

**RECORD OF SPECIAL MEETING  
ELLSWORTH CITY COUNCIL**

**DATE: DECEMBER 4, 2015**

**TIME: 8:00 AM**

**PLACE: ELLSWORTH CITY HALL COUNCIL CHAMBERS**

**CITY COUNCIL PRESENT: BEATHAM, BLANCHETTE, CROSTHWAITE,  
FORTIER, MOORE, PERKINS AND PHILLIPS.**

**CITY COUNCIL ABSENT:**

**KEY SPEAKERS PRESENT: CITY MANAGER DAVID COLE, AMANDA  
TUPPER, AND TERI DANE.**

*Call to Order.*

Chairman Crosthwaite called the special meeting of the Ellsworth City Council to order at 8:00 AM.

*Council Order #121500, Request of the Deputy Treasurer/Tax Collector to waive foreclosure on the properties located at 220 High Street (Map 131 Lot 053-000-000) and 222 High Street (Map 131 Lot 054-000-000) and to authorize the Deputy Treasurer/Tax Collector to execute a promissory note with the owner of the properties.*

Amanda Tupper, Deputy Treasurer/Tax Collector explained that Albert Harmon contacted the City of Ellsworth and indicated that he is financially unable to pay the \$19,533.77 necessary to stop the impending automatic foreclosure of his business by the December 9, 2015 deadline. There is a mortgage holder on both properties so the option of a Real Estate Purchase Installment Contract (REPIC) is not available. The other option available would be for the City Council to waive foreclosure and enter into a promissory note that requires monthly installments to be paid by Harmon. Attachment #1 includes the payment schedule along with other pertinent information. The payment schedule would require \$1,000 be paid monthly on each parcel beginning in January. This arrangement would not satisfy the outstanding tax obligation before the foreclosure date next year. After discussing this with Harmon, Tupper has been assured the remaining balance will be paid in full by September of 2016. Councilor Fortier clarified the promissory note being considered this morning will be \$2,000 per month and Harmon's verbal agreement that he will pay the taxes in full quicker than that. Tupper confirmed that was correct. Fortier stated for the purpose of the record only and to protect the citizens of Ellsworth, if the City enters into this promissory note and the requirements fail to be met the City's hold on the property will trump the mortgage holders claim on the property. Tupper stated the City's interest will stand over the mortgage holder's interest. Councilor Blanchette inquired what the remaining balance would be. Tupper stated the balance would be \$12,629.04. On average, to satisfy the debit by the foreclosure date in 2016, the promissory note should require a monthly payment of approximately \$3,100. Blanchette inquired if Harmon was comfortable with the monthly payment included in the promissory note as well as his ability to satisfy the remaining balance before the foreclosure date in 2016. Harmon confirmed he was comfortable with this agreement. Harmon explained the

**Call to Order.**

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circumstances that contributed to his difficulty in having the taxes paid in full as well as his future plans which would ensure he could have the tax obligation satisfied in a timely manner. Councilor Phillips inquired if the required payment of \$6,000 due by December 16, 2015 would be a problem. Harmon confirmed that payment will not be a problem. Harmon is comfortable with the payment plan as designed for the remainder of the year. Phillips felt that as long as the City and the taxpayers of Ellsworth are protected, the City should help Harmon succeed in his business. Phillips was in favor of helping this one time.

*On a motion by Fortier, seconded by Moore, it was unanimously*

**RESOLVED to approve Council Order #121500, Request of the Deputy Treasurer/Tax Collector to waive foreclosure on the properties located at 220 High Street (Map 131 Lot 053-000-000) and 222 High Street (Map 131 Lot 054-000-000) and to authorize the Treasurer/Tax Collector to execute a promissory note with the owner of the properties.**

Chairman Crosthwaite called for a temporary recess of the meeting at 8:10 AM. The recess was held as the Council waited for the applicant to arrive for the next agenda item.

Chairman Crosthwaite reconvened the Special Meeting at 8:25 AM with Item #3 (Council Order #121501).

*Council Order #121501, Request of the Deputy Treasurer/Tax Collector to waive foreclosure on the property located at 1311 Happytown Road (Map 108 Lot 010-00N-000) and to authorize the Deputy Treasurer/Tax Collector to execute a promissory note with the owner of the building on the property.*

Amanda Tupper, Deputy Treasurer/Tax Collector explained that David Marshall contacted the City of Ellsworth and indicated that he is financially unable to pay the \$2,360.00 necessary to stop the impending automatic foreclosure on his building by the December 9, 2015 deadline. The \$2,360.00 balance on Mr. Marshall's account is an accumulation of three (3) years worth of delinquent taxes from FY 2012, FY 2013, and FY 2014. The City waived foreclosure the prior two years as this building/land was in the court system. There is no mortgage holder on this property. This is not Mr. Marshall's primary residence so the option of a Real Estate Purchase Installment Contract (REPIC) is not available. The other option available would be for the City Council to waive foreclosure and enter into a

**Temporary recess of the meeting at 8:10 AM.**

**Reconvened Special Meeting at 8:25 AM.**

**Approved - Council Order #121501, Request of the Deputy Treasurer/Tax Collector to waive foreclosure on the property located at 1311 Happytown Road (Map 108 Lot 010-00N-000) and to authorize the Deputy Treasurer/Tax Collector to execute a promissory note with**

