

**BOARD OF COUNTY COUNCILORS'
HEARING PACKET**

Hearing Item: Approve an ordinance amending Chapter 2.33A of Clark County Code to allow surplus property to be sold back to the party from whom the County purchased it if the property or a portion of the property is not needed for county purposes.

Date: Tuesday, February 27, 2018

Time: 10:00 a.m.

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1. PW Staff Report
2. Ordinance
3. Notice of Public Hearing

CLARK COUNTY STAFF REPORT

DEPARTMENT: Public Works / Engineering & Construction Division

DATE: Feb. 27, 2017

REQUESTED ACTION: Approve an ordinance amending Chapter 2.33A of Clark County Code to allow surplus property to be sold back to the party from whom the County purchased it if the property or a portion of the property is not needed for county purposes.

Consent Hearing County Manager

BACKGROUND

Clark County purchases real property for capital improvement projects, such as road widenings, drainage projects and stormwater facilities. The County rarely acquires property through condemnation. However, most purchases are under the threat of eminent domain. Occasionally, the property or a portion of the property ultimately is not needed for the project or future projects.

County code currently requires the property be sold at auction to the highest bidder. If the party from whom the County purchased the property wishes to acquire it, the party must bid against other interested parties, with no guarantee of obtaining the property.

This amendment allows Clark County to sell surplus property back to the party from whom the County purchased the property for its fair market value. If the real property was acquired under the threat of eminent domain, this amendment allows the County to sell the property back to that party for the amount the County paid, plus the interest that would have accrued and any costs associated with improving and maintaining the property.

This recognizes the nonmonetary effects of the threat of eminent domain on property owners and eliminates the possible appearance of Clark County speculating on property.

COUNCIL POLICY IMPLICATIONS

This action will require a change to Clark County Code Chapter 2.33A.

ADMINISTRATIVE POLICY IMPLICATIONS

This action will affect how some surplus property is sold.

COMMUNITY OUTREACH

None

BUDGET IMPLICATIONS

| YES | NO | |
|-----|----|---|
| X | | Action falls within existing budget capacity. |

PW18-034

| YES | NO | |
|-----|----|--|
| | X | Action falls within existing budget capacity but requires a change of purpose within existing appropriation |
| | X | A decrease in revenue budget is necessary and will be requested at the next supplemental. If YES, please complete the budget impact statement. If YES, this action will be referred to the county council with a recommendation from the county manager. |

BUDGET DETAILS

| | |
|--------------------------|-----|
| Local Fund Dollar Amount | N/A |
| Grant Fund Dollar Amount | N/A |
| Account | N/A |
| Company Name | N/A |

DISTRIBUTION:

Council staff will post all staff reports to the county website, www.clark.wa.gov/thegrid/

Tom Grange

Tom Grange, PE
Engineering & Construction Division Manager

Heath H. Henderson

Heath H. Henderson, PE
Public Works Director/County Engineer

Primary Staff Contact: Tom Grange, Ext. 4449

APPROVED: *[Signature]*
CLARK COUNTY, WASHINGTON
CLARK COUNTY COUNCIL

DATE: *2-27-18*
SR# _____



APPROVED: _____
Jim Rumpeltes, Interim County Manager

DATE: _____

ORDINANCE NO. 2018-02-14

An Ordinance adding language to the Clark County Code relating to the management of County property, creating a priority when selling County real property.

