

ORDINANCE NO. 20236

AN ORDINANCE introduced by City Manager Brent Trout, concerning the acquisition and disposal of real property, amending City of Topeka Code § 3.30.310 through § 3.30.350 and repealing § 3.30.360 through § 3.30.370.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF TOPEKA, KANSAS:

Section 1. That section 3.30.310, Real property, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

Real property.

~~The power and authority to purchase, sell, exchange, lease owned property, or otherwise dispose of real property, or approve lease agreements for additional space shall be vested in the city council. No sale, exchange, purchase or lease of real property shall be valid except by deed or contract approved by the city council and signed by the mayor except as specifically provided herein.~~

(a) The real property transactions listed below shall require approval by the governing body:

(1) Acquisition of fee simple title.

(2) Acceptance of property donated by a third party.

(3) Sale of property owned by the city.

(4) Transfers to a governmental agency.

(5) Donations of property owned by the city.

(6) Leases of property that meet the conditions in TMC 3.30.350.

(b) The city manager is authorized to execute all documents associated with such transactions, including execution of deeds.

31 Section 2. That section 3.30.320, Exceptions, of The Code of the City of
32 Topeka, Kansas, is hereby amended to read as follows:

33 **Exceptions.**

34 ~~The director of neighborhood relations or designee shall review and~~
35 ~~approve all transactions concerning urban renewal property administered by the~~
36 ~~department and right-of-way property for projects administered by the department of~~
37 ~~public works. All property involved in these transactions shall be included in the city's~~
38 ~~real estate inventory. These transactions, however, shall not generally be subject to the~~
39 ~~acquisition or disposal procedures required by this article. This section does not change~~
40 ~~the council's authority to authorize all real estate transactions.~~

41 ~~(b) Except as otherwise provided~~TMC 3.30.310 ~~this article shall not apply to the~~
42 following :

43 (a) ~~p~~Property purchased and/or leased as part of a project financed by the
44 issuance of industrial revenue bonds by the city. This exception shall not preclude the
45 ~~department of neighborhood relations from~~ keeping appropriate records of such
46 transactions and including the involved properties in the city's real estate inventory.

47 (b) Easements and rights-of-way acquired for public improvement projects.

48 Section 3. That section 3.30.330, Disposal of real property, of The Code of the
49 City of Topeka, Kansas, is hereby amended to read as follows:

50 **Disposal of surplus real property.**

51 (a) Any department with control of real property that is no longer needed shall
52 provide written notification to the department of neighborhood relations of the desire to
53 dispose of the property as surplus. All city departments shall be notified of the
54 availability of the property. A city department indicating a need for the real property shall
55 notify the department of neighborhood relations to ensure the appropriate transfer of the
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property. The transfer of the property shall be approved by the city manager.

(b) If no city department indicates an interest in the surplus real estate ~~property~~, offered as provided in this section, the subject property shall be sold in the manner as the director of the department of neighborhood relations or designee will provide the following information to the governing body:

~~(1) The value of the property shall be ascertained by appraisal. Real estate appraisals may be made by staff or by independent fee appraisers as determined by the director of neighborhood relations. Zoning, utilities, existing structures, extent of improvements, and location shall be considered in the appraisal process. The selection of independent appraisers shall comply with applicable provisions of TMC Title 2.~~

~~(2) The director of neighborhood relations shall prepare a report of approval by the city manager and submission to the city council. The report shall provide the following information:~~

~~(i1) A current survey or site plan establishing the property corners and a scale drawing showing accurately the property~~An aerial or other depiction of the property showing the dimensions and the location of buildings and improvements thereon.

~~(ii2) A legal description and identification of the property, including the current zoning.~~

~~(iii3) A statement of city ownership of the property, detailing the date the city acquired the property and the reason therefor.~~

~~(iv4) The current use and potential use of the property.~~

~~(v5) The appraised value of the property.~~

~~(vi6) A detailed description of the~~The procedure proposed for

81 disposal of the property.