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promissory note that requires monthly installments to be paid on the taxes. The note would be structured so that the FY 2012, FY 2013, FY 2014, and FY 2015 taxes are paid prior to the foreclosure date in December 2016. See attachment #2 for a complete explanation including the property card for this parcel and a Real Estate Tax Quote indicating the balance on the account. Tupper asked Larry Gardner, Tax Assessor and Dwight Tilton, Code Enforcement Officer to be present at the meeting this morning in case the Council had questions about the building. Erin Marshall was present at the meeting as her husband David Marshall could not be present this morning. Councilor Fortier clarified the Council is being asked to waive foreclosure on the building only this morning. The property is scheduled to foreclose on Tuesday if the owner of the land does not satisfy the tax obligation by that time. Approximately, \$1,400 is still outstanding on the land portion. Fortier inquired how the situation would be handled if the Council waives foreclosure on the building this morning and then does not receive the tax obligation on the land portion on Tuesday. Tupper explained if the City acquires the land portion on Tuesday through the foreclosure process, she would need to come back before the Council. A decision would need to be made by the Council whether the building could remain on the City owned land or how quickly would the City want the building removed from the property. It would be difficult to place the land out for public bid with a building located on it, especially one owned by a separate tax payer. Councilor Blanchette inquired from Erin Marshall, if the building were required to be removed from the land, how would that be handled. Marshall explained she does not own the building, her husband does and he was not able to be present at this meeting due to a family emergency. She went on to explain they had moved this building last year, after the 2 year court case involving the building was resolved with her uncle. This was a case where he owned the land and they owned the cabin. The Marshall's paid to have the cabin moved to the parcel of land where it is today. They have an agreement with the current land owner to pay the taxes starting with last year moving forward. Marshall had a copy of a check which they gave to the landowner for the taxes last year. Marshall stated the landowner never brought those funds to the City, so she feels they paid for the taxes last year. Tupper stated the end result is the taxes still have not been paid to the City on the land portion. That agreement is between the land owner and the Marshalls, the City is not part of that agreement. The City has not received payment for two years on the land portion; those taxes would need to be paid in order to avoid the foreclosure. The foreclosure would be satisfied on the land portion if the City were to receive \$1,400.10 before Tuesday. Councilor Moore clarified the agreement between the land owner and the building owner in regards to the taxes due on the land portion of the property. The applicant feels in good faith they paid the land owner for taxes

**the owner of the  
building on the  
property.**

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that were not included in their agreement. There was a lengthy discussion concerning the amount of taxes currently outstanding on the land only portion of the property and how the agreement between the two parties was structured. Under the promissory note proposed this morning the Marshall's have agreed to pay \$214.00 a month. If this note is kept current the building portion of the property will not be facing foreclosure next year at this time. Tupper confirmed that additional payments will be accepted if the Marshall's would like to pay off the debit sooner. Councilor Phillips inquired where the Marshall's would move the building if the City takes ownership of the land on Tuesday. Marshall stated she has no idea where they would move the building as they just placed the building on this piece of land in January. Marshall was willing to include the current taxes for the land within her promissory note being proposed this morning; however she does not feel they should be responsible for the back taxes. Tupper stated the City could not enter into a promissory note with the Marshall's for the landowners property taxes. Fortier stated the cleanest path moving forward would be to allow foreclosure on the land and then when the City puts the land up for sale the Marshalls should bid on it. The only way they can do that is if the Council waives foreclosure this morning and enters into a promissory note on the cabin (building). There is a risk the Marshalls will be outbid during the public bid process. Without legal advice, the Council did not feel it was an option to allow the Marshalls to make an offer on the land prior to it going out to public bid solely based on their building setting on the property. There is an Ordinance that controls how property obtained through foreclosure is disposed of. The Ordinance requires a public bid process first. The current owner of the land will have 30 days to pay all the accrued taxes on the property, if they fail to pay the foreclosure amount before Tuesday. The minimum bid amount during the public sale will include all past due taxes, fees and costs on the property; the winning bidder will be required to pay their bid amount within 30 days of being awarded the bid. If they fail to pay the full amount within 30 days, the property will pass to the next highest bidder and so forth until the party pays the bid amount within 30 days of award. The owner does not seem to be open to selling the property to the Marshalls at this time. Tupper confirmed that David Marshall would be available to sign the promissory note on or before December 8, 2015. Erin Marshall confirmed he would be available. The City will still have all legal rights to the property if the terms of the promissory note are not honored. The Marshalls have tried speaking with the owner to be sure she will pay the foreclosure off prior to December 9, 2015. They have not been able to reach her yet. Councilor Beatham stated it does not matter who pays the outstanding taxes on the land as long as they are paid by midnight of December 9, 2015.

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TUPPER, AND TERI DANE.**

*On a motion by Fortier, seconded by Blanchette, it was*

**RESOLVED to approve Council Order #121501, Request of the Deputy  
Treasurer/Tax Collector to waive foreclosure on the property located at 1311  
Happytown Road (Map 108 Lot 010-00N-000) and to authorize the Deputy  
Treasurer/Tax Collector to execute a promissory note with the owner of the  
building on the property.**

Before a vote was taken on the above motion, Councilor Perkins clarified the motion should indicate Lot 010-00N, rather than zero N. This correction was made to the motion as Fortier accepted it and Blanchette seconded it.

**A final vote was taken on the above motion with all members voting  
unanimously in favor.**

*Adjournment.*

*On a motion by Fortier, seconded by Moore, it was unanimously*

**RESOLVED to approve adjournment at 8:49 AM.**

**A TRUE COPY**

**ATTEST: \_\_\_\_\_  
HEIDI-NOËL GRINDLE**

**Approved -  
Adjournment at 8:49  
AM.**