

WARREN COUNTY BOARD OF SUPERVISORS

COMMITTEE: REAL PROPERTY TAX SERVICES

DATE: JANUARY 27, 2015

COMMITTEE MEMBERS PRESENT:

SUPERVISORS MONROE
DICKINSON
MCDEVITT
MERLINO
BEATY

OTHERS PRESENT:

LEXIE DELUREY, DIRECTOR OF REAL PROPERTY TAX SERVICES
KEVIN B. GERAGHTY, CHAIRMAN OF THE BOARD
PAUL DUSEK, COUNTY ADMINISTRATOR
MARTIN AUFFREDOU, COUNTY ATTORNEY
AMANDA ALLEN, DEPUTY CLERK OF THE BOARD
FRANK E. THOMAS, BUDGET OFFICER

SUPERVISORS CONOVER

GIRARD

SEEBER

SIMPSON

TAYLOR

WESTCOTT

WOOD

MICHAEL SWAN, COUNTY TREASURER

THOM RANDALL, *ADIRONDACK JOURNAL*

DON LEHMAN, *THE POST STAR*

SARAH MCLENITHAN, SECRETARY TO THE CLERK OF THE BOARD

Mr. Monroe called the meeting of the Real Property Tax Services Committee to order at 9:32 a.m.

Motion was made by Mr. McDevitt, seconded by Mr. Dickinson and carried unanimously to approve the minutes of the previous Committee meeting, subject to correction by the Clerk of the Board.

Privilege of the floor was extended to Lexie Delurey, Director of Real Property Tax Services, who distributed copies of the agenda to the Committee members; *a copy of the agenda is on file with the minutes.*

Commencing the agenda review, Ms. Delurey presented a request for approval of the list of corrections provided by the County Treasurer's Office; a copy of which is included in the agenda packet. With regards to the Adirondack Manor in the Town of Queensbury, she advised the assessment changes had been court ordered by the New York State Bankruptcy Court. She explained that the bankruptcy court ordered the Adirondack Manor to pay a lump sum of \$57,000 with the remaining balance to be paid over a 47 month period. She added the changes were required for the assessments in years 2011, 2012, 2013, and 2015; however, she said, no changes were required for 2014. She said the remaining properties listed were changes due to the correction of errors or court ordered changes.

Mr. Monroe asked whether Adirondack Manor was required to pay the total amount listed and Ms. Delurey replied affirmatively. Michael Swan, County Treasurer, apprised the County Treasurer's Office had received the initial \$57,000 payment, as well as the first of the 47 month installment payments. He said as per the manner in which the bankruptcy was structured, the remainder of the payments were set for specific times. He commented he assumed the remainder of the payments would be received.

Motion was made by Mr. Beaty, seconded by Mr. McDevitt and carried unanimously to approve the

list of corrections from the County Treasurer's Office as outlined above and the necessary resolution was authorized for the February 20, 2015 Board meeting. *A copy of the resolution request form is on file with the minutes.*

With regards to Tax Map Parcel No. 308.10-1-65 in the Town of Queensbury, Ms. Delurey apprised this particular parcel had been included in the last three years of Tax Foreclosure Auctions; however, she said, the purchases fell through for various reasons. She stated that Craig Brown, Zoning Administrator for the Town of Queensbury, pointed out that a variance was required in order to permit building on this particular parcel. She explained the highest bidder determined they were not interested in pursuing the variance; therefore, she said, the parcel was offered to the second highest bidder, Ryan Wild, Creative Spaces, LLC. She continued, Mr. Wild indicated he would like to apply for a variance on the parcel with the Town of Queensbury but a payment extension would be required. She queried whether it would be permissible to grant a payment extension to allow for Mr. Wild to apply for a variance in order to be permitted to build on the parcel. Mr. Monroe questioned whether this was for a future Tax Foreclosure Auction and Ms. Delurey replied if a payment extension was granted it would prevent the property from being included in a future Tax Foreclosure Auction. She explained Mr. Wild had indicated he would like to purchase the property for the \$11,000 bid he placed on the property if he was successful in obtaining a variance. She suggested the payment extension be granted with the requirement that Mr. Wild's attorney prepare an agreement for the County Attorney to review and approve.