82 (vii) The financial impact of the proposed transaction.

83 ~~(3) Upon receipt and review of the report, the council shall make a~~
84 ~~determination as to whether to proceed with disposal of the property.~~

85 ~~(4) Upon completion of a property disposal method, as identified in this~~
86 ~~article, the director with the approval of the city manager shall present an~~
87 ~~acceptance of an offer for sale or exchange to the city council for its approval.~~
88 ~~When an offer for real property owned by the city is accepted as provided in this~~
89 ~~article, the documents necessary to close the transaction shall be prepared.~~
90 ~~Council consent is required for disposal of all real property.~~

91 (c) The governing body shall determine whether to dispose of the
92 property and, if so, approve the method of disposal identified in TMC 3.30.340.

93 Section 4. That section 3.30.340, Methods of disposal, of The Code of the City
94 of Topeka, Kansas, is hereby amended to read as follows:

95 **Methods of disposal for surplus property.**

96 ~~When the city council determines to dispose of real property, all such sales shall~~
97 ~~be made by one~~ Surplus property may be disposed of by any of the following methods:

98 (a) Transfer to ~~Political Subdivision~~ Government Agency. ~~By transfer to~~
99 ~~any~~ Transfer to a local governmental, state or federal agency political subdivision,
100 ~~agency, department or board of the state either by gift, donation, exchange or~~
101 ~~negotiated sale.~~

102 (b) Public Auction. ~~By open public sale at a~~ Auction to the highest bidder after
103 advertisement in the official city newspaper at least (ten) 10 days prior to the auction
104 date.

105 (c) Competitive Bidding. ~~By e~~ Competitive sealed bids based upon a written
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request for proposals. A notice of the proposed sale shall be published in the official city newspaper at least 10 days prior to acceptance of proposals. All proposals shall be delivered to the director of ~~administrative and financial services~~the department of neighborhood relations or designee by the time and date specified in the request for proposals.

(d) ~~Private Negotiated Sale.~~ By private negotiated sale, in the following cases:

(1) Sale to an owner of the real property contiguous to the real property being sold, provided the property being sold is less than the minimum required for development under the city zoning ordinance and is without any capital improvement thereon. All abutting property owners shall have an equal opportunity to purchase the property through an invitation to bid.

~~(2) If an offer to purchase is received for a parcel that has been declared surplus and advertised for bids within the past six months with no successful purchase contract.~~No purchase contract is secured after six (6) months from the date of the public auction or the date of the notice of the bid request in subsection (c).

~~(3) When the offer to purchase is made to a private~~Sale to an individual or group and entity where the use of ~~such~~the property will be used solely for a public benefit,including but not limited to affordable housing.

~~(e) By Real Estate Broker. By contracting with a licensed real estate broker to act as the city's agent to dispose of the property.~~Donation. Donation to an individual or entity where the use of the property will be used solely for a public benefit, including but not limited to affordable housing.

(f) Other Methods. Any other method approved by the governing body.

Section 5. That section 3.30.350, Acquisition of real property, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

3.30.350 Acquisition of real property. Leases

(a) Leases of real property shall be subject to governing body approval if costs or revenue contemplated by the lease, including the annual rent, exceed \$10,000.

~~(a) Any department with a need to acquire real property shall notify the director of neighborhood relations of its requirements and availability of funds. The director of neighborhood relations shall search the market to identify appropriate properties and present a list of properties to the department for consideration. Upon identification of suitable property or properties, an appraisal shall be conducted, either by staff or by an independent fee appraiser, for the purpose of establishing an amount considered to be just compensation for the property. More than one appraisal may be required. Appropriate city staff will negotiate an acceptable agreement with the owner of the property. When the purchase price of any real property is anticipated to exceed \$50,000, a public notice shall be given in the official city newspaper of the city's interest in acquiring property. Such notice shall include a description of the city's needs and the proposed use of the property.~~

