

CITY COUNCIL AGENDA ITEM
CITY OF SHORELINE, WASHINGTON

AGENDA TITLE:	Adoption of Ordinance No. 809 – Amending Shoreline Municipal Code Chapter 3.55 to Allow for Real Estate Broker Sale as a Method of Sale for Surplus Real Property
DEPARTMENT:	City Attorney’s Office
PRESENTED BY:	Julie Ainsworth-Taylor, Assistant City Attorney
ACTION:	<input checked="" type="checkbox"/> Ordinance <input type="checkbox"/> Resolution <input type="checkbox"/> Motion <input type="checkbox"/> Discussion <input type="checkbox"/> Public Hearing

PROBLEM/ISSUE STATEMENT:

Shoreline Municipal Code (SMC) Chapter 3.55 sets forth the procedures for the disposition of surplus real property owned by the City. When declaring property to be surplus, the City Council is required to determine which method the property is to be sold by – sealed bid, auction, or negotiated sale (when aggregating abutting properties). Allowing for the use of a licensed real estate broker will provide the City Council with another option for the disposition of surplus real property.

Proposed Ordinance No. 809 (Attachment A) provides for this code amendment. Council discussed this proposed ordinance on November 27, 2017 and directed staff to bring back the ordinance for Council action. Tonight, proposed Ordinance No. 809 is scheduled for adoption.

CITY RESOURCE/FINANCIAL IMPACT:

There is no immediate financial impact for the adoption of Proposed Ordinance No. 809. If the City Council elects this method for disposition of surplus property, the commission charged will be negotiated at that time.

RECOMMENDATION

Staff recommends that Council adopt proposed Ordinance No. 809.

Approved By: City Manager **DT** City Attorney **MK**

BACKGROUND and DISCUSSION

When declaring property to be surplus, the City Council is required to determine which method the property is to be sold by – sealed bid, auction, or negotiated sale (when aggregating abutting properties). Allowing for the use of a licensed real estate broker will provide the City Council with another option for the disposition of surplus real property that could facilitate and realize a greater value through the use of the services of a licensed real estate broker.

Many other governmental agencies in Washington permit surplus property to be sold via a real estate broker. The Washington State Department of Transportation and Washington School Districts may sell surplus real property via a broker (RCW 47.12; RCW 28A.335). Many cities utilize real estate brokers at times for disposing of property including the cities of Bellevue, Fife, Seattle, and Renton.

Proposed Ordinance No. 809 (Attachment A) would provide for this code amendment to allow surplus property to be sold via a real estate broker. In addition to allowing this method of sale, the proposed code would also set forth procedures that would need to be followed if this method of sale were to be used.

Council discussed proposed Ordinance No. 809 on November 27, 2017. The staff report for this Council discussion can be found at the following link: <http://cosweb.ci.shoreline.wa.us/uploads/attachments/cck/council/staffreports/2017/staffreport112717-8c.pdf>. Council did not have any questions or concerns about the proposed ordinance and directed staff to bring back the ordinance for Council action tonight.

RESOURCE/FINANCIAL IMPACT

There is no immediate financial impact for the adoption of Proposed Ordinance No. 809. If the City Council elects this method for disposition of surplus property, the commission charged will be negotiated at that time.

RECOMMENDATION

Staff recommends that Council adopt proposed Ordinance No. 809.

ATTACHMENTS

Attachment A – Proposed Ordinance No. 809

ORDINANCE NO. 809

AN ORDINANCE OF THE CITY OF SHORELINE, WASHINGTON, AMENDING SHORELINE MUNICIPAL CODE CHAPTER 3.55 TO ADD REAL ESTATE BROKER SALE AS A METHOD OF SALE FOR SURPLUS REAL PROPERTY.

WHEREAS, on January 23, 2012, the City of Shoreline, by Ordinance No. 626, established Shoreline Municipal Code (SMC) Chapter 3.55 setting forth procedures for the disposition of surplus real property; and

WHEREAS, SMC 3.55.011(B) requires the City Council to determine by which of three methods real property is to be sold by sealed bid, at auction, or through negotiated sale; and

WHEREAS, SMC 3.55.012(C) limits the use of negotiated sale to situations dealing the with aggregation of abutting properties; and

WHEREAS, allowing for the sale of surplus real property by a licensed real estate broker will provide an additional option for facilitating and realizing a greater value through the use of the services of a broker.;

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF SHORELINE, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. Amendment to SMC Section 3.55.011 Surplus property declaration. SMC 3.55.011 is amended as follow:

A. Real property owned by the city may be declared surplus by the city council after the following procedures have been completed:

1. The city manager shall include the following information in the staff report to council for each parcel under consideration:
 - a. Description of the subject parcel's size, general location, and legal description;
 - b. Description of the circumstances under which the subject parcel was obtained;
 - c. Description of what funds were used to initially acquire the subject parcel;
 - d. Recommendation as to which fund the proceeds from its sale should be credited;
 - e. History of municipal use, if any, or uses for which it might be held;
 - f. Value of the subject parcel and whether further appraisal before sale is recommended and the type of appraisal required (see SMC 3.55.012(A)(2));
 - g. Whether the subject parcel is only usable by abutting owners or is marketable;

- h. Whether special consideration ought to be given to some other public agency that has a use for the subject parcel;
 - i. Whether the subject parcel should be sold at auction, by sealed bid, by a licensed real estate broker, or by negotiation;
 - j. Recommendation as to whether any special covenants or restrictions should be imposed in conjunction with sale of the subject parcel;
 - k. For land acquired for public utility purposes, whether the land is no longer required to provide continued public utility service.
2. A public hearing shall be held to consider the surplus declaration for the subject parcel. Notice of said hearing shall be published in the city's official newspaper and mailed to all property owners within 500 feet of the subject parcel not less than 10 days nor more than 25 days prior to the hearing.

