

Sponsor: BOF

Agenda: CC Deliberative 10/21/13

Resolution related to the acquisition of 150 Shelburne Street in the event a bid not equal to the delinquent tax and costs is made at tax sale

WHEREAS, the owner of the property at 150 Shelburne Street, Bilmar Team Cleaners, a Vermont partnership with Margaret Murray as its sole remaining partner, is severely delinquent in the payment of her property taxes, owing approximately \$133,479.60 in delinquent taxes, penalties and interest for the tax years 1995 through 2013 as of October 13, 2013; and

WHEREAS, the house on this property has been rented out as a residential rental property since 1997, with the owner currently receiving \$1700/month in rent, and has been continuously lived in since 1987; and

WHEREAS, despite the fact that this property is on the Vermont Hazardous Sites Management List due to the presence of petroleum contamination and has been since 1994, neither city nor state regulators have found any condition related to the contamination that has caused them to place of any restriction on the continued habitation or rental of the house; and

WHEREAS, despite being told in May 2010 by state regulators that further testing is needed to determine the full extent and limits of the contamination before the property can be given a site completion status, the owner has steadfastly refused to do such testing; and

WHEREAS, despite also having been told since 1994 by state regulators that the property is eligible for participation in the Vermont Petroleum Cleanup Fund (VPCF), a fund which assists owners in assessing and remediating petroleum contamination on properties and limits their liability for addressing this problem, the owner has refused and continues to refuse to enroll in the VPCF; and

WHEREAS, the City has for several years unsuccessfully tried to assist the owner in dealing with the property's petroleum contamination issues and resolving her significant tax delinquency, all such assistance being rebuffed; and

WHEREAS, on September 17, 2013, the Vermont Superior Court set the fair market value for the property at \$215,000, agreeing with the value set by the City's Assessor, an independent appraiser and the City Board of Tax Appeals, and rejecting the owner's claim that the property is worthless; and

WHEREAS, on September 13, 2013, the Vermont Supreme Court rejected the owner's complaint against the 2010 decision of the City's Board of Abatement and upheld the board's decision only abating the oldest two years of the delinquency, thereby clearing the way for the resolution of this tax delinquency; and

WHEREAS, the City, through its Community and Economic Development Office, has the capability and capacity to manage the investigation and remediation of the petroleum

contamination on the property and assist in the property's development to its highest and best use; and

WHEREAS, this property had the required tax warrants extended on it and the required tax collector's notices issued because the owner continued to refuse to pay property taxes on the property; and

WHEREAS, the owner has continued to refuse to pay off her tax delinquency despite receiving such notices and is adamant that the City is paid no taxes on the property; and

WHEREAS, as a consequence of the failure to pay her taxes, the City has begun taking the steps required by law to initiate a tax sale of the property, a sale which is scheduled for November 13, 2013; and

WHEREAS, although when the City last held a tax sale in February 2011 there were no bidders, the City is currently taking additional steps to encourage the presence of bidders to bid on the property at the November 13th tax sale at a price equal to or greater than the tax and costs owed to the City; and

WHEREAS, state law 32 V.S.A. § 5259 authorizes municipalities to acquire a tax delinquent property in a tax sale "if a bid not equal to the tax and costs is made at such sale"; and

WHEREAS, if a property that a municipality buys at tax sale has petroleum contamination upon it, the municipality has the right by law "prior to the expiration of the redemption period, to enter on to the land for the purpose of assessing and remediation on the land"; and

WHEREAS, state law 32 V.S.A. § 5260 authorizes a municipality that has purchased contaminated land at tax sale to include in the cost to redeem the property all costs expended for the assessment and remediation of the contamination, including the expenses incurred or authorized by any local, state or federal government authority; and

WHEREAS, there is good and prudent reason to authorize the City to be the buyer of last resort at the tax sale if a bid not equal to the tax and costs is made at the November 13 tax sale based on the combination of factors including (1) the rights and protections afforded by law to the City in this circumstance, (2) the City's experience and ability to remediate contaminated properties and work with housing developers to redevelop them as tax paying properties, (3) the very large tax delinquency, (4) the fair market value of the property which is still above the amount owed to the City, (5) the continued rental of the property at a market rent, (6) the owner's total and absolute refusal to pay this significant tax delinquency, and (7) the owners refusal to take the necessary steps to assess and remediate the contamination; and

WHEREAS, in the event that the City is the purchaser at tax sale, the City can offer a cleaned up property for sale to a private buyer to recoup the costs it will have expended or to use the property for another public purpose if that is preferred;

NOW THEREFORE BE IT RESOLVED that the City Council hereby authorizes the Chief

Administrative Officer to acquire 150 Shelburne St. in tax sale if there is not a bid equal to the tax and costs made at the sale.