



**CITY OF TYLER  
CITY COUNCIL COMMUNICATION**

**Agenda Number:** R-1

**Date:** November 21, 2006

**Subject:** Request that the City Council consider adopting a Resolution agreeing to the sale of certain tracts of land located within the City of Tyler city limits and owned by taxing entities including the City of Tyler.

**Page:** 1 of 2

**Item Reference:** The City of Tyler has contracts with Smith County to provide tax collection services for the City. Smith County also contracts with a private law firm to provide delinquent tax collection work for many Smith County taxing entities. One of the services provided by that law firm is to sell certain properties from time to time upon which a delinquent tax judgment has been entered. The purpose of such a sale is both to receive any money that might be obtained from a new buyer, but also to place the properties back on the tax rolls. Sometimes, however, there just is no bidder at such sales or the bid is so low that it is not in the taxing entities' interests to accept the bid.

This request is from the taxing entities' law firm, and it concerns tracts, which were previously offered at a tax sale, but became the property of the taxing entities because there were either no bids or insufficient bids. Since the date of the tax sale, potential buyers have come forward, and in order for such sale to be authorized, the governing bodies of all involved taxing entities must consent to the sale. This type of sale arrangement is permitted under Section 34.05 of the Texas Property Tax Code.

The properties involved in this request along with details on when Judgments were taken, Judgment amounts, and other costs, prior owners, current bids and bidders are set out in Exhibit "A" and "B" of the Resolution.

The distribution of proceeds from such sales are governed by Sections 34.06 and 34.02 of the Property Tax Code and provide as follows:

"Section 34.02 Distribution of Proceeds.

- (a) The proceeds of a tax sale shall be applied first to the payment of costs. The remainder shall be distributed to all taxing units participating in the sale in satisfaction of the taxes, penalties, and interest due each.

**Agenda Number: R-1**

**Page: 2 of 2**

- (b) If the proceeds are not sufficient to pay the costs and taxes, penalties, and interest due all participants in the sale, each participant is entitled to a share of the proceeds after payment of costs in an amount equal to the proportion its taxes, penalties, and interest bear to the total amount of taxes, penalties, and interest due all participants in the sale.
- (c) If the sale is pursuant to foreclosure of a tax lien, the officer conducting the sale shall pay any excess proceeds after payment of all costs and of all taxes, penalties, and interest due all participants in the sale to the clerk of the court issuing the order of sale.
- (d) If the sale is pursuant to seizure of personal property, the officers conducting the sale shall distribute any excess of proceeds as provided by law for excess proceeds in the case of execution."

A representative of the law firm of Perdue, Brandon, Fielder, Collins & Mott, LLP., of Tyler, Texas will be present to answer questions regarding this tax sale.

**RECOMMENDATION:**

It is recommended that the City Council adopt the attached Resolution authorizing the sale of certain tracts of land located within the City of Tyler city limits and owned by taxing entities including the City of Tyler.



**Drafted/Recommended By:**  
**Department Leader Gary C. Landers, City Attorney**

**Edited/Submitted By:**  
**City Manager**

November 1, 2006

Honorable Mayor Seeber  
And City Council  
City of Tyler  
P.O. Box 2039  
Tyler TX 75710

RE: Resolutions for Approval  
Tax Resale Deeds

Dear Honorable Mayor and City Council:

Please allow this letter to serve as a request to have an item placed on the November 8<sup>th</sup> 2006, City of Tyler City Council Agenda.

The Taxing Authorities in Smith County have become the owner of certain real property pursuant to Section 34.01 of the Texas Property Tax Code; the City Council must approve the sale of the property to the prospective bidder, along with all other taxing jurisdictions. Therefore, the item concerns approval of the sale of property in the City of Tyler, Smith County, Texas.

If you have any questions or need additional information, please feel free to contact our office.

Respectfully yours,

Tab Beall  
Perdue, Brandon, Fielder, Collins and Mott, LLP

**RESOLUTION NO. R-2006-25**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TYLER, TEXAS AGREEING TO THE SALE OF CERTAIN PROPERTY LOCATED WITHIN TYLER CITY LIMITS AND OWNED BY TAXING ENTITIES INCLUDING THE CITY OF TYLER AS THE RESULT OF A TAX SALE: AND ESTABLISHING AN EFFECTIVE DATE.**

**WHEREAS**, The taxing entities, including the City of Tyler, Smith County, Texas, have become the owners of certain real property by virtue of the foreclosure sale conducted by the Sheriff pursuant to an order of the District Court as set out in the attachments described below: and

**WHEREAS**, all taxing entities involved in the below-referenced causes must consent to the sale of the described real property; and

**WHEREAS**, it is to the benefit of all taxing entities involved that the property be returned to its respective tax rolls;

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF TYLER, TEXAS:**

**PART 1:** That the Mayor be and is hereby directed and authorized to execute the deed and any and all documents necessary to convey the real property referred to in a District Court Order in **Cause No. 20,180-C Tract 1 and Tract 2, Smith County vs Clara Nell Huey et al; Lot 11 and 12, Block 2, Subdivision of lands in the James A. Haynie Survey, being 0.3 acres and a tract described as a .876 of 7.73 acre tract as described in Volume 473, Page 294 deed records of Smith County, TX (Subject to all City of Tyler and Smith County Liens recorded in County Clerk's records) (location Old Noonday RD)** to the buyer for and in consideration of the cash bid; all as described in the attached Exhibit "A" and "B", said monies to be distributed pursuant to Section 34.05 of the Texas Property Tax Code.

