



## Legislation Text

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**File #:** 19-0249, **Version:** 1

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**DATE:** May 19, 2019

**TO:** Board of Mayor and Aldermen

**FROM:** Eric Stuckey, City Administrator  
Shauna R. Billingsley, City Attorney

**SUBJECT:**

Consideration of Ordinance 2019-11, An Ordinance Regarding the Disposition of Surplus Real Property (03/26/19 WS, 06/11/19 WS; 1<sup>st</sup> BOMA Reading 06/25/19 7-0) SECOND AND FINAL READING

**Purpose**

The purpose of this memorandum is to provide information to the Franklin Board of Mayor and Aldermen (BOMA) concerning FMC § 5-802 relating to the disposal of surplus real property and consider Draft Ordinance 2019-11.

**Background**

On March 10, 1998, the Board of Mayor and Aldermen approved Ordinance 98-08 to to provide for a procedure for the sale and disposal of real property. The ordinance provides:

*5-802 -Disposal of surplus real property*

*(1) The mayor and city administrator, with the prior approval of the board of mayor and aldermen, by resolution, may sell, lease, or abandon any real property owned by the city, or any interests or rights therein, when such property is determined to be of no further feasible use to the city.*

*(2) When the board has determined that the value of the property is reasonably likely to be greater than \$ 25,000.00, then the property shall be sold by sealed bid, after 45 days public notice in a newspaper of general circulation, provided that the city shall have the right to reject and refuse any and all bids. Such notice shall be advertised at least twice during the 45-day notice period. The board's determination shall be based upon tax records, comparable sales, advice from real estate professionals, or other suitable criteria. The board may, in its sole discretion, also employ an independent certified appraiser in connection with any sale or real property.*

*(3) Upon a reasonable determination that the property does not exceed \$25,000.00 in value, or that there are other unique circumstances making a public advertisement and bid procedure impossible or impracticable, then the board, by resolution, may waive the requirements of public notice, and sealed bidding, and may sell or dispose of the property in question by negotiated contract, or by other means that will adequately protect the public interest.*

We have researched the history behind this ordinance. After talking with former City Attorney Doug Berry, we

understand that this ordinance might have been based on the process for the sale of the old fire station near Five Points.

There have been instances in the past, and will be instances in the future, where we find this ordinance too constraining to the City. Currently, there is not statute or other state regulation setting forth a required method for the sale of surplus real property. We would like to have discussion on the issue to see if this ordinance should be revised.

Following the BOMA discussion at the March 26<sup>th</sup> work session, the City Attorney drafted a potential modification to the Municipal Code through Ordinance 2019-11 (attached).

**Financial Impact**

There is no specific financial impact at this point as the Board is having a preliminary policy discussion regarding the disposition of surplus property.

**Recommendation**

Staff would greatly appreciate dialogue on the matter. If a revision is desired, staff would appreciate direction on new language.