

Ordinance Change Suggestions for Chapter 16.16, Tidelands

Draft Sale Parameters:

- 1) If the tidelands are currently being leased, only lease holder, or current assignee with written leaseholder approval, may apply to purchase.
- 2) Sale of tidelands currently being leased must be by direct sale to the lessee or current assignee.
- 3) Sale of tidelands shall only be by ordinance and shall require specific written findings of fact be placed in the ordinance outlining why the sale of the tidelands, vs lease of the tidelands, is in the best interest of the Borough. The findings must outline the benefits to the Borough that would be gained through sale that would not be realized through leasing.
- 4) Sale of tidelands shall not be for less than appraised value (not assessed value).

Draft Process:

- 1) Application to purchase is filed along with \$500 application fee.
- 2) Application is sent by the Clerk's office to the Harbor Board for recommendation to the Planning Commission and the Assembly.
- 3) Application is sent by the Clerk's office to the Planning Commission, including the recommendations from the Harbor Board, for recommendation to the Assembly.
- 4) Application is sent to the Assembly with Harbor Board and Planning Commission recommendations. Assembly decides if application moves forward in the process or not. If not, the Assembly gives reasons for the application's denial and votes to deny the application moving forward. If so, and the property is currently a lease, sale will be direct to the lessee or current assignee.
- 5) Clerk's office obtains estimated price to provide an appraisal of the property, a title report, and to send notices to adjacent property owners and lessees and collects the estimated cost from the applicant.
- 6) Clerk's office sends notices to adjacent property owners and lessees.
- 7) Clerk's office obtains title report and appraisal for the property.
- 8) Manager negotiates sale price of property, which will not be less than the appraised value and will include the remaining of the current 5 year lease term if the property is being leased.
- 9) Sale of the property is sent back to the Assembly for final approval, which must be by ordinance.

From Attorney Heideman regarding Chair Martin's discussion topics:

Topic #2 – How to ensure marine industrial use of the parcel and hold potential buyers to their stated intentions?

Attorney Heideman: The best (and potentially easiest) way to ensure marine industrial use of certain parcels is to create a zoning district that is strictly limited to those uses. In that fashion, a violation of that zoning would be covered by building permitting/code enforcement.

Topic #3 – Restrictive Covenants viability?

Attorney Heideman: A restrictive use covenant can be placed on a property, limiting the use of the property to a specific purpose. The covenant can be placed either on the deed itself or in more general recorded covenants covering multiple properties. However, restrictive covenants require enforcement, which would likely involve a court action.