**PART 2:** That this resolution shall take effect immediately upon adoption.

**ADOPTED** this 21st day of November, 2006.

\_\_\_\_\_  
**JOSEPH O. SEEBER, MAYOR  
CITY OF TYLER, TEXAS**

**ATTEST:**

**APPROVED:**

\_\_\_\_\_  
**CASSANDRA BRAGER, CITY CLERK**

\_\_\_\_\_  
**CITY ATTORNEY**

**EXHIBIT "A" TO RESOLUTION R-2006-25  
PAGE 1 OF 2**

**BID ANALYSIS**

Cause #: 20,180-C (Tract 1)  
Previous Owner: Clara Nell Hughey et al      Acct. #: 1-500000-0840-00-011000  
Bid Amount: \$1,950.00      Judgment Value: \$2,600.00  
Bidders Name: Barnett & Oden  
Properties, LLC      Date of Sale: Sept. 5<sup>th</sup>, 2006  
Bidders Address: P.O. Box 702      Date Bid Submitted: 10/16/2006  
Tyler, TX 75766

Redemption Expires: April 2007  
Sale Recording Date: 10//2006

**PROPERTY DESCRIPTION**

**Lot 11, Block 2 of the Subdivision of lands in the James a Haynie Survey, being 0.3 acres more or less, a 75' x 175' tract of land recorded in Volume 473, Page 294 deed records of Smith County.**

**SITUS OR LOCATION: Old Noonday Rd.**

**JUDGMENT INFORMATION**

<b>Tax Entity</b>	<b>Tax Years</b>	<b>Amount Due</b>
SMITH COUNTY	1982-2005	\$ 951.23
CITY OF TYLER	1982-2005	\$1,707.98
TYLER JR. COLLEGE	1982-2005	\$ 379.02
TYLER ISD	1982-2005	\$ 3,796.09
<b>TOTAL:</b>		<b>\$6,834.32</b>

**COSTS**

Court Costs	\$626.00 (Payable to Smith County District Clerk) Includes Ad Litem Fee of \$150.00
Publication Fee	\$ 95.60 (Payable to Perdue Law Firm)
Sheriff's Fees:	\$170.00 (Payable to Smith County Sheriff)
Title Research: LLC)	\$137.50 (Payable to Perdue Brandon Fielder Collins and Mott,
Recording Fee	\$ 30.00 (Payable to County Clerk)

**TOTAL: \$1,059.10**

**EXHIBIT "A" TO RESOLUTION R-2006-25  
PAGE 2 OF 2**

**POST JUDGMENT TAXES**

Entity	Tax Year	Amount
--------	----------	--------

**PROPOSED DISTRIBUTION**

Bid Amount:	\$1,950.00	Costs: \$1,059.10
Net to Distribute:	\$ 890.90	Post Judgment Taxes: \$

ENTITY	PERCENTAGE	AMOUNT TO DISBURSE
Smith County	.14	\$ 124.73
City of Tyler	.25	\$ 222.72
Tyler Jr. College	.06	\$ 53.45
Tyler ISD	.55	\$ 490.00
		<b>TOTAL: \$890.90</b>

**EXHIBIT "B" TO RESOLUTION R-2006-25  
PAGE 1 OF 2**

**BID ANALYSIS**

Cause #: 20,180-C (Tract 2)  
Previous Owner: Clara Nell Hughey et al      Acct. #: 1-500000-0840-00-012000  
Bid Amount: \$1,950.00      Judgment Value: \$2,600.00  
Bidders Name: Barnett & Oden  
Properties, LLC      Date of Sale: Sept. 5<sup>th</sup>, 2006  
Bidders Address: P.O. Box 702      Date Bid Submitted: 10/16/2006  
Tyler, TX 75766

Redemption Expires: April 2007  
Sale Recording Date: 10//2006

**PROPERTY DESCRIPTION**

**Lot 12, Block 2 of the Subdivision of lands in the James a Haynie Survey Recorded in Volume 1556, Page 417 Deed Records of Smith County.**

**SITUS OR LOCATION: Old Noonday Rd.**

**JUDGMENT INFORMATION**

<b>Tax Entity</b>	<b>Tax Years</b>	<b>Amount Due</b>
SMITH COUNTY	1973-2005	\$ 551.52
CITY OF TYLER	1973-2005	\$1,483.67
TYLER JR. COLLEGE	1973-2005	\$ 336.94
TYLER ISD	1974-2005	\$ 2,989.32
<b>TOTAL:</b>		<b>\$5,361.45</b>

**COSTS**

Court Costs	\$626.00 (Payable to Smith County District Clerk) Includes Ad Litem Fee of \$150.00
Publication Fee	\$ 95.60 (Payable to Perdue Law Firm)
Sheriff's Fees:	\$170.00 (Payable to Smith County Sheriff)
Title Research: LLC)	\$137.50 (Payable to Perdue Brandon Fielder Collins and Mott,
Recording Fee	\$ 30.00 (Payable to County Clerk)

**TOTAL: \$1,059.10**

**EXHIBIT "B" TO RESOLUTION R-2006-25  
PAGE 2 OF 2**

**POST JUDGMENT TAXES**

Entity	Tax Year	Amount
--------	----------	--------

**PROPOSED DISTRIBUTION**

Bid Amount:	\$1,950.00	Costs: \$1,001.00
Net to Distribute:	\$ 890.90	Post Judgment Taxes: \$

ENTITY	PERCENTAGE	AMOUNT TO DISBURSE
Smith County	.10	\$ 89.10
City of Tyler	.28	\$ 249.45
Tyler Jr. College	.06	\$ 53.45
Tyler ISD	.56	\$ 498.90
		<b>TOTAL: \$890.90</b>