

Town of North Topsail Beach

Fred J. Burns, Mayor
Richard Macartney, Mayor Pro Tem
Aldermen:
Don Harte
Joann M. McDermon
Richard Peters
Walter Yurek



Nature's Tranquil Beauty

Stuart Turille
Town Manager

Carin Z. Faulkner, MPA
Asst. Town Manager/Town Clerk

RESOLUTION 2016-5

A Resolution Adopting a Policy on the Disposal of Surplus Real Property

WHEREAS, the North Topsail Beach Board of Aldermen desires to establish a policy on the disposal of surplus real property to establish procedures for declaring real property as surplus.

NOW THEREFORE BE IT RESOLVED that the North Topsail Beach Board of Aldermen adopts the attached policy on the disposal of surplus real property.

Adopted this the 7th day of April, 2016.

Fred J. Burns
Mayor

(Seal)

ATTEST:

Carin Z. Faulkner
Asst. Town Manager/Town Clerk

Surplus – Real Property

I. Declaring Real Property as Surplus

A. Purpose

To establish procedures for declaring real property as surplus. Surplus is “any town-owned property that the continued use of is uneconomical or inefficient; or which serves no useful governmental function or further use to the Town.”

B. Policy

It is a policy of the Town that the Town Manager shall review and evaluate all real property owned by the Town periodically to determine if it is of use to the Town before declaring it surplus.

C. Procedure

1. The Planning Director will provide the Town Manager a list of real property, owned by the Town that generally meets the definition of “surplus.”
2. The following information will be provided to the Town Manager to aid in his/her deliberation:
 - Parcel Tax ID #
 - Tax Property Record Card
 - Parcel Map
 - Current Tax Value
 - Costs already incurred in acquiring the property
 - Area Map
 - Zoning Classification
 - Photographs/Aerial overview
 - Other applicable available information (if any)

3. The Town Manager will review each such parcel, consider all relevant feasible uses of such parcel, and consider whether the property has the capacity to serve a public use.
4. If the Town Manager agrees to declare the real property as surplus, the Town Clerk will advertise the real property electronically (town website).

II. Sale or Disposal of Real Property

A. Purpose

To establish a policy and procedure that meets or exceeds the statutory guidelines for the sale or disposition of real property.

B. Policy

It is the policy of the Town of North Topsail Beach Board of Aldermen that all real property be declared surplus prior to disposition or sale of real property.

All offers must be in writing and shall be presented to the Board of Aldermen for consideration.

After the real property has been declared surplus, and of no further use to the town, the town may sell or dispose of the real property by the approved "Methods of sale; limitations" as described in G.S. 160A-266.

The sale of real property, regardless of the dollar amount, must always be sold using a competitive procedure. The three basic competitive sales procedures are:

- Advertisement for Sealed Bids (G.S. 160A-268)
- Negotiated Offer, Advertisement and Upset Bids (G.S. 160A-269)

- Public or Electronic Auction (G.S. 160A-270)

The Board shall identify and authorize the method of sale or disposal method to be utilized.

The Board has the right to withdraw the property from sale at any time, and the right to accept or reject all bids.

Federal Grant Funds: Any real property that the town wishes to dispose of that was acquired in whole, or in part, with state or federal grant funds must satisfy any conditions imposed by such grants prior to the sale of the property.

III. Procedure

1. All offers received shall be in writing.
2. All offers shall be accompanied by a minimum five percent (5%) bid deposit. Bid deposits must be in the form of cash, cashier's check, or certified check.
3. Bid deposits shall be submitted to the Finance Department.
4. All offers will be presented to the Board of Aldermen with the following information to aid in their deliberations:
 - Letter of Offer
 - Parcel Tax ID #
 - Tax Property Record Card
 - Current Estimated Value
 - Parcel Map
 - Area Map
5. If the Board of Aldermen accepts the offer, the Board shall authorize the Finance Officer to conduct the sale.

6. Depending on the authorized method sale, one of the following three competitive procedures will begin (Also refer to Attachment A - Step-By-Step Procedures for Disposal of Surplus Property):

Advertisement for Sealed Bids (G.S. 160A-268)

- Sale is advertised one time, published in a local newspaper and/or electronically advertised at least 30 days before bid opening;
- Sealed bids are received and opened in public on the official time and date; no offers will be received or considered after the official time and date;
- Offers are reported to the Board of Aldermen;
- The property shall be sold to the highest responsible bidder;
- Board has the right to accept or reject the offer.

