

ORDINANCE NO. 14-26

AN ORDINANCE OF MANATEE COUNTY, FLORIDA, REGARDING SURPLUS LANDS; AMENDING CHAPTER 2-2 OF THE MANATEE COUNTY CODE OF LAWS TO ADD ARTICLE XII THEREOF ESTABLISHING PROCEDURES FOR DISPOSITION OF SURPLUS LANDS; PROVIDING A SHORT TITLE; PROVIDING FOR PURPOSE AND INTENT; PROVIDING FOR APPLICABILITY; PROVIDING DEFINITIONS; PROVIDING FOR DISPOSITION OF SURPLUS LANDS; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, from time to time the County determines that it is in the best interest of the County to sell and convey real or personal property, or to lease real property, belonging to the County; and

WHEREAS, pursuant to Section 125.35, Florida Statutes (the “statute”), the County is authorized to dispose of such surplus lands through a competitive sale to the highest bidder, a private sale to an adjacent land owner, or a competitive sale for a particular use that is beneficial to the County through a procedure established by ordinance in accordance with the statute; and

WHEREAS, it is in the best interests of the public health, safety and welfare to adopt this ordinance, establishing the procedures for disposition of surplus lands in accordance with the statute.

NOW THEREFORE, BE IT ORDAINED by the Board of County Commissioners of Manatee County, Florida:

Section 1. Purpose and Intent. This Ordinance is enacted to carry out the purpose and intent of, and exercise the authority set forth in, Article VIII of the Florida Constitution and Chapter 125, Florida Statutes, as amended.

Section 2. Findings. The Board of County Commissioners relies upon the following findings in the adoption of this Ordinance:

1. The findings contained in the recitals above are true and correct.
2. It is in the interest of the public health, safety and welfare to adopt the amendments to Chapter 2-2 of the Code, as set forth in this Ordinance, to establish the procedures for disposition of surplus lands.

Section 3. Amendment of Chapter 2-2 of the Code. Chapter 2-2 of the Code is hereby amended to add Article XII as set forth in Exhibit “A” to this Ordinance.

Section 4. Codification. The publisher of the County’s Code, the Municipal Code Corporation, is directed to incorporate the amendments described in Section 3 of this Ordinance into the Code.

Section 5. Severability. If any section, sentence, clause, or other provision of this Ordinance shall be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not be construed as to render invalid or unconstitutional the remaining sections, sentences, clauses, or provisions of this Ordinance.

Section 6. Effective Date. This Ordinance shall become effective as provided by law.

PASSED AND DULY ADOPTED, with a quorum present and voting this the 9th day of September 2014.

BOARD OF COUNTY COMMISSIONERS OF
MANATEE COUNTY, FLORIDA

By: _____
Chairperson

ATTEST: R.B. SHORE
Clerk of the Circuit Court

By: _____
Deputy Clerk

Exhibit "A"
Amendment to Chapter 2-2
Article XII, Disposition of Surplus Lands
Manatee County Code of Laws

ARTICLE XII. DISPOSITION OF SURPLUS LANDS.

Sec. 2-2-276. Short title.

This article may be referred to as the "Manatee County Surplus Lands Ordinance."

Sec. 2-2-277. Purpose and intent.

This article sets forth procedures for lease or sale of surplus real property owned by Manatee county. The provisions for a bid sale and private sale, set forth below in subsections 2-2-280(3) & (4), are intended to implement Sections 125.35(1) and (2), Florida Statutes, respectively. The provisions for competitive negotiation, set forth below in subsection 2-2-280(5), establish an alternative mechanism pursuant to Section 125.35(3), Florida Statutes. Conveyance of property taken by eminent domain is governed by Section 73.013, Florida Statutes. Closing and abandonment of roads is governed by Sections 336.09 through 336.125, Florida Statutes. Sales or leases to governmental entities or non-profit organizations are governed by Section 125.38, Florida Statutes. Nothing herein should be construed as limiting the board's ability to dispose of property by any other statutorily authorized or lawful method.

Sec. 2-2-278. Applicability.

This article is applicable to the disposition of county-owned real property declared surplus by the board of county commissioners.

Sec. 2-2-279. Definitions.

The following terms, wherever used or referred to in this Article, shall have the following meanings:

Board shall mean the Manatee County Board of County Commissioners.

County administrator shall mean the Manatee County Administrator or designee.

Surplus property shall mean real property owned by the county that the board has determined is no longer necessary to serve a public use.

