



St. Bernard Parish Council

8201 West Judge Perez Drive Chalmette, Louisiana, 70043
(504) 278-4228 Fax (504) 278-4209
www.sbpq.net

#27

Guy McInnis
Councilman
at Large

George Cavignac
Councilman
at Large

Ray Lauga, Jr.
Councilman
District A

Nathan Gorbaty
Councilman
District B

Richard "Richie" Lewis
Councilman
District C

Casey W. Hunnicutt
Councilman
District D

Manuel "Monty" Montelongo III
Councilman
District E

Roxanne Adams
Clerk of Council

EXTRACT OF THE OFFICIAL PROCEEDINGS OF THE COUNCIL OF THE PARISH OF ST. BERNARD, STATE OF LOUISIANA, TAKEN AT A REGULAR MEETING HELD IN THE COUNCIL CHAMBERS OF THE ST. BERNARD PARISH GOVERNMENT COMPLEX, 8201 WEST JUDGE PEREZ DRIVE, CHALMETTE, LOUISIANA ON TUESDAY, SEPTEMBER 16, 2014 AT THREE O'CLOCK P.M.

On motion of Mr. Lewis, seconded by Mr. Hunnicutt, it was moved to **adopt** the following ordinance:

ORDINANCE SBPC #1549-09-14

Summary No. 3123

EFC recommended amendments and submitted to full Council on 7/31/14

Tabled at introduction and referred to EFC on 8/5/14

EFC tabled on 8/14/14 until 8/27/14

EFC recommended Approval on 8/27/14

Introduced by: Councilman Lewis on 9/2/14

EFC recommended Approval on 9/11/14

Public hearing held on 9/16/14

AN ORDINANCE TO AMEND ORDINANCE SBPC #1378-03-13, TO CREATE THE ST. BERNARD PARISH ADJUDICATED SURPLUS PROPERTIES PROGRAM.

ST. BERNARD PARISH COUNCIL DOES HEREBY ORDAIN:

SECTION 1. The St. Bernard Parish Council does hereby amend the attached "Exhibit A" Ordinance SBPC #1378-03-13, to create the St. Bernard Parish Adjudicated Surplus Properties Program.

SECTION 2. Effective Date. This Ordinance shall become effective immediately and shall be applied prospectively and retroactively beginning March 20, 2013, upon authorizing signature by the Parish President. In the event of a presidential veto, this Ordinance shall become effective upon a two-thirds favorable vote of the total membership of the Council pursuant to Sections 2-11 and 2-13 of the St. Bernard Parish Home Rule Charter.

SECTION 3. Severability. If any section, clause, paragraph, provision or portion of this ordinance shall be held invalid or unconstitutional by any court of competent jurisdiction, such holding shall not affect any other section, clause, paragraph, provision or portion of this Ordinance, the St. Bernard Parish Council hereby expresses and declares that it would have adopted the remaining portion this Ordinance with the invalid portions omitted.



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Extract #27 continued
September 16, 2014

George Cavignac
Councilman
at Large

The above and foregoing having been submitted to a vote, the vote thereupon resulted as follows:

Ray Lauga, Jr.
Councilman
District A

YEAS: Lauga, Gorbaty, Lewis, Hunnicutt, Montelongo, Cavignac

NAYS: None

Nathan Gorbaty
Councilman
District B

ABSENT: None

Richard "Richie" Lewis
Councilman
District C

The Council Chair, Mr. McInnis, cast his vote as **YEA**.

And the motion was declared **adopted** on the 16th day of September, 2014.

Casey W. Hunnicutt
Councilman
District D

ROXANNE ADAMS
CLERK OF COUNCIL

GUY MCINNIS
COUNCIL CHAIR

Manuel "Monty" Montelongo III
Councilman
District E

Roxanne Adams
Clerk of Council

Delivered to the Parish President

9/18/2014 3:30pm
Date and Time

Approved ✓

Vetoed _____

Parish President

David E. Peralta

Returned to Clerk of the Council

9/19/2014 11:38AM
Date and Time

Received by

**ORDINANCE SBPC #1549-09-14
SUMMARY NO. 3123
EXHIBIT "A"**

**ST. BERNARD PARISH ADJUDICATED
SURPLUS PROPERTIES PROGRAM**

In response to your request for information regarding the purchase of surplus property adjudicated to the Parish for the non-payment of property taxes, the Parish has adopted the following procedure.

