

MEMORANDUM

**TO: BRADLEY ARNOLD
SUMTER COUNTY ADMINISTRATOR**

**FROM: GEORGE G. ANGELIADIS, ESQ.
THE HOGAN LAW FIRM, COUNTY ATTORNEY**

RE: REQUIREMENTS FOR DISPOSITION OF SURPLUS PROPERTY

DATE: SEPTEMBER 27, 2011

Question Presented: What policies must be adhered to regarding the disposition of surplus real property belonging to Sumter County?

General Summary: Chapter 2, Article IX of the Sumter County Code of Ordinances details the procedure which must be followed before the County can dispose of real property it determines in “surplus” property. The applicable provisions of the Code are as follows:

Sec. 2-181. Purpose.

This article is adopted for the purpose of setting forth the methods of disposition of surplus county real property. The county administrator or designee shall have the option of utilizing the statutory methods of disposal, this article, or any combination thereof. (Ord. No. 2006-18, § 1, 5-9-06)

Sec. 2-182. Declaration of surplus property.

- (a) Any real property owned by the county may be declared as surplus upon:
- (1) Presentation of a staff request to the board of county commissioners by the county administrator or designee. The county administrator or designee shall review all real property held by the county as frequently as is needed to determine whether such property is unusable or no longer needed for county purposes.
 - (2) Presentation of an interested party's request to the board of county commissioners by the county administrator or designee. The county administrator or designee shall include a staff recommendation with the citizen request.
 - (3) The board of county commissioners' own motion.
- (b) When the board of county commissioners finds that any real property owned by the county is unusable or not needed for county purposes, the board may declare the real property to be surplus property. Once the property is declared surplus, the property may be sold, dedicated, donated, leased or otherwise conveyed to interested parties in accordance with applicable Florida Statutes or pursuant to the terms of this article. (Ord. No. 2006-18, § 2, 5-9-06)

Sec. 2-183. Methods of disposal.

(a) Once the real property has been declared surplus, the county administrator or designee shall recommend to the board of county commissioners a particular method of disposal as set forth in this article.

(b) The county administrator or designee may dispose of surplus real property in the following manner:

(1) **Through the competitive bidding process as set forth in section F.S. § 125.35(1).** The county administrator or designee may sell, convey or lease any real property, whenever the board of county commissioners determines that it is in the best interest of the county to do so, to the highest and best bidder for the particular use of the property the board determines is the highest and best. Notice shall be published once a week for at least two (2) weeks in a newspaper of general circulation, calling for bids on the property.

(2) **By negotiating a private sale in accordance with section F.S. § 125.35(2).** The county administrator or designee may negotiate a private sale with an adjacent property owner when the board of county commissioners finds that the property is of insufficient size and shape to be issued a permit for any type of development, or when the value of the property is fifteen thousand dollars (\$15,000.00) or less as determined by the county property appraiser and of use only to the adjacent property owners. Notice of intended action shall be sent to the adjacent property owners, certified mail. If, within ten (10) days, two (2) or more adjacent property owners indicate an interest to purchase the property, then the county administrator or designee shall accept sealed bids for the parcel from those property owners. If no response is received from the adjacent property owners, then a private sale may be completed.

(3) **Exchange surplus real property in accordance with section F.S. § 125.37.** The board of county commissioners may exchange surplus real property for another parcel of real property, provided that the board has published a notice for at least two (2) weeks, in a newspaper of general circulation, before adoption of a resolution authorizing the exchange. The notice shall set forth the terms and conditions of the exchange of property.

(4) **Sell, transfer, lease or convey surplus real property to another governmental entity or non-profit entity in accordance with section F.S. § 125.38.** The board of county commissioners may, upon finding that the property is required for use by another governmental entity or non-profit entity, sell, transfer, lease or convey real property to that entity for such price, whether nominal or otherwise as the board may fix. The fact of the application being made, the purpose for which such property is to be used, and the price or rent therefore shall be set out in a resolution duly adopted by the board. No advertisement is required.

(c) **The county administrator or designee may additionally dispose of surplus real property in accordance with F.S. § 125.35(3).** The board of county commissioners may dispose of surplus real property through the use of a licensed real estate broker or through a public auction house in the following manner:

(1) A licensed real estate broker or public auction house shall be retained through the competitive bidding process in accordance with county policy. Any

contract for services shall, at a minimum, set forth the amount of compensation due for services, the length of notice/advertising time, the time for auction, if being auctioned, and such other information as deemed necessary by the county administrator or designee. The contract(s) shall be approved by the board. Notice of the board's intent to consider the contract(s) shall be given in accordance with the board's regular advertising procedures.

(2) Any offer made to a licensed real estate broker for purchase of listed surplus property shall be brought to the board of county commissioners in the form of a purchase agreement. Notice of the board's intent to consider the purchase agreement shall be given in accordance with the board's regular advertising procedures. If the board approves the purchase agreement, then the chair or vice-chair shall be authorized to sign all required closing documents, including the deed. (Ord. No. 2006-18, § 3, 5-9-06)

Sec. 2-184. Negotiation procedures.

(a) In determining the terms and conditions of the disposal of surplus property the county administrator or designee shall take into consideration the following factors:

(1) The appraised value of the real property;

(2) The condition of the real property, and the extent to which the party seeking to acquire the property will have to expend funds to make the property usable, rezoning issues excluded, or, to bring the property into compliance with the County Code;

(3) The proposed use of the party seeking to acquire the property.

(b) In no event shall the disposition of surplus property violate the county comprehensive plan or the zoning regulations of the county.

(Ord. No. 2006-18, § 4, 5-9-06)

Secs. 2-185--2-200. Reserved.

Discussion: The Board of County Commissioners, through the implementation of Chapter 2, Article IX of the Sumter County Code of Ordinances, dictates the procedure for the disposition of “surplus” property.

First, the Board must make a determination that the property in question is “surplus”. The Board can make the determination that a parcel of real property is “surplus” upon the presentation of a staff request, the presentation of an independent party request, or upon it’s own motion. In addition, the Board can make a determination that real property owned by the county is unusable or not needed for county purposes. The property may then be sold, dedicated, donated, leased or otherwise conveyed to interested parties in accordance with the Code.

Next, the county administrator shall recommend to the Board a particular method of disposal as set forth in the Code. Specifically, the county administrator or designee may dispose of surplus real property in the following manner:

- (1) **Through the competitive bidding process as set forth in section F.S. § 125.35(1).**

- (2) **By negotiating a private sale in accordance with section F.S. § 125.35(2).**
- (3) **Exchange surplus real property in accordance with section F.S. § 125.37.**
- (4) **Sell, transfer, lease or convey surplus real property to another governmental entity or non-profit entity in accordance with section F.S. § 125.38**

Under option two (2) above, the county administrator may negotiate a private sale with an adjacent property owner when the board of county commissioners finds that the property is of insufficient size and shape to be issued a permit for any type of development, **or** when the value of the property is fifteen thousand dollars (\$15,000.00) or less as determined by the county property appraiser and of use only to the adjacent property owners. Notice of intended action shall be sent to the adjacent property owners, certified mail. If, within ten (10) days, two (2) or more adjacent property owners indicate an interest to purchase the property, then the county administrator or designee shall accept sealed bids for the parcel from those property owners. If no response is received from the adjacent property owners, then a private sale may be completed.

Conclusion: Based upon the foregoing, Sumter County may dispose of real property it determines is “surplus” property of the provisions of Chapter 2, Article IX of the Sumter County Code of Ordinances are followed.