

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF LAKE WORTH BEACH, FLORIDA, AMENDING CHAPTER 2 “ADMINISTRATION,” ARTICLE I “IN GENERAL,” SECTION 2-1 “SALE OF CITY-OWNED PROPERTY,” PROVIDING FOR EXCHANGE OF PROPERTY; AND PROVIDING FOR SEVERABILITY, CONFLICTS, CODIFICATION AND AN EFFECTIVE DATE

WHEREAS, the City of Lake Worth Beach, Florida (the “City”), is a duly constituted municipality having such power and authority conferred upon it by the Florida Constitution and Chapter 166, Florida Statutes; and

WHEREAS, the City has adopted provisions regulating the sale of City-owned property; and

WHEREAS, the City desires to expand its options for sale of City-owned property to include exchange of property; and

WHEREAS, the City Commission finds and declares that the adoption of this ordinance is appropriate, and in the best interest of the health, safety and welfare of the City, its residents and visitors.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF LAKE WORTH BEACH, FLORIDA:

Section 1. The whereas clauses are incorporated herein as true and correct and as the legislative findings of the City Commission.

Section 2. Chapter 2 “Administration,” Article I “In General,” Section 2-1 “Sale of city-owned property” is hereby amended to read as follows:

Sec. 2-1. Sale of city-owned property.

(a) *Definitions.* As used in this section:

- (1) *Real property or property* shall mean any real property owned by the city, the sale of which is not otherwise prohibited by the charter of the city, an ordinance of the city, or the laws of the state.
- (2) *Surplus property* shall mean city property the city commission has declared is not needed for city purposes.

- (3) *Good standing* shall mean that the person or entity submitting a bid or offer must have no code enforcement fines, special assessments, taxes, judgments or liens of any kind outstanding to the city and have not withdrawn an offer previously approved by the city.
- (4) *Appraised value* shall mean one hundred (100) percent of the total market value of the real property as reported by the county's property appraiser's current year of certified appraisal market value, or shall mean the opinion of an independent property appraisal employed pursuant to this section.
 - a. If an independent property appraisal is requested by the city and prepared for the property, then the appraised value shall be established from this report and not be based upon one hundred (100) percent of the county appraiser's total market value.
 - b. If two (2) or more independent property appraisers are employed to appraise the same property, the appraised value will be the average of the appraisals unless the city commission, in its sole discretion, determines otherwise.
- (5) *Proven track record* shall mean three (3) completed affordable housing projects.

(b) *Declaration of surplus property.*

- (1) In accordance with F.S. § 166.0451, an inventory list of all real property within the city limits to which the city holds fee simple title shall be prepared at least every three (3) years. Properties found to be appropriate for use as affordable housing by the planning and zoning board shall be delineated on said inventory list and provided to the city commission for public hearing. All properties listed must include the address and legal description of each such property and specify whether the property is vacant or improved. The city commission must review the list at a public hearing and make a determination of the properties appropriate for affordable housing. Following the public hearing, the city commission shall adopt a resolution that includes an inventory list of property to be used as affordable housing.
- (2) The properties identified as appropriate for use as affordable housing on the inventory list adopted by the city commission may be offered for sale and the proceeds may be used to purchase land for the development of affordable housing, or to increase the city fund earmarked for affordable housing, or may be sold with a restriction that requires the development of the property as permanent affordable housing, or may be donated to a nonprofit housing organization for the construction or rehabilitation of a property for permanent affordable housing.

