



COUNCIL AGENDA: 02-07-12  
ITEM: 4.1

## Memorandum

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**TO:** HONORABLE MAYOR AND  
CITY COUNCIL

**FROM:** Dennis Hawkins, CMC  
City Clerk

**SUBJECT:** SEE BELOW

**DATE:** 01-24-12

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**SUBJECT: STREAMLINING REAL ESTATE PROCESS TO SELL SURPLUS  
PROPERTIES**

### RECOMMENDATION

As recommended by the Community and Economic Development Committee on January 23, 2012 and outlined in the attached memo previously submitted to the Community and Economic Development Committee: accept this report on streamlining real estate actions to sell surplus property and direct Staff to work with the City Attorney's Office to amend relevant ordinances.



# Memorandum

**TO:** COMMUNITY AND ECONOMIC DEVELOPMENT COMMITTEE  
**FROM:** Kim Walesh  
**SUBJECT:** STREAMLINING REAL ESTATE PROCESS TO SELL SURPLUS PROPERTIES  
**DATE:** January 9, 2012

Approved

Date 1/13/12

## RECOMMENDATION

Accept this report on streamlining real estate actions to sell surplus property and direct staff to work with the City Attorney's Office to amend relevant ordinances and forward to the full City Council for approval.

## OUTCOME

Implementation of a revised process for selling City property will reduce the amount of time needed to sell surplus property, reduced associated staffing costs, and increase City revenues.

## BACKGROUND

Beginning in 2007, due to the ongoing General Fund budget shortfall, Council requested that staff actively identify properties that were considered surplus to the needs of the City and prepare to sell them. These requests came in the form of the Mayor's Budget Message, the General Fund Structural Deficit Elimination Plan, and various revenue strategies that have been proposed. In the Mayor's March 2011 Budget Message, streamlining the Real Estate process was identified as a priority.

The City's current real estate sales process, guiding the sale of surplus property was established in April of 2009 by City Council policy. It is a one-size-fits-all, serial process that generally takes more than a year to accomplish. Each of the following steps are required occur in series and a minimum of three Council actions are required.

1. **Initiate the Process** – This step can be initiated by an internal stake holder seeking to sell a property or by an external party expressing an interest to purchase a property for a current or future use.
2. **Prepare the File** – This action primarily involves confirmation of ownership, preparation of various documents related to size and configuration, development of an estimate of value, identification of restrictions on use, and a cost/benefit analysis.

3. **Conduct Internal Review** – This task requires communication with internal stakeholders to determine if there is a current or intended future use of the subject property.
4. **Notify Council and Request to Begin Community Outreach** – There is a formal request of Council approval to move forward in the surplus process, which marks the initiation of the 54222 process (state mandated determination to see if the property is needed for affordable housing, open space, or educational use.)
5. **Conduct Public Outreach** – A notification of the intent to surplus a property is sent to all property owners within 300 feet of the subject property. The public outreach could also include the scheduling of community meetings.
6. **City Council Review** – This step in the process is to advise the Council of the outcome of the public outreach efforts and the 54222 process. If Council approves staff's request to surplus the property, staff continues to the next task. Otherwise, the proposed sale is stopped.
7. **Market the Property for Sale** – This action involves publication of the intent to sell the property in the local newspaper, placement of signage on the property that is for sale, and possibly working with real estate brokers or directly with the buyer to negotiate a sales price.
8. **City Council Approval/Rejection** – This marks the final step in the surplus process with the Council either approving or rejecting the proposed purchase price. If the Council approves the sale, staff prepares the necessary documents for recordation and filing.

The current process is cumbersome, labor-intensive, and is inhibiting revenue generation. As of June 2009, 31 properties were available to continue through the surplus process and offered for sale. Of these 31 properties, only five properties have completed the surplus process and been sold through the efforts of internal staff or contract real estate brokers. (It should be noted that an additional three properties were sold during the same period that were not among the original 31 properties.) These results have been far below Council and staff expectations and highlight the need to re-think the existing process in order to accelerate sales, reduce associated staffing costs, and increase City revenues.

Staff requests feedback from the Committee on the recommended new approach outlined below. Following the Committee meeting, staff will work with the City Attorney's Office to amend the relevant ordinances and bring the changes to City Council for approval.

