



*An ocean of opportunity*

## STAFF REPORT

SUBMITTED BY: Leah d'Eon

DATE: August 3, 2023

SUBJECT: Tax Sale Process

## ORIGIN

We have a yearly property tax sale typically held in February, and for the past three years, the sale has been done by tender. These tax sales were highly successful; therefore we are seeking direction from Council whether to hold the tax sale in-person or continue with a tendering process.

## BACKGROUND

### Tax Sale Proceedings

As per our Tax Collection and Tax Sale policy and section 134(1) of the Municipal Government Act, the Municipality collects overdue tax by way of a property tax sale each year. Properties are placed on tax sale when the property taxes are two full years in arrears. Once the listing is certified by the Treasurer, the tax clerk proceeds through the steps of a tax sale which include the following.

- Preliminary Notices – Notices sent are sent to property owners, advising them that taxes are in arrears and providing them with 14 days to pay their outstanding property taxes.
- Title Search – A title search of the properties on the Tax Sale list is performed by the municipal solicitor.
- Notice of Intent to Sell – Once the title searches are completed, another notice is provided to the property owners, spouses, and any person with a mortgage, lien or other interest in the land.
- Advertisements and Notice – Properties to be sold at tax sale shall be advertised in two issues of the local newspaper. A listing is posted to the municipal website and information regarding the properties can be found at the Municipal Administration office.
- Tax Sale – Typically a public auction held at the Municipal Administration Building.

## **Tax Sale by Tender**

Section 141 of the Municipal Government Act allows the Treasurer, with the consent of the council, to call tenders for property rather than put the property up for sale at public auction.

Section 149 of the Municipal Government Act describes the authority municipalities have to sell land by tender:

*(1) Where a municipality calls tenders for land to be sold for taxes, the municipality may reject all tenders if*

*(a) the price tendered is less than the taxes, interest, and expenses; and*

*(b) the council considers that the best price offered is inadequate, and may again put the land up for sale, by tender or by public auction.*

*(2) Where a municipality calls tenders for land to be sold for taxes, the person whose tender is accepted shall pay the tender price within three business days after being notified of the acceptance.*

*(3) Where the balance of the purchase money is not paid within three business days, the land shall again be advertised and put up for sale.*

*(4) The expenses of the resale shall be deducted from the deposit and the balance shall be refunded after the resale is held.*

## **DISCUSSION**

### **Public Auction**

In a typical property tax sale, we normally have between 20-30 properties to be sold with 40-50 bidders in attendance. This usually translates in most properties being sold and their outstanding taxes paid.

The tax sale is scheduled on a certain date/time and bidders are required to be present to bid. Bids are received by the public, with the highest bid winning the property. Bidders are required to pay the minimum bid price at the time of the tax sale and any remaining balance must be paid within 3 business days. Many of the properties are sold for the minimum bid price. Any surplus funds are held in a separate account for 20 years and then transferred to the Municipality if they are not requested by the property owner.

From a staff's perspective, a public auction is very fast paced, and the workflow is much more intense and demanding.

## **Tax Sale by Tender**

For the most part, the process for a tax sale by tender is the same as our regular tax sale process. We would send preliminary notices, perform title searches, send notices of intent to sell and advertise. The only difference would be that instead of having a public auction, we would accept bids on the properties.

Tenders would be accepted in a sealed envelope by the close of the tender (specific date and time). Minimum bids would be set at the amount of outstanding property taxes, tax sale expenses, deed registration and any applicable taxes. The tender would be required to meet the minimum bid set for the property.

Bidders are only permitted one bid per property and must provide their best price in order to be the successful bidder. The Municipality would reserve the right to reject any or all tenders, to accept a tender that is not the highest bid, or to accept any tender which it may consider to be in its best interest and the accepted tender price would have to be paid within three business days. Failure to pay the accepted tender price within three business days would result in the property being placed on the list of the next property tax sale.

The tender opening would be held shortly after the close of the tender. When municipal tenders are opened, we have at minimum 2 staff members present. Bid listings are created and signed off by all employees present to ensure accuracy and formal notice would be given the following business day. The results would then be posted on the municipal website.

The tender process allows more bidders to bid on properties, which likely results in more properties being sold. The tendering process allows for bids from interested parties that may not be able to attend the tax sale in person. We have received bids from across Canada, the US and worldwide. This allowed everyone an equal opportunity to bid without having to be physically present.

One issue that we've experienced is when a bidder "cancels" their bid after they have won. In that case, Section 149(3) of the MGA is clear that if the successful bidder does not pay the balance of the property within 3 days, the property needs to be put up for tax sale again. That means we are not able to go to the second highest bidder. To counteract this issue, we required a deposit of \$ 500 to make any bids at the last tax sale. This discouraged people from bidding on properties that they were not highly interested in and reduced the number of cancelled bids. The deposit is kept by the Municipality if the sale does not proceed.