Negotiated Offer, Advertisement and Upset Bids (G.S. 160A-269)

- Offer is advertised, either in a local newspaper, and/or electronically, and potential bidders are given 10 days to submit a higher bid;
- Upset bids must raise the original bid by an amount at least ten percent (10%) of the first \$1,000 of that bid and five percent (5%) of the remainder;
- All upset bids shall be accompanied by a minimum 5% bid deposit based on the amount of the new upset bid;
- The highest upset bid becomes the new offer, the new offer is published, and the process is repeated;
- Once no upset bid is received within the 10 day period from date of publication, the Finance Department will prepare a Resolution "Accepting High Offer" and present it to the Board of Aldermen;
- Board has the right to accept or reject the offer.

Public Auction (G.S. 160A-270)

- Sale is advertised one time, either published in a local newspaper and/or advertised electronically, at least 30 days before bid opening;
 - Auction is held by a town representative or auctioneer;
 - Auction can be live or by electronic auction (such as GovDeals or any other electronic auctioneer service);
 - The Finance Department will prepare a Resolution “Authorizing Auction Sale” to present to the Board with high offer;
 - The Board will accept or reject the bid within 30 days after the bid is reported.
7. All sales must be sent back to the Board of Aldermen for final approval.
8. If the successful bidder does not make final payment within 30 days, the Town may declare the bid deposit as forfeit, place the deposit into the general fund, and place the property for sale as provided above.
9. All Property shall be sold “AS IS” with no guarantee or warranty as to condition, title or suitability for any purpose.
10. All real property will be transferred to the successful purchaser or bidder by a Limited Warranty or Quitclaim Deed.
11. Bid deposits shall be refunded to all unsuccessful bidders.
12. Property shall be removed from town capital listing upon final payment and title transfer.

Disposition Procedures

G.S. Chapter 160A, Article 12, sets out three competitive methods of sale, each of which is appropriate in any circumstance: sealed bid, negotiated offer and upset bid, and public auction. Article 12 also permits privately negotiated exchanges of property in any circumstance (as long as equal value changes hands) and privately negotiated sales or other dispositions of property in a number of limited circumstances. In addition, a few other statutes permit privately negotiated sales or other dispositions of property, again in limited circumstances. These various methods of disposition are summarized in the following sections. In undertaking any of them a local government must remember that the statutory procedure must be exactly followed or the transaction may be invalidated by a court.⁷

Sealed Bids

A local government may sell any real or personal property by sealed bid (G.S. 160A-268).

Procedure. The procedure is based on that set forth in G.S. 143-129 for purchasing property, with one modification for real property. An advertisement for sealed bids must be published in a newspaper that has general circulation in the county (for a county government) or in the county in which the city is located (for a city government). Publication must occur seven full days (not counting the day of publication or the day of opening) before the bids are opened if personal property is being sold and thirty days before the bids are opened if real property is being sold. The advertisement should generally describe the property; tell where it can be examined and when and where the bids will be opened; state whether bid deposit is required, how much it is, and the circumstances under which it will be retained; and reserve the governing board's right to reject any and all bids. Bids must be opened in public, and the award is made to the highest bidder.

Comment. This procedure appears to be designed to obtain wide competition by providing public notice and good opportunity for bidders to examine the property. Invitations to bid may be mailed to prospective buyers, just as they are typically sent to prospective sellers in the formal purchasing procedures for personal property. This procedure is essentially the one used by the Division of Purchase and Contract in disposing of almost all surplus personal property owned by the state.

Negotiated Offer and Upset Bid

A local government may sell any real or personal property by negotiated offer and upset bid (G.S. 160A-269).

Procedure. The procedure begins when the local government receives and proposes to accept an offer to purchase specified government property. (The offer may be either solicited from the offeror or made directly by it on its own initiative.) The governing board then requires the offeror to deposit a 5 percent bid deposit with its clerk and causes a notice of the offer to be published. The notice must describe the property; specify the amount and the terms of the offer; and give notice that the bid may be raised by not less than 10 percent of the first \$1,000 originally bid, plus 5 percent of any amount above \$1,000 of the original bid. Upset bids must also be accompanied by a 5 percent bid deposit. Prospective bidders have ten days from the date on which the notice is published to offer an upset bid. This procedure is repeated until ten days have elapsed without the local government receiving an upset bid. After that time the board may sell the property to the final offeror. At any time in the process, it may reject any and all offers and decide not to sell the property.

Public Auction

A local government may sell any real or personal property by public auction (G.S. 160A-270).

Procedure. The statute sets out separate procedures for real and personal property sold at public auction; there is also provision for electronic auctions. For real property the governing board must adopt a resolution that authorizes the sale; describes the property; specifies the date, the time, the place, and the terms of the sale; and states that the board must accept and confirm the successful bid. The board may require a bid deposit. A notice containing the information set out in the resolution must be published at least once and not less than thirty days before the auction. The highest bid is reported to the governing board, which then has thirty days in which to accept or reject it.

For personal property the same procedure is followed except that (1) the board may in the resolution authorize an appropriate official to complete the sale at the auction and (2) the notice must be published not less than ten days before the auction.