- (3) The city commission may also determine from the inventory list, or it may make an independent decision that, there are properties that are unusable or not needed for city purposes that are not appropriate for affordable housing. In such event, the properties may be sold by competitive sealed bids, by a request for proposals, or by unsolicited proposal or exchanged for other property that is desired for city purposes. If not already included, these properties will then be identified on the inventory list.
- (4) The city may sell the property by any of the following means listed below.
 - (c) *Methods of sale.* The city commission may elect to dispose of city-owned surplus property by any of the following means listed below.
 - (1) *Competitive sealed bids.*
 - a. *[Invitation for bids.]* An invitation for bids shall be issued which shall include the specifications for the purchases sought including any special terms or conditions of sale.
 - b. *Public notice.* Prior to bid opening, public notice of the invitation for bid shall be published in a newspaper of general circulation once a week for two (2) consecutive weeks and by any other such means as deemed appropriate by the purchasing manager.
 - c. *Bid submission.* Bids shall be accepted only from persons or entities that are in good standing with the city. Bids must be received no later than the time and date and at the location specified for bid opening in the invitation for bid. No bids shall be accepted after such time and date or at any other location than specified. Bids received later, or at any other location specified, or from a vendor not in good standing with the city, shall be returned unopened to the bidder.
 - d. *Bid opening.* Bids shall be opened publicly at the time and place specified in the invitation for bids. The name of each bidder, the amount of each bid, and such other relevant information shall be recorded and such information shall be posted.
 - e. *Bid cancellation or postponement.* The city may at any time, elect to cancel a bid or postpone the date and/or time of bid submission or opening. After a bid opening, the purchasing manager may cancel a bid if fewer than two (2) responsive, and responsible bids are received.

(2) *Request for proposals.*

- a. At any time, the city can issue a request for proposals for a property which may include any special terms or conditions of sale.
- b. All responses to the request for proposals must be received no later than the time and date and at the location specified in the request for proposals. No response shall be accepted after such time and date or at any other location than specified. A response received later, or at any other location than specified, or from a person or entity not in good standing, shall be returned unopened.
- c. Cancellation or postponement. The city may at any time, elect to cancel a request for proposals, or postpone the date and/or time of submission or opening. After a request for proposals opening, the purchasing manager may cancel a request for proposals if fewer than two (2) responsive, and responsible responses to the request for proposals are received.

(3) *Unsolicited proposal.*

- a. At any time, the city manager may recommend to the city commission that it consider an unsolicited proposal to purchase city-owned property that the city manager believes qualifies as surplus property. An unsolicited proposal shall be accepted only from persons or entities that are in good standing with the city. In considering the unsolicited proposal the city commission must make a finding that the property is surplus and not needed for city purposes.
- b. The city commission must evaluate the unsolicited proposal and consider the appraised value for the property in the manner as set forth below before accepting an unsolicited proposal.
- c. The city commission is under no obligation to accept an unsolicited proposal.

(4) *Exchange of property.*

- a. At any time, the city commission, upon request or on its own motion, may determine it is in the best interest of the city for city-owned property that is or may, through the transaction, become surplus property be exchanged for other property within the city that the city desires to acquire for city purposes.
- b. An exchange of property shall be authorized only with persons or entities that are in good standing with the city. In considering the exchange of property

the city commission must make a finding that the property is, or through the transaction will become, surplus and not needed for city purposes.

c. The city commission must evaluate the terms and conditions of the exchange and consider the appraised value for the properties in the manner as set forth below before authorizing an exchange of properties.

d. The city commission is under no obligation to authorize an exchange of properties.

(d) *Appraisals for sale of property by sealed bids, request for proposals, ~~and~~ unsolicited proposal, and exchanges.*

(1) *Sealed bids and request for proposals.*

a. The city, at its option, may determine the appraised value of a surplus property by using one hundred (100) percent of the county property appraiser's total market value for the property. This appraisal shall be available for public view.

If this method is selected, then no sale by sealed bids shall be authorized unless the bid on the property is equal to at least one hundred (100) percent of current county property appraiser's total market value.

b. Independent property appraisal. The city, at its option, may determine the value of the property based upon an independent property appraisal (IPA), prepared by an individual who is both a member of the appraisal institute (MAI) and a state certified general appraiser acceptable to the city commissioners. This appraisal shall be available for public view.

Sales price shall not be less than one hundred (100) percent of the property appraisal report. If the city elects to have the appraisal value determined by an independent property appraisal, then this report shall be the value used in considering the sale of the property.