Logistically, tax sale by tender allows for a controlled workflow for the tax department. As tenders are received, they are sorted and placed in a secure location until the tender deadline has passed. Staff are able to open the tenders in an organized manner and all documentation is fully reviewed by multiple staff and recorded.

Finally, bid amounts received by tender are typically higher than the public auction, thus closer to fair value.

## BUDGET IMPLICATIONS

Property taxes receivable balance as of March 31, 2024, would be impacted if the tax sale process is not completed prior to our fiscal year end. While this would not affect our yearly budget, an increased accounts receivable balance at year end would affect our municipal indicators. Accounts receivable collections is an area that we have improved upon over the past number of years and we continue to strive to achieve a “green” rating for that indicator.

## LEGAL IMPLICATIONS

N/A

## PUBLIC CONSULTATION/COMMUNICATIONS

N/A

## RECOMMENDATION

For the reasons listed above, **it is recommended that the property tax sale be once again conducted through a public tender process.**

## ATTACHMENTS

- Draft Property Tax Sale Tender Document

**DRAFT PROPERTY TAX SALE BY SEALED TENDER**

Notice is hereby given, in accordance with the Municipal Government Act, Part 6, Section 142, that the Municipality of the District of Barrington is inviting sealed tenders for the following properties:

ASSESSMENT #	PID #	PROPERTY DESCRIPTION	ASSESSED OWNER	MINIMUM BID
12345678	8000000	Land	John Doe	\$ 1, 000

For a more detailed description of the property, please see the tax sale list on our website or contact the Municipality of Barrington at 902-637-2015, extension 224, or via email [wchristie@barringtonmunicipality.com](mailto:wchristie@barringtonmunicipality.com).

Tenders shall be submitted in a sealed envelope, addressed to the undersigned and shall be clearly marked on the outside of the envelope, **“PROPERTY TAX SALE BY TENDER,”** and **“ASSESSMENT ACCOUNT NUMBER”** to 2447 Highway 3, Barrington, NS, B0W 1E0. A refundable \$ 500 deposit is required with each bid, paid by cheque or money order.

Bidders shall complete one **“Tender Form”** for each property they are bidding on and place each form in its own envelope when bidding on more than one property. The forms are available on the municipal website, [barringtonmunicipality.com](http://barringtonmunicipality.com), by calling (902) 637-2015, ext 224, or email, [wchristie@barringtonmunicipality.com](mailto:wchristie@barringtonmunicipality.com).

**TENDERS WILL BE ACCEPTED UNTIL 2 P.M. ATLANTIC STANDARD TIME ON TUESDAY, February 13, 2024.**

**TERMS:** Bidder must meet the minimum bid set per property; bid price includes HST (if applicable) and the certificate of sale and certificate of discharge/tax deed recording fees. **The accepted tender price must be paid within three full business days after being notified of acceptance. Failure to pay the accepted tender price within three full business days will result in the property being placed on the next property tax sale. Acceptable methods of payment will be by cash, certified cheque, money order, bank draft, irrevocable letter of credit or lawyer’s trust cheque as per the MGA 148(1.)**

All properties are sold “as is where is.” Although the Municipality has made all reasonable efforts to confirm ownership, it does not guarantee title or boundaries of the aforementioned property. Prospective purchasers are responsible to conduct their own searches and surveys or other investigations.

The Municipality reserves the right to reject any or all tenders, to accept a tender that is not the highest bid, or to accept any tender which it may consider to be in its best interest. The Municipality also reserves the right to waive formality, informality, or technicality in any tender. Tenders must be received by a qualified bidder.

**LIMITATION OF LIABILITY:** By submitting a tender, you agree that neither the Municipality, nor any of its employees, officers, agents, elected appointed officials, advisors or representatives will be liable, under any circumstances, for any claim, loss, or damage you may suffer arising out of this tender process.

**TENDER OPENING:** Tenders will be opened Tuesday, February 13<sup>th</sup> at 2:30 p.m. The successful bidder will have three full business days after notice to pay in full by certified cheque, money order, bank draft, irrevocable letter of credit or lawyer’s trust cheque.

Leah d’Eon  
Director of Finance

**TENDER FORM**  
**PROPERTY TAX SALE BY SEALED TENDER**

NAME(S): \_\_\_\_\_

MAILING ADDRESS: \_\_\_\_\_

\_\_\_\_\_

TELEPHONE: \_\_\_\_\_ EMAIL: \_\_\_\_\_

ASSESSMENT ACCOUNT #: \_\_\_\_\_ BID AMOUNT: \_\_\_\_\_

MANNER OF TENURE: \_\_\_\_\_

The manner of Tenure should be chosen if there will be more than one owner of the property. The choices are either as Joint Tenants or as Tenants in Common. If Joint Tenants are chosen, it means that if any of the multiple owners passes away, the other(s) will inherit the entire property. If Tenants in Common are chosen and one of the owners passes away, their share of the ownership would be passed to their heirs. If a Manner of tenure is not selected, the default choice will be Tenants in Common.