1 WHEREAS, RCW 36.34 creates a statutory scheme for the management of
2 County real and personal property; and

3 WHEREAS, counties adopting local regulations regulating the acquisition and
4 sale of property are exempt from the provisions of Chapter 36.34 RCW; and

5 WHEREAS, Clark County has adopted comprehensive processes for the
6 acquisition and disposal of real and personal property; and

7 WHEREAS, Clark County, pursuant to its procedures occasionally acquires
8 property but ultimately does not use the entirety of the purchased land; and

9 WHEREAS, when unused property is determined to be surplus of the current and
10 anticipated needs of the County, the property is proposed for auction or other sale to the
11 highest bidder; and

12 WHEREAS, if the original seller wishes to purchase the parcel back at its
13 appraised value, the sale back reduces the nonmonetary impact on the owner; and

14 WHEREAS, the County Council seeks to balance its responsibility to sell surplus
15 property at fair market value with its responsibility to recognize the nonmonetary impacts
16 of eminent domain on the former owners of such property; and

17 WHEREAS, this matter is being considered at a duly-advertised public hearing;
18 and

19 WHEREAS, the Council finds and concludes that adoption of this ordinance is
20 consistent with the Clark County Charter and will further the public health, safety and
21 welfare,

22 NOW THEREFORE, be it ordered, resolved and decreed by the Clark County
23 Council in and for Clark County, State of Washington, as follows:

24 **Section 1. Findings.** The findings and conclusions contained in the recital
25 clauses above are adopted in support of the Council's actions in adopting this ordinance.

26 **Section 2. Amendatory.** Section 18 of Ord. 1987-03-46 as most recently
27 amended by Sec. 1 of Ord. 2007-08-01 and codified as 2.33A.180 are each amended to read:
28 2.33A.180 Exempted transactions designated.

29 The following transactions are exempted from the provisions of Sections 2.33A.130
30 through 2.33A.170:

31 (1) Worthless Property. Where personal property is determined to be worthless
32 by the property manager, such property may be disposed of by the property
33 manager or the department involved in the most cost-efficient manner. The
34 property may be donated to the public at large, provided a record of the name and
35 address of the recipient and the property disposed of is kept and forwarded to the
36 property manager; provided, that in no event shall the property be given to any
37 county employee or relative of a county employee.

38 (2) Intergovernmental Transactions. The ((~~board~~)) County Council may sell or
39 lease county property to another governmental agency by negotiation, upon such
40 terms as may be agreed upon and for such consideration as may be deemed
41 adequate by the ((~~board~~)) County Council.

42 (3) Private Exchange. The ((~~board~~)) County Council may authorize the
43 exchange of surplus county real property for privately owned real property,
44 subject to the provisions of this subsection; provided, that the exchange of tax title
45 lands shall be governed by RCW 36.35.050. The value of the real property to be
46 exchanged by the county and the value of the real property to be received by the
47 county shall be determined by qualified independent appraiser(s), except that on-
48 staff appraisers may be utilized where the property value does not exceed one
49 hundred thousand dollars (\$100,000). Unless the value of the real property to be
50 exchanged is more than five (5) times the value of the real property to be
51 received, the ((~~board~~)) County Council may approve the exchange and specify
52 whether the difference in value, if any, shall be paid in cash at closing or be paid
53 pursuant to an appropriate real estate contract or deed of trust.

54 (4) Trade-ins.

55 (a) The county may trade in property belonging to the county when
56 purchasing other property. If the county elects to trade in property, it shall
57 include in its call for bids on the property to be purchased a notice that the
58 county has for sale or trade-in property of a specified type, description and
59 quantity which will be sold or traded in on the same day and hour that the
60 bids on the property to be purchased are opened. Any bidder may include
61 in its offer to sell an offer to accept the designated county property in trade
62 by setting forth in the bid the amount of such allowance.

63 (b) In determining the lowest and best bid, the county shall consider the
64 net cost to the county after trade-in allowances have been deducted. The

65 county may accept the bid of any bidder without trade-in of the county
66 property, but may not require any such bidder to purchase the county
67 property without awarding the bidder the purchase contract. The county
68 shall consider offers in relation to the trade-in allowances offered to
69 determine the next best sale and purchase combination for the county.