Sec. 2-2-280. Disposition of surplus lands.

(1) *Surplus land declaration.*

- (a) *Discretionary act.* Declaring county-owned real property as surplus property is a discretionary act of the board. It is not subject to appeal. A surplus land declaration is not required for the lease of real property owned by the county if the proposed lease is for a term of one year or less.
- (b) *Recommendation.* The decision to declare county-owned real property as surplus will be based upon a recommendation from the county administrator. This recommendation will be presented to the board and shall address the following factors:
 - 1. Any potential use of the parcel for a county purpose;
 - 2. Potential purchasers of the property, if known;
 - 3. Current zoning, site dimensions, and other factors related to use of the site;
 - 4. Value estimate;
 - 5. Any recommended conditions on the transfer of title (e.g., limitation on access or use); and
 - 6. Estimated costs associated with the disposition to be paid by the county, if any.

(2) *Determining method of surplus lands sale.*

- (a) *Alternatives.* Florida Statutes provide a number of alternative methods for the disposition of county surplus property. These include:
 - 1. Bid sale or lease (Section 125.35(1), Florida Statutes);
 - 2. Private sale (Section 125.35(2), Florida Statutes);
 - 3. Competitive negotiation (Section 125.35(3), Florida Statutes);
 - 4. Conveyance to governmental entity or non-profit organization (Section 125.38, Florida Statutes);
 - 5. Like kind exchange (Section 125.37, Florida Statutes); and
 - 6. Sales or leases in furtherance of economic development (Section 125.045, Florida Statutes).

This article establishes standards and procedures with respect to the disposition of county surplus property under Sections 125.35(1), 125.35(2) and 125.35(3), Florida Statutes. Conveyances pursuant to Section 125.38, Florida Statutes, and exchanges pursuant to Section 125.37, Florida Statutes, shall be made in accordance with the applicable statute and neither is governed by this article. In the event that the board chooses to exercise its economic development powers under the authority of Section 125.045, Florida Statutes, in connection with the disposition of real property owned by the county, a competitive negotiation pursuant to subsection (5) hereof shall be the preferred method to dispose of such property.

(b) *Method selection.* In absence of specific board direction, the county administrator has the sole discretion to determine the method to be used in disposing of surplus property. Neither the board's nor the county administrator's decision is subject to appeal. Exercise of discretion will be based upon consideration of the following factors:

1. Land value;
2. Length of time the property has been in the surplus property inventory;
3. Costs associated with the disposition;
4. Benefit of the disposition to the county;
5. Parties requesting disposition;
6. Previous attempts to dispose of property using alternative methods; and
7. Development potential of parcel.

The county may engage the services of a Florida licensed real estate broker to assist in disposing of surplus property.

(3) *Bid Sale.*

- (a) *Generally.* The bid sale or lease process is controlled by the provisions of Section 125.35(1), Florida Statutes.
- (b) *Request.* Any person may request a bid sale or lease of property by filing a written request with the county administrator. The request must specifically identify the property and include a statement as to a bonafide intention to purchase, or to lease, the property. A bid sale may also be initiated by the county administrator based upon a review of the declared surplus property inventory.
- (c) *Surplus determination.* If a person seeks to purchase or lease a parcel not currently in the surplus property inventory, then a recommendation as to the appropriateness of declaring the parcel surplus may be sent to the board in accordance with subsection (a), above. If the board declares the parcel surplus, then the request can proceed through the disposition process. A request to purchase or lease property already declared surplus by the board does not require additional board action until a purchase agreement or lease agreement is executed by the potential buyer and presented for board consideration.
- (d) *Notice.* A notice calling for bids must be published in a newspaper of general circulation once a week for at least two weeks prior to board approval of any real estate purchase agreement or lease agreement resulting from the bid sale process. The notice must indicate the location of the subject property, where a bid package may be obtained, and the bid submittal deadline.
- (e) *Bid acceptance.* All bids must comply with the county-approved bid specifications. Only bids meeting these specifications will be considered. Bids must be accompanied

by the requisite deposit in the form of cashier's check, certified funds or a money order. Cash or personal checks will not be accepted.

- (f) *Purchase agreement or lease agreement.* The board may enter into a real estate purchase agreement or lease agreement for the sale or lease of the parcel with the highest acceptable bidder. However, the board has the right to reject any and all bids, at any time in the bid sale process, for any reason.
- (g) *Alternative disposition.* If the initial bid sale is not successful, the county administrator may pursue an alternative disposition method or choose to retain the property in the surplus property inventory.

