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## Memorandum

**TO: City of Champaign Township Town Board**

**FROM: Andrew J. Quarnstrom, Township Supervisor**

**DATE: March 3, 2015**

**SUBJECT: SALE AND PURCHASE OF TOWNSHIP REAL ESTATE**

### **A. Introduction:**

The purpose of this Memo is to set forth the procedures set out in the Township Code for the sale and/or purchase of Township real estate or lease by the Township for office purposes.

### **B. Background:**

**1. Property History:** The Township owns two pieces of real estate, adjacent to each other, acquired separately in the late 1950's and early 1960's. As Supervisor, I am investigating the possibility of selling the current Township property for the purpose of relocating Township offices to a more suitable building.

### **2. Legal Requirements**

#### **a. Selling Township Real Estate.**

60 ILCS 1/85-10c provides in part: "A township may acquire (by purchase, gift, or legacy) and hold property, both real and personal, for the use of its inhabitants and may sell and convey that property."

This section does not specifically say how the Township sells the property. In most jurisdictions, the jurisdiction acts through its governing body, such as a City Council, Park Board, or County Board. In townships, there are two separate "corporate authorities." One is the Township Board of Trustees, which in the case of the City of Champaign Township, is the Champaign City Council. The other "corporate authority" is the electors acting at an annual or special township meeting. The Township Code gives authority to act to one or the other, or in some limited cases, to both of these "corporate authorities". In some situations, it is not clear whether it is the town board or the town electors who have the authority to act. In other situations, however, the authority is clear.

In the case of selling real estate it is clear that only the electors, acting at an annual or special town meeting, may authorize the sale of Township real estate. Article 30 of the Township Act concerns the

powers of electors. 60 ILCS 1/30-50(d) specifically provides the electors must pass a resolution before real estate owned by the Township may be sold. This section of the statute states in relevant part:

“Sec. 30-50. Purchase and use of property.

- (a) The electors may make all orders for the purchase, sale, conveyance, regulation, or use of the township’s corporate property (including the direct sale or lease of single township road district property) that may be deemed conducive to the interests of its inhabitants...
  
- (d) Before the township makes a lease or sale of township...real...property, ....the electors shall adopt a resolution stating the intent to lease or sell the real or personal property, describing the property in full, and stating the terms and conditions the electors deem necessary and desirable for the lease or sale. A resolution stating the intent to sell real property shall also contain pertinent information concerning the size, use, and zoning of the property. The value of real property shall be determined by a State licensed real estate appraiser. The appraisal shall be available for public inspection. The resolution may direct the sale to be conducted by the staff of the township or by listing with local licensed real estate agencies (in which case the terms of the agent’s compensation shall be included in the resolution).

The Township is not a home rule unit and therefore must follow the statute. It has no authority to sell property any other way than the statute provides.

**C. The Process for an Annual or Special Town Meeting to approve the sale of real estate**

Electors may adopt a resolution authorizing the sale of township property at either an annual or a special town meeting called for that purpose.

**Calling the Meeting:**

Special township meetings shall be held when the township board (or at least 15 voters of the township) file in the office of the township clerk a written statement that a special meeting is requested and necessary for the interests of the Township. The statement also shall set forth the reason for the meeting, which must be relevant to powers granted to electors under the Township code (60 ILCS 1).

Annual township meetings are held each year.

**Notice to be Given and Adoption of the Agenda:**

Notice of a special township meeting shall be given in the same manner and for the same length of time as for regular township meetings. The notice has to be specific about the object of the meeting and only matters relevant to that topic may be discussed. (60 ILCS 1/35-10)

Notice of the annual meeting is given by the town clerk by posting written notices in three of the most public places in the township at least 15 days before the meeting and by at least one publication in the newspaper before the meeting (60 ILCS1/30-50(d)). The notice shall set forth the agenda for the meeting. That agenda must be adopted by the township board at least 15 days before the annual meeting. (60 ILCS1/30-10(b))

**When the Meeting is to be Held:**

The special township meeting shall be held no less than 14 and no more than 45 days after the written request is filed in the clerk's office. Special town meetings may not begin before 6 p.m. (60 ILCS 1/35-15).

Annual meetings are held on the second Tuesday of April of each year according to statute. 60 ILCS 1/30-5(a).

**Quorum:**

At least 15 electors have to be present at a special township meeting (60 ILCS 1/35-15).

**D. What do the Electors Authorize-Process for the Sale (60 ILCS 1/30-50(d)):**

Before the township makes a sale of township real property, the Township must get an appraisal by a state licensed real estate appraiser. That appraisal has to be made publicly available. The statute does not specify how long the appraisal must be available.

The statute requires that the resolution to be passed by the electors must contain pertinent information such as the size, use, and zoning of the property. It must clearly identify the property to be sold.

The resolution can describe how the sale will be conducted, such as by a real estate agent or by the Township staff. If a real estate agent is employed, the resolution has to be specific on how the real estate agent is going to be compensated.

After the meeting, the clerk prepares a public notice setting out the terms of the sale approved by the electors. This is published in a newspaper and posted at Township offices. The notice must contain:

- (i) The date by which all bids must be received by the Township, which shall not be less than 30 days after the date of the publication or posting.
- (ii) The place, time, and date at which bids shall be opened, which shall be at a regular meeting of the Township board.

The township board may accept the high bid or any other bid determined to be in the best interests of the Township by a vote of three-fourths of the township board then holding office. In no event can the board approve a price less than 80% of the appraised value.

Following acceptance of a bid, Township staff will negotiate the final terms of the contract for sale of the property based upon the terms of the sale approved by the electors.

#### **D. Purchase of Real Estate for the Township**

The Township Code provides that the electors may make all orders for the purchase of Township real estate (60 ILCS 1/30-50). The Township's present property was purchased as a result of a resolution by the electors at the annual meeting in April, 1957.

A township may purchase any real estate for public purposes under contracts providing for payment in installments over a period of time of not more than 20 years. A township may finance the purchase of any real estate for public purpose under finance contracts providing for payment in installments over a period of time of not more than 20 years in the case of real estate. 60 ILCS 1/85-10(c). The law states that a township may make all contracts necessary in the exercise of the township's powers. 60 ILCS 1/85-10(d).

#### **E. Conclusion**

The present Township real estate can only be sold after the electors have passed a resolution stating the intent to sell the property. The property has to be sold by sealed bid, and the town board may, but is not required to, accept the highest bid.

The Township can purchase real estate for town offices by action of the electors or town board if money is available, from the sale of the current property or from budget capital improvement money. The town board can also enter into a lease agreement.