~~(b) In any proposed acquisition of real property under this section, the department of neighborhood relations shall prepare a report, approved by the city manager, for approval and acceptance by the city council. The report shall provide the following information:~~

~~(1) The appraisal value of the property.~~

~~(2) The financial impact of the transaction.~~

~~(3) The terms and conditions of the acquisition.~~

~~(4) A statement identifying anticipated use.~~

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~~(5) Identification of the existence of any conditions impacting the environment.~~

~~(c) Upon approval of the transaction provided for in this section by the city council, the director of neighborhood relations shall, with the approval of the city attorney, accept deed as prepared by the seller. Prior to final execution, all property to be purchased shall be insured at the seller's expense against title defects, unless otherwise waived by the governing body. The approval and acceptance of the council shall not be required for any acquisition where the purchase price is \$20,000 or less. However, the other provisions of this section shall apply to such transactions.~~

Section 6. That section 3.30.360, Lease of city-owned property, of The Code of the City of Topeka, Kansas, is hereby repealed.

~~Lease of city-owned property.~~

~~(a) The department of neighborhood relations shall keep and maintain records relating to city-owned property which is not needed for municipal purposes and designated for lease.~~

~~(b) Proper lease agreements may be entered into upon approval and signature by the city manager. The terms and conditions of such agreements shall be consistent with the prevailing real estate market.~~

~~(c) Any lease of city-owned real estate that will exceed \$10,000 within a 12-month period shall be approved by the city council and signed by the city manager.~~

~~(d) The city manager shall present an annual report to the city council identifying the city-owned property being leased, the terms of the lease, and the use of the property.~~

Section 7. That section 3.30.370, Lease of privately owned property, of The Code of the City of Topeka, Kansas, is hereby repealed.

~~3.30.370 Lease of privately owned property.~~

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~~(a) Any department with a need to lease real property shall notify the director of neighborhood relations of the requirements and availability of funds. Upon determination that the need to lease privately owned property exists, the market shall be searched for appropriate properties. When suitable property is identified, a lease agreement consistent with prevailing real estate market conditions shall be negotiated. At the completion of negotiations, a lease agreement shall be prepared and authorized by the city manager and requesting department head, except as specifically provided in this section.~~

~~(b) Except where a specific location is required when the anticipated lease of privately owned property is anticipated to exceed \$10,000, a notice of the city's interest to acquire leased property shall be published in the official city newspaper at least 10 days prior to acceptance of any lease agreement. Such notice shall specify the necessary conditions of the needed real estate, including but not limited to square footage, access, and location.~~

~~(c) No leased real property in excess of \$10,000 per year, including all costs contemplated by the lease agreement, shall be authorized unless approved by resolution of the city council and signed by the city manager.~~

~~(d) The city manager shall submit an annual report to the city council identifying privately owned property being leased. The report shall include the following:~~

- ~~(1) A list of the privately owned property by location.~~
- ~~(2) The owner of each leased property.~~
- ~~(3) The square footage of such property and the terms, conditions and options of the lease, excluding cost.~~
- ~~(4) Current city use of the property.~~

Section 8. That original § 3.30.310 through § 3.30.350 of The Code of the City ORD/Real Property Acq and Disposal

of Topeka, Kansas, are hereby specifically repealed.

Section 9. This ordinance shall take effect and be in force from and after its passage, approval and publication in the official City newspaper.

Section 10. This ordinance shall supersede all ordinances, resolutions or rules, or portions thereof, which are in conflict with the provisions of this ordinance.

Section 11. Should any section, clause or phrase of this ordinance be declared invalid by a court of competent jurisdiction, the same shall not affect the validity of this ordinance as a whole, or any part thereof, other than the part so declared to be invalid.

PASSED AND APPROVED by the City Council on January 7, 2020.

CITY OF TOPEKA, KANSAS

Michelle De La Isla, Mayor

ATTEST:

Brenda Younger, City Clerk