Mr. Dickinson stated he felt granting a payment extension was the correct course of action for this parcel since it would assist the County in determining the value of this particular parcel and Martin Auffredou, County Attorney, concurred. Mr. Auffredou commented since the parcel had failed to sell at previous Tax Foreclosure Auctions, he believed a payment extension was required in order to ensure the parcel was successfully conveyed. He added there was enough flexibility within the Real Property Tax Law to accommodate a payment extension.

Mr. Dickinson questioned whether Mr. Wild had any success in obtaining variances on other properties in the Town of Queensbury and Mike Wild, father of Ryan Wild, replied affirmatively. Mr. Dickinson asked whether a variance could be obtained within four months. Mr. Swan suggested granting an initial four month payment extension; however, he said, should it be determined additional time was required, another payment extension could be granted. Mr. Auffredou recommended granting a four month payment extension with the requirement that the Wilds return to request an additional payment extension, as well as provide a status update on the process to the Committee. He said another option to consider was granting a six month payment extension rather than four months to allow the Wilds additional time to go through the process of obtaining a variance. Mr. Dickinson commented he thought granting the Wilds a six month payment extension with the requirement that they return to the Committee to provide a status update should they require an additional extension was the correct course of action to take.

Mr. M. Wild apprised he had no issue with reporting back to the Committee on the status of the process in four months. He said the process would be time consuming and required an investment on their part; however, he surmised, there was a high probability they would be successful in obtaining the variance. He advised since this was an investment on their part, he would prefer that the option for another payment extension be included in case the process was drawn out, as this would provide them with the reassurance they could continue moving the process forward. Mr. Monroe commented he felt the Committee members would be willing to grant a six month payment extension as long as there was a provision included that required the Wilds to provide a status update to the Committee members during the fourth month.

Mr. McDevitt queried what their plans were for the property and Mr. M. Wild replied their plans were to construct a single family residence there. He added there was a stream on the property; therefore, he said, there may be an opportunity to convey a portion of the property back to the County for recreational purposes. Mr. Swan pointed out this particular parcel was 20+ acres left over from the Herald Square subdivision. He continued, since the developer determined this particular parcel was of no use to them, they discontinued the tax payments on it and the County foreclosed on it. He commented this seemed to be a reoccurring problem, as there were similar parcels located in the Leland Estates subdivision wherein the developer had ceased paying taxes because they had no use for the parcels. He stated this needed to be discussed with the Town of Queensbury in order to prevent it from becoming a larger issue.

Motion was made by Mr. Dickinson, seconded by Mr. Merlino and carried unanimously to authorize a six month payment extension on Tax Map No. 308.10-1-65 in the Town of Queensbury to Ryan Wild, Creative Spaces LLC, as the second highest bidder for the parcel in order to allow purchaser to obtain a variance from the Town of Queensbury with the requirement that Mr. Wild provide a status update to the Real Property Tax Services Committee four months from the February 20, 2015 Board meeting and the necessary resolution was authorized for the February 20, 2015 Board meeting. *A copy of the resolution request form is on file with the minutes.*

Mr. Auffredou asked whether the Wild's attorney would be drafting the agreement for him to review and Mr. M. Ryan replied affirmatively. He advised they had asked Michael O'Connor, Esq. to draft the agreement for them. He asked whether the agreement should be for a four month or six month extension and Mr. Auffredou responded the agreement should be for a six month payment extension with the requirement that they provide a status update to the Real Property Tax Services Committee four months from the February 20, 2015 Board meeting. He explained although the Committee approved the payment extension, approval of the full Board at the February 20, 2015 meeting was also required. Mr. Monroe commented he was unaware of any basis for opposition from the Board members.

Moving along, Ms. Delurey apprised a list of five parcels that did not sell in the 2014 Tax Foreclosure Auction was included in the agenda. She said the first parcel listed was Tax Map Parcel No. 25.4-1-22 on Graphite Mountain Road in the Town of Hague. She explained the parcel was foreclosed upon in 2012 and had been included in three Tax Foreclosure Auctions thus far with no success in attaining any interest in it. She stated there was a guard rail that intersected the front of the parcel. She commented the parcel was a ravine with a brook running through it. She stated upon the request of the Committee she had contacted the adjoining neighbors of any parcels that had not sold in the 2013 Tax Foreclosure Auction by letter in an attempt to gain any interest in them. She pointed out none of the property owners adjoining this particular parcel expressed interest and no bids were received in the 2014 Tax Foreclosure Auction.