70 (5) Emergency. In the event of an emergency, when the interest or property of
71 the county would suffer material injury or damage by disposition in accordance
72 with the foregoing provisions, the ((~~board~~)) County Council, upon declaring the
73 existence of such an emergency, may authorize the property manager to sell or
74 lease such property upon such terms and procedures as to the ((~~board~~)) County
75 Council may appear to be in the public interest.

76 (6) Unmarketable Parcels. A parcel of surplus real property, which in and of
77 itself would have little utilitarian value because of its size or shape, may be
78 offered and sold to owners of adjoining properties by private negotiation.

79 (7) Limited-Use Parcels—Covenant Restrictions. Where restrictive covenants,
80 dedication limitations, grant conditions or other legally enforceable restraints,
81 including such restraints placed upon property by the county, limit use of surplus
82 property to a specific public purpose, such property may be conveyed by
83 negotiation upon such terms and conditions as are consistent with such restraint
84 and based upon an opinion of value from a member of the Institute of Real Estate
85 Appraisers or a professional appraiser having similar ethical and professional
86 standards.

87 (8) Limited-Use Parcels—Restrictive Characteristics. Property determined to be
88 surplus to the immediate needs of the county, but which because of its location,
89 configuration or other characteristic is especially and uniquely suitable for a
90 particular quasi-public use requiring special legal, financial or technical
91 qualifications, all as determined by the ((~~board~~)) County Council, may be sold or
92 leased through a public request for proposal process.

93 (9) Public Purpose Leases. The ((~~board~~)) County Council may enter into rental
94 agreements for the use of county property with bona fide nonprofit organizations
95 wherein the organization is to make improvements or provide services to further a
96 recognized county purpose. The agreement may be for less than fair market rental
97 so long as the general public is not unreasonably restricted from access to the
98 improvements or services so provided.

99 (10) Short-Term Rentals. The property manager or the custodial officer or
100 department may permit use of county facilities by a third party for up to seventy-
101 two (72) hours upon such terms as may be mutually agreed upon; provided, that
102 such use furthers a county purpose.

103 (11) Established Rental Value. Where the fair market rental value of county real
104 property has been established by the property manager in the case of rentals of
105 less than one thousand five hundred dollars (\$1,500) per month, or by a member
106 of the American Institute of Real Estate Appraisers, or a professional appraiser
107 having similar ethical and professional qualifications, in the case of rentals of one
108 thousand five hundred dollars (\$1,500) or more per month, in accordance with

109 accepted appraisal methods and standards, such property may be leased by private
110 negotiation at no less than the value so established.

111 (12) Watchman's Property. Leases that include watchman's responsibility for
112 adjoining county-owned property may be leased by private negotiation.

113 (13) Real Estate Broker Services. Notwithstanding any other provisions set forth
114 in this chapter, if in the judgment of the ~~((board of county commissioners))~~
115 County Council the sale of real property of the county would be facilitated and a
116 greater value realized through the use of the services of licensed real estate
117 brokers or by such other method as is determined to most likely result in the
118 receipt of full value for such property, a contract for such services may be
119 negotiated and concluded; provided, that a minimum sales price for such property
120 shall be set by a member of the American Institute of Real Estate Appraisers or
121 professional appraiser having similar ethics and professional qualifications.

122 (14) Relocation Sales. The ~~((board))~~ County Council may authorize the direct
123 sale by private negotiation of county-owned residences to a person being
124 relocated by a county project; provided, that the sale price for such property shall
125 not be less than its appraised value as determined by a member of the Institute of
126 Real Estate Appraisers or professional appraiser having similar ethical and
127 professional standards.

128 (15) Public Purpose Sales.

129 (a) The ~~((board))~~ County Council may convey title to county real
130 property to a bona fide nonprofit corporation to be improved and utilized
131 in perpetuity to further a recognized county purpose; provided, the

132 conveyance document(s) shall contain appropriate contract provisions
133 and/or deed or deed of trust restrictions and covenants relating to timing of
134 improvements, disposition of revenue, accessibility by the general public,
135 nondiscrimination, compliance with laws, removal of liens, and reversion
136 of title.

137 (b) The ~~((board))~~ County Council may convey title to county personal
138 property no longer needed for county purposes to a bona fide nonprofit
139 corporation to be used to further a recognized county purpose.

140 (16) Mineral Rights. The sale or lease of mineral rights for extraction of
141 aggregate on county property as a portion of a larger project to prepare such
142 property for future public use may be by request for proposals.

143 (17) Police Dogs. Where the sheriff of Clark County, in his or her discretion,
144 determines, upon retirement of a police dog from service, that the interest of the
145 animal, its handler, the county or the public would best be served thereby, the
146 sheriff may make any appropriate disposition of such police dog, provided the
147 recipient of the police dog agrees to assume all future liability for its actions, care,
148 maintenance and medical needs.

149 (18) Sale back to the party from whom the County purchased the property.
150 Where real property is acquired and there exists surplus after the project or the
151 proposed use is complete, if the party from whom the County purchased the
152 property, requests to purchase the surplus property, the County may sell the
153 property at its fair market value without notice to or receiving offers from any
154 other party. If the real property was acquired under the threat of eminent domain

155 the County may sell the property to the party from whom the County purchased
156 the property for the amount the County paid for the property plus the interest that
157 would have accrued based on the Clark County Investment Pool interest rate and
158 any costs associated with improving and maintaining the property.

159
160 **Section 3. Effective Date.** This ordinance shall be effective on the 10th day
161 following the date of Adoption.

162 **Section 4. Roll Call Vote.** The following persons voted in favor of the above
163 ordinance amendments: Marc Boldt; Jeanne Stewart;
164 Julie Olson; John Blom; Eileen Quiring.
165 _____.

166 The following persons voted against the above ordinance amendments
167 NONE _____.

ADOPTED on this 27th day of February 2018.

Attest:

Rimer
Clerk of the Council

CLARK COUNTY COUNCIL
CLARK COUNTY, WASHINGTON

Marc Boldt
Marc Boldt, Chair

Approved as to Form Only:
ANTHONY GOLIK
Prosecuting Attorney

Jeanne E. Stewart, Councilor

By: Bill Richardson
Bill Richardson,
Deputy Prosecuting Attorney

Julie Olson, Councilor

John Blom, Councilor

Eileen Quiring, Councilor



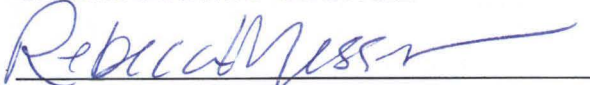
NOTICE OF PUBLIC HEARING

The Clark County Council will hold a public hearing at 10 a.m. Tuesday, the 27th day of February 2018, in the Council's Hearing Room, sixth floor, Public Service Center, 1300 Franklin St., Vancouver, Wash. to consider approval of an ordinance amending Chapter 2.33A of Title 2 of the Clark County Code to allow the selling of surplus property to the party from whom the County purchased it if the property or a portion of the property is not needed for county purposes.

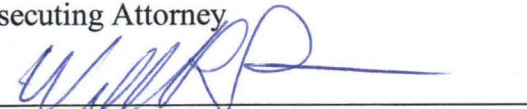
More information concerning this matter may be obtained by contacting Tom Grange, Clark County Public Works, 1300 Franklin St., Vancouver, Wash., 360.397.6118, x.4449.

Any person wishing to give testimony in this matter should appear at the time, date and place above stated.

CLARK COUNTY COUNCIL


Clerk to the Council

Approved as to Form Only
ANTHONY F. GOLIK
Prosecuting Attorney

By 
Deputy Prosecuting Attorney

PUBLISH: February 15, 2018



For other formats contact the Clark County ADA Program:
Voice (360) 397-2322; **Relay** 711 or (800) 833-6388
Fax (360) 397-6165; **Email** ADA@clark.wa.gov