

ORDINANCE NO. 16-47

AN ORDINANCE OF PINELLAS COUNTY, FLORIDA, REGARDING SURPLUS LANDS; AMENDING THE PINELLAS COUNTY CODE TO ADD SECTION 2-147 ESTABLISHING THE PROCEDURES FOR DISPOSITION OF SURPLUS LANDS AS PROVIDED BY FLORIDA LAW; PROVIDING FOR PURPOSE AND INTENT; PROVIDING FOR APPLICABILITY; PROVIDING DEFINITIONS; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, per Florida Statute §125.35(1)(a), the County is authorized to sell and convey real property no longer needed for County purposes (referred to as “surplus” property), through a highest and best bid process; and

WHEREAS, Florida Statute §125.35(1)(b) allows for certain exceptions to selling surplus property through a highest and best bid process, including the negotiation of a lease of an airport facility, modification or extension of certain existing leases, and certain sport franchise facility leases; and

WHEREAS, per Florida Statute §125.35(2), the County is also authorized to utilize a private sale of surplus property where (1) the property is of insufficient size and/or shape to be issued a building permit and is of use to one or more adjacent property owners, or (2) when the value of the property is \$15,000.00 or less and is of use to only one or more property owners; and

WHEREAS, Florida Statute §125.35(3) provides the Board with the authority to adopt and establish alternative disposition standards and procedures for the sale and conveyance of real property owned by the County other than the procedures outlined in Florida Statutes §125.35(1) and (2); and

WHEREAS, the Board already utilizes the procedures as set forth in F.S. 125.35(1) and (2) and now finds it appropriate to adopt additional procedures as permitted by F.S. 125.35(3); and

WHEREAS, subject to Board approval, County staff can determine which disposition method provided herein and as allowed under Florida law best effectuates the County’s goals.

NOW THEREFORE, BE IT ORDAINED by the Board of County Commissioners of Pinellas County, Florida:

Section 1. Findings. The Board of County Commissioners relies upon the following findings in the adoption of this Ordinance:

1. The findings contained in the recitals above are true and correct and are incorporated herein.
2. It is in the interest of the public health, safety and welfare to adopt this Ordinance to establish alternative procedures for disposition of surplus lands, which shall be in addition to and not a replacement of the options already available.
3. The Real Estate Policies and Procedures adopted pursuant to Pinellas County Resolution No. 10-235 shall remain in full force and effect. To the extent such policies and procedures conflict with this Ordinance, the Ordinance shall control.

Section 2. Purpose and Intent. This Ordinance is enacted to carry out the purpose and intent of F.S. §125.35(1), §125.35(2) and §125.35(3), pertaining to the disposition of surplus County-owned property. Conveyances pursuant to F.S. § 125.37 and F.S. § 125.38 shall not be governed by this Ordinance. Uses of County property by virtue of an instrument other than a purchase and sale or lease agreement, including but not limited to licenses, concession licenses, operating agreements and other such agreements, shall also not be governed by this Ordinance.

Section 3. Amendment of Article V, Division 1 of the Code. Section 2-147 is hereby added to the Pinellas County Code to read as follows:

Section 2-147. Disposition of surplus lands.

(a) Surplus land declaration.

- (1) Discretionary act. Declaring County-owned real property as surplus property is a discretionary act of the Board that can be done either prior to or in conjunction with the sale, lease or other disposition of County-owned property.
- (2) Recommendation. The decision to declare County-owned real property as surplus will be based upon a recommendation from the County Administrator or designee. This recommendation will be presented to the Board and shall address the following factors:
 - a. Any potential use of the parcel for a County purpose;
 - b. Potential purchasers of the property, if known;
 - c. Current zoning, site dimensions, and other factors related to use of the site;
 - d. Value estimate;
 - e. Any recommended conditions on the transfer of title (e.g., limitation on access, use, or restrictive covenants, etc.); and
 - f. Estimated costs associated with the disposition to be paid by the County, if any.

- (b) Determining method of surplus lands sale.
 - (1) Alternatives. Florida Statutes provide a number of alternative methods for the disposition of County surplus property. These include:
 - a. Bid Sale (F.S. § 125.35(1));
 - b. Private Sale (F.S. § 125.35(2));
 - c. Alternative County-Prescribed Disposition (F.S. § 125.35(3));
 - d. Conveyance to Governmental Entity or Charitable Institution (F.S. § 125.38); and
 - e. Like Kind Exchange (F.S. § 125.37).

This section shall only pertain to the first three methods listed above.