It is strongly recommended that you consult with your private attorney before proceeding with this acquisition process. This memorandum is intended to set out the procedures to be followed for the Surplus Adjudicated Property Program but is not intended as a complete review of the tax sales and surplus adjudicated property acquisitions. There are many legal issues that may affect the title to property you are attempting to acquire and consultation with your attorney is recommended.

To participate in this program, the Parish asks that you acknowledge that you have received this informational memorandum. Your signature below confirms that you have read and understand the procedures and requirements for participation in the sale of adjudicated surplus property.

1. **IDENTIFYING QUALIFYING PROPERTY**

You must first determine that the property in which you are interested in acquiring has been adjudicated to the Parish of St. Bernard for past due property taxes and has not been redeemed by the tax debtor. The St. Bernard Parish Assessor, Sheriff's Office and the Clerk of Court maintain records of the adjudicated properties. The indices maintained by these offices can aid you in locating properties by subdivision, by annual tax adjudications and by street addresses. Those indices shall also allow you to verify that the property has not been redeemed. A listing of some of the adjudicated properties can be found on the website for the Parish of St. Bernard which can be found at www.sbpq.net.

A tax debtor has an absolute right to redeem his property for a period of three (3) years from the date of the tax sale, and in the case of adjudications to the Parish, the tax debtor is customarily allowed to redeem his property at any time up to the point when the Parish executes that act of sale of the property. You should consider this in your decision to pursue the purchase of surplus adjudicated property. Except as hereafter provided, all fees paid in connections with your application to purchase abandoned and surplus property

are non-refundable in the event of a redemption of the tax adjudication. It is strongly recommended that all prospective purchasers consult their PRIVATE ATTORNEY regarding the laws and procedures for tax sales, adjudications and redemptions.

YOU ARE HEREBY NOTIFIED THAT THE SALE OF ANY PROPERTY UNDER THIS PROGRAM IS AT YOUR OWN LEGAL AND FINANCIAL RISK. *THE PARISH OF ST. BERNARD SHALL BE SELLING THE PROPERTY BY A NON-WARRANTY DEED.* THERE IS NO GUARANTEE OF TITLE TO THE PROPERTY. THERE IS NO GUARANTEE THAT YOU WILL BE THE SUCCESSFUL BIDDER. *PLEASE CONSULT WITH YOUR OWN ATTORNEY. THIS OFFICE CANNOT AND SHALL NOT PROVIDE LEGAL ADVICE. PLEASE DO NOT ASK.*

Please Note: St. Bernard Parish reserves the exclusive and unilateral right to remove any property from the adjudicated surplus property program in the event the Parish determines that the property shall remain available for public use of any kind.

2. INITIAL REQUEST TO THE PARISH

Once you have located property eligible for sale under this program, you can make a written request of the Office of the Parish President. Your request should contain **all of the following information:**

A)

- 1) The legal description of the property you wish to purchase (usually the lot, square, and subdivision name). You may attach the legal description from the Clerk of Court, St. Bernard.
- 2) The municipal address of the property, if applicable.
- 3) The name of the owner in whose name the property was sold (adjudicated) and the year of the tax sale. A copy of the tax sale must be attached.
- 4) Tax Assessment Number.
- 5) Directions for locating the actual, physical location of the property including a map or drawing if available. A survey of the property, if available, shall aid this office in processing your request.

B)

Applicant shall attach a copy of the document from the assessor's office evidencing the adjudication of the property to St. Bernard Parish.

A certified check or money order in the amount of \$750.00, payable to St. Bernard Parish

Government, must be included with each request for each piece of property. In the event that several parcels or lots are included in one adjudication, additional fees may be required. The fee is to cover the costs of processing your request. In the event the cost exceeds the \$750.00 deposit, the applicant shall be responsible for the excess cost and/or fees.

The Parish of St. Bernard shall not make any determination as to whether the property is “vacant or not lawfully occupied” and the Parish President’s Office shall not advise you as to this status. It shall be your responsibility to confirm this status.