B. Following the public hearing, the council shall determine whether the subject parcel shall be declared surplus. Any declaration of surplus property shall be made by resolution. The resolution shall also make the following determinations:

- 1. Whether the subject parcel should be sold by sealed bid, at auction, by a licensed real estate broker, or through negotiated sale;
- 2. Whether special covenants or restrictions should be imposed as a condition of the sale; and
- 3. The minimum acceptable price, in accordance with SMC 3.55.010(B) and 3.55.012.

Section 2. Amendment to SMC Section 3.55.012 Sale procedure. SMC 3.55.012 is amended as follows:

The following procedures and requirements shall apply to the sale of surplus property:

A. Determination of Value/Minimum Acceptable Price.

- 1. If the city has a sufficient and acceptable appraisal of the subject property, no additional appraisal shall be required.
- 2. If an acceptable appraisal is not available, the city manager shall obtain:
 - a. Limited opinion of value for properties under \$25,000;
 - b. Short form appraisal report for properties under \$50,000; or
 - c. Full narrative appraisal report.

B. Sale by Bid or Auction. In the event the subject parcel is to be disposed of by sealed bid or by auction, the following notification procedures shall be followed:

- 1. A notice of the city's intent to dispose of the subject parcel shall be conspicuously posted on the property no less than two weeks prior to the date set for the close of bids or the date set for the auction.

2. Notice shall be published in the city's official newspaper at least once each week for three consecutive weeks preceding the deadline for the submittal of sealed bids or the public auction. All notices shall include a description of the subject parcel, the procedure by which the subject parcel is to be disposed of, any earnest money deposits which must be made and the minimum price that will be accepted.

C. Negotiated Sale. If the subject parcel can only be put to its highest and best use when aggregated with an abutter's property because of its size, shape, topography, or other restriction, the subject parcel may be negotiated for sale to the abutter, provided:

1. The abutter is willing to purchase for the fair market value of the subject parcel as determined under subsection A of this section;

2. If more than one qualifying abutter expresses interest in purchasing the subject parcel, the city council may solicit sealed bids from all; and

3. A person shall not be deemed to be an abutter if a right-of-way separates his property from the subject parcel unless purchase will allow a higher and better use of the abutter's property.

D. Real estate broker sale. In the event the subject parcel is to be disposed of by real estate broker sale, the following procedures shall be follows:

1. The real estate broker shall be licensed in the State of Washington;

2. The property shall be listed for no less than the appraised fair market value or the price set by the council;

3. The property must be advertised on the open market for a minimum of two (2) weeks by the use of newspapers, real estate multiple listing services, or other commercially reasonable methods; and

4. The broker's commission rate will be no more than that otherwise charged in the Shoreline area for such services.

E. Earnest Money/Time to Closing.

1. Disposition by Sealed Bid or Auction. Where a subject parcel is sold by sealed bids or auction, any and all bids submitted must be accompanied by a bid deposit in the form of a cashier's check payable to the city of Shoreline in the amount of five percent of the bid or \$5,000, whichever is greater. Such deposit accompanying the successful bid shall be deposited into an administrative trust account until closing on the purchase of the parcel and payment of the remaining amount of the purchase price shall be made within 30 days. In the event the purchaser is unable to pay the remaining amount within the required time, the earnest money deposit shall become nonrefundable as liquidated damages; provided, however, that the purchaser may deposit an additional \$5,000 extension fee, in which case the time to make full payment shall be extended for an additional 30 days. In the event full payment is not made by the conclusion of the

additional period, all deposits shall be retained as liquidated damages for lost time and expense. The city council reserves the right to waive any irregularities in the bid process.

2. Disposition by Broker Sale or Negotiated Sale. Where property is sold by real estate broker sale or negotiated sale, the purchaser shall deposit earnest money into escrow in the amount of \$5,000 or five percent, whichever is greater, within three business days of execution of a purchase and sale agreement for the purchase of the subject parcel. Earnest money forfeitures and sale extensions under subsection (~~D~~E)(1) of this section shall apply.

~~E~~ F. Form of Conveyance. All conveyances shall be made by quitclaim deed.

~~F~~ G. Closing Costs. All closing costs, exclusive of deed preparation, shall be borne by the purchaser including, but not limited to, survey work, title insurance if desired, recording costs, and escrow fees if applicable

Section 3. Corrections by City Clerk or Code Reviser. Upon approval of the City Attorney, the City Clerk and/or the Code Reviser are authorized to make necessary corrections to this ordinance, including the corrections of scrivener or clerical errors; references to other local, state, or federal laws, codes, rules, or regulations; or ordinance numbering and section/subsection numbering and references.

Section 4. Severability. Should any section, subsection, paragraph, sentence, clause, or phrase of this ordinance or its application to any person or situation be declared unconstitutional or invalid for any reason, such decision shall not affect the validity of the remaining portions of this ordinance or its application to any person or situation.

Section 5. Publication and Effective Date. A summary of this Ordinance consisting of the title shall be published in the official newspaper. This Ordinance shall take effect five days after publication.

PASSED BY THE CITY COUNCIL ON DECEMBER 11, 2017.

Mayor Christopher Roberts

ATTEST:

APPROVED AS TO FORM:

Jessica Simulcik Smith
City Clerk

Margaret King
City Attorney

Date of Publication:

Effective Date: