

**Caroline County  
Board of Supervisors Agenda  
Executive Summary**

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**Meeting Date:** January 26, 2021

**Title:** Public Hearing – Request for Surplus Funds from Sale of Real Property for Delinquent Taxes

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*(Check Mark)*

<input type="checkbox"/> Consent	<input type="checkbox"/> Closed Meeting
<input checked="" type="checkbox"/> Action	<input checked="" type="checkbox"/> Public Hearing
<input type="checkbox"/> No Action (Information Only)	<input type="checkbox"/> Ordinance
<input type="checkbox"/> Resolution	<input type="checkbox"/> PowerPoint Presentation

**Summary:** In June of 2018, Sands Anderson sold property at 7263 Ladysmith Road at a delinquent tax sale on behalf of the County. The sale netted delinquent real estate taxes, penalties, interest and fees of \$13,138.15, **plus a surplus of \$96,822.13.**

Under §58.1-3967 of the Code of Virginia, “the former owner, his heirs or assigns of any real estate sold under this article is entitled to the surplus received from such sale in excess of the taxes, penalties, interest, reasonable attorneys’ fees, costs and any liens chargeable thereon.” However, if no claim for such surplus is made by the former owner (and no claim for payment from a lien holder is received) within two (2) years after the date of the sale, the surplus is paid to the locality that received the proceeds from the sale of the real estate for delinquent taxes.

The two-year mark from the sale of the property in question passed without a claim for the surplus funds from the former owner. As a result, Treasurer Elizabeth Curran received the \$96,822.13 in surplus funds.

However, staff subsequently received a request from attorney Bennette Sharpe of Dankos, Gordon & Tucker P.C. on behalf of Christopher Schuster, a trustee in liquidation of the former owner, to return the surplus funds to his client. §58.1-3967 of the Code of Virginia also provides that the governing body of any county or city that has received surplus funds may, in its discretion, grant relief, by ordinance, to such former owner, and pay over such amount as the governing body may deem appropriate.

The Board discussed this request in November 2020 and directed staff to proceed with advertising a public hearing to consider the required ordinance. A public hearing has therefore been advertised for the January 26 Board of Supervisors meeting.

**Budget Impact:** The Treasurer is currently holding \$96,822.13 in surplus funds from the delinquent tax sale

**Requested Action from Board of Supervisors:** Again, the Board has complete discretion in determining whether to return all, a portion or none of the surplus funds following the public hearing.

Should the Board decide to return all or a portion of the funds, staff recommends withholding the cost of advertising the public hearing (\$960) twice in The Free Lance-Star as required by the Code of Virginia, \$1,200 in attorney's fees (as recommended by County Attorney Ben Emerson) and \$500 for senior staff time spent on the request..

**This would reduce the total amount for reimbursement to \$94,162.13.**

As of this date, County Attorney Ben Emerson is awaiting verification from Mr. Sharpe that his client is entitled to the surplus funds. Should this verification not arrive prior to the Board of Supervisors meeting, staff's recommendation is to hold the hearing, but not adopt the ordinance approving payment of the excess funds unless and until we receive satisfactory evidence that Mr. Sharpe's client is entitled to the surplus funds.

**Attachment:**

Ordinance to Consider the Return of All or a Portion of Surplus Funds from the Sale of Real Estate for Delinquent Taxes

**AN ORDINANCE TO CONSIDER THE RETURN OF  
ALL OR A PORTION OF SURPLUS FUNDS  
FROM THE SALE OF REAL ESTATE FOR DELINQUENT TAXES**

**WHEREAS**, §58.1-3967 of the *Code of Virginia*, 1950, as amended (the “Code”) provides that, upon the request of the former owner, his heirs or assigns, or unknown beneficiary of any real estate sold under this article, and after a showing of a prior entitlement thereto, the governing body of any county or city which has received such surplus funds may, in its discretion, grant relief, by ordinance, to such former owner, heir, or assign, or unknown beneficiary and pay over such amount as the governing body may deem appropriate to such former owner, heir, assign, or unknown beneficiary; and

**WHEREAS**, certain real estate owned by 7263 Ladysmith, LLC and described as 1.47 acres, Improved, 7263 Ladysmith Road, bearing Tax Map ID No. 52-A-62 and more particularly described in Deed Book 1107 at Page 525 was sold at public auction for the payment of delinquent taxes owed to Caroline County; and

**WHEREAS**, Christopher S. Schuster, Trustee in Liquidation for 7263 Ladysmith, LLC has requested, by counsel, that the Board of Supervisors of the County pay over such funds to him as Trustee in Liquidation for 7263 Ladysmith, LLC, pursuant to Section 13.1-1050.2(C) of the Code, due to its automatic termination of existence by the State Corporation Commission on November 30, 2013; and

**WHEREAS**, it appears to the Board of Supervisors that Mr. Schuster as the Trustee in Liquidation to 7263 Ladysmith, LLC is therefore entitled to receive such funds should the Board decide to provide the relief permitted under §58.1-3967 of the Code;

**NOW, THEREFORE, BE IT ORDAINED** that the County hereby grants the relief requested by Mr. Schuster, and the Treasurer is authorized and directed to deliver the surplus funds from the sale of the property referred to above in the amount of \$ \_\_\_\_\_, less the expense of advertising and other costs incurred by the County in connection with this request, to Mr. Schuster as Trustee in Liquidation for 7263 Ladysmith, LLC.

Adopted this \_\_\_\_ day of \_\_\_\_\_, 2021.

A True Copy, teste:

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Clerk,  
Board of Supervisors of Caroline County