SIGNATURE: \_\_\_\_\_ DATE: \_\_\_\_\_

**Summary Instructions for Sealed Tenders and Terms/Conditions:**

1. One tender form per assessment number must be submitted. Each form must be in a separate envelope when submitting a bid on more than one property.
2. A refundable \$ 500 deposit is required with each bid, paid by cheque or money order.
3. All properties are sold "as is where is." Although the Municipality has made all reasonable efforts to confirm ownership, it does not guarantee title or boundaries of the aforementioned property.
4. Tax Sales do not always clear up defects in title, the tax deed only conveys the interest of those assessed.
5. Pursuant to Section 144(2) of the NS MGA, purchase of Tax Sale Property by Municipal Employees or their Spouses is not permitted.
6. The successful bidder will be given three full business days after the awarding of the tender to pay the bid amount in full.
7. Faxed/electronic (emailed) tenders will not be considered.
8. The Municipality reserves the right to reject any or all tenders, to accept a tender that is not the highest bid, or to accept any tender which it may consider to be in its best interest.
9. The tender must meet the minimum bid set for the property.
10. Limitation of Liability: By submitting a tender, you agree that neither the Municipality, nor its employees, officers, agents, elected appointed officials, advisors or representatives will be liable, under any circumstances, for any claim, loss, or damage you may suffer out of this tender process.

**TAX SALE BY TENDER MARCH 19, 2021**

ASSESSMENT #	PROPERTY DESCRIPTION	ASSESSED OWNER	MINIMUM BID	WINNING BID	SURPLUS
210439	PORT LATOUR RD. UPPER PORT LATOUR, LAND	GRACE BARASCH ET AL LOUISE D. BUONAGURO ET AL DOROTHY KRAININ ET AL ANNETTE SWANSON ET AL JOSEPHINE BRANCATO ET AL BARBARA HUEGLER ET AL	\$ 2,096.97	\$ 25,211.00	\$ 23,114.03
342467	1887 HIGHWAY 330 NEWELLTON LAND, DWELLINGS, BUILDING	WYLIE BLADES	\$ 6,066.51	\$ 12,046.00	\$ 5,979.49
731552 MIGRATED	6321 HIGHWAY 3 LOWER WOOD'S HARBOUR LAND, DWELLING, BUILDING	LESLIE JAMES CHETWYND	\$ 6,660.12	\$ 31,500.00	\$ 24,839.88
3412164	HIGHWAY 3 UPPER WOOD'S HARBOUR LAND	STEPHEN BOLGER	\$ 2,552.70	\$ 2,651.00	Purchaser didn't pay
3510999 MIGRATED	5146 HIGHWAY 3 LOWER SHAG HARBOUR LAND, DWELLING	ANGELA NICKERSON MICHAEL JORDAN WAMBACK	\$ 3,478.77	\$ 20,000.00	\$ 16,521.23
3512029 MIGRATED	24 CAT ROCK RD CLAM POINT 1974 OLYMPIC VILLAGER 12 X 56 SER #5927	MATTHEW EVAN GOREHAM ET GEORGENA SELENA SWAINE ET	\$ 2,345.84	\$ 5,005.00	\$ 2,659.16
3512045 MIGRATED	STONE ISLAND RD. STONE ISLAND, LAND	JOANNE GAIL SEARS GERALD ARCHIBALD SEARS	\$ 996.05	NO BIDS	\$ -
3512371 MIGRATED	33 OLD PLACE LANE CLYDE RIVER LAND BUILDING	GRAHAM WOOD	\$ 3,099.69	\$ 3,777.77	\$ 678.08
3519651	GOOSE LAKE RD. GOOSE LAKE LAND, DWELLING	MARION NICKERSON	\$ 1,191.69	\$ 5,005.00	Purchaser didn't pay
3520749	NO 3 HWY, CENTRAL WOOD'S HARBOUR, LAND	ALVIN HARDING NICKERSON RACHEL E. NICKERSON JAMES EPHRAIN NICKERSON	\$ 908.56	\$ 4,550.00	\$ 3,641.44
9723579 MIGRATED	SWAINE'S RD PORT CLYDE LOT 26	MOLLY YARBER KYLE A. YARBER	\$ 2,506.52	\$ 3,600.00	Purchaser didn't pay
10389321 MIGRATED	CAT ROCK LANE CLAM POINT LOT A2	MATTHEW GOREHAM ET AL GEORGENA SELENA SWAINE ET	\$ 1,194.11	\$ 2,510.00	\$ 1,315.89
10755794	HIGHLAND HEIGHTS RD SOUTH SIDE LOT 4	WYLIE BLADES	\$ 1,038.32	\$ 3,100.00	\$ 2,061.68