Mr. Dickinson asked how many adjoining neighbors the parcel had and Ms. Delurey replied that there were two adjoining parcels, one of which housed mobile homes. She reiterated that she sent letters to both neighboring property owners but received no response from either. She asked if anyone had any suggestions as to what should be done with the property. Mr. Monroe advised since no one had expressed any interest in the parcel they should consider conveying the property to the adjoining neighbor so that it would be added back on to the tax roll; however, he said, he was unsure as to whether this was permissible.

Mr. Auffredou advised he had spoken briefly with Ms. Delurey regarding this subject. He stated under Real Property Tax Law 1166 the County had the authority to convey the property to a

neighbor or adjoining land owner; however, he said, he had some concerns with giving the parcel to a neighbor at no cost. He appraised he would be more comfortable with the transaction if some sort of nominal fee was involved. He questioned whether either adjoining neighbor would be willing to have the parcel gifted to them and Ms. Delurey replied she was unsure. She said she would have to contact them to inquire whether they had any interest. She pointed out the filing fees may be an issue since they totaled about \$500. She mentioned she had asked the County Clerk to look into whether the County's portion of the fees could be waived; however, she said, even if they were waived someone would be responsible for paying the \$255 in filing fees to the State.

Paul Dusek, County Administrator, asked whether the County currently owned the property and Ms. Delurey replied affirmatively. He noted there were liability and responsibility issues with the property since it was owned by the County. He said he did not necessarily assume transferring the parcel to a neighboring property was a gift because the County would no longer be liable for the property and it would return to the tax roll, which he felt had value. He added he believed the property had no value since no offers had been made on it at the three previous Tax Foreclosure Auctions it had been included in. He appraised it may be worthwhile to pay the recording fees to relieve the County of any liability and place the property back on to the tax rolls.

Mr. Merlino questioned what the content of the letter was that Ms. Delurey sent to the neighboring property owners. Ms. Delurey advised the letter included a brief description of the property and notified them it would be included in the Tax Foreclosure Auction, as well as the date and time of the auction in case they were interested in placing a bid. She continued, she also included her contact information in case they had any questions. Mr. Merlino asked whether she included the fees they would be required to pay if they purchased the property and Ms. Delurey replied in the negative. He pointed out they may not be interested in paying \$500 in fees for a small piece of property and Ms. Delurey concurred.

Mr. Auffredou queried what value the parcel would add to the neighboring parcels and Ms. Delurey replied it would not add any value to them. He questioned whether any additional tax would be generated as a result of conveying the parcel to them and Ms. Delurey replied in the negative. He pointed out transferring the parcel to a neighboring property would relieve the County of ownership of the parcel. He added the County was not necessarily liable for the property because of a statute in Real Property Tax Law that stated as long as the County was not actively acting as an owner of the parcel the County really did not have any liability; however, he said, once the property was conveyed it would be clear that the County had no liability. He continued, this meant that if any incidents occurred on the parcel after it was transferred, the County would not have to rely on the statute, as it would be clear that the responsibility was that of the future owner.

Mr. Dickinson suggested contacting the adjoining neighbors to inquire whether they had any interest in the parcel if the County was agreeable to paying the recording fees. He added he did not foresee anyone else being interested in the parcel if the neighbors were not, as it had no value.

It was the consensus of the Committee that Ms. Delurey contact the neighboring property owners to inquire whether they had any interest in Tax Map Parcel No. 25.4-1-22 in the Town of Hague if it was to be transferred to them at no cost and return to the Committee with her findings.

With regards to Tax Map Parcel No. 225.8-1-20 on Diamond Point Road in the Town of Lake George, Ms. Delurey advised this particular parcel was foreclosed upon in 2014 and included in the 2014 Tax Foreclosure Auction. She explained that both the highest and second highest bidders of the parcel indicated they were no longer interested in purchasing it for various reasons. She suggested the

parcel be included in the 2015 Tax Foreclosure Auction.

