ARTICLE V. SALE OF MUNICIPAL REAL PROPERTY

Sec. 2-129. Sale of municipal real property.

Subject to the following provisions, the city is hereby empowered to sell and dispose of any lands, improvements, public buildings, recreational parks and other lands now owned or hereafter acquired by the city, and in the deed of conveyance, may place such conditions, limitations and restrictions on the use of such property by the purchasers (or the purchasers' successors in interest to the title to the property) as, to the city council, shall seem proper. Nothing herein shall operate in any way to prohibit the city council from imposing in any such grant such covenants, restrictions or provisions as it may deem to be in the public interest, provided only that the same are not inconsistent with the provisions of the state constitution or applicable statutory or local law. The right of the city to sell, exchange, lease, or convey real property under the methods and procedures provided in this article shall not be limited, restricted or abridged on account of the method, source or means by which such property was acquired, the source from which funds were obtained to acquire such property, the use to which this property has been devoted or is presently devoted, or whether such property is used and operated in a governmental or proprietary capacity.

(Code 1987, § 2-39; Ord. No. 948, § 2, 1-9-2018)

Sec. 2-130. Sale or conveyance of real property to public or nonprofit entity.

The city is hereby authorized and empowered to enter into contracts with and to sell, alienate, exchange, give, grant or convey to the United States of America or any of its departments or agencies, the state or any of its counties, districts, subdivisions or agencies, or to any public body, or to any nonprofit entity any real property now owned by the city or hereafter acquired, to be used by such public body or agency for a public purpose, under the following conditions:

(1) For the purposes of this section, the term "nonprofit entity" shall mean a nonprofit charitable organization, no part of the net earnings of which inures or may lawfully inure to the benefit of any private shareholder or individual, and that has been held to be tax-exempt under the provisions of Section 501 of the Internal Revenue Code of 1954, and that has as its principal mission:

   a. Public health and welfare;

   b. Education;

   c. Environmental restoration and conservation;

d. Providing of housing for the indigent or homeless; or

e. Relief of human suffering and poverty.

(2) The city council shall first adopt a resolution determining and declaring its intention to sell, alienate, give, exchange, grant, or convey real property to a designated public body or nonprofit entity, and such resolution shall particularly describe the lands, property, improvements or places intended to be conveyed or improved, the purchase price to be paid, if any, the public purpose for which such land or such property will be used by the grantee, and other details of the sale, and designate a day not less than 30 days after the adoption of such resolution on which a public hearing will be had before the city council upon such proposal.

(3) If any real property intended to be sold, alienated, given away, granted or conveyed to any other public body or nonprofit entity is encumbered by any bonds or obligations for which such property or the revenue derived therefrom is specially pledged, provision must be made in the proposal and plan to simultaneously discharge and pay the obligations for payment of which such lands or revenues derived therefrom are specially pledged.

(4) Such resolution shall be published in full in two issues of a newspaper of general circulation published in the city, with the first publication not less than ten days before such public hearing and the second publication one week after the first publication, and both publications prior to the public hearing.

(5) At the time designated for a public hearing, the terms of the proposal and the use of the property shall be explained to the public and opportunity given for citizens and taxpayers to be heard upon such proposal.

(6) At such meeting, or any designated adjourned meeting, the city council shall pass another resolution either confirming or repealing the resolution previously adopted or confirming the previous resolution with amendments or additions. If the previous resolution is confirmed in its original form, or with amendments or additions, such confirming resolution shall direct the proper city officials to execute and deliver deed of conveyance under the terms and conditions set out in the resolution as confirmed.

(Code 1987, § 2-40; Ord. No. 948, § 2, 1-9-2018)

Sec. 2-131. Sale or conveyance of real property to private party.

The city is hereby authorized and empowered to sell any municipal lands and improvements thereon, title to which is vested in the city, to any private person, firm or corporation (other than to a public body or nonprofit entity, as defined above) under the following conditions, to-wit:

(1) *Resolution declaring property not needed for public use; terms of sale.* The city council shall adopt a resolution at a regular meeting of the city council particularly describing

the land by metes and bounds, reference to a recorded plat or government survey, its location by street number, if there is any, and a description of all improvements located upon the land, and shall declare how said land has been used since same has belonged to the city, why it is desirable to sell same, and that the city does declare and determine that it is for the best interests of the city that such lands and facilities be sold. The resolution declaring that such lands be sold shall state whether the sale shall be made for cash or terms.

(2) *Sales of small parcels.* Sales of small parcels may be, but are not required to be, effected under this subsection:

a. The city may effect a private sale of a parcel of real property pursuant to this subsection when it finds:

1. Either that a parcel is of insufficient size and shape to be issued a building permit for any productive improvements or development to be constructed on the surplus property; or that the value of the parcel is $10,000.00 or less (as determined by a real estate appraiser, the county property appraiser or the city real estate officer).