In the event that more than one person shows interest in a property that the parish is willing to sell, and adjoining landowner(s) that have been maintaining the property for longer than a period of (1) year submits their application and deposit for a property, then the Parish Council shall sell the property to the said adjoining landowner(s) pursuant to La. R.S. 47:2202(B) without a public bid. Any deposits submitted by any other applicants shall be refunded in full including the non-refundable administrative fee.

Once your application has been received and it is determined that the property has been adjudicated and not redeemed for a period of 3 (three) years from the date the property was adjudicated, the Parish shall perform a preliminary investigation through its various departments to determine if the property is surplus, that is, not needed for public purposes. Please note that only the Parish Council can make a final determination and actually declare the property surplus by Ordinance.

In the event that the preliminary investigation reveals that the property is not deemed to be surplus then you shall be notified that the Parish shall deny your request to purchase. Please note that if the property is determined not to be surplus at this preliminary stage you shall be entitled to a refund of the paid \$550, (an administrative fee of \$200.00 is non-refundable). This fee is used for the investigation, verification and substantiation of the adjudication to the Parish.

Even though this Administration may make a preliminary determination that the property is surplus, we again remind you that the Parish Council is vested with the final exclusive authority to declare property as “surplus”.

3. OFFER TO PURCHASE

(Council also may choose to require an appraisal of the property which by law then requires a minimum bid of 2/3 of the appraised value).

You may make an offer to purchase, in writing, which shall be at least the total amount of statutory impositions, governmental liens, and cost of sale, which shall be computed by the Parish

Council in accordance with LA-R.S. 47:2202(A) except for adjoining landowners who meet the criteria set forth in LA-R.S. 47:2202(B). **All offers must meet the minimum bid requirement.**

If an Offer to Purchase is received that involves multiple lots within a subdivision, the Parish reserves the right to sell the lots either as one parcel or as individual lots.

4. ORDINANCE REQUESTING SURPLUS DETERMINATION AND AUCTION

Once a qualifying offer and required deposits are received, an Ordinance shall be introduced to the Parish Council requesting that the property be determined as surplus and sold in accordance with the law. Ordinances become effective with the final introduction of such Ordinance which normally occurs at the next regularly scheduled meeting of the Parish Council following the initial introduction. In other words, an ordinance for surplus determination shall be introduced at one meeting but shall not be considered for adoption until the next monthly meeting. It shall be at this second meeting, if the Parish Council makes a final surplus determination, when the highest offer/bid shall be considered. During this period between initial introduction and final approval, a notice of the request to have the property declared surplus and the minimum bid requirement shall be published in the official Parish newspaper and include in the notice that anyone having an objection to the sale or desires to make a bid on the property at issue shall make an offer to purchase the property to the President's office within the time constraints outline herein.

THERE SHALL BE NO NOTICES GIVEN TO YOU BY THE PARISH AS TO THE DATE OF ANY PARISH COUNCIL MEETINGS WHEREIN ANY ORDINANCE OR PROPOSED SALE OF THE PROPERTY IN QUESTION SHALL BE CONSIDERED. ALL NOTICES CONCERNING THE SALE OF ADJUDICATED PROPERTY SHALL BE PUBLISHED IN THE OFFICIAL JOURNAL OR NEWSPAPER OF THE PARISH AND AS ESTABLISHED ON THE AGENDA OF THE PARISH COUNCIL. IT MUST BE SPECIFICALLY UNDERSTOOD AND AGREED THAT YOU ARE RESPONSIBLE TO MONITOR THIS PROCESS.

PARISH COUNCIL MEETINGS ARE GENERALLY HELD ON THE FIRST TUESDAY OF EACH MONTH. Anyone wishing to oppose the sale or make an offer, on any of the property being offered, is required to file a written offer or opposition with the Office of the Parish President no later than 4:30 p.m., 3 (three) business days prior to the scheduled Parish Council hearing on the final adoption of the introduced Ordinance. In the event that a Parish Council meeting is held on any other day than the first Tuesday, then all oppositions and/or offers must be submitted to this Office at least 72 hours before the scheduled Parish Council meeting. Failure to timely submit any opposition and/or offer shall be grounds to exclude such submission.

Once it is determined there is more than one offer on the property at issue, an auction shall be required.