(4) *Private Sale.*

- (a) *Generally.* The private sale process is controlled by the provisions of Section 125.35(2), Florida Statutes. A private sale is appropriate only after the board determines that:
 - 1. The parcel of real property is of insufficient size and shape to be issued a building permit for any type of development to be constructed on the property; and the parcel is of use only to one or more adjacent property owners due to the size, shape, location and value of the parcel; or
 - 2. The value estimate of the parcel is \$15,000 or less, as determined by a fee appraiser designated by the board or by the county property appraiser, and the parcel is of use only to one or more adjacent property owners due to the size, shape, location, and value of the parcel.
- (b) *Request.* A person may request a private sale of property by submitting a written request to the county administrator. The request must specifically identify the property and include a statement as to a bonafide intention to purchase the property. A private sale may also be initiated by the county administrator based upon a review of the surplus property inventory.
- (c) *Surplus determination.* If a person seeks to purchase a parcel not currently in the surplus property inventory, then a recommendation as to the appropriateness of declaring the parcel surplus may be sent to the board in accordance with subsection (a), above. If the board declares the parcel surplus, then the request can proceed through the disposition process. A request to purchase property already declared surplus by the board does not require additional board action until a purchase agreement is executed by the potential buyer and presented for board consideration.
- (d) *Notice.* A written notice of the intent to sell the property under the private sale alternative must be sent to all adjacent property owners by certified mail. The notice must inform the property owners about the property for sale, how to submit an offer to

purchase the parcel, the required time frame for submittal of an offer and what process will result if more than one property owner desires to purchase the parcel.

- (e) *Multiple offers to purchase.* If two or more adjacent property owners notify the county of a desire to purchase the surplus parcel, then the county will solicit sealed bids from those property owners.
- (f) *Purchase agreement.* The board may enter into a purchase agreement for the sale of the parcel with the highest acceptable bidder. However, the board has the right to reject any and all bids, at any time in the private sale process, for any reason.

(5) *Competitive Negotiation.*

- (a) *Authority and scope.* This section is enacted under the authority of Section 125.35(3), Florida Statutes, to prescribe additional disposition standards and procedures to be used by the county in selling, conveying, or leasing real property owned by the county for a term in excess of one year. Leasing (or otherwise providing for the use of real property) for a term of one year or less is not governed by this section. Regardless of the length of the term, concession agreements, license agreements, operating agreements, recreational facility use agreements or other agreements requiring the use of real property owned by the county but whose primary purpose is to provide services to the county or to the public are not governed by this article.
- (b) *Standards.* The board may negotiate, approve and execute lease, sale, conveyance or other development agreements for real property owned by the county to be used by a private party in a manner directly benefiting the county or otherwise for a governmental or public purpose. In no event shall the uses permitted by any such lease, sale, conveyance or other development agreement violate the county's zoning regulations or comprehensive plan.
- (c) *Procedures.*
 - 1. The following procedures shall apply to selected transactions relating to negotiated lease, sale, conveyance or other development agreements benefiting the county or otherwise for governmental or public purposes:
 - a. The selection of private parties for lease, sale, conveyance or other development agreements shall result from an open competitive process. Examples of competitive solicitations that comply with the terms of this section include, but are not limited to, invitations to negotiate, requests for proposals and requests for letters of interest.
 - b. Notice of each solicitation shall be published in a newspaper of general circulation in the county not less than ten calendar days prior to the date on which responses to the solicitation are due. The notice shall indicate how

copies of the solicitation can be obtained or electronically accessed by interested parties and state the date and time responses will be opened.

- c. The county will have the right to require additional information and interview any, all or none of the respondents. The interview format and content will be at the county's discretion. The county will have the right to conduct site visits of the respondents' facilities and/or of any current project(s) managed by the respondents.
- d. Solicitation submittals will be reviewed and evaluated by the county to determine how the written responses and additional information address the county's needs and requirements, as stated in the solicitation. Evaluation criteria shall include, but not be limited to the following:
 - i. The proposed use of the property, including such details as are required by the county administrator;
 - ii. Respondent's ability to perform its obligations under the proposed lease, sale, conveyance or other development agreement;
 - iii. The financial obligations, if any, to be borne by the county;
 - iv. Respondent's past record of performance;
 - v. Experience of the respondent and the respondent's team, if applicable; and
 - vi. Recent, current and projected workloads of the respondent and the respondent's team.

Additional evaluation criteria may be included in each solicitation.

- e. An Evaluation Committee shall be established by the County Administrator to review all responsive proposals submitted and make a recommendation as to which proposer(s) the County should enter in to negotiations with for the sale, conveyance or lease of the property.
- f. Upon selection of a respondent or respondents by the County Administrator, a proposed lease, sale, conveyance or other development agreement will be negotiated by the county administrator, or designee.. Negotiations may include revisions to all terms and conditions submitted by the respondent. Each party shall be solely liable for all of its own attorney's fees, costs and other expenses in conjunction with negotiation and preparation of the lease, sale, conveyance or other development agreement. No legally binding obligations on the parties will be created, implied or inferred until a lease, sale, conveyance or other development agreement has been negotiated, approved by the board and executed by the parties.
- g. When the proposed use of the property is the basis for selection of a respondent, the terms of the sale or lease shall include performance based conditions (such as a deed restriction, a land use restriction agreement, reverter

- e. Notice to names on the surplus lands mailing list;
- f. Newspaper or other print advertisement; or
- g. Electronic media notice or advertisement.

2. *Notice period/deadline for submittal of responses to a solicitation.* The deadline for submittal of responses will be a minimum of 30 days from the date the notice of availability for sale is first published. For purposes of calculating the deadline date, the first day of publication will not be counted; a deadline date falling on a weekend or holiday will be moved forward to the next regular business day.

(g) *Negotiation.* The county will attempt to negotiate a purchase agreement or lease agreement with the selected respondent. All aspects of the real estate negotiation process are open for discussion, including an increase in the bid or sale price, or rent, of the property. The negotiation period will be established in the solicitation documents. If the county is unable to successfully negotiate a purchase agreement or lease agreement with the selected respondent within the negotiation period, then the county may cease negotiations with the selected respondent and proceed to negotiations with another respondent, if any.

(h) *Purchase agreement or lease agreement.* Once a purchase agreement or lease agreement has been successfully negotiated, the agreement will be sent to the board for consideration and approval. The date the item will appear on the board agenda will be available on the county website. The board has the right to reject any and all purchase agreements or leases, at any time in the competitive negotiation process, for any reason.

(6) *Determination as to estimated value of land.* The county administrator will determine the estimated value of all property declared to be surplus pursuant to this article. This determination may be based upon the assessed value as set by the county property appraiser, staff recommendations or an appraisal prepared by an independent state certified real estate appraiser acceptable to the county administrator. Determinations as to the estimated value of surplus land must consider and evaluate the following:

- (a) Configuration of property;
- (b) Location;
- (c) Uplands/wetlands;
- (d) Environmental concerns;
- (e) Ability to develop the parcel in accordance with applicable regulations;
- (f) Current zoning on the parcel;
- (g) Highest and best use of the parcel; and
- (h) Encumbrances on title.

(7) *Notice generally.*

(a) *County Website.* The address for the county website is <https://www.mymanatee.org>. This site includes a listing of all property currently held by the county as surplus lands.

The forms and procedures applicable to purchasing surplus county property are set forth on the site. The information available at this site will be updated on an ongoing basis, but not less than once each quarter. Notices on the potential sales of surplus property through the methods set forth in this article will be posted on the website.

- (b) *Sign on the subject parcel.* This sign will indicate the property is available for purchase. It will also provide a contact phone number for additional information as to pending purchases or offers to purchase.
- (c) *Posted notice.* Property to be sold through a competitive negotiation may be listed on a notice posted in the county's administration center. This notice will identify the parcel, its location, the solicitation closing date and the place to obtain information on the solicitation process.
- (d) *Mailed notice to adjacent property owners.* A notice mailed directly to the adjacent property owners may be provided in the context of a private sale or competitive negotiation. This notice will contain information as to the pending sale and how to submit an offer.
- (e) *Notice to names on the surplus lands mailing list.* Persons on the surplus lands mailing list may receive a courtesy notice as to all pending surplus lands sales on a quarterly basis. This notice will be sent via e-mail to the address provided by the requesting party unless otherwise specifically requested by the person. This is a courtesy notice only and failure to send this notice will not constitute a defect in the sale procedure.
- (f) *Newspaper advertisement.* A newspaper advertisement is required for bid sales. However, advertisements may be used at the county administrator's discretion at any time in conjunction with the sale of surplus property through a private sale or competitive negotiation.