TAX ABATEMENT HEARING
Monday, MARCH 25, 2019
TOWN HALL @ 6:00pm RM 2

Members Present: Lisa O’Neil; Kevin Raleigh; Mike Morris; Dick Ballou; Dawna Nadeau (Finance Office); Roy Black; Pat Cook; Ken Baldwin; Barb Reed; Kim Souza; Sue Buchholz; Joe Trottier; Gayle Ottmann; Alan Johnson; Dan Fraser; Simon Dennis; Dennis Brown; Michelle Wilson; & John Clerkin.

5:55pm Meeting called to order.

Dick Ballou nominated Kevin Raleigh to be Chair of the Board of Abatement. Gayle Ottmann seconded. The motion carried.

Hearing #1: Marc Garza/ Upper Valley Coin & Jewelry
672-688 North Main St., White River Jct.-PARCEL ID #45-1

Kevin Raleigh introduced the case; he asked if any Board member had a conflict of interest; and, whether any Board member had any ex parte communication regarding this application. Hearing none, the proceedings continued. Mr. Garza explained the property was destroyed by fire. He requested the board abate taxes in the amount $2856.64 due to loss of building. Several members asked for clarification on how the taxes are apportioned because there is another structure on the property. The taxes being abated would be only for the structure lost as a result of the fire. Michelle Wilson moved to abate the taxes in the amount of $2856.64. Dick Ballou seconded the motion. The Motion Carried unanimously. The balance due by April 8, 2019 will be $1477.18.

Hearing #2: Barbara Reed
1210 Hartford Avenue, White River Jct.-PARCEL ID #24-86

Kevin Raleigh introduced the case; he asked if any Board member had a conflict of interest (Barb Reed recused herself); and, whether any Board member had any ex parte communication regarding this application. Hearing none, the proceedings continued. Barbara provided a recap of her circumstances. Her cancer treatments have ended and her strength is coming back; she is now able to and is actively seeking employment. Jameson Davis asked if she would need to come back for the 2nd half of the 2019 due in August. Michelle Wilson noted the tax bill indicates the applicant is taxed as a non-resident but, we know she is a resident. Michelle asked if she had filed the Homestead Declaration Form last year. Ms. Reed indicated she did not file taxes last year so, she did not file a Homestead Declaration. Michelle stated she should still file the Homestead Declaration Form. If she qualifies it could help reduce the property tax burden going forward. Dawna Nadeau commented if Ms. Reed receives a state payment in excess of what is owed, it can be applied to the next tax amount due. Dan Fraser moved to Abate the taxes in the amount of $4320.09. Gayle Ottmann seconded the motion. The Motion Passed unanimously.

At 6:20pm, Hearing #4 (was scheduled for 7:00pm on Agenda) was heard prior to Hearing #3 (as listed on the agenda for 6:30pm) because not all parties for Hearing #3 were yet present and the applicant for #4 was present. Both applicants were consulted prior to the change.
Hearing #4:  Brannon Godfrey, Hartford Delinquent Tax Collector
RE: Kenneth Runnals-615 Runnals Rd.-PARCEL ID #8-13-MHO

Kevin Raleigh introduced the case; he asked if any Board member had a conflict of interest; and, whether any Board member had any ex parte communication regarding this application. Sue Buckholz recused herself. Brannon Godfrey explained the request is to abate taxes for 2013 and 2014 for the mobile home only per 24 V.S.A. 1535 (a)(2) and 24 V.S.A. (a)(5). Mr. Godfrey explained the owner no longer resides in VT and the Mobile Home no longer exists on the property so, there is not any property to place a lien upon. The party did not own the land the Mobile Home was on. The request, on behalf of the Town, is an abatement in the amount of $1400.63. Ken Baldwin moved to approve the abatement in the amount of $1400.63. Michelle Wilson seconded the motion. Motion carried unanimously.