Mr. Dickinson asked where the parcel was located and Ms. Delurey replied the parcel was located on Diamond Point Road. He apprised because of its location whoever expressed an interest in the parcel other than the neighbor would have to request a variance to permit building on the property. Mr. Monroe questioned whether this information could be included in the notice of sale with the requirement that the County was willing to grant a six month payment extension until the variance was obtained. Mr. Swan pointed out if this was the direction the Committee took, a thorough review of all the properties included in the Tax Foreclosure Sale would be required to identify whether there were any issues with them. He suggested leaving the responsibility of researching whether there were any issues with the parcel upon the buyer, as it would place a burden upon the County to have to research all of the parcels. Mr. Dickinson apprised he thought individuals in the market for properties such as this were well aware of any issues the parcel may have.

It was the consensus of the Committee that Tax Map Parcel No. 225.8-1-20 in the Town of Lake George would be included in the 2015 Tax Foreclosure Auction.

Ms. Delurey apprised she felt Tax Map Parcel No. 301.20-1-31 on Howard Street in the Town of Queensbury should be included in the 2015 Tax Foreclosure Auction even though the sales from two previous auctions had fallen through. She explained the sale had failed to go through in 2013 due to title questions and in 2014 the highest bidder felt they overbid on the parcel and therefore, forfeited their 10% deposit, as well as the 7% buyers premium. She stated she believed there was a high probability the parcel would sell at the 2015 Tax Foreclosure Auction. She noted there was a vacant home located on the parcel.

Mr. Beaty asked what the amount of the highest bid in 2014 was and Ms. Delurey replied it was \$42,000. She explained because the home had been vacant for a few years, it required quite a bit of repair work.

It was the consensus of the Committee that Tax Map Parcel No. 301.20-1-31 in the Town of Queensbury be included in the 2015 Tax Foreclosure Auction.

With regards to Tax Map Parcel No. 308.19-1-27 located on Ogden Road in the Town of Queensbury, Ms. Delurey stated this was a small 50'x200' lot that would require a variance in order to place something such as a mobile home on it. She suggested that she send letters to the neighboring property owners notifying them the parcel would be available to purchase at the 2015 Tax Foreclosure Auction. She pointed out if a neighboring property owner purchased the parcel they would not have to seek a variance since they could merge the property into theirs. Mr. Dickinson questioned whether there was a minimum bid requirement for the parcel and Ms. Delurey replied in the negative.

It was the consensus of the Committee that Ms. Delurey would send letters to the neighboring property owners notifying them the parcel would be eligible for purchase at the 2015 Tax Foreclosure Auction.

Ms. Delurey advised Tax Map Parcel No. 211.17-2-43.2 located on Smith Street in the Town of Warrensburg was a 6'x145' strip. She said when they had tagged the property a few years ago the neighboring property owner had called expressing concern that the County was trying to foreclose upon their property. She concluded that an error was made in the 1960's when the property was conveyed because the original deed that was filed in 1966 included the parcel in with the

neighboring parcel. She stated the property owner of the neighboring parcel had indicated to her they were unwilling to pay the recording fees on the parcel since it was of no value to them.

Mr. Dickinson queried whether a title report was available confirming that it was part of the neighboring parcel. Mr. Auffredou advised he could review the title report that was obtained through the tax foreclosure process. Mr. Dickinson suggested completing a survey on the parcel and reviewing the title report to assist with determining whether the parcel was part of the neighboring parcel. Ms. Delurey apprised the title of the parcel had been transferred several times since the error was made in the 1960's.

Mr. Monroe asked what year the error occurred and Ms. Delurey replied in 1969 when the parcel was conveyed. She reiterated the parcel had been transferred multiple times since then; therefore, she was unsure they could correct the error and transfer the parcel back to the neighboring property. Mr. Dickinson interjected the number of times the title was transferred had no bearing on the defect, as there would still be a title error. He mentioned if both the title search and survey determined the parcel was part of the neighboring parcel and not a stand alone parcel, they should notify the neighboring property owner that the parcel belonged to them. Mr. Dusek stated he felt this was a practical solution; however, he suggested, conveying the parcel back to the neighboring parcel at no cost. Mr. Monroe advised if the property owner of the neighboring parcel had no interest in the parcel, it could be offered to the property owner of the other neighboring parcel. Ms. Delurey commented she felt the neighboring property owner that the parcel was previously be part of would be willing to have the parcel conveyed to them as long as it was at no cost.