2. Due to the size, shape, location and value of the parcel, the parcel is of use only to one or more adjacent property owners.

3. The property is located in an industrial zoning classification and promotes economic development.

b. The city may, after sending notice of its intended action by certified mail to each owner of adjacent property (as that ownership is reflected on the most current county real property tax assessment roll), effect a sale and conveyance of the parcel at private sale without receiving bids or publishing further notice or otherwise pursuant to this subsection. If, however, within 15 working days after the sending of such mailed notice, two or more owners of adjacent property notify the city of such owners' desire to purchase the parcel, the city shall accept sealed bids for the parcel from such responding adjacent property owners and shall either convey such parcel to the highest bidder or may reject all offers and thereafter dispose of the property otherwise pursuant to this section.

(3) *Sale without competitive bidding.* Subject to the provisions of this subsection, the city may alternatively, when in the public interest as determined by the city council, adopt its resolution to sell without competitive bidding to a private party making a written offer to purchase lands, but the city may reject any and all offers at any time. An offer shall be accompanied by cashier's checks or certified checks payable to the city in an amount equal to at least ten percent of the offer as an initial payment in the event the sale is consummated. In no event shall the sale be for less than 90 percent of the greater of the value of the property as determined by the city council or the value of the property on the current county ad valorem tax assessment roll.

a. *Notice; offers.* Within seven days after the adoption of the resolution providing for sale without competitive bidding (after the receipt of such an offer), notice of the offer and of the city's resolution of intent to take action on the offer shall be published by the city in a newspaper of general circulation one time at least ten business days prior to the city council's action on the offer.

b. *Protests.* During the period intervening between the adoption of the resolution for sale without competitive bidding and the date of sale, taxpayers and registered electors of the city may protest or object to the sale, or propose other public uses for the said property, and the city council may rescind its former action and repeal the resolution declaring the property should be sold, if it deems same expedient and proper.

c. *Resolution accepting offer and authorizing conveyance.* At any regular meeting held at least ten business days after publication of the resolution as provided above, the city council may adopt a resolution accepting the offer and authorizing the execution of a deed of conveyance, provided that if such property is encumbered by any bonds or obligations for which such property or the revenue derived therefrom is specially pledged, the purchase price must be sufficient to pay and discharge such bonds or obligations according to the terms thereof.

(4) *Sale by competitive bidding procedure.* Sales of real property initiated by the city may also be conducted in such fashion as determined by city council including, without limitation, a public auction or a sealed bid procedure, in one or more of the following manners:

a. *Sealed bid procedure.* If the city council determines to use a sealed bid procedure, the city shall publish a notice once a week for at least two weeks in a newspaper of general circulation published in the county. The notice shall call for written bids for the purchase of the property so advertised to be sold. In the case of a sale, the bid of the highest bidder complying with the terms and conditions set forth in such notice shall be accepted, unless the city council rejects all bids because they are too low or because the city council determines that the property should be sold pursuant to a different provision of this section. The city may require a deposit to be made, in such form or in such amount as the city council determines, with each bid submitted. If the bid is approved by city council, the successful bidder will be notified of the award, and a contract for sale and purchase will be executed.

b. *Public auction procedure.* If the city council determines to use a public auction procedure, the city shall schedule the auction, which shall be held at the city hall (or such other appropriate public place) at a specified time and date. The city shall publish a notice of the auction once a week for at least two weeks in a newspaper of general circulation published in the county. The notice shall

announce the sale, subject to any reserve price (to be set by the city council in its sole discretion) or without reserve, for the property so advertised to be sold. The bid of the highest bidder at auction complying with all terms and conditions set forth in such notice shall be accepted, unless the highest bid does not meet any set reserve, or because the city council determines prior to the auction that the property should be sold pursuant to a different provision of this section.

c. *Closing costs.* Under either the sealed bid or the public auction procedure, the successful bidder shall pay all closing costs including documentary stamps, title insurance, recording fees, and the cost of the publication of the notice. The city will furnish title insurance at the purchaser's expense. Failure of the successful bidder to close the sale within 20 calendar days after the receipt of the notice of award shall be just cause for the rescission of the award (and termination of any contract entered into) and the forfeiture of any deposit to the city, which forfeiture shall be considered not as a penalty but as liquidated damages.

(5) *Authorization to pay auction fee or commission.* The city is hereby authorized to retain the services of an auctioneer or to pay a fee or a real estate commission to any registered real estate auctioneer broker licensed to do business in the state. Such fee or real estate commission shall only be paid, however, on the consummation of such sale or lease, and the fee or commission paid shall in each instance be determined by the city council based upon what it believes to be a fair and equitable commission for the service to be rendered.

(Code 1987, § 2-41; Ord. No. 948, § 2, 1-9-2018; Ord. No. 959, § 2, 2-11-2020)