the State Grant program would provide up to 90% for the related costs, as well as releases of certain liabilities.

In response to Mr. Champagne's questions, Mr. Dusek clarified his recommendation included the following steps:

1. Start the foreclosure process, which did not give the County title to the property, but simply started a legal action;
2. Motion was then filed to obtain Court's permission to enter the property and begin the testing;
3. Test results were then filed with the Court;
4. County would either:
 - a. go forward with the foreclosure, obtain title, clean up the contamination and either use the property or sell the property; or
 - b. stop the foreclosure process and the property remained contaminated and tax delinquent.

Following a brief discussion, Mr. Dusek noted the Town of Warrensburg was currently

working with a couple of contaminated parcels, under the protection of the Brown Fields Grant Program. He said he felt Warrensburg may be a good example of when a municipality might want to become involved in the process. He stated each parcel would need to be evaluated for its particular value for use by either a business, the general public for recreation or ecological purposes.

Mr. Kenny entered the meeting at 10:00 a.m.

Otherwise, Mr. Dusek said he felt, the municipality could be taking on a sizeable job as well as risk, that may not provide that great a return on the effort.

Mr. Geraghty, as Supervisor for the Town of Warrensburg, said he would like to caution anyone before getting involved with this type of project. He noted that one of the Warrensburg projects had developed some issues that had him concerned. He said he felt any such project would need to be managed by someone who fully understood the scope and magnitude of the project.

Mr. Dusek commented the List of Hazardous Properties was actually a list he had supplied to the New York State Spill Fund attorneys in the hopes they would do something with the parcels. He said he would recommend the County put more pressure on the Department of Environmental Conservation or the Spill Fund, since those entities have the expertise, time, staff and money to properly handle the clean-up.

Following a brief discussion, motion was made by Mr. Champagne, seconded by Mr. Haskell and carried unanimously, that the County would not take any action with regards to the List of Hazardous Properties, until such time as any particular parcel could be determined to hold sufficient value to a particular municipality to warrant such action.

Returning to Agenda review at Item 5, 2006 Auction, Mr. Swan reported the timetable on the foreclosure process would not allow for a public auction to be held any sooner than December 22, 2006. Given the time of year and anticipated weather conditions, he said, he would like to recommend the 2006 land auction be cancelled. He presented a resolution request to cancel the public auction for 2006, cancel the contract with the auctioneer for such services and to hold the parcels (foreclosed on in 2006) until the August 2007 public auction.

Motion was made by Mr. Haskell, seconded by Mr. Champagne and carried unanimously to authorize the cancellation of the 2006 land auction as well as the contract for auctioneer's services; and to hold the parcels, obtained in the 2006 foreclosure process, for sale at the 2007 land auction. The Committee authorized a resolution be prepared for the May 12th Board meeting and a copy of the resolution request form is on file with the minutes.

Mr. Dusek reminded the Committee that the foreclosure process required several

months to complete so the legal research would usually begin in September and conclude in May, June, or even July. He noted the Treasurer's Office conversion to new computer software, during the fall of 2005, had prevented his Office from initiating the 2006 foreclosures with the money set aside in the 2005 Budget. Therefore, he pointed out, the funds had rolled over into Surplus at the close of 2005. Simultaneously, he stated, the 2006 Budget had been established for only 1 year's foreclosure action. (Please see the RPTS Committee minutes from the January meeting for more detailed information.) Mr. Dusek declared the 2006 County Attorney Budget did not have sufficient funds to cover the second round of foreclosure actions.

Mr. Barody entered the meeting at 10:06 a.m.

Motion was made by Mr. Haskell, seconded by Mr. Champagne and carried unanimously to authorize a Request for Transfer of Funds, in the amount of \$20,000, to be forwarded to the Finance Committee for consideration. A copy of the request to transfer funds is on file with the minutes.

Mr. Stec entered the meeting at 10:07 a.m.

Mr. Swan continued the Agenda review with Item 6, Corlew property in the Town of Queensbury. He explained the County had foreclosed on the property during the mid-90's, as he directed attention to a map included with the Agenda packet. He explained, his office had, just recently, received several requests for information on the property, and he said he felt this may be the proper time for the County to get this property sold. He recommended the property could be advertised for sale, via a sealed bid, at a minimum of \$65,000. If the Committee, Treasurer's Office, and Full Board agreed, he said, the request for bid could be issued immediately following the May Board meeting. He stated the bid results could be brought to the next Committee meeting and a resolution authorizing the sale could be ready for the June Board meeting.

Motion was made by Mr. Champagne, seconded by Mr. Bentley, and carried unanimously to authorize the Town of Queensbury, Tax Map Parcel # 303.20-1-12, be offered for sale via sealed bid, with minimum bid set at \$65,000. The Committee authorized a resolution be prepared for the May 12th Board meeting and a copy of the request is on file with the minutes.