(2) *Unsolicited proposal or exchange.*

a. If the city receives an unsolicited proposal to purchase or is considering exchange of city-owned surplus property that has been assessed by the county property appraiser at less than twenty-five thousand dollars (\$25,000.00), then no formal appraisal shall be required. The property can be sold to the proposer or valued for exchange at no less than one hundred (100) percent of the amount assessed by the county property appraiser.

b. If the city receives an unsolicited proposal to purchase or is considering exchange of city-owned surplus property that has been assessed by the

county property appraiser between twenty-five thousand dollars (\$25,000.00) and fifty thousand dollars (\$50,000.00), then one formal appraisal shall be required. The sale price or exchange value shall not be less than one hundred (100) percent of the fair market value of the property according to an appraisal report made as of a date not earlier than six (6) months before the date that the city commission considers the proposer's request or a date not more than six (6) months before or after the date of the appraisal report for the property to be acquired by the city through the exchange.

- c. If the city receives an unsolicited proposal to purchase or is considering exchange of city-owned surplus property that has been assessed by the county property appraiser for more than fifty thousand dollars (\$50,000.00), then two (2) formal appraisals shall be required. At least one appraisal report shall be prepared by an individual who is both a member of the appraisal institute (MAI) and a state certified general appraiser. The appraiser selected shall be acceptable to the city commissioners. Either the city or the proposer or owner of property to be exchanged may provide the second appraisal report. The sale price or exchange value shall not be less than eighty-five (85) percent of the average of the two (2) appraisals. The appraisals shall be made as of a date not earlier than six (6) months before the date that the city commission considers the proposer's request or a date not more than six (6) months before or after the date of the appraisals for the property to be acquired by the city through the exchange.
- d. Appraisals for property to be acquired by the city through an exchange must meet the same appraisal requirements as set forth above for city-owned property.

(e) *Sale provisions for sale of property by sealed bids.*

- (1) The city commission at a public meeting shall approve the sale to the highest bidder, subject to the conditions set forth in this section, within forty-five (45) days from the deadline date set for receiving bids.
- (2) All bids must include a deposit check for five (5) percent of offering price or five hundred dollars (\$500.00), whichever is greater.
- (3) In the event of a default on the part of any purchaser of city-owned real property in making full payment or otherwise failing in the performance of the purchaser's obligations under the contract of purchase, the amount of the deposit shall be forfeited unless the contract shall otherwise provide.
- (4) Notwithstanding any rules of general practice for apportioning costs of the sale of property, purchasers of city-owned property shall pay all closing costs, including but not limited to costs of the survey, abstracting, title insurance, brokers fees, real estate commissions, purchaser's attorney's fees and all

documentary stamps, as well as the appraisal costs. Any costs incurred by the city must be reimbursed to the city prior to closing.

- (5) The city shall be responsible for all advertisements and or publication expenses which it elects to undertake for the property.
 - (6) The city shall have the right at any time to reject any and all bids and to cancel any scheduled sales.
- (f) *Sale provisions for sale of property by request for proposals.*
- (1) The city commission, at a public meeting, shall review the proposals received, and shall select and award the proposal based upon the criteria set forth in the request for proposals. The sale price may be determined at the public meeting or at a subsequent public meeting after negotiation with staff. The sale shall be subject to the conditions set forth in this section.
 - (2) All proposals must include a deposit check for five (5) percent of offering price or five hundred dollars (\$500.00), whichever is greater.
 - (3) In the event of a default on the part of any purchaser of city-owned real property in making full payment or otherwise failing in the performance of the purchaser's obligations under the contract of purchase, the amount of the deposit shall be forfeited unless the contract shall otherwise provide.
 - (4) Notwithstanding any rules of general practice for apportioning costs of the sale of property, purchasers of city-owned property shall pay all closing costs, including but not limited to costs of the survey, abstracting, title insurance, brokers fees, real estate commissions, purchaser's attorney's fees and all documentary stamps, as well as the appraisal costs. Any costs incurred by the city must be reimbursed to the city prior to closing.
 - (5) The city shall be responsible for all advertisements and/or publication expenses which it elects to undertake for the property.
 - (6) The city shall have the right at any time to reject any and all proposals and to cancel any scheduled sales.
- (g) *Sale provisions for sale of property by unsolicited proposal.*
- (1) The city commission, at a public meeting, shall discuss the unsolicited proposal and determine whether to approve the sale of the property. The sale price may

be determined at the public meeting or at a subsequent public meeting after negotiation with staff.