**TAX SALE BY TENDER FEBRUARY 14, 2022**

ASSESSMENT #	PROPERTY DESCRIPTION	ASSESSED OWNER	MINIMUM BID	WINNING BID	SURPLUS
01023128 Migrated	PORT LATOUR RD. PORT CLYDE, LAND	TREVOR DECOSTA	\$ 1,179.43	\$ 16,205.00	\$ 15,025.57
02185636 Non-Redeem.	REYNOLDSCROFT LAND	OWNER UNKNOWN	\$ 15,022.40	\$ 41,520.00	\$ 26,497.60
03412164 Non-Redeem.	HIGHWAY 3, LAND UPPER WOOD'S HARBOUR	STEPHEN BOLGER	\$ 2,970.92	\$ 3,002.00	\$ 31.08
03512045 Migrated	STONEY ISLAND RD. STONEY ISLAND, LAND	JOANNE GAIL SEARS GERALD ARCHIBALD SEARS	\$ 1,252.50	NO BIDS	
03519651	GOOSE LAKE RD., GOOSE LAKE LAND, DWELLING	MICHELLE NICKERON REP	\$ 1,674.85	\$ 5,100.00	\$ 3,425.15
03525546	GOOSE LAKE RD., GOOSE LAKE LAND	WHITMAN NICKERSON EST	\$ 952.61	\$ 5,000.00	\$ 4,047.39
03856283	1401 STONEY ISLAND RD. LAND DWELLING	JAMES QUINLAN PAULETTE ANN BELLIVEAU	\$ 2,983.63	\$ 20,250.00	\$ 17,266.37
04051599	48 MELBOURNES LAND NEWELLTON	G & A FIBREGLASS	\$ 1,985.44	\$ 15,500.00	\$ 13,514.56
04227077	40 OLD BRIDGE RD. LOWER SHAG HARBOUR	DEAN QUINLAN DEAN LIONEL QUINLAN	\$ 4,375.78	\$ 20,150.00	\$ 15,774.22
04326636	SMITHSVILLE LAND	OWNER UNKNOWN	\$ 754.84	\$ 12,222.00	PURCHASER DIDN'T PAY
05403332	1901 STONEY ISLAND RD CENTREVILLE, LAND, DWELLING	RANDALL ROSS	\$ 5,385.72	\$ 40,112.08	\$ 34,726.36
06381979	OAK PARK RD., LOT 4 BARRINGTON	CORY CHARLES TOWNSEND ALANA NICKERSON	\$ 1,236.45	\$ 1,502.00	\$ 265.55
08408637	6331 HIGHWAY 3 LOWER WOOD'S HARBOUR	LESLIE JAMES CHETWYND	\$ 2,863.21	\$ 72,222.00	\$ 69,358.79
09723579 MIGRATED	LOT 26 SWAINE'S RD PORT CLYDE	MOLLY YARBER KYLE A. YARBER	\$ 3,054.96	\$ 3,102.00	\$ 47.04
10771943	RED SCHOOL HOUSE LANE NORTH EAST POINT, LAND	MAXINE KRAFVE DAVID KRAFVE	\$ 534.37	\$ 550.00	\$ 15.63

**TAX SALE BY TENDER FEBRUARY 14, 2023**

ASSESSMENT #	PROPERTY DESCRIPTION	ASSESSED OWNER	MINIMUM BID	WINNING BID	SURPLUS
03512045	STONE ISLAND RD. STONE ISLAND, LAND	JOANNE GAIL SEARS GERALD ARCHIBALD SEARS	\$ 1,677.14	NO BIDS	
04212223	FORBES POINT RD., LAND, DWELLING	ROGER BARNES TANA K. BARNES	\$ 10,732.27	\$ 90,743.00	\$ 80,010.74
04212231 MIGRATED	FORBES POINT RD., FORBES POINT, LAND	ANNIE TODD	\$4,310.76	\$ 41,000.00	\$ 36,689.24
04326636	SMITHSVILLE LAND	OWNER UNKNOWN	\$ 1,057.45	Sale Canceled, Description not clear	
08454531	29 ROCKY'S LANE, LAND C. WOOD'S HARBOUR	BOBBY CLINTON E. GOREHAM	\$ 1,216.05	\$ 9,500.00	\$ 8,283.95
10132495 MIGRATED	LOT 51 SWAINE'S RD. PORT CLYDE	KIRSTEN CLIFDEN	\$ 1,321.66	\$ 2,100.00	\$ 778.34