Mr. Beaty questioned what would occur if both neighboring property owners expressed an interest in the parcel. Ms. Delurey suggested they offer the parcel to the neighboring property owner that the parcel used to be a part of before contacting the other neighboring property owner. Mr. Beaty said he knew the chances were minimal that both property owners would be interested in the parcel; however, he stated, he was concerned that this could occur. Mr. Monroe advised it appeared to him that it was clearly the result of an error with the deed and it should be offered to the property owner of the neighboring parcel it used to be a part of.

It was the consensus of the Committee that Ms. Delurey would contact the neighboring property owner the parcel used to be a part of to inquire whether they had any interest in Tax Map Parcel No. 211.17-2-43.2 in the Town of Warrensburg.

Ms. Delurey presented a request to sign the Facility Reservation Request Form for the use of the forum at SUNY (State University of New York) Adirondack to hold the BAR (Board of Assessment Review) training for newly appointed and reappointed members of the Town's Board of Assessment Review on April 22, 2015 from 6:00 p.m. to 10:00 p.m. She noted this request was not included on the agenda. She explained they normally provided the training at the Municipal Center; however, she said, since they were planning a joint training with Washington County she would like to host the meeting at SUNY Adirondack. She said she would have Mr. Auffredou review the Facility Use Agreement. Mr. Auffredou asked if there were any fees for the use of the forum and Ms. Delurey replied in the negative. She explained there were no fees charged for the use of the room; however, she stated, they were required to sign the Facility Reservation Request Form.

Mr. Auffredou advised the Facility Reservation Request Form included policy and procedures of SUNY Adirondack, as well as campus regulations they would have to follow. He stated he felt a formal resolution was required to authorize Ms. Delurey to sign the form.

Motion was made by Mr. Dickinson, seconded by Mr. McDevitt and carried unanimously to authorize Ms. Delurey to sign the Facility Reservation Request Form for the use of the Forum at SUNY Adirondack on April 22, 2015 to hold the BAR Training for newly appointed and reappointed members of the Town's Board of Assessment Review as outlined above and the necessary resolution was authorized for the February 20, 2015 Board meeting. *A copy of the resolution request form is on file with the minutes.*

With regards to the possible increase of Budget Code A.1355 428, Ms. Delurey apprised that the State had increased the amount they charged the County for their RPS license, which both the County and the Towns used. She said the County paid a little more than half of the total fee and billed the Town's a total of \$6,000 as their portion of the fee. She explained because the Towns of Bolton and Lake George were no longer in a CAP together, as well as the Towns of Chester and Horicon, the fee for their municipalities had increased. Mr. Monroe questioned why there was an increase for the Town of Chester since they had immediately entered into another agreement with the Town of Warrensburg. Ms. Delurey stated although they were using a consolidated assessor they had not entered into an agreement with New York State participate in that particular consolidated assessing unit. She said the fee would have been less if they had entered into an agreement with New York State for the consolidated assessing unit.

Ms. Delurey pointed out because these Towns were no longer in CAPS the total fee had increased by \$2,000 from \$13,300 to \$15,300, which was expended from the Real Property Tax Services Budget. She noted the additional funds were not available in her budget this year to cover the increase. She stated she may have to request funds from the Contingent Account later in the year to cover the cost of the increase.

Mr. Dickinson asked whether this was a result of the Assessor that the Town of Lake George used to share with the Town of Bolton retiring. Ms. Delurey explained that prior to the Assessor retiring the Towns of Lake George and Bolton had an agreement with the State of New York for a consolidated assessing unit. She continued, when the assessor retired two separate units were created. She said this meant the Towns were now required to pay a fee based upon the number of parcels in their individual Towns rather than the consolidated assessing unit, which resulted in a higher fee. She apprised the amount of the fee was based upon the number of parcels. As an example, she stated, 1-3,000 parcels was one fee and 3,001 to 5,000 was a slightly higher fee.

Mr. Dickinson questioned whether it was permissible for the Town of Lake and the Town of Bolton to form a new agreement even though they had two different assessors and Ms. Delurey replied in the negative. She clarified since they were no longer using the same assessor and the equalization rates were no longer the same, it would not be considered a consolidated assessing unit.