### ANALYSIS

The City currently owns more than 1,000 properties which include City-operated sites, sites that are operated by non-profit entities, properties that are being leased to other individuals or agencies, vacant land, and many sites that are considered miscellaneous such as remnants of property remaining after street improvement projects. While it appears that, with this many properties, there is a significant amount of potential revenue from the sale of City property, the bulk of these properties are not available for sale (such as City Hall, the Fire Stations, the Police Station, etc.), and many of the properties are small remnants left over from development (such as fragments left over from a road widening project) or are properties that have restrictions that impact the ease of disposing of the property (such as parklands requiring voter approval).

Even with the above constraints, the City's portfolio of properties that could be sold is estimated in the range of \$65M-\$69M. Table 1 below identifies the breakdown by type of use and number of facilities for City owned properties.

**Table 1 - Breakdown of City Owned Real Estate**

Use	# of Parcels
<b>City-Operated Facilities</b> Examples of City-operated facilities include, parks, trails, libraries, fire stations, City Hall, Community Centers, landfills, and parking structures.	565
<b>Operated by non-City Entities</b> Examples of City-owned properties operated by non-profits under operating agreements with the City include, the Children's Discovery Museum, History Park, San Jose Museum of Art, San Jose Repertory Theatre, and the Tech Museum of Innovation.	44
<b>Leased Properties (City as Landlord)</b> Examples include the Alviso Post Office, Rosies & Posies Florists, and the Afro-American Community Services Agency.	32
<b>Vacant Land and Structures</b> Examples include 460 Park Avenue, the NE corner of 12 <sup>th</sup> & Keyes, and the SW corner of Phelan and Courtney.	158
<b>Miscellaneous</b> Examples include remnant parcels from street widening projects, and other parcels whose use is not yet identified.	274
<b>TOTAL</b>	<b>1,073</b>

**Proposed Process for Sale of City Surplus Property**

The City's current sales process is a one-size-fits all process used for all types of properties regardless of their estimated value, size, or marketability. The same sales process must be used for a small remnant parcel remaining after a road widening project and for the sale of the 'E' lot. Staff will be recommending that the surplus sale process be changed to reflect the differences between property types, resulting in quicker results and more efficient use of resources.

To develop the new revised approach, staff studied the Redevelopment Agency (Agency) process to sell property. Redevelopment law enabled the Agency to sell land with significantly fewer requirements and restrictions. For example, only one Agency Board meeting was required: Agency staff were authorized to negotiate directly with interested buyers and were allowed to accept unsolicited offers on Agency property. Staff recommended changes to the City's current surplus sales process that will allow the City process to more closely mirror the Agency process, while ensuring proper due diligence and public outreach.

The proposed process change focus on the following areas:

- Creating three categories of properties for sale, with three more appropriate sales requirements

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- Concurrent steps, rather than serial steps
- Decreasing the number of times for Council review
- Conducting Requests for Interest, instead of Requests for Proposal
- Expand staff's ability to negotiate directly on sites unlikely to have multiple offers
- Authorizing staff to receive unsolicited offers
- Authorizing staff to use brokers to sell property
- Increasing the City Manager's authority to authorize sales of properties from \$250,000 to \$499,000

Staff has developed recommended streamlined sales processes for three categories of properties. The categories differentiate between the value, size, and the ability to develop the properties, with the assumption that the larger and developable properties will require more public, staff, and Council involvement than smaller undevelopable properties.

#### **Category I: Higher- Value Properties - \$500,000 or Greater**

For City properties with an appraised value of \$500,000 or greater, staff would prepare an RFI to determine interest in the property. Staff may receive unsolicited offers and proceed to prepare an RFI or request Council approval to negotiate directly with a potential buyer. Direct negotiations may be requested if significant value and/or multiple City goals could be accomplished through the negotiation or if the property is significantly burdened diminishing the market value of the property. City staff already has the authority to negotiate directly on City properties for economic development purposes. Staff will recommend that staff be allowed to negotiate directly on all City properties, with Council approval.

1. **Initiate the process** – This step would be initiated through an RFI process, or could be undertaken through a Council authorized direct negotiation. The following actions would be occurring concurrently during the preparation of the RFI.
  - a. **City Real Estate Staff prepares the file** – This action primarily involves confirmation of ownership, preparation of various documents related to size, configuration, an estimate of value and restrictions on use.
  - b. **Conduct Internal Review** – This task requires communication with internal stakeholders to determine if there is a current or intended future use of the property.
  - c. **Conduct Public Outreach and Initiate the 54222 Process** – Prepare and distribute the notification of intent to surplus a property to all property owners within 300 feet of the subject property. Prepare notification to all parties that may want to use the property for affordable housing, open space, or educational use.
2. **Evaluate Responses to the RFI** – This action involves evaluating the responses to the RFI and determining the development alternatives (highest and best use) and corresponding value of the property.
3. **Negotiate, Complete Public Outreach and Complete the 54222 Process** – Complete the negotiations with the most qualified respondent(s). Summarize public outreach efforts and identify any interested parties from the 54222 process.
4. **City Council Approval/Rejection** – If the Council approves the sale, Council declares that the property is surplus to the needs of the City, and delegates the authority to the City Manager to execute the purchase agreement and any other documents necessary to complete the transfer of the property.

