



Legislation Text

File #: 21-0269, **Version:** 1

Resolution to Amend the Fiscal Year 2022 City Council Approved Budget to Appropriate \$16,703.91 from the Restricted Fund Balance to the Public Works Engineering Department in the General Fund to be Used for the Acquisition of a Cul de sac that is Part of Pennsylvania Avenue for Perpetual Right of Way

PURPOSE/BACKGROUND:

The purpose of this resolution is to transfer to Public Works, for the acquisition of specific right of way, certain excess proceeds received from a tax sale that have since, in accordance with the law, been transferred to the General Fund.

Discussion:

The Treasurer conveyed to George L. Salyers (“Salyers”) an undeveloped .50 acre plot of land located off Pennsylvania Avenue and located in the City of Hampton, Virginia, identified as RPC #1003145 in the land records of the City of Hampton, Virginia through a non-judicial tax sale pursuant to Code of Virginia §58.1-3975. The sale to Salyers resulted in the excess proceeds in the amount of \$16,703.91. In accordance with the law, those excess proceeds were held separate from all other City funds and accounted for in accordance with the Code of Virginia.

Code of Virginia §58.1-3975 provides that excess proceeds remain the property of the former owner, subject to the claims of creditors and may be claimed by the former owner by petition to the Treasurer. However, if no claim for payment of excess proceeds is made within two (2) years after the date of sale, the treasurer or other responsible office shall deposit the excess proceeds in the locality’s general fund. More than two (2) years have passed since the sale to Salyers, and no claim has been made by the former owner. The Treasurer has transferred to the City’s General Fund \$16,703.91, plus any accrued interest thereon.

The due diligence required for a non-judicial tax sale is much less than required when a property is sold by the Treasurer through a judicial process. At the time of the sale, the City’s land records identified I.E. White as the owner of record of that plot of land, with no legal description available in the land records, other than the RPC number. In an effort to create a more sustainable legal description in the real property records, following the transfer, the City Surveyor set out to create a survey of the parcel acquired by Salyers, which could then be recorded and referenced as the legal description going forward. In doing so, the City Surveyor determined that (1) the parcel that was transferred to Salyers was not the correct and entire parcel; and (2) the actual owner of the Property immediately prior to the non-judicial tax sale was a different party, a trust maintained for the benefit of the Bickford Trust Beneficiaries, rather than White. The City Survey further determined that the City has a need to also acquire from the Bickford Trust Beneficiaries a cul de sac adjacent to the

plot acquired by Salyers.

The Bickford Trust Beneficiaries, Mr. Salyers, and the City are in mutual agreement that (1) Salyers should retain the parcel he acquired; and (2) the City can acquire from the Bickford Trust Beneficiaries the cul de sac in exchange for the amount of the excess proceeds from the tax sale.

Impact:

See Purpose/Background and Discussion above.

Recommendation:

Approve the Resolution

WHEREAS, the Treasurer has the authority to sell land for delinquent taxes in accordance with Code of Virginia §58.1-3975;

WHEREAS, pursuant to that authority, on September 5, 2017, the Treasurer sold to George L. Salyers (“Salyers”) that certain parcel of land designated as “Pennsylvania Avenue” and designated in the City’s land records and geographical information system as RPC No. 1003145;

WHEREAS, that sale resulted in excess proceeds in the amount of \$16,703.91, which have been held and accounted separate from other City Funds, as required by the law;

WHEREAS, Code of Virginia §58.1-3975 provides that excess proceeds remain the property of the former owner, subject to the claims of creditors and may be claimed by the former owner by petition to the Treasurer; however, if no claim for payment of excess proceeds is made within two (2) years after the date of sale, the treasurer shall deposit the excess proceeds in the locality’s general fund;

WHEREAS, more than two (2) years have passed since the date of sale, and no claim was made by the former owner, and the treasurer has since transferred that \$16,703.91, plus any accrued interest thereon, to the general fund;

WHEREAS, subsequent to the sale, the City Surveyor discovered that the actual legal owner of the parcel was (a) a party different than that which received notice of the tax sale (that newly discovered party being the “Bickford Trust Beneficiaries”); and (b) that the parcel conveyed based on the description in the City’s Geographic Information System and land records is legally only a portion of a larger parcel;

WHEREAS, the City has an interest in acquiring the portion of that larger parcel not transferred through the tax sale, that encompasses a cul de sac, to be held by the City as right of way; and

WHEREAS, the party that purchased property from the tax sale, the newly discovered (former) legal owner of that property, and the City have reached an agreement that provides for the party to the tax sale to retain the property therein purchased; for the City to acquire the right of way, and for the legal owner to receive for that right of way an amount equal to the excess proceeds.

NOW THEREFORE, the City Council of the City of Hampton, Virginia, hereby amends the City Council Approved Budget to appropriate \$16,703.91 from the Restricted Fund Balance to the Public

Works Engineering Department in the General Fund to be used by the Public Works Department for the acquisition of a cul de sac that is part of Pennsylvania Avenue, to be held by perpetually by the City as right of way.