



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Julia H. Cooper

SUBJECT: SEE BELOW

DATE: November 5, 2012

Approved

Date

11/14/12

SUBJECT: AMENDMENTS TO CHAPTER 4.16 OF TITLE 4 OF THE SAN JOSE MUNICIPAL CODE RELATED TO DISPOSITION OF SURPLUS PROPERTY

RECOMMENDATION

Approve an ordinance amending Chapter 4.16 of Title 4 of the San José Municipal Code to allow the Director of Finance to determine the disposition of surplus City property of nominal value by any method which the Director determines to be most advantageous to the City; and to provide the Police Chief the authority to determine the disposition of surplus firearms and police service dogs.

OUTCOME

Approval of this recommendation will provide the City greater flexibility in determining the disposition of surplus property of nominal value, surplus firearms, and police service dogs in a manner that would be the most advantageous for the City.

BACKGROUND

Chapter 4.16 of the San José Municipal Code governs the disposition of surplus personal property that has a value in excess of \$10. Section 4.16.240 of the Code generally requires the Director of Finance to first attempt to sell the personal property either by sealed bid, public auction, or by other method most advantageous to the City considering the value of the property and the cost of sale. Typically, items are sold by sealed bid or at public auction. If the Director attempts to sell the property by sealed bid or at public auction and the property remains unsold, the Director may dispose of surplus property by any method including sale by salvage, recycling or disposal under Section 4.16.260.

ANALYSIS

Staff recommends amending Section 4.16.260 to address instances where the administrative cost of selling or attempting to sell an item exceeds its estimated value. The proposed ordinance would authorize the Director of Finance to determine the disposition of the property by any method most advantageous to the City considering the value of the property and the cost of sale including salvage, recycling or disposal under any of the following circumstances: (1) if the property remained unsold after an attempt to sell, (2) if the cost to sell the property exceeds the estimated resale value of the property, or (3) if the condition of the property is unacceptable for sale, donation, exchange, or trade-in.

Staff further recommends adding a new section to Chapter 4.16 to provide the Police Chief the authority to dispose of surplus firearms and police service dogs in a manner that best serves the interest of the City and public safety notwithstanding the public sale procedure requirements under Section 4.16.240. There are public safety considerations specific to the disposition of firearms. The proposed ordinance would authorize the Police Chief to dispose of surplus firearms by selling to an active sworn member of the Police Department, to a law enforcement agency, to an authorized firearms retailer, or destruction of the firearm if no safe alternative is available. The disposition of surplus firearms shall be in compliance with applicable federal or state government requirements.

Police service dogs are highly trained animals and their disposition requires special consideration currently not addressed in the Municipal Code. The City reserves the right to reassign a police service dog within the Canine Unit if the assigned officer leaves the Unit. In the event, however, that the Police Chief does not reassign the police service dog or the police service dog can no longer perform its duties, the proposed ordinance would grant the Police Chief the authority to either sell or donate the service dog to its assigned officer under the condition that the officer provides proper shelter, food and medical care, or other disposition that best serve the interests of the City.

EVALUATION AND FOLLOW UP

No additional follow-up actions with the Council are expected at this time.

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PUBLIC OUTREACH/INTEREST

- Criterion 1:** Requires Council action on the use of public funds equal to \$1 million or greater. **(Required: Website Posting)**
- Criterion 2:** Adoption of a new or revised policy that may have implications for public health, safety, quality of life, or financial/economic vitality of the City. **(Required: E-mail and Website Posting)**
- Criterion 3:** Consideration of proposed changes to service delivery, programs, staffing that may have impacts to community services and have been identified by staff, Council or a Community group that requires special outreach. **(Required: E-mail, Website Posting, Community Meetings, Notice in appropriate newspapers)**

These recommendations do not meet any of the above criteria; however, this memorandum will be posted on the City's website for the November 27, 2012, City Council agenda.

COORDINATION

This memorandum has been coordinated with the City Attorney's Office, the Police Department, and the Environmental Services Department.

COST SUMMARY/IMPLICATIONS

There are no additional costs as a result of these actions.

CEQA

Not a project, File No. PP 10-066(e), Services that involve no physical changes to the environment.

/s/

JULIA H. COOPER
Acting Director, Finance

For questions please contact Mark Giovannetti, Purchasing Division Manager, Finance Department, at 408-408-535-7052.