

RESOLUTION NO. 2046  
AS AMENDED ON APRIL 11, 2011

A RESOLUTION OF THE COUNCIL OF THE CITY OF SALISBURY, MARYLAND ACCEPTING THE DONATION OF LAND LOCATED IN HARBOR POINTE SUBDIVISION AND IDENTIFIED AS HARBOR POINTE SUBDIVISION SECTION 1, PARCEL 6 AND HARBOR POINTE SUBDIVISION PHASE II SEC 4A, PARCELS 8 AND 9 WITH THE INTENT TO SUBSEQUENTLY TRANSFER HARBOR POINTE SUBDIVISION SECTION 1, PARCEL 6 TO WICOMICO COUNTY AND TO TRANSFER HARBOR POINTE SUBDIVISION PHASE II SEC 4A, PARCELS 8 AND 9 TO THE HARBOR POINTE HOMEOWNERS ASSOCIATION

WHEREAS, the City of Salisbury is interested in ensuring the maintenance of the common areas in the Harbor Pointe subdivision so that they do not constitute eyesores or public nuisances in the neighborhood; and

WHEREAS, certain of these common areas were sold to developers as a result of the dissolution of the Second National Federal Savings Bank in the early 1990's; and

WHEREAS, the current owners have not been responsive to notices from the City that they need to maintain the property causing the City to clean the property and file liens against the property; and

WHEREAS, the current owners have offered to donate these properties to the City, to pay \$14,212.05 in outstanding taxes and liens and to have the storm water management pond, which is located on one of the parcels, cleaned to an acceptable condition as detailed in the Memorandum of Understanding with the Harbor Pointe Community Association which is attached hereto; and

WHEREAS, if the City accepts this donation, the City does not intend to maintain ownership of these parcels but, instead, intends to donate Harbor Pointe Subdivision Phase II Sec 4a, Parcels 8 and 9 to the Community Association and to donate Harbor Pointe Subdivision Section 1, Parcel 6 to Wicomico County; and

WHEREAS, the Harbor Pointe Community Association has signed the attached Memorandum of Understanding committing them to accept the donation of Harbor Pointe Subdivision Phase II Sec 4a, Parcels 8 and 9 provided that the storm water management pond, which is located on one of the parcels, is cleaned to an acceptable condition as detailed in the Memorandum of Agreement; and

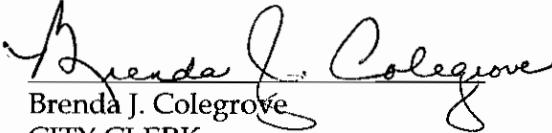
WHEREAS, the Wicomico County Council has adopted the attached resolution committing them to accept the donation of Harbor Pointe Subdivision Section 1, Parcel 6;

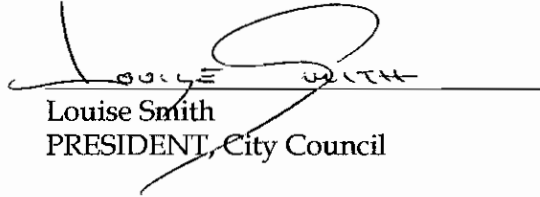
NOW, THEREFORE, BE IT RESOLVED that the Salisbury City Council hereby accepts the donation of the land owned by Empire Mortgage in the Harbor Pointe subdivision and identified as Harbor Pointe Subdivision Phase II Sec 4a, Parcels 8 and 9 and Harbor Pointe Subdivision Section 1, Parcel 6 provided that Empire Mortgage pays \$14,212.05 05 in outstanding taxes and liens and that it has the storm water management pond, which is located on parcel 9, cleaned to an acceptable condition as detailed as ~~detailed~~ in the Memorandum of ~~Agreement~~ Understanding, taking into account differing site conditions;

AND, BE IT FURTHER RESOLVED that the Salisbury City Council directs the City Attorney to prepare the necessary deeds and other documents to transfer the ownership of these parcels to the City as quickly as possible following the satisfaction of the above referenced condition.

THE ABOVE RESOLUTION was introduced and duly passed at a meeting of the Council of the City of Salisbury, Maryland held on the 11<sup>th</sup> day of April, 2011 and is to become effective immediately upon adoption.

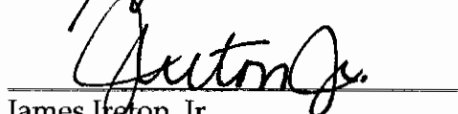
ATTEST:

  
Brenda J. Colegrove  
CITY CLERK

  
Louise Smith  
PRESIDENT, City Council

APPROVED by me this 12<sup>th</sup> day of

April, 2011.