Mr. Swan reported Agenda Item 7, was regarding the Oppitz Property, in the Town of Thurman. He pointed out there had been a long history of assessment problems and non-payment of taxes associated with this property. He noted the last page of the Agenda packet contained an amortization of the open installment agreement on the parcel. He acknowledged that Mr. Oppitz and his attorney, John Richards, were in attendance today.

Privilege of the floor was extended to Atty. Richards, who greeted the Committee, and concurred with Mr. Swan regarding the long standing tax issues with the property. Mr.

Richards said he felt there were unusual circumstances behind Mr. Oppitz delinquent tax problems, which may qualify for taxpayer relief under Section 1182 of the Real Property Tax Law.

Mr. Richards requested permission to return to the Committee, next month, to present an outline of where the problem may have originated and to present a possible remedy. He noted that Mr. Oppitz had, thus far, been able to keep his installment payments up to date, with the exception of the payment due on March 31, 2006. He asked the Committee's forbearance for a few weeks, while he and Mr. Oppitz attempted to straighten out the assessment issues.

Ms. Nenninger reported the County Attorney's Office had met several times with Messrs. Richards and Oppitz and suggested the gentlemen were welcome to submit a proposal. However, she noted, the information available to her Office, at this point, indicated Mr. Oppitz may have had remedies available through different venues, such as Article 7 and other statutory requirements. Such other remedies, she said, would be matters for the Town to consider. She noted the County Attorney's Office had invited Mr. Richards to present documentation that some type of County relief might be available for consideration.

Mr. Swan noted the next Committee meeting would be scheduled for May 22, 2006.

Responding to Mr. Richards' request, Mr. Dusek explained the law would not allow the County to actually waive a default on an installment payment agreement. However, he said, the County's next step would be to include the Oppitz property in the next foreclosure action, which would certainly not be completed before May 22, 2006.

Motion was made by Mr. Haskell, seconded by Mr. Bentley and carried unanimously to authorize Mr. Oppitz to present a proposal at the next RPTS Committee meeting.

Messrs. Richards and Oppitz left the meeting at 10:17 a.m.

Mr. Swan requested an executive session in order to discuss matters related to past litigation and threatened litigation with regards to Henry Ward; and motion was made by Mr. Bentley, seconded by Mr. F. Thomas and carried unanimously, that executive session be declared pursuant to Section 105 (d) of the Public Officers Law.

Executive session was declared from 10:18 a.m. to 10:28 a.m.

Committee reconvened.

Mr. Dusek explained the Committee members wanted to acknowledge the very unusual circumstances related to the particular parcel of land the Healy's had attempted to acquire from Warren County as the result of a tax foreclosure action. Due to such unusual circumstances, Mr. Dusek reported the Committee had identified three possible ways to proceed, and he outlined them as follows:

1. The Healy's could simply close the deal, purchase the property and pay off the balance;
2. The County could grant the Healy's an additional 12 months to finalize the purchase, during which time the litigation issues with Mr. Ward could be resolved;
3. The County could agree to cancel the sale and return the Healy's deposit.

Mr. Dusek said the Committee felt the final decision should be made by Mr. and Mrs. Healy, given the extremely litigious nature of the former owner, Henry Ward,.

Mr. Champagne clarified the second option basically meant if the Healys chose to leave their deposit on file (and protect their investment), the County would continue to work with Mr. Ward to clear the title to the property. Upon the satisfaction of all of the litigation, he noted the County would complete the sale at the original bid price. He said he was concerned the Healy's had invested so much of their own money into the land, already.

Mrs. Healy expressed her concern that Mr. Ward had contacted her, personally. She declared, she simply wanted *to sever all contacts* with the transaction, the property, and Mr. Ward.

Mr. Healy explained he was a retired policeman and had been able to do a pretty thorough investigation on Mr. Ward. Based upon his findings, he said he felt, the best thing he could do at this point, was to walk away from the transaction.

Motion was made by Mr. Haskell, seconded by Mr. Bentley and carried unanimously to refund the deposit of \$2,750, placed by Mr. Robert Healy as the high bidder at the 2005 land auction, on the Town of Chester Tax Map Parcel No. 35.-1-43; and to authorize a resolution be prepared for the May 12th Board meeting. A copy of the resolution request form is on file with the minutes.

Mr. and Mrs. Healy extended their appreciation to the Committee members for their consideration.

There being no further business to come before the Committee, on motion by Mr. Haskell and seconded by Mr. Champagne, Mr. Belden adjourned the meeting at 10:32 a.m.

Respectfully submitted,
Carlene A. Ramsey, Sr. Legislative Office Specialist