- (2) Method selection. In absence of specific Board direction, the County Administrator, with input from Real Estate Management, has the discretion to determine the method to be used in disposing of surplus property, in accordance with the County's Real Estate Procedures.
- (c) Bid Sale.
 - (1) Disposition of real property owned by the County utilizing a bid process is provided for in F.S. § 125.35(1)(a). In addition to the authority granted under this statutory provision, the County shall have the right to reject all bids for any reason.
 - (2) Alternative disposition. If the initial Bid Sale is not successful, the County Administrator may reinitiate the bid process, pursue the alternative county disposition method, or private sale method as described further herein and if applicable, or decide to retain the property.
- (d) Private Sale.
 - (1) The Private Sale process is controlled by the provisions of F.S. § 125.35(2).
- (e) Alternative County-Prescribed Disposition
 - (1) Authority and scope. This section is enacted under the authority of F.S. 125.35(3), to prescribe additional disposition standards and procedures to be available to County staff to utilize when deemed necessary and appropriate and used by the County in selling, conveying or leasing real property owned by the County. The Board may choose to exercise its economic development powers under the authority of F.S. §125.045 in connection with the disposition of real property owned by the County.
 - (2) Standards. The Board may negotiate, approve and execute a lease, sale or other conveyance of real property owned by the County to a third party. In no event shall the uses permitted by any such lease, sale or other conveyance violate the County's zoning regulations or comprehensive plan.
 - (3) Procedures.
 - a. The following procedures shall apply to selected transactions relating to negotiated leases, sales or other conveyances under this alternative County-prescribed method:
 - 1. A competitive process shall be utilized for the lease, sale or other conveyance of County surplus property to third parties.

2. Notice of County's intent to dispose of surplus property under this alternative method shall be published in a newspaper of general circulation once a week for at least two weeks prior to the date on which responses to the solicitation are due. The notice shall indicate how copies of the solicitation can be obtained or electronically accessed by interested parties and state the form and manner of the solicitation, as well as the date and time responses will be opened.
3. Solicitation responses and/or submittals for surplus property hereunder shall be submitted to the Purchasing Department a minimum of 30 days from the date the notice for sale was published. For purposes of calculating the deadline date, the first day of publication will not be counted; a deadline date falling on a weekend or holiday will be moved forward to the next regular business day. Solicitation responses and/or submittals will be reviewed and evaluated by applicable County staff and shall include, but not be limited to the following:
 - i. Respondent's ability to perform its obligations under the proposed lease, sale or other conveyance;
 - ii. The financial obligations, if any, to be borne by the County;
 - iii. Respondent's past record of performance;
 - iv. Experience of the respondent and the respondent's team, if applicable;
 - v. Recent, current and projected workloads of the respondent and the respondent's team; and
 - vi. Written responses and any further additional evaluation criteria or information deemed necessary by County staff – including financial information – may be elicited from respondent as part of the negotiation process under this disposition method.
4. A staff report will be prepared by Real Estate Management, with assistance from other county departments as needed and presented to the Board for its consideration. All respondents shall be notified of the meeting date and time. The Board may either terminate the solicitation process or declare the property surplus, if applicable, and authorize the County Administrator to begin negotiating an agreement with the respondent the Board determines to best meet the evaluation criteria.
5. Upon selection of a respondent by the Board, a proposed lease, sale, or other conveyance will be negotiated by the County Administrator or designee. Negotiations may include revisions to all terms and conditions submitted by the respondent, unless the original solicitation deemed certain terms non-negotiable. Each party shall be solely liable for all of its own fees, costs and other expenses in conjunction with negotiation and preparation of the lease, sale, conveyance or other development agreement. No legally binding obligations on the parties will be created, implied or inferred until a lease, sale, conveyance or other development agreement has been negotiated, approved by the Board and executed by the parties.

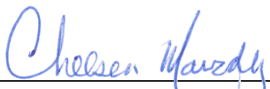
6. The proposed lease, sale or other conveyance will be presented to the Board for consideration. The Board may approve or reject the proposed lease, sale, or other conveyance in its sole and absolute discretion.
- (4) Request. A sale utilizing the Alternative Disposition procedures may be initiated by the Board or the County Administrator based upon a review of the property and County needs. Any person may also request a sale of County property by submitting a written request to the County Administrator. The request must specifically include the following:
 - a. Name of the person or legal entity interested in the property;
 - b. The reason for acquiring the property;
 - c. The legal description, parcel identification number and street address of the property;
 - d. A statement as to a bonafide intention to purchase or lease the surplus property;
 - e. The name of any real estate broker involved in the sale; and
 - f. Any other information the applicant deems relevant.
 - (5) Negotiation of purchase/lease agreement. All aspects of the real estate negotiation are open for discussion, including an increase in the bid or sale price of the property. The negotiation period shall be established in the solicitation documents. If the County is unable to successfully negotiate a purchase/lease agreement with the selected respondent within the negotiation period, then the County may cease negotiations with the selected respondent at any time and may proceed to negotiations with the second ranked respondent, if any. The County may also choose to extend the negotiation period for good cause and in its sole discretion.
 - (6) Purchase/lease agreement. Once a purchase or lease has been successfully negotiated, the agreement will be sent to the Board for consideration and approval. Any interested person may address the Board with respect to the agreement during the applicable public hearing. The date the item will appear on the Board agenda will be available on the County website.

Section 4. Codification. The publisher of the County's Code, the Municipal Code Corporation, is directed to incorporate the amendments described in Section 3 of this Ordinance into the Code.

Section 5. Severability. If any section, sentence, clause, or other provision of this Ordinance shall be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not be construed as to render invalid or unconstitutional the remaining sections, sentences, clauses, or provisions of this Ordinance.

Section 6. Effective Date. This Ordinance shall become effective as provided by law.

APPROVED AS TO FORM

By: 
Office of the County Attorney