  
James Itton, Jr.  
MAYOR, City of Salisbury

**MEMORANDUM OF UNDERSTANDING**

THIS MEMORANDUM OF UNDERSTANDING made this 29 day of May, 2010, by and between Harbor Pointe Community Association, Inc. (hereinafter referred to as AHPCA@) and the City of Salisbury, a municipal corporation of the State of Maryland (hereinafter referred to as ACity@),

WITNESSETH:

WHEREAS, two parcels of land located along Harbor Pointe Drive and identified as Harbor Pointe Subdivision Phase II, Sec. 4a, Parcels 8 & 9 were originally to be open space to be maintained by HPCA when the Harbor Pointe subdivision was platted; and

WHEREAS, these parcels were erroneously sold to a private firm; and

WHEREAS, HPCA and City desire to have these parcels returned to the HPCA so that they can be maintained in a proper manner by the HPCA; and

WHEREAS, City has been discussing with the current owner of these parcels, Empire Mortgage X Inc., the donation of these parcels to the City, with the intention of subsequently donating them to the HPCA; and

WHEREAS, there are currently outstanding liens on this property totaling \$16,739.54; and

WHEREAS, there is a storm water management pond located on Parcel 9 which is in need of repairs as follows:

All trees and other woody vegetation located within the permanent pool portion of the pond and along its immediate shoreline must be removed and disposed of in an approved location (see circles and cross-hatched areas on the attached map). The stump and root portion of the woody vegetation and accumulated sediment is included in this requirement. **The clay lined**

**bottom of the pond will not be removed or damaged during any part of this project.**

Finished grade elevation at the root locations is to be equal to or less than the surrounding pond bottom elevations.

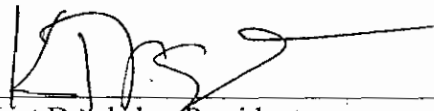
WHEREAS, HPCA has expressed an interest in accepting the donation of these parcels provided that all of the outstanding liens have been paid and provided that the repairs itemized above have been made; and

WHEREAS, HPCA will be able to have a representative present when the work itemized above is being undertaken so that they can be assured that as much material is being removed as possible.

NOW, THEREFORE, HPCA and City agree that, if Empire Mortgage donates Harbor Pointe Subdivision Phase II, Sec. 4a, Parcels 8 & 9 to the City and pays the outstanding liens on the property including the cost of making repairs to the storm water management pond itemized above, HPCA agrees to accept the subsequent donation of this property from the City at no cost.

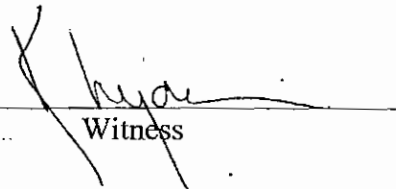
IN WITNESS WHEREOF, the parties hereto have set their hands as of the day and year first above written.

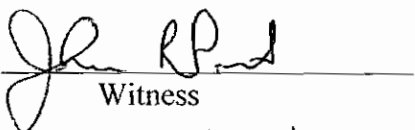
HARBOR POINTE COMMUNITY  
ASSOCIATION, INC.

By:  (SEAL)  
Kurt Drechsler, President

CITY OF SALISBURY

By:  (SEAL)  
Mayor James Ireton, Jr.

  
Witness

  
Witness

**COUNTY COUNCIL OF WICOMICO COUNTY, MARYLAND**

2011 Legislative Session

Legislative Day No. 04

**Resolution No. 34-2011**

Introduced by: The President of the Council at the request of the County Executive

A RESOLUTION TO AUTHORIZE THE COUNTY EXECUTIVE TO ACCEPT A DONATION OF PROPERTY FROM THE CITY OF SALISBURY, CONSISTING OF 48.4 ACRES, MORE OR LESS, LOCATED ON THE NORTH SIDE OF THE WICOMICO RIVER IN THE HARBOR POINTE SUBDIVISION.

WHEREAS, pursuant to Section 22-1 of Chapter 22, entitled "County-owned property" paragraph A, the County Executive is authorized, on behalf of and in the name of Wicomico County, Maryland, to acquire by purchase, lease, exchange, gift or condemnation for public purpose any real property or interest therein in the County; and

WHEREAS, Empire Mortgage X, Inc. is the owner of three parcels of land located on the north side of the Wicomico River in the Harbor Pointe Subdivision, and is desirous of donating the property to the City of Salisbury; and

WHEREAS, the City of Salisbury has offered to donate one of the three parcels of land, Parcel 6, containing 48.4 acres of land, more or less, to Wicomico County, Maryland upon acceptance of the donation from Empire Mortgage X, Inc.; and


WHEREAS, the donated property will be incorporated into the Pemberton Historical Park; and

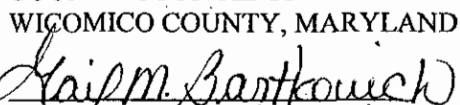
WHEREAS, following a duly advertised public hearing, the County Council approves and recommends acceptance of the donation.

