

ORDINANCE NO. 371

AN ORDINANCE AMENDING AND RE-ENACTING SECTION 1.0505 OF THE CITY CODE OF THE CITY OF BEACH, NORTH DAKOTA RELATING TO CONVEYANCE, SALE, LEASE OR DISPOSAL OF REAL PROPERTY

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BEACH, NORTH DAKOTA, AS FOLLOWS:

Section 1: Section 1.0505 of the City Code of the City of Beach, North Dakota, entitled "Conveyance, Sale, Lease or Disposal of Real Property" is hereby amended and re-enacted as follows:

1.0505 Conveyance, Sale, Lease or Disposal of Real Property

(a) Public Disposition of Real Property.

Real property belonging to the municipality shall be conveyed, sold, leased, or disposed of only as approved by a two-thirds (2/3) vote of all members of the governing body. Instruments affecting such conveyance, sale, lease, or disposal shall be valid only when duly executed by the mayor and attested by the city auditor. Subject to the restrictions of Sections 40-11-04 NDCC and 40-11-04.1 NDCC which require public notice of a sale of real estate in excess of a certain amount, it shall be at the discretion of the city council as to whether or not there shall be an advertisement for bids for such conveyance, sale, lease, or disposal; whether or not advertisements shall be made in other states of the fact that certain real property is available for such disposition; and whether or not sale should be made at public auction; such decision by the governing body to be made by a majority vote of the members present. Bids for the purchase or lease of real property belonging to the municipality, whether or not advertisement thereof has been made, shall be directed to the city council and submitted to the city auditor, who shall present any and all such bids to the city council at its next regularly scheduled meeting.

(b) Alternative Methods of Disposition

As an alternative method of disposition of real property, the City Council, through its Home Rule authority, may:

(1) Convey, sell, lease or dispose of such properties by private sale through the utilization of nonexclusive listing agreements. The City Council may by resolution describe the real property to be conveyed, sold, leased, or disposed of, and provide a maximum rate of fee, compensation or commission for any licensed real estate broker engaged by the City. The City Council reserves the right to reject any and all offers determined to be insufficient or otherwise objectionable.

(2) Upon a finding of the governing body that it is in the best interests of the City of Beach, enter into such agreements for the conveyance, sale, lease, or

disposal of real property as the City Council deems appropriate, waiving any purchase or sale requirements under state law or local ordinances. Services or personal property may be included in such transaction, provided that such services or personal property are incidental to the conveyance, sale, lease, or disposal of the real property.

(c) Conflicts with North Dakota Century Code

When a specific statutory provision contained in the North Dakota Century Code provides for a procedure which is in conflict with this section governing conveyance, sales, lease, or disposal of real property, this section shall not apply insofar as it is in conflict with such state law. A portion of said statutory procedures are as follows:

- A. Lease of airports or landing fields, or portions thereof shall be under authority granted in Section 2-02-06 NDCC. Said lease shall further be in compliance with regulations and directives of appropriate federal agencies.
- B. Conveyance of right of way for any state highway shall be as provided in Section 24-01-46 NDCC.
- C. Leasing of oil and gas lands shall be as provided in Sections 38-09-02 through 38-09-04 and Sections 38-09-14 through 38-09-20 NDCC.
- D. Conveyance of property to a municipal parking authority shall be as provided in Section 40-61-05 NDCC.
- E. Lease of public buildings or portions thereof shall be as provided in Chapter 48-08 NDCC.
- F. Granting of concessions for cafes, restaurants, and confectionaries on public buildings and grounds shall be as provided in Chapter 48-09 NDCC.
- G. Granting or right of way for a railway, telephone line, electric light system, or a gas or oil pipeline system shall be as provided in Section 49-09-16 NDCC.

Section 2: Repeal of Ordinances in Conflict. All Ordinances and parts of Ordinances in conflict herewith are hereby repealed.

Section 3: Severability. In the event any section of this Ordinance is held invalid by court of competent jurisdiction, the invalidity shall extend only to the section affected, and other sections of this Chapter shall continue in full force and effect.

Section 4: Effective Date: This Ordinance shall be in full force and effect from and after

final passage.

(seal)

Walter Losinski, Mayor

ATTEST:

Kimberly Nunberg, City Auditor

First Reading: February 21, 2012

Second Reading: March 5, 2012

Final Passage: March 5, 2012