

TAB 7

POINT PAPER

ORDINANCE 09-992 AMENDING THE CODE OF ORDINANCES TO REVISE THE REQUIREMENTS FOR THE DISPOSITION OF SURPLUS PROPERTY BY THE CITY

05/12/09

ISSUE: Adoption of Ordinance 09-992 to amend the City Code regarding the disposition of surplus property.

BACKGROUND: In reviewing the proposed Palmetto Elementary project, in which the City intends to convey property to the School District, we noticed that the current language in Section 2-64 of the City Code is less than clear. While it appears intended to apply only to the disposition of tangible personal property, certain provisions refer only to "property", which is defined in the City Code to include real property. As such, the main purpose of the proposed amendment is to clarify the City's processes for the disposition of City's owned tangible personal property and real property.

Cities are permitted under their home rule authority to utilize any reasonable method to dispose of surplus city-owned real property, provided such disposition is in the best interests of the city. This is contrary to counties and school districts, which have methods for disposition of real property set out by statute.

The ordinance as drafted maintains the current requirements for the disposition of tangible personal property. To provide some guidance in regard to real property, we have provided some restrictions on the transfer of real property which are used by other governmental bodies. For real property, the city must first make a determination that the property is surplus. The city may then sell the property to a governmental entity or not-for-profit entity without advertising and receiving bids. For property that is to be sold to a person or entity other than a governmental agency or not-for-profit organization, the property must be advertised for bid or subject to a request for proposal.

RECOMMENDATION: Adopt Ordinance 09-992.

BUDGET IMPACT: None

**CITY OF PALMETTO
ORDINANCE NO. 09-992**

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF PALMETTO, FLORIDA, AMENDING THE CODE OF ORDINANCES TO REVISE THE REQUIREMENTS FOR THE DISPOSITION OF SURPLUS PROPERTY BY THE CITY; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Article VIII, Section 2 of the Florida Constitution provides that municipalities shall have governmental, corporate and proprietary powers to enable municipalities to conduct municipal government, perform municipal functions, and render municipal services; and

WHEREAS, Chapter 166, Florida Statutes, the "Municipal Home Rule Powers Act," implements the applicable provisions of the Florida Constitution and authorizes municipalities to exercise any power for municipal purposes, except when expressly prohibited by law and to enact ordinances in furtherance thereof.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF PALMETTO, FLORIDA, AS FOLLOWS:

Section 1. Amendment of Section 2-64 of the City of Palmetto Code of Ordinances. Section 2-64 of the City of Palmetto Code of Ordinances is hereby amended to read in its entirety as follows:

Sec. 2-64. Disposition of surplus property.

(1) The city commission may classify as surplus any of its tangible personal property that is obsolete or the continued use of which is uneconomical or

inefficient, or which serves no useful function. The tangible personal property classified as surplus may be disposed of for value to any person, or may be disposed of for value, without bids, to the state, to any governmental unit, or to any political subdivision.

(a) Surplus tangible personal property that is without commercial value may be donated, destroyed or abandoned. The determination of whether to dispose of such property pursuant to this section instead of pursuant to other provisions of law shall be made by the city clerk.

(b) Surplus tangible personal property, the value of which is estimated to be less than one thousand dollars (\$1,000.00) may be disposed of in the most efficient and cost effective means.

(c) Surplus tangible personal property, the value of which is estimated by the city clerk to be one thousand dollars (\$1,000.00) or more shall be sold only to the highest responsible bidder, or by public auction, after publication of notice not less than one (1) week prior to sale in a newspaper having a general circulation in the city, and in additional newspapers if the city clerk deems it in the best interests of the city.

(2) The city commission may dispose of real property, or any interest therein, upon determinations by the city commission that such property is not needed for a municipal purpose, and that the sale or transfer is in the best interests of the city.

(a) If the real property is to be sold or transferred to a governmental agency or not-for-profit organization, such real property, or interest therein, may be sold or transferred without obtaining bids or proposals.

(b) If the real property is to be sold to a person or entity other than a governmental agency or not-for-profit organization, such property may be sold only after publication of notice not less than one (1) week prior to the sale, in a newspaper having general circulation in the city, and in additional newspapers if the city clerk deems such additional notice to be in the best interests of the city. The city may reject any and all bids or proposals if acceptance thereof would not be in the best interests of the city.

Section 2. Repeal of Ordinance. This Ordinance hereby repeals any and all provisions of ordinances in conflict herewith to the extent of such conflict.

Section 3. Severability. If any section, sub-section, paragraph, sentence, clause or phrase in this Ordinance shall be held invalid by a court of competent jurisdiction, then such invalidity shall not affect the remaining portions hereof.

Section 4. Effective Date. This Ordinance shall take effect as provided for by law and by City Charter, Section 14, upon execution by the Mayor, or if disapproval occurs, upon reconsideration by the City Commission and passing of the Ordinance by at least four (4) votes of the City Commission.

PASSED AND DULY ADOPTED, by the City Commission, in open session, with a quorum present and voting, this 18th day of May, 2009.

First Reading: May 4, 2009
Publication: May 8, 2009
Second Reading and
Public Hearing: May 18, 2009

CITY OF PALMETTO, FLORIDA,
BY AND THROUGH THE CITY
COMMISSION OF THE CITY OF
PALMETTO

By: _____
SHIRLEY GROOVER BRYANT,
MAYOR

ATTEST: James R. Freeman
City Clerk

By: _____
City Clerk/Deputy Clerk.