The primary difference between this proposed process and the previous process is the fact that many of the steps which had previously been done in a sequential fashion are now being done concurrently while preparing the RFI, waiting for responses, and the negotiation period. In addition, the process takes a more proactive approach to the marketing and sale of City owned property with an estimated value in excess of \$500,000.

### **Category II: Lower- Value Properties- Less than \$500,000 and Developable**

Staff may receive unsolicited offers. These properties could also begin with an RFI or a direct negotiation, but may also be suited to advertisement in the local newspaper and by placement of a sale sign on the property. As with the Higher Value properties, staff would perform the necessary actions to evaluate the property and its condition, conduct internal reviews for possible City usage, conduct public outreach, and initiate the 54222 process while waiting for an offer(s). The typical advertising period would be 60 days which allows sufficient time for completing the internal reviews, any public outreach that may be necessary, and responses to the 54222 process. At the conclusion of the 60 day period and receipt of a valid offer, staff would present Council with the most qualified offer. Some examples of properties that fall within this category include former Fire Stations or vacant lots that allow for minor development. A summary of the steps of this process are identified below:

1. **Initiate the process** – This step could be initiated through an RFI process, request for direct negotiations or by the advertising in the local newspaper and placing a sale sign on the property. The following actions would be occurring concurrently during the preparation of the RFI, or while advertising and negotiating with any interested parties.
  - a. **City Real Estate Staff prepares file** – This task is the same as previously described.
  - b. **Conduct Internal Review** – This task is the same as previously described.
  - c. **Conduct Public Outreach and Initiate the 54222 Process** – This task is the same as previously described.
2. **Evaluate Responses to the RFI** – This action would only occur if an RFI was issued otherwise, staff would move directly to step 3 below.
3. **Negotiate, Complete Public Outreach and Complete the 54222 Process** – Complete the negotiations with the most qualified respondent(s) or bidder(s). Summarize public outreach efforts and identify any interested parties from the 54222 process.
4. **City Council Approval/Rejection** – If the Council approves the sale, Council declares that the property is surplus to the needs of the City, and delegates the authority to the City Manager to execute the purchase agreement and any other documents necessary to complete the transfer of the property.

### **Category III: Lower Value Properties - Less than \$500,000 not Developable**

Typically, these properties would be smaller in size than the first two categories or may have sufficient defects such that they are not considered as valuable on the open market. These properties would be best suited to advertising in the local newspaper, by placement of a sale sign on the property, or through negotiations with an adjoining property owner. In order to streamline efforts to sell such properties, staff will request that the authority for sale of such properties be delegated to the City Manager.

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The recommended steps of this process are identified below:

1. **Initiate the process** – This step could be initiated by an external party expressing an interest to purchase a property or by the advertising in the local newspaper and placing a sale sign on the property. The following actions would be occurring concurrently while advertising and negotiating with any interested parties.
  - a. **City Real Estate Staff prepares file** – This task is the same as previously described.
  - b. **Conduct Internal Review** – This task is the same as previously described.
  - c. **Conduct Public Outreach and Initiate the 54222 Process (if needed)** – This task is the same as previously described.
2. **Negotiate, Complete Public Outreach and Complete the 54222 Process** – Complete the negotiations with the most qualified bidder(s). Summarize public outreach efforts and identify any interested parties from the 54222 process (if needed).
3. **NEW - City Council has already delegated authority to City Manager** – This marks the final step in the surplus process with the City Manager executing the purchase agreement and any other documents necessary to complete the transfer of the property.

#### **EVALUATION AND FOLLOW UP**

Following feedback from the Committee, staff will coordinate any ordinance changes with the City Attorney's Office and present recommended actions to the full City Council.

#### **COORDINATION**

This memorandum has been coordinated with the City Attorney's Office.

/s/

KIM WALESH

Director of Economic Development

Chief Strategist

For questions please contact Nanci Klein, Deputy Director, at (408) 535-8184.