Hearing #3:  Byron Hathorn/The Village at White River Junction
101 Currier St., White River Jct.-PARCEL ID #45-181

Brooke Ciardelli and Byron Hathorn appeared for The Village at White River Junction. Kevin Raleigh introduced the case. Kevin Raleigh recused himself. Ken Baldwin presided over this hearing in Kevin’s absence. Ken asked if any other Board member had a conflict of interest; and, whether any Board member had any ex parte communication regarding this application. Hearing none, the proceedings continued. Mr. Hathorn provided a review of his application and the letter he submitted correcting his initial reason for the abatement request. Mr. Hathorn explained construction started in 2017 and the first resident moved in January, 2019. He further explained due to construction delays they ran short of cash. He stated they applied for revolving loan fund/Job creation grant until they stabilize with encouragement of the State and Lori Hirshfield from the Planning Department. They were awarded $750,000. They anticipate receiving the first check from that loan/grant this week. The funds are released based upon actual jobs created (not potential jobs to be created). They have created 10 jobs to date so, they will be able to draw $400,000 at this point. Mr. Hathorn explained they expect to be stabilized by the end of the year. In 2018, we expected to be open in May but, this did not occur. So, we did not have any income in 2018. The request for abatement is due primarily to construction delays resulting in eight months without income they had anticipated. Lisa O’Neil asked what caused the construction delays. Mr. Hathorn and Ms. Ciardelli explained they believe the contractor underestimated the complexity of the building and what was involved. When asked if The Village can recover funds from the contractor, Mr. Hathorn further explained The AIA contracts do not allow for recoup of expenses except for construction costs. Ms. Ciardelli explained the contractor was also faced with a tough labor market; limited sub-contractors are available for certain components of the construction. Also, the contractor was doing another major project in downtown. The scope of delays came in late and it was difficult to recover. We are part of the TIF district; and, in the long term we will contribute to the vitality of the area and be contributing significantly to the tax base when we stabilize.

Jameson Davis expressed concern because he is aware of how much the Town has assisted the Village to get rolling. The project may not necessarily too big to fail but, perhaps considered too early to fail. Mr. Davis asked why with certain advanced planning they were not aware they would need to pay taxes. Mr. Davis asked if there were funds set aside for taxes or not enough? They replied, not enough were set aside. Mr. Hathorn thought assessment would be based upon income so, they were surprised it was as high since no income was earned. Mr. Hathorn said there is no implied blame. Our responsibility is to fund this project. We are asking the Board of Abatement to consider our request for abatement.

John Clerkin asked who is the taxpayer? Mr. Hathorn replied it is set up as an LLC specifically for this development. He stated, we (Brooke Ciardelli and Byron Hathorn) are the managing members of the
entity. There are 18 members. At the end of the day the resident paying monthly rent has a burden of a portion of their rent going towards taxes. Byron Hathorn we are at a disadvantage (an aside) looking at the taxes we will be paying now in comparison to other comparable properties whose taxes are significantly less. Kim Souza asked if the applicants plan to request an adjustment on assessment. The applicant replied, “No”.

Michelle Wilson-The amount outstanding with penalties and interest is $195,567. I have confidence they will not come before us again. Brooke Ciardelli-Nothing about this is a desire not to pay our taxes. It is about timing. Had we opened in May, we would not be here. We paid first property tax installment. Michelle Wilson acknowledged the cause and effect to the Town is significant based on the request. But, perhaps a small contribution/abatement would help. Perhaps just penalties and interest.

Lisa O’Neil expressed concerned about how quickly stabilization can occur; can employment levels be filled sufficiently to allow residents to move in at the pace expected?

Kim Souza asked if there had been a move to litigate with contractor. The applicants indicated they have come to an agreement with contractor but, they are not at liberty to say more.

The applicants said they have restructured things so, they can be stabilized by the end of 2019. This abatement is a piece of the overall solution. They have some residents; some deposits; some contracts signed.

Michelle Wilson asked what % of occupancy is at this time. Applicants replied based upon signed contracts, they are at 12%-15%. We went back to marketing company and operating company to see how we compare to other properties. The applicants were told the normal range is 1-2 move-ins in winter, 4-5 move-ins in spring/after.

John Clerkin asked if the applicants approached the town about a Tax stabilization agreement? Byron Hathorn stated they had not. John commented, it is not unusual for a 3-5 year tax stabilization for a new entity; this has taken on the character of the tax stabilization.

Simon Dennis asked Michelle Wilson how taxes are on businesses? Michelle explained we assess up to full value and back out the value from there based upon percentage of construction completed (there is a standard in the industry; each component of the construction is assigned a percentage towards completion). She further explained the practice is the same for both residential and business. Michelle reminded the Board, the assessment is not under question here; there might be different methodologies used elsewhere but, they may be more subjective rather than objective. Hartford utilizes the industry standard as described.

