



Office of  
**INDIAN RIVER COUNTY  
ATTORNEY**

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Dylan Reingold, County Attorney  
William K. DeBral, Deputy County Attorney  
Susan J. Prado, Assistant County Attorney

**MEMORANDUM**

**TO:** Board of County Commissioners

**FROM:** Dylan Reingold, County Attorney

**DATE:** January 10, 2020

**SUBJECT:** Disposition of Real Property Ordinance

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**BACKGROUND**

On December 10, 2019, the Indian River County Board of County Commissioners (the "Board") directed the County Attorney to draft an ordinance that would allow for the use of commercial realtors for the disposition of real property, per section 125.35, Florida Statutes.

Citrus County adopted an ordinance in 2014 that contained three alternative procures. The first is a minimum base bid. Under this process, a minimum base bid is determined by, 1) a written offer procured by a real estate broker; 2) an appraisal; or 3) an unsolicited written offer made by a prospective purchaser. After determining the minimum base bid, the county may elect to advertise for bids on the property. Upon receipt of the sealed bids, the property is sold to the bidder submitting the highest, qualified, responsive and best bid.

The second process is the negotiated sale. The county is authorized through the negotiated sale process to use a licensed real estate broker or a public auction house. Any offer made to a licensed real estate broker for purchase of property is brought to the board of county commissioners in the form of a purchase agreement. For any real property dispositions made through public auction, the county establishes a base reserve for the property.

The final process involves the request for proposals process. Under the request for proposal process, the County would be evaluate more than just the price for the property.

There are advantages to utilizing the minimum bid process. The process utilizes the traditional competitive bid process, but sets a minimum price. Thus, the process creates a level playing field with all bidders, like a traditional competitive bid, but establishes a minimum amount that the County would accept in order to sell the property, limiting the number of responses that would not be considered.

There are advantages for utilizing an auction process. The auction is an accelerated real estate marketing process that involves the public sale of any property through open cry, competitive bidding. The benefits include 1) a time certain quick disposal which reduces long-term carrying costs such as maintenance, 2) competition among buyers, 3) elimination of showings, hosted by staff, and 4) no negotiation process. The auction process is also transparent.

Using a real estate agent also has its advantages. A real estate agent can bring education and experience in obtaining fair value for property, as well as a list of potentially interested buyers. Real estate agents will also be motivated to complete the sale of the property. A real estate agent may also be able to bring back multiple offers to the County for consideration. Also by using a real estate agent the County is able to save staff time in completing a sale. The County will in consultation with the broker or auction house, determine an asking price for real property based upon appraisals, comparable sales, market information and any other relevant factors. One disadvantage to utilizing a real estate agent is that even if a competitive bidding process is used to select a real estate agent of agents, there could be real estate agents who will be unsatisfied if not chosen.

The request for proposal process may be advantageous when the Board is seeking disposal of real property but in an innovative manner. The Board would probably only utilize this method in rare and unique circumstances.

Although the Board tasked the County Attorney with drafting an ordinance for using a realtor, the County Attorney wanted to present all three options for the Board to consider. Additionally, the County Attorney's Office added an additional alternative method, which would be to coordinate with the Florida Department of Transportation when the County is looking to convey real property which is associated with a Florida Department of Transportation real estate transaction when the properties involved are part of the same Florida Department of Transportation project.

## **FUNDING**

The costs associated with this item would include the costs of publication of the required public notice of this public hearing with respect to any proposed ordinance and is estimated to cost \$140.00. Such cost would be funded from General Fund/County Attorney/Legal Ads (account number 00110214-034910).

## **RECOMMENDATION**

The County Attorney recommends that the Board consider the options for alternative methods for the disposition of real property and determine whether to direct the County Attorney's Office to draft an ordinance incorporating some or all of the described options.

## **ATTACHMENT**

Proposed Ordinance Language