Mr. Dickinson queried how Ms. Delurey paid the fee and she replied they billed the Towns a total of \$6,000 for their portion of the fee and the difference was expended from the Real Property Tax Services budget. She said the previous Director of Real Property Tax Services had been granted authority to charge back a fee to the Town's for the RPS license during budget discussions in 2009; however, she said, she had been unable to locate any record setting the amount that would be charged back. Mr. Dickinson asked whether Ms. Delurey was requesting to change the current method used and she replied she felt she would be undertaking this discussion with the Budget Team later in the year.

Mr. Dickinson queried when the fees commenced to the Towns and Ms. Delurey replied a letter was sent to the Town's in August of 2010 stating that the charges would commence in 2011. She

reiterated she had been unable to locate any record setting a specific amount to charge to the Towns. Mr. Swan advised because the County was under financial stress during this time period, he had determined rather than continue having the County pay the entire licensing fees for all of the Towns, half of the fee would be charged back to them. He continued, because New York State had increased the fee, the County was now paying a larger portion than the Towns. He added there was never anything in writing stating that the County and the Towns would split the fees in half.

Mr. Dickinson interjected he had no issue splitting the fee in half between the County and the Towns. Ms. Delurey pointed out this had been the first year New York State listed the fee they charged for each Town. She surmised it may be easier to split the fee New York State charged for each Town in half to calculate the County and the Towns portion. Mr. Dickinson asked what New York State listed as the Town of Lake George's portion of the fee and Ms. Delurey replied they listed \$1,300 as the charge for the Town of Lake George; therefore, she said, after splitting that in half, their portion of the fee would be \$650. Mr. Monroe suggested continuing the discussion at the next Committee meeting, as they were way over schedule.

Moving along, Mr. Auffredou reminded the Committee at the October 17, 2014 Board meeting the Board approved by majority vote to remove Tax Map Parcel No. 133.8-1-33 in the Town of Johnsbury and Tax Map Parcel No. 180.-2-14 in the Town of Thurman from the 2014 Tax Foreclosure Auction. He said the minutes from this meeting reflected Mr. Girard requesting that the County Attorney report on the legal ramifications of that determination. He stated following the meeting he had discussed the matter with Mr. Swan. He continued, since Mr. Swan did not have the authority to accept payment from the Moshers due to all of the redemption periods having expired and the County had title to the parcel, etc., it was necessary to devise a method to procedurally place the properties in a position wherein the County Treasurer could accept payment from the Moshers. He apprised as per Resolution No. 505 of 2014, the deadline for the Moshers to pay in full on all outstanding taxes due for the parcels was March 30, 2015. He mentioned he had made a motion in the Supreme Court to vacate the County's judgement in part to remove these two particular parcels from the judgement and to authorize the County to convey the parcels back to the Moshers. He said the application was granted by the Supreme Court and the order was served upon the Moshers on January 8, 2015. He commented the total outstanding taxes due on all of the parcels as of January 31, 2015 was \$34,457.96, as well as an additional sum for the recording fees. He stated he had notified the Moshers that the County was now in a position to accept payment from them; however, he said, he had received no response to his correspondence of January 8, 2015 by letter or by phone call.

Mr. Auffredou commented he felt he had taken the steps necessary to put the County and the Moshers in a position wherein payment could be received for the total outstanding taxes due for the parcels on or before March 30, 2015. He continued, there were certain actions required of the Moshers such as coming to the County for a closing on the parcels, recording the deeds back to them and making payment in full prior to March 30, 2015. He said he had one other item he would like to discuss in executive session; however, he stated, due to time restraints, he would present it at the next meeting.

Mr. Beaty requested they continue the discussion regarding developers foregoing the taxes on parcels that had no use to them, as he had some serious concerns with this. Mr. Monroe advised he felt this was an issue for the Town Boards to deal with; however, he stated, they could discuss the matter further at the next meeting. Mr. Beaty apprised another item of concern for him related to the RPS licensing fees. He commented he felt the fees should be divided among the Towns accordingly.

As there was no further business to come before the Real Property Tax Services Committee, on motion made by Mr. Merlino and seconded by Mr. McDevitt, Mr. Monroe adjourned the meeting at 10:22 a.m.

Respectfully submitted,
Sarah McLenithan, Secretary to the Clerk of the Board