NOW, THEREFORE, BE IT RESOLVED by the County Council of Wicomico County, Maryland that the County Executive be, and is hereby, authorized to accept the donation of the aforesaid property located on the north side of the Wicomico River in the Harbor Pointe Subdivision and being in all respects Parcel No. 6 as shown on a plat entitled "Phase One HARBOR POINTE PRD 3-Section 1" consisting of six (6) sheets and recorded among the Land Records of Wicomico County, Maryland in Plat Cabinet AJS 6 folio 75-300, et seq. from the City of Salisbury.

Done at Salisbury, Maryland, this 15<sup>th</sup> day of February, 2011.

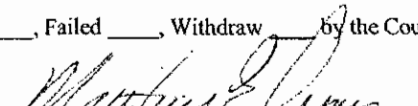
ATTEST:

  
Matthew E. Creamer,  
Council Administrator

COUNTY COUNCIL OF  
WICOMICO COUNTY, MARYLAND  
  
Gail M. Bartkovich,  
Council President

CERTIFICATION

This Resolution was Adopted , Adopted with Amendments , Failed , Withdraw  by the County Council on February 15, 2011.

Certified by   
Matthew E. Creamer, Council Administrator

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
INTER

OFFICE

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MEMO

## Office of the Mayor

**To:** City Council  
**From:** John R. Pick   
**Subject:** Donation of Property - Harbor Pointe  
**Date:** April 5, 2011

Attached to this memo is a Resolution accepting the donation of three parcels of land in Harbor Pointe from Empire Mortgage with conditions as set forth in the Resolution. Also, as stated in the Resolution, it is not the intent of the City to maintain ownership of these parcels. Rather, it is the intent of the City to subsequently donate two of these parcels to the Harbor Pointe Community Association and to donate one of these parcels to Wicomico County. Both the Harbor Pointe Community Association and Wicomico County have agreed to accept these parcels with the acceptance by the Community Association subject to a condition as set forth in the attached Memorandum of Understanding between the City and the Community Association.

At the October 12, 2009 Council Meeting, Resolution 1846 was adopted accepting the donation of three parcels of land in Harbor Pointe from Empire Mortgage provided that, before the donation is executed, there would be a memorandum of understanding between the Harbor Pointe Homeowners Association and the County that they would receive the property once the City has secured it.

Since that meeting, we have been successful in securing the attached Memorandum of Understanding with the Harbor Pointe Community Association stating that they will accept the donation of two of the three parcels. Acceptance of this donation is conditioned upon Empire Mortgage bringing the storm water management pond that is located on one of these parcels to "an acceptable condition". In the sixth "Whereas" clause in this agreement the term "acceptable condition" is defined.

We have also been successful in securing the support of the County Council to accept the donation of the third parcel, Bell Island, as indicated in the attached.

Recently, we informed Empire Mortgage of the updated liens on this property. Mr. Charles Lott, President of Empire Mortgage, objected to the additional interest charges that have been added

to this list since June 2009, when Empire Mortgage agreed to pay the outstanding liens and to donate the properties to the City. Mr. Lott's objections are that Empire Mortgage is not responsible for the long delay in bringing this matter to resolution and, therefore, should not be responsible for the interest that has been added to the liens. These charges amount to \$3,306.52. In addition, Mr. Lott objects to paying for the grass cut that was done on the two smaller parcels on June 1, 2009 because, once again, Empire Mortgage was willing to donate the property prior to then. As a way of resolving this matter, Mr. Lott has agreed to pay half of the cost of this grass cut, which amounted to \$3,000 plus a \$100 administrative fee. If the Council accepted Mr. Lott's offer, the City would receive \$14,212.05 in lien charges. This would more than offset the City's out-of-pocket expenses in having the grass cut on this property over the years. The City's out-of-pocket costs have totaled \$13,575.00. The Mayor is in favor of the City accepting Mr. Lott's offer as a way of bringing this matter to closure. The Council also expressed support for accepting this offer during your work session on April 4, 2011.

cc: Mayor Ireton  
Lore' Chambers  
Pam Oland  
Teresa Gardner  
Paul Wilber  
Brenda Colegrove

Harbor Pointe  
Properties to be Donated

	May-09	Feb-11	Amount to be Waived	Amount to be Paid
Grass Cuts	10,575.00	13,575.00	1,500.00	12,075.00
Interest/Admin.	2,054.83	5,461.35	3,356.52	2,104.83
R/E Taxes	33.92	32.22		32.22
Total	12,663.75	19,068.57	4,856.52	14,212.05