- (2) Should the city commission approve the sale, notwithstanding any rules of general practice for apportioning costs of the sale of property, the purchaser of city-owned surplus property shall pay all closing costs, including, but not limited to, costs of the survey, abstracting, title insurance, brokers fees, real estate commissions, purchaser's attorney's fees and all documentary stamps, as well as the appraisal costs. Any costs incurred by the city must be reimbursed to the city prior to closing.
- (3) The sale must take place no later than six (6) months from the date of approval by the city commission.

(h) Exchange provisions for exchange of property.

- (1) The city commission, at a public meeting, shall discuss the terms and conditions of the exchange and determine whether to approve the exchange of property. The exchange value of each property to be exchanged and any other terms and conditions of the exchange may be determined at the public meeting or at a subsequent public meeting after negotiation with staff.
- (2) Prior to such public meeting of the city commission where a determination may be made, the city must publish, once a week for at least two (2) weeks, in a newspaper of general circulation in the city, a notice setting forth the terms and conditions of the exchange.
- (3) Following the required notice, the city commission may authorize the exchange of properties by resolution.
- (4) Should the city commission authorize the exchange, notwithstanding any rules of general practice for apportioning costs of the sale of property, the party receiving city-owned surplus property through exchange shall pay all closing costs, including, but not limited to, costs of survey(s), abstracting, title insurance, brokers fees, real estate commissions, its attorney's fees and all documentary stamps, as well as the appraisal costs. Any costs incurred by the city must be reimbursed to the city at or prior to closing.

(i) Exceptions.

- (1) Notwithstanding the foregoing sections, the city commission, at a scheduled public meeting by a simple majority vote, may waive the requirements regarding minimum bid amount, method of sale and sale of surplus property, and convey property to the Lake Worth Community Redevelopment Agency or for property located in a residentially zoned area, convey said real property to a 501(c)3 organization with a proven track record in the affordable housing industry. In such

event, the Lake Worth Community Redevelopment Agency or the 501(c)3 organization shall be responsible for paying all closing costs, including but not limited to, the cost of the survey, abstracting, title insurance, broker's fees, real estate commissions, attorney's fees and documentary stamps, as well as appraisal costs and any costs that the city incurred in obtaining clear title of the property.

- (2) The Lake Worth Community Redevelopment Agency and the 501(c)3 organization awarded city surplus real property must apply for a building permit within one hundred twenty (120) days of obtaining clear marketable title or the property reverts back to the city. The city commission in its discretion may extend this time period.

Section 3. Severability. If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

Section 4. Repeal of Laws in Conflict. All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

Section 5. Codification. The sections of the ordinance may be made a part of the City's Code of Ordinances and may be re-numbered or re-lettered to accomplish such, and the word "ordinance" may be changed to "section", "division", or any other appropriate word.

Section 6. Effective Date. This ordinance shall become effective ten (10) days after its final passage.

The passage of this ordinance was moved by Vice Mayor Robinson, seconded by Commissioner Malega, and upon being put to a vote, the vote was as follows:

Mayor Betty Resch	AYE
Vice Mayor Herman Robinson	AYE
Commissioner Christopher McVoy	AYE
Commissioner Sarah Malega	AYE
Commissioner Kim Stokes	AYE

The Mayor thereupon declared this ordinance duly passed on first reading on the 1st day of March, 2022.

The passage of this ordinance on second reading was moved by Commissioner _____, seconded by Commissioner _____, and upon being put to a vote, the vote was as follows:

Mayor Betty Resch
Vice Mayor Herman Robinson
Commissioner Christopher McVoy
Commissioner Sarah Malega
Commissioner Kim Stokes

The Mayor thereupon declared this ordinance duly passed on the _____ day of _____, 2022.

LAKE WORTH BEACH CITY COMMISSION

By: _____
Betty Resch, Mayor

ATTEST:

Melissa Ann Coyne, City Clerk