If there is no opposition to the ordinance and no other offer by a third party timely filed, then there shall be no need for an auction and your offer shall be submitted to the full Parish Council for final consideration.

In the event that the Parish Council accepts the final bid, an ordinance shall be introduced at that time authorizing the Parish President to enter into an Act of Sale to sell the property for the submitted bid. This ordinance must then lay-over until the next scheduled Parish Council meeting wherein it shall become final.

IF YOU SUBMIT AN OFFER ON ANY PROPERTY, YOU ARE RESPONSIBLE TO DETERMINE THE DATE AND TIME OF THE PARISH COUNCIL HEARING. IT IS YOUR RESPONSIBILITY TO ATTEND THE PUBLIC HEARING. IN THE EVENT THAT ADDITIONAL OFFERS ARE RECEIVED SO AS TO REQUIRE AN AUCTION, YOU SHALL NEED TO BE PRESENT IN ORDER TO PARTICIPATE. IN THE EVENT THAT OPPOSITION TO THE SALE IS RECEIVED, THEN YOU SHALL NEED TO BE PRESENT TO RESPOND TO ANY QUESTIONS ASKED BY THE PARISH COUNCIL.

5. REQUIREMENTS FOR ACT OF SALE

Once the final Ordinance authorizing the sale of the property by the Parish President is adopted, it shall be necessary for you, with the help of your own attorney or closing notary, to meet the following requirements prior to going to an act of sale:

- A.) You must certify, in writing, to this Office within thirty (30) days of the effective date of the Ordinance, that you, your attorney, notary or agent has examined the mortgage records, conveyance records, probate and civil suit records of St. Bernard Parish to ascertain the names of all parties with an interest, vested or contingent, in the subject property. Attached to this certificate shall be a written list of names and last known addresses of all owners, mortgagees, judgment creditors and any other persons or entities who may have a vested or contingent interest in the subject property. **Said written certification shall include a statement by the purchaser in favor of the Parish of St. Bernard, its agents, attorneys, consultants and employees, agreeing that in the event the purchaser failed to request notification to an interested party or incorrectly identified or located any interested party, the purchaser shall hold the Parish harmless and indemnify the Parish for any loss, including attorney's fees, that the Parish may sustain as a result of this lack of proper notification.**

- B.) You must then make a written request to the President's Office to notify those parties of interest identified by you. This Office shall then notify the identified parties of the pending sale. Where an address is available, the notice shall be

given by certified mail, return receipt requested. Where no address is available, notice shall be given by advertisement in the official Parish journal. In order to cover the noticing cost, **additional funds shall be due by you**. Specifically, you owe and shall deposit the sum of \$5.00 (five dollars) per notice by certified mail return receipt requested and shall deposit the sum of \$50.00 (fifty dollars) per notice by publication. These sums shall accompany the written request to defray the cost for providing the notice. Any additional cost shall be the responsibility of the applicant.

- C.) Once notice is given, a Proof of Notice shall be recorded in the conveyance records of St. Bernard Parish. The Clerk of Court shall charge to record the Proof of Notice and this fee is included in your initial deposit. Also, a copy of Ordinance shall be filed with the recorder of mortgages and this fee is at applicant's expense.
- D.) At the time of closing, you shall be required to certify, in writing, to this Office that delays have elapsed and that the property has not been redeemed by the taxes owed.
- E.) Once this certification of notice and required time delay is supplied, the Parish President is then authorized to execute an act of sale of the property.
- F.) The Act of Sale must be on a form approved by this Office. The sales price shall be paid by certified funds, payable to St. Bernard Parish, at the time of the sale. **(In addition to the sales price, the purchaser shall be required to pay all taxes, interest, penalties and costs due on the subject property, all as determined by the St. Bernard Parish Sheriff's Office. This must be added if Council decides to select appraisal process).**

IT IS IMPORTANT TO NOTE THAT ALL TAXES, INTEREST, PENALTIES AND COSTS ARE TO BE PAID BY YOU IN ADDITION TO THE PURCHASE PRICE FOR THE NON-WARRANTY DEED FROM THE PARISH. The closing notary shall supply and attach to the Act of Sale proof of payment of all taxes, interest, penalties and costs as to the property. (This language applies only if Council selects the appraisal process).

- G.) The sale by the Parish shall be subject to all servitudes, rights of way, easements and other encroachment or rights of public record.
- H.) The sale by the Parish shall include a reservation of all mineral rights to the Parish, but shall convey all surface rights.

- I.) **The sale shall be without any warranty whatsoever, even as to the return of the purchase price.**
- J.) All fees related to the preparation, execution and recordation of the Act of Sale shall be at the purchaser's expense.

It shall be your responsibility to fulfill the requirements as outlined in Items A through J above within the time specified.

Once a bid has been accepted by the Parish Council and the sale is not completed, no new bid of a lesser amount shall be accepted from the same individual.

6. **COSTS AND FEES**

THE INITIAL DEPOSIT FEE OF \$750.00 AND THE COST OF THE APPRAISAL, IF REQUIRED, AND ALL OTHER COSTS PAID UNDER THIS PROGRAM SHALL NOT BE REFUNDABLE EXCEPT AS STATED IN SECTION 2.

SPECIFICALLY, THE FEES AND COSTS PAID ARE NOT REFUNDABLE:

A.) IF THE PROPERTY IS NOT DEEMED SURPLUS BY THE PARISH COUNCIL AT FINAL HEARING, OR

B.) IF THE PARISH COUNCIL REJECTS THE OFFER TO PURCHASE, OR

C.) IF YOU ELECT NOT TO COMPLETE THE SALE FOR WHATEVER REASON, OR

D.) IF THE TAX DEBTOR REDEEMS THE PROPERTY BEFORE THE ACT OF SALE FROM THE PARISH. (The Office of the Parish President is not responsible for nor does it guarantee the collection and reimbursement by the Parish Sheriff's Office of fees and costs in the event of redemption.)

THIS MEMORANDUM IS PRESENTED AND IS TO BE USED FOR INFORMATIONAL PURPOSES ONLY. THE PARISH OF ST. BERNARD, ITS EMPLOYEES, ATTORNEYS AND CONSULTANTS ARE NOT EXTENDING ANY LEGAL ADVICE AND IT IS STRONGLY RECOMMENDED THAT ALL PROSPECTIVE PARTICIPANTS CONSULT A PRIVATE ATTORNEY REGARDING THE METHOD AND PROCEDURES OUTLINED HEREIN AND THE RELEVANT STATUTES.

PLEASE REMEMBER THAT ADDITIONAL TITLE CURATIVE WORK MAY BE REQUIRED.

NOTE: Pursuant to LA-R.S. 47:2202(B) an adjoining landowner may purchase an adjudicated property without public bidding at a public meeting of the governing authority, provided that the adjoining landowner has maintained the adjudicated property for a period of 1 (one) year prior to sale.

Applicant shall have the burden of proving to the Parish Council that applicant has maintained the property as required by LA R.S. 47:2202(B) and the minimal criteria listed below.

The minimal criteria for an adjoining landowner to qualify to purchase the adjudicated property that he or she has maintained for the one year period prior to the sale is indicated below:

1. With regard to the adjoining property, applicant must have cut the grass and kept the grass lower than 8 inches in height for at least one year prior to the sale;
2. The adjoining property shall be free of Parish grass fees and/or liens or Parish debris removal fees and/or liens for the past year prior to this application;
3. With regard to the adjoining property, applicant must have kept the adjudicated property he or she seeks to purchase free of debris for at least one year prior to the sale;
4. Applicant's property shall be in full compliance with all applicable parish ordinances and parish regulations; and
5. Applicant's property shall be free of Parish grass fees and/or liens or Parish debris removal fees/liens.

I ACKNOWLEDGE THAT I HAVE RECEIVED A COPY OF THIS ST. BERNARD PARISH ADJUDICATED SURPLUS PROPERTIES FORM (9 pages). I HAVE READ AND UNDERSTAND THE PROCEDURES AND REQUIREMENTS FOR PARTICIPATION IN THE ADJUDICATED SURPLUS PROPERTIES PROGRAM.

I AGREE TO ABIDE TO THE TERMS AND CONDITIONS OF THIS PROGRAM.

Signature: _____

Print: _____

Address: _____

Phone: _____

Date: _____