Mike Morris-this is in the TIF district. How does this effect that? Michelle Wilson-Assessment happens but, TIF is a ghost layer over the district. They take those dollars to pay off bonds and build infrastructure. Some monies are sent to State. As values increase, the monies go from base level (this property was not highly valued). The appreciation Hartford has reported to the state equals 75% of value. She is not sure how an abatement would effect this situation. Mike asked if the town could be on the hook for the abatement? Michelle Wilson stated we would still owe the State the education portion of the taxes owed. Not sure how this effects the remainder.

Mike Morris commented the difference in assessment of $18,000,000 for construction vs. the overall cost of project in the $30,000,000 range. How does this impact things?
Sue Buckholz asked, What if we abated the whole thing; how much is it going to cost us? How much of it is for the education fund portion? We have not seen any financials or evidence presented...how do we know the applicants are unable to pay?

Dick Ballou—there are investors involved. They must also have a say; there is likely a bank involved. Given the magnitude of this project, there was a mistake made somewhere not to take this amount of taxes into account.

Byron Hathorn commented, we were led to believe by our professionals and the town that the tax burden would be closer to $200,000.

Kim Souza asked if Appeal is forthcoming. Byron Hathorn indicated, “No”. Kim stated, I have been supportive but, have heard objections from citizens. I don’t blame you for exercising your right to request an abatement but, I cannot support it.

Michelle Wilson asked if it possible to abate just the penalties and interest?

Lisa O’Neil read the section of the state statute pertaining to what can be abated: 24 V.S.A. 1535(a): “The board may abate in whole or part taxes, water charges, sewer charges, interest, or collection fees, or any combination of those, other than those arising out of a corrected classification of homestead or nonresidential property, accruing to the town...” ; 24 V.S.A. 1535(a)(9b): “The board’s abatement of an amount of tax or charge shall automatically abate any uncollected interest and fees relating to that amount.”

Alan Johnson—I am not questioning the assessment. However, I do share the confusion about why we assess something that is not occupied. Not convinced there is a strict unable to pay. A payment plan may be an option. There may be other avenues. Delinquent Tax Collector can set payment plan.

Dennis Brown—I am uncomfortable with this. I question the idea of them never coming back to us. There are 80 units to fill. I am concerned about setting precedent for other new businesses to come before us because of construction delays.

Simon Dennis commented, we didn’t have this tax money before the project; the developers took a risk by doing this project. The question in my mind is, is right for the town to walk away. It is not our fault that construction delayed. But, I think we should support them at some level. If the project goes under, we are lost. I am aware of our budget and the TIF district. Simon asked, what is the most fair thing we can do?

Ken Baldwin commented, I too am concerned about setting a precedent.

Simon Dennis Moved to abate 3 months of taxes (25% of tax bill & 25% of interest) equaling $94,093.90. Roy Black seconded the motion. The motion failed (5 in favor; 12 opposed).

Dan Fraser Moved to abate $50,000; Michelle Wilson seconded the motion. Gayle asked how would treasurer apply this amount? Dawna Nadeau explained typically it would pay penalties & interest first and, then apply the balance toward principle but, we can apply it whatever way the Board determines. She commented further that no additional penalties will be added. The interest will have one more month (in April, 1% of unpaid principle balance; in May the interest increases to 1.5% of unpaid principle balance).

Mike Morris—What is the effect? I don’t think I have enough information to make a decision or, at least, not enough to support it. Michelle Wilson is not sure what portion is related to the State. Mike Morris
stated he has mixed feelings. Michelle Wilson thinks it should be applied toward penalties & interest. 
Dawna Nadeau provided clarification—the benefit is greater if the amount is applied to principle since 
penalties and interest are based upon principle balance.

Dan Fraser amended his motion to state the $50,000 abatement shall be applied to principle. Michelle 
Wilson seconded the amended motion.

Sue Buckholz commented she is okay with sharing this load at some level. Joe Trottier asked if this a 
good value for the town? I think it is, he said. In the long term, I think it will be a benefit for the town. 
Occupancy is so low at this point we should give them some relief.

By show of hands the motion carried (11 in favor; 6 opposed).

Alan Johnson moved to adjourn; Gayle Ottmann seconded. Motion carried.

Respectfully Submitted,

Lisa O’Neil
Town Clerk
Hartford Board of Abatement

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