

RESOLUTION NO. 51-2016

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MESQUITE, TEXAS, REPEALING RESOLUTION NO. 51-2016 AND ADOPTING A NEW TAX LIEN FORECLOSURE POLICY.

WHEREAS, property taxes are delinquent if not paid before February 1 of the year following the year in which the taxes are imposed; and

WHEREAS, at any time after a tax on property becomes delinquent, a taxing unit may file suit to obtain a judgment ordering foreclosure of the lien securing payment of the tax; and

WHEREAS, if a judgment is entered in the suit for foreclosure of a tax lien, a taxing entity that is a party to the judgment may request that an order of sale of the property the subject of the judgment be issued; and

WHEREAS, if an order of the sale is issued, the property subject to the tax lien is sold pursuant to Chapter 34 of the Texas Tax Code; and

WHEREAS, on December 5, 2016, the City Council approved Resolution No. 51-2016 that the City does not have an established a policy on when to initiate the foreclosure of tax liens against properties with delinquent taxes by requesting the issuance of an order of sale. The existing policy, however, references the Dallas Central Appraisal District but not the Kaufman Central Appraisal District and staff recommends updating the policy to include reference to Kaufman Central Appraisal District; and

WHEREAS, Staff's experience with tax delinquent properties indicates that (i) when more taxes are owed on a property than the property's appraised value as determined by the Dallas Central Appraisal District or Kaufman Central Appraisal District, the property owner stops paying property taxes and discontinues maintaining the property; and (ii) when the tax lien foreclosure process is started early enough, either the property owner pays the property taxes or the property is sold at a sheriff's auction, both of which result in delinquent taxes being paid; and

WHEREAS, Staff recommends that the City commence the foreclosure of its tax liens on tax delinquent properties when the City has obtained a judgment ordering the foreclosure of such tax liens and either one of the following conditions has occurred: (i) taxes owed on the property are five or more years delinquent; or (ii) taxes owed on the property are more than twenty-five percent (25%) of the value of the property as appraised by the Dallas Central Appraisal District or Kaufman Central Appraisal District; and

WHEREAS, having an updated tax lien foreclosure policy in place will increase tax revenues to the City and provide clarity for application to properties within Kaufman County.

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

SECTION 1. That Resolution No. 51-2016 is hereby repealed and the tax lien foreclosure policy adopted therein be replaced with the policy adopted herein.

SECTION 2. That the City Council of the City of Mesquite, Texas, hereby adopts the following tax lien foreclosure policy:

1. The City is hereby authorized to initiate the tax lien foreclosure process by requesting the issuance of orders of sale and is further authorized to foreclose the City's tax liens against properties in the City with delinquent taxes provided the City has obtained a judgment ordering foreclosure of such tax liens and either one of the following conditions has occurred:
  - a. Taxes owed on the property are five or more years delinquent; or
  - b. Taxes owed on the property are more than twenty-five percent (25%) of the value of the property as appraised by the Dallas Central Appraisal District or Kaufman Central Appraisal District.
2. Notwithstanding the foregoing, the City will abate a sale to foreclose its tax lien against a property owned by an individual if the individual is (i) 65 years of age or older or is disabled as defined by Section 11.13(m) of the Texas Tax Code; and (ii) the tax was imposed against property that the individual owns and occupies as a residence homestead, and (iii) the individual has complied with the provisions of Section 33.06 of the Texas Tax Code.
3. Notwithstanding the foregoing, it is understood that there are situations when it would not be in the best interest of the City or its citizens to foreclose the City's tax liens against certain properties. The City Manager or the City Manager's designee is hereby authorized in their discretion to defer, delay, abate or not foreclose the City's tax liens against any property: (i) that is in the floodway or flood plain and has minimal development or resale value or is of no or nominal benefit to the public; (ii) any property that has environmental or other adverse conditions; (iii) any property with title exceptions that are adverse to the City's interest that would not be terminated by the foreclosure of the City's tax liens; or (iv) any property where the foreclosure of the City's tax liens would not benefit the City or its citizens.

SECTION 2. That the City Manager or the City Manager's designee is further hereby authorized to take all such actions and execute all such documents as are necessary or requested to carry out the City's tax lien foreclosure policy as set forth herein including, without limitation, the City Manager or the City Manager's designee is hereby authorized to request orders of sale of tax delinquent properties be issued and are authorized to take all such other actions as are necessary to foreclose the City's tax liens against properties in the City with delinquent taxes in accordance with the terms of the policy more fully set forth herein.

DULY RESOLVED by the City Council of the City of Mesquite, Texas, on the ~~3rd~~~~5th~~ day of ~~October~~~~December~~, 20~~22~~~~16~~.

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Daniel Alemán, Jr.~~Stan Pickett~~  
Mayor

ATTEST:

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Sonja Land  
City Secretary

APPROVED:

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David L. Paschall~~B